CUPE·SCFP | Canadian Union of Public Employees
Syndicat canadien de la fonction publique

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June 10, 2020 **Via email: regpraconsult@worksafebc.com**

Louise Kim, Senior Manager
Policy, Regulation and Research Division
WorkSafeBC
P.O. Box 5350 Stn. Terminal
Vancouver, BC. V6B 5L5

Dear Ms. Kim:

Re: Worker Stakeholder Submission
Canadian Union of Public Employees ("CUPE")
WorkSafeBC ("WCB") Consultation and Discussion Paper (Including Appendix A – Quan, J. & Eapen, S. (May 27, 2020). The Risk of COVID-19 Among Workers – A Rapid Review)
Adding diseases caused by communicable viral pathogens, including COVID-19, to Schedule 1 (Formerly Schedule B) of the Workers Compensation Act

I. INTRODUCTION

Thank you for requesting stakeholder feedback with respect to the Discussion Paper and proposed Options 1 and 2 in "Adding diseases caused by communicable viral pathogens, including COVID-19, to Schedule 1 (formerly Schedule B) of the Workers Compensation Act."[1,2]

CUPE is submitting this stakeholder submission in response to proposed Options (1 and 2) and the arguments in the Discussion Paper, including Appendix A of the Discussion Paper (the paper by Quan, J. & Eapen, S. (May 27, 2020). The Risk of COVID-19 Among Workers – A Rapid Review).

[1] WorkSafeBC. Consultations. See https://www.worksafebc.com/en/law-policy/public-hearings-consultations/current-public-hearings-and-consultations
[2] WorkSafeBC Evidence-Based Practice Group, Quon, J.A., Eapen, S. & Martin, C.W. (May 27, 2020). The Risk of COVID-19 Infection Among Workers. Richmond, BC: WorkSafeBC Evidence-Based Practice Group.

I.I. EXECUTIVE SUMMARY:

CUPE appreciates the WCB Board of Directors' motion to add diseases caused by infectious pathogens, including COVID-19, to Schedule 1 of the BC Workers Compensation Act within six months[3] instead of the usual 18 to 24 months. It is imperative that workers have immediate coverage.

I.I.I. BACKGROUND:

As of May 27, 2020, there were 514 claims relating to SARS-CoV-2 and COVID-19, however this number is likely inaccurate; the true number is much higher (see Section IV.V. below).[4] It is telling that 153 claims were disallowed and 186 were allowed as this runs counter to the WCB's usual position that 93% of all claims are accepted generally. Workers have limited ability to seek and pay for medical opinions in support of their claims and appeals. The medical system should not be burdened with the additional paperwork required to support appellant's claims. Despite this, the WCB has proposed the following (See Appendix A as well) changes and additions:[5,6]

> "The Policy, Regulation and Research Division is releasing a discussion paper on adding diseases caused by communicable viral pathogens, including COVID-19, to Schedule 1 of the Workers Compensation Act with options and draft amendments to stakeholders for comment.
>
> If a disease is identified in Schedule 1 and the worker was employed in the corresponding process or industry listed in the Schedule, then WorkSafeBC presumes the cause of the disease is work-related, unless the contrary is proved."

An occupational disease is defined in the BC Workers Compensation Act,[7] Division 1, Section 1 Definitions as (partial excerpt):

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[3] See Section 8.1 at page 13 of the Discussion Paper.
[4] WorkSafeBC. COVID-19 claims data by industry. See https://www.worksafebc.com/en/about-us/covid-19-updates/claims/covid-19-claims-by-industry-sector
[5] WorkSafeBC. Consultations. See https://www.worksafebc.com/en/law-policy/public-hearings-consultations/current-public-hearings-and-consultations/adding-diseases-caused-by-communicable-viral-pathogens-including-covid-19-schedule-1-act
[6] WorkSafeBC. Consultations. See https://www.worksafebc.com/en/resources/law-policy/discussion-papers/adding-diseases-caused-communicable-viral-pathogens-including-covid-19-schedule-1-act?lang=en
[7] BC Workers Compensation Act. See http://www.bclaws.ca/civix/content/complete/statreg/901199259/1241438022/965723187/?xsl=/templates/browse.xsl

"occupational disease" means a disease, including a disablement resulting from exposure to contamination, that is

