

August 12, 2019



Dear :

**Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* [Our File #: SNL-092-2019]**

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On July 26, 2019, Service NL received your request for access to the following records:

*June 2019 Workplace NL briefing materials on the following topics: Occupational Disease Fatality Stats; Workplace Fatalities 2019; Appeals Support; Cannabis Coverage.*

I am pleased to inform you that a decision has been made by the Deputy Minister for Service NL to provide access to the requested information.

In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

The *Access to Information and Protection of Privacy Act* (the Act) requires us to provide an advisory response within 10 days of receiving the request. As this request has been completed prior to day 10, this letter also serves as our Advisory Response.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Act. A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner  
2 Canada Drive  
P. O. Box 13004, Stn. A  
St. John's, NL. A1B 3V8  
Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 709-729-0071 or by e-mail at [FrankWalsh@gov.nl.ca](mailto:FrankWalsh@gov.nl.ca).

Sincerely,

A handwritten signature in blue ink that reads "Frank Walsh". The signature is written in a cursive, slightly slanted style.

**FRANK WALSH**  
ATIPP Coordinator  
Service NL

**Access or correction complaint**

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

**Direct appeal to Trial Division by an applicant**

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).

## QP Issue Note

### WorkplaceNL

#### **ISSUE: Work-related Fatalities**

WorkplaceNL publicly released statistics of 36 work-related fatalities in 2018, 32 of which were due to occupational disease. Two-thirds of the occupational disease-related fatalities were due to exposures to hazards substances many years ago. Media covered this and questions have arisen around what is being done to prevent such occupational disease-related fatalities in the future.

#### **KEY MESSAGES:**

Safe work practices, regulations and certification safety training have evolved to help protect workers today from hazards known to cause occupational disease.

Occupational disease prevention is one of the priorities in the five-year workplace injury prevention strategy.

WorkplaceNL recently created materials for physicians to remind them to report silica-related illnesses and how to advise their patients to protect themselves from exposure to silica dust.

WorkplaceNL has joined the Firefighter's Cancer Prevention Committee that is developing new safe work practices guidelines for exposure to hazards.

In 2019, WorkplaceNL held 27 consultations and presentations with high-risk employers, focusing on workplaces with a higher risk of exposure to ammonia, silica, noise or asbestos as well as other hazards that may cause respiratory issues.

WorkplaceNL has an awareness campaign, including posters for workplaces and radio ads, focused on preventing known occupational diseases due to asbestos, chemicals, noise, silica, and welding fumes.

Webinars or workshops offered to the public include:

March 2019: New WHMIS Regulations

April 2019: Hazardous Building Materials: What is in Your Workplace?

June 2019: Heat Stress

## QP Issue Note

### WorkplaceNL

#### **ISSUE: Work-related Fatalities**

In 2018, there were 36 claims for work-related fatalities, four accidental and 32 relating to occupational disease (compared to 25 fatality claims in 2017, five accidental and 20 from occupational disease). Media usually covers fatal workplace accidents in the province. Occupational diseases can have 10–40 year latency periods, so fatalities are expected to increase due to exposures years ago before safer work practices were introduced.

#### **ANTICIPATED QUESTIONS:**

What is being done to prevent workplace fatalities?

What benefits are available to dependents?

#### **KEY MESSAGES:**

**Any fatality is one too many.**

**The lost-time incidence rate due to workplace injury or illness in Newfoundland and Labrador remains among the lowest in the country.**

**Safe work practices, regulations and certification training are helping to prevent workplace injury and illness today—and continue to evolve.**

**WorkplaceNL assists with burial costs, and dependents may receive benefits.**

#### **SECONDARY MESSAGES:**

- There were 36 fatality claims in 2018, 32 due to occupational disease and four accidental.
- Two-thirds of the 32 occupational disease-related fatalities were from the mining industry, where workers were exposed to harmful substances, like asbestos, many years ago.
- WorkplaceNL focuses on high-risk areas and has awareness campaigns.
- WorkplaceNL provides education on how to prevent long-term contact with substances known to cause occupational disease.

QP Issue Note  
WorkplaceNL

**ISSUE:**

Support for workers and employers during the workers' compensation appeals process. On June 17, 2019, questions were raised in the House of Assembly on what WorkplaceNL does to support workers through the appeal process and if there are equal supports for workers and employers during this process.

**ANTICIPATED QUESTIONS:**

What supports does WorkplaceNL have in place to support injured workers during the appeals process?

Do employers also receive support if they appeal a decision?