(a) a disease identified in Schedule 1 [Presumption of Occupational Disease Related to Specific Process or Industry] of this Act,

(b) a disease designated or recognized by regulation under section 138 (2) [Board regulation of general application],

(c) a disease designated or recognized by order under section 138 (3) [Board order in specific case]…"

I.I.II. OVERVIEW OF REASONS FOR STAKEHOLDER (CUPE) POSITION:

CUPE is unable to agree with the proposed Options in this Discussion. The proposed Options actually make it harder to get claim acceptance for SARS-CoV-2 and COVID-19. CUPE also agrees with the BC Federation of Labour and the BC Workers Compensation Advocacy Group ("WCAG") positions on the Discussion Paper. The reasons for CUPE's position are as follows:

- The Consultation (Discussion Paper) needs to take place as part of a broader system review e.g. Janet Patterson and Paul Petrie
- The Patterson System Review was not considered
- The impact on older workers, other demographic considerations, workers in precarious employment was not considered
- The wording and application for the Presumption in the Discussion Paper is too narrow
- There should not be a requirement for a State of Emergency
- There is uncertainty and a lack of information on subsequent waves of SARS-CoV-2 and COVID-19
- The lack of information regarding SARS-CoV-2 and COVID-19 generally
- Sequelae, secondary conditions, and complications related to SARS-CoV-2 and COVID-19 need to be considered and accepted as part of Schedule 1

I.II. STAKEHOLDER INFORMATION:

CUPE is the largest Union in Canada with more than 700,000 members and over 70 offices.[8] CUPE represents workers in numerous sectors including healthcare, emergency services, education, early learning, childcare, municipalities, social services, universities and colleges, libraries, transportation, airlines and more. There are over 100,000 members in over 160 Locals in BC.[9]

II. PROPOSED CHANGES:

The WCB has proposed the following Options:

Option 1: Status quo

> Under this option, no amendments to Schedule 1 would be made. There would be no presumption applicable to COVID-19 or other diseases caused by communicable viral pathogens.

And,

Option 2: Amend Schedule 1 and Add a Presumption

> Under this option, Schedule 1 of the Act would be amended to include a work-related presumption that would apply to COVID-19 and other diseases caused by communicable viral pathogens. The presumption would be subject to a BC-specific emergency declaration or notice where there is a risk of exposure to a source or sources of infection significantly greater than the public at large, during the time period and within the area of the emergency declaration or notice.

III. STAKEHOLDER (WORKER) POSITION:

CUPE disagrees with the proposed Options as well as the reasoning and Appendix A of the Discussion Paper, as per Section IV below.

[8] CUPE (National Office). See https://cupe.ca/
[9] CUPE (BC Region). See https://www.cupe.bc.ca/

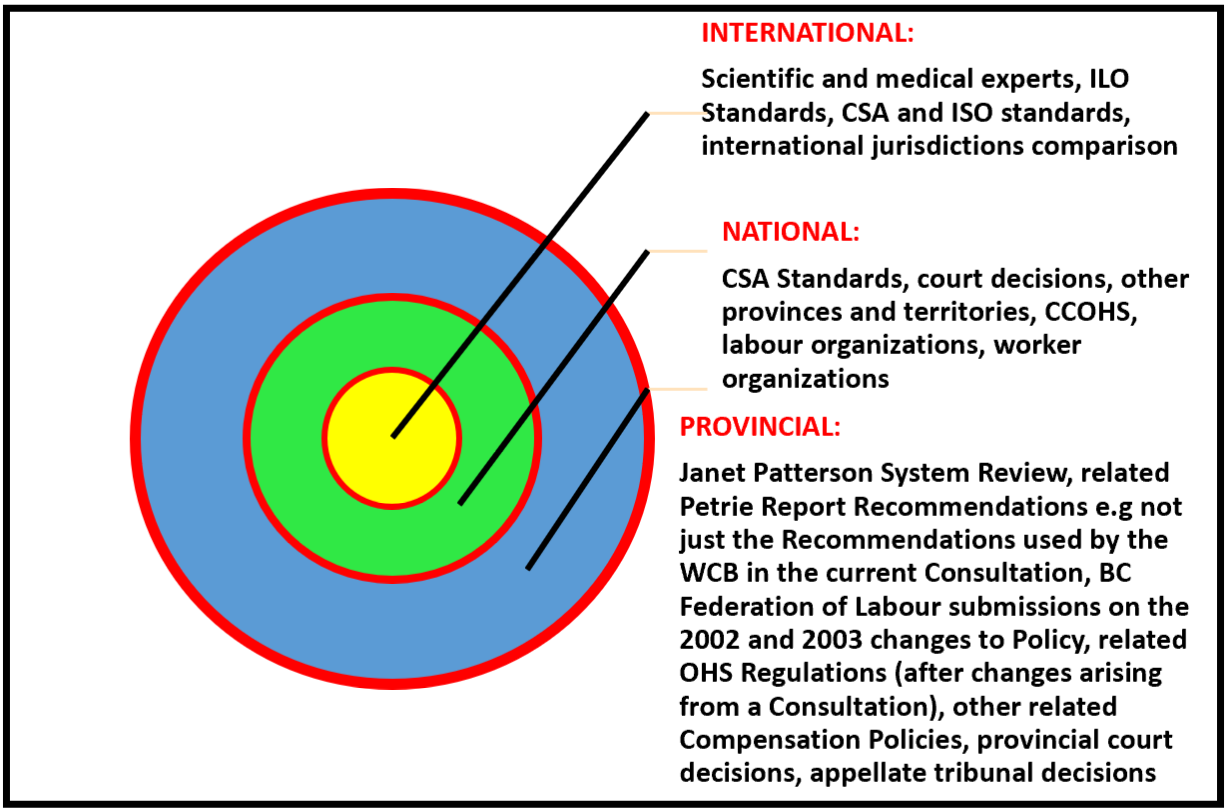
IV. REASONS FOR STAKEHOLDER POSITION:

The reasons for the stakeholder position are as follows:

IV.I. THE CONSULTATION (DISCUSSION PAPER) NEEDS TO BE PART OF BROADER SYSTEMS REVIEW (JANET PATTERSON AND PAUL PETRIE):

This Discussion Paper needs to take place as part of a broader system review as per Figure 1 below:

Figure 1:



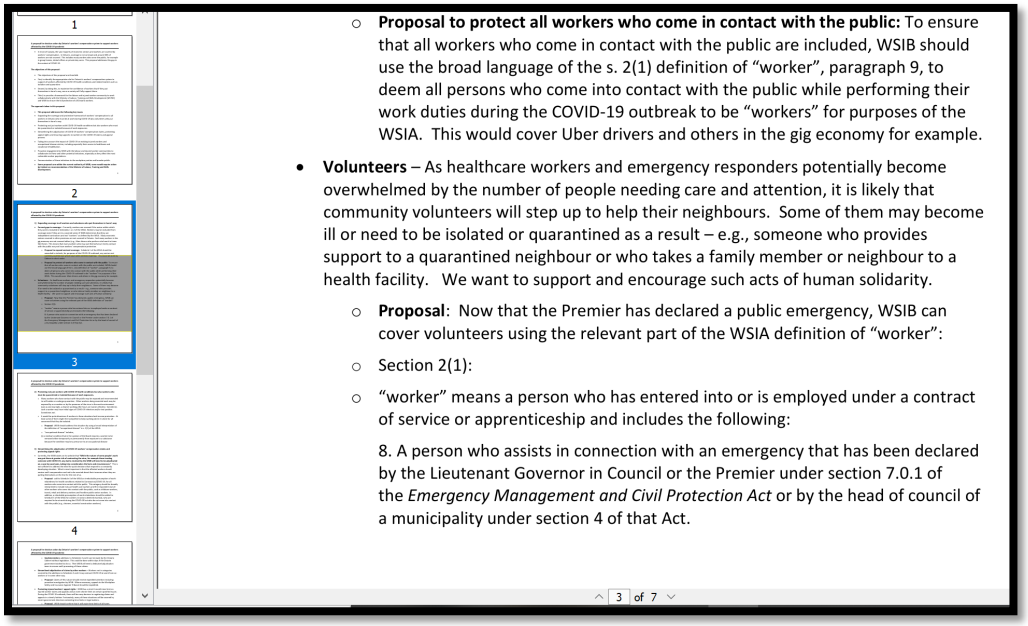
There are inter-related provincial, national, and international components related to SARS-CoV-2 and COVID-19 and to the systems review of the workers compensation system in BC that need to be considered. The Discussion Paper does not adequately address these.