**KEY MESSAGES:**

**Workers or employers dissatisfied with a decision may request an internal review from WorkplaceNL.**

**This process gives workers and employers an opportunity to have an internal review specialist take another look at their claim to ensure all relevant information has been considered.**

**After a final decision has been made by internal review, workers and employers may request a further review from the Workplace Health, Safety and Compensation Review Division (WHSCRD), an external body, independent of WorkplaceNL.**

**SECONDARY MESSAGES:**

- WorkplaceNL provides workers with a written decision informing them of the reasons for the acceptance or denial of their claim. In every decision, the worker is provided with information on how to appeal the decision if they are not satisfied with the outcome. A worker has 30 days to request an internal review after receiving a decision letter.
- Similarly, if employer is not satisfied with a decision WorkplaceNL makes on their assessment rates or a worker's claim, they have 30 days after receiving the decision letter to request an internal review. The letter provides information on how to make the appeal request.
- During an internal review, an internal review specialist examines the issue to ensure all relevant information has been considered. The internal review decision is provided in writing within 45 days from the date the request is received.

QP Issue Note  
WorkplaceNL

- If the worker or employer still disagrees with the internal review decision, they have 30 days to request an external review from the Workplace Health, Safety and Compensation Review Division (WHSCRD).
- Throughout the appeals process, worker and employer advisors are available to provide guidance to injured workers and employers on appeal matters.
- Workers advisors are funded by WorkplaceNL and help both unionized and non-unionized workers, free-of-charge, on any matters related to workers' compensation.
- Worker advisors provide general information about the workers' compensation system and help injured workers interpret legislation and prepare for appeals.
- They also liaise between the injured worker and WorkplaceNL, as well as the injured worker and the WHSCRD, and provide representation at appeal hearings for former Baie Verte miners.
- WorkplaceNL funds two worker advisors who are located within Newfoundland and Labrador Federation of Labour (NLFL), one in St. John's and one in Grand Falls-Windsor and two employer advisors who are located within the Newfoundland and Labrador Employers' Council (NLEC) in St. John's.
- There are two worker advisors available at the NLFL, one in St. John's and one in Grand Falls-Windsor.
- Employer Advisors provide guidance to employers on workers' compensation claims management and injury prevention programs. They do not provide representation for employers at external appeal hearings.
- There are two employer advisors located at the NLEC in St. John's. One advisor focuses on mid-to-large employers while the other focuses on small employers.
- If a Statutory Review is called in 2019, a review of the services available to injured workers and employers throughout the life cycle of a claim and appeal should be considered.

## **QP Issue Note**

### **WorkplaceNL**

#### **ISSUE: Cannabis coverage**

CBC is researching a nation-wide story comparing workers' compensation boards' coverage for medical-use cannabis. Some provinces, including Ontario, New Brunswick and Prince Edward Island, have introduced policies within the past year providing details on dosing guidelines and medical conditions for which physician-authorized medical-use cannabis is covered. Medical-use cannabis is not approved by Health Canada and does not have a Drug Identification Number.

#### **ANTICIPATED QUESTIONS:**

Does WorkplaceNL cover medical-use cannabis?

How many clients have been approved for medical-use cannabis?

#### **KEY MESSAGES:**

**Pharmaceutical cannabinoids with a Drug Identification Number (DIN) from Health Canada are covered.**

**Physician-authorized medical-use cannabis, without a DIN, is adjudicated on a case-by-case basis.**

**A workers' physician determines the appropriate treatment.**

#### **SECONDARY MESSAGES:**

- WorkplaceNL updates its policies based on evolving medical evidence.
- WorkplaceNL is monitoring the issue of coverage for medical-use cannabis.
- Pharmaceutical cannabinoids may be used to treat nausea and vomiting from chemotherapy treatment, symptoms while in palliative / end-of-life care and chronic pain management.

## **BACKGROUND INFORMATION:**

Where to purchase medical-use cannabis?

- WorkplaceNL has very limited experience covering medical-use cannabis for injured workers. In that experience, medical-use cannabis was provided by an out-of-province supplier.
- A federal licence is required to cultivate, process and sell cannabis for medical purposes.
- To access medical-use cannabis, a person must register with a licensed producer. The list of licensed producers is found on the Government of Canada's website: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/industry-licensees-applicants/licensed-cultivators-processors-sellers.html>

Other jurisdictions:

- ON's policy came into effect March 1, 2019.
- NB and PE have cover medical-use cannabis for specific injuries and occupational diseases: spasticity due to spinal cord injury, nausea and vomiting associated with cancer chemotherapy, loss of appetite in cancer patients and patients with HIV/AIDS; and symptoms encountered in palliative/end-of-life care.
- WorkplaceNL covers therapeutic cannabinoids that have a Drug Identification Number (DIN), as prescribed by a registered health care professional, for these injuries and illness.
- NS is expected to issue its formal criteria on coverage for medical-use cannabis in April.
- All provinces adjudicate claims on a case-by-case basis.
- WorkplaceNL continues to review its policies, and make updates based on evolving medical evidence.