IV.II. THE PATTERSON SYSTEM REVIEW NOT CONSIDERED:

As per Figure 1 above, the WCB has not considered ongoing Consultations and systems reviews, such as the one conducted by Janet Patterson. How will the system review by Ms. Janet Patterson impact the Discussion Paper e.g. Sections 6 and 6.2, page 5?[10] Will the Discussion Paper and Options have to be revised after Ms. Patterson's review is implemented?[11] This is in addition to the previous Merits and Justice Consultation.[12]

IV.III. IMPACT ON OLDER WORKERS, OTHER DEMOGRAPHIC CONSIDERATIONS, WORKERS IN PRECARIOUS EMPLOYMENT NOT CONSIDERED:

Older workers, women and workers with pre-existing conditions are more likely to experience and be impacted by SARS-CoV-2 and COVID-19. The Discussion Paper has not addressed this. There is also the issue of volunteers as per the proposal from the Ontario Federation of Labour:



- **Proposal to protect all workers who come in contact with the public:** To ensure that all workers who come in contact with the public are included, WSIB should use the broad language of the s. 2(1) definition of "worker", paragraph 9, to deem all persons who come into contact with the public while performing their work duties during the COVID-19 outbreak to be "workers" for purposes of the WSIA. This would cover Uber drivers and others in the gig economy for example.

- **Volunteers** – As healthcare workers and emergency responders potentially become overwhelmed by the number of people needing care and attention, it is likely that community volunteers will step up to help their neighbours. Some of them may become ill or need to be isolated or quarantined as a result – e.g., someone who provides support to a quarantined neighbour or who takes a family member or neighbour to a health facility. We want to support and encourage such acts of human solidarity.
  - **Proposal**: Now that the Premier has declared a public emergency, WSIB can cover volunteers using the relevant part of the WSIA definition of "worker":
  - Section 2(1):
  - "worker" means a person who has entered into or is employed under a contract of service or apprenticeship and includes the following:

    8. A person who assists in connection with an emergency that has been declared by the Lieutenant Governor in Council or the Premier under section 7.0.1 of the *Emergency Management and Civil Protection Act* or by the head of council of a municipality under section 4 of that Act.

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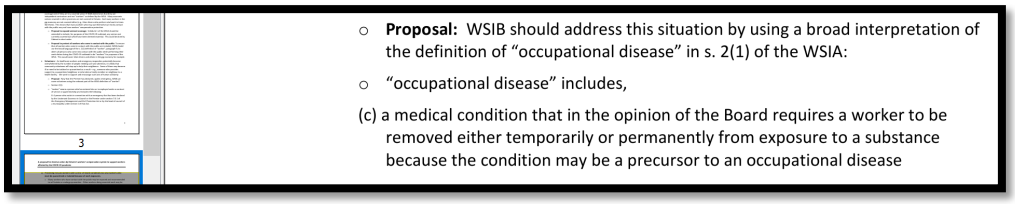
[10] See https://news.gov.bc.ca/releases/2019LBR0003-000557

[11] B.C. Gov News. See https://news.gov.bc.ca/releases/2019LBR0003-000557

[12] WorkSafeBC. In January 2018, WorkSafeBC's Board of Directors commissioned an external compensation policy review. The resulting report entitled *Restoring the Balance: A Worker-Centred Approach to Workers' Compensation Policy* was published April 2018 and contains numerous recommendations. Recommendation #1 is for WorkSafeBC to consider amending policy item #2.20, *Application of the Act and Policies*, in the *Rehabilitation Services & Claims Manual, Volume II*, to explicitly incorporate the requirement "the Board must make its decision based on the merits and justice of the case" as required by section 99(2) of the *Workers Compensation Act*. See https://www.worksafebc.com/en/law-policy/public-hearings-consultations/closed-public-hearings-and-consultations/consultation-on-merits-and-justice-policy

And,



As per the Government of Canada, there are several general categories of vulnerable workers (not including workers in precarious employment). These include:[13]

- an older adult
- at risk due to underlying medical conditions (e.g. heart disease, hypertension, diabetes, chronic respiratory diseases, cancer)
- at risk due to a compromised immune system from a medical condition or treatment (e.g. chemotherapy)

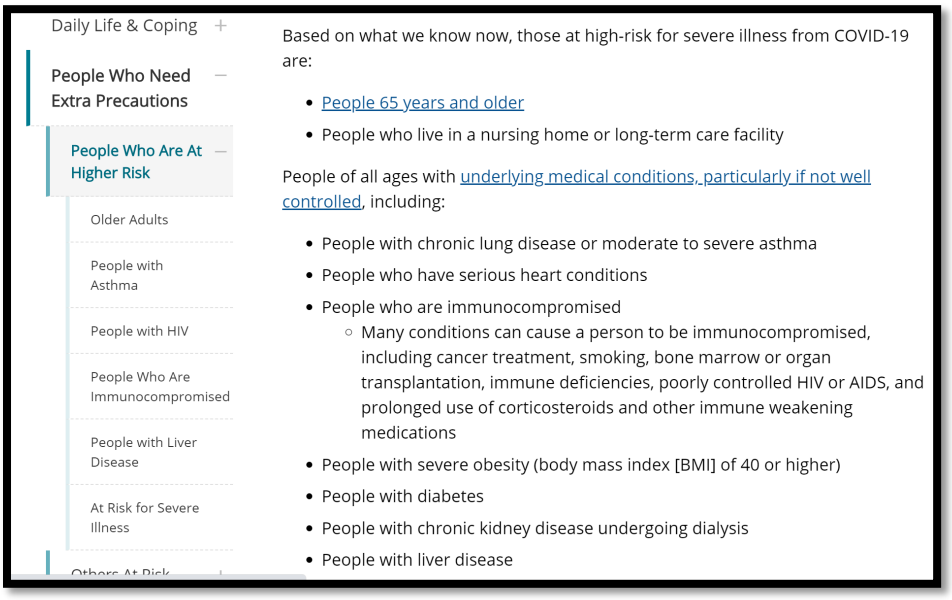
As per the Centers of Disease Control and Prevention ("CDC"), there are a number of categories of persons who are at higher risk for severe illness relating to SARS-CoV-2 and COVID-19:[14]

Figure 2:

[13] Government of Canada. Vulnerable populations and COVID-19. See https://www.canada.ca/en/public-health/services/publications/diseases-conditions/vulnerable-populations-covid-19.html

[14] Centers for Disease Control and Prevention. See https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/

Figure 3:[15]



IV.IV. THE WORDING FOR THE PRESUMPTION IN THE DISCUSSION PAPER IS TOO NARROW (INCLUDING THE 90 DAY WAITING PERIOD):

There are two primary concerns: the requirement that "There is a risk of exposure to a source or sources of infection significantly greater than the public at large" and the 90 day waiting period before the changes to Schedule 1 come into force.

IV.IV.I. SIGNIFICANTLY GREATER RISK TOO ONEROUS:

Option 2, page 17 of the Discussion Paper states that:

> "The presumption would be subject to a BC-specific emergency declaration or notice where there is a risk of exposure to a source or sources of infection significantly greater than the public at large, during the time period and within the area of the emergency declaration or notice."

[15] Centers for Disease Control and Prevention. See https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html

This is reiterated in Section 8.2 on page 16. CUPE is strongly opposed to this language. The WCB has not improved and changed anything. This is proven by looking at the fourth paragraph of the current claims data website[16] where it states:

> "Claims are allowed when there is sufficient evidence to establish that the worker has COVID-19 and the risk in the workplace was significantly higher than the ordinary exposure risk."

This is the same language that is in the Discussion Paper and it is antithetical to the purported goals of the WCB. There are a number of related concerns:

- How is "significantly greater" defined? Where is the jurisprudence e.g. appeal decisions, on what this means?

- This will vary by sector, occupation, job, workers with pre-existing conditions and vulnerabilities, workers in precarious employment, etc. This is a short list of examples.

- The addition of this language nullifies the very intent of Presumption in the first place.

- The addition of the language is counter to the recommendations of Petrie and Patterson.

- The addition of the language is counter to the application of the merits of the claim being the primary consideration.[17]

- The purpose of adding Presumption is to avoid shifting the burden and onus of proof onto the worker as per the WCB's statement on Presumption.[18]

Figure 4 clearly refers to an occupational disease must be presumed to have been due to the nature of the worker's employment unless the contrary is proved.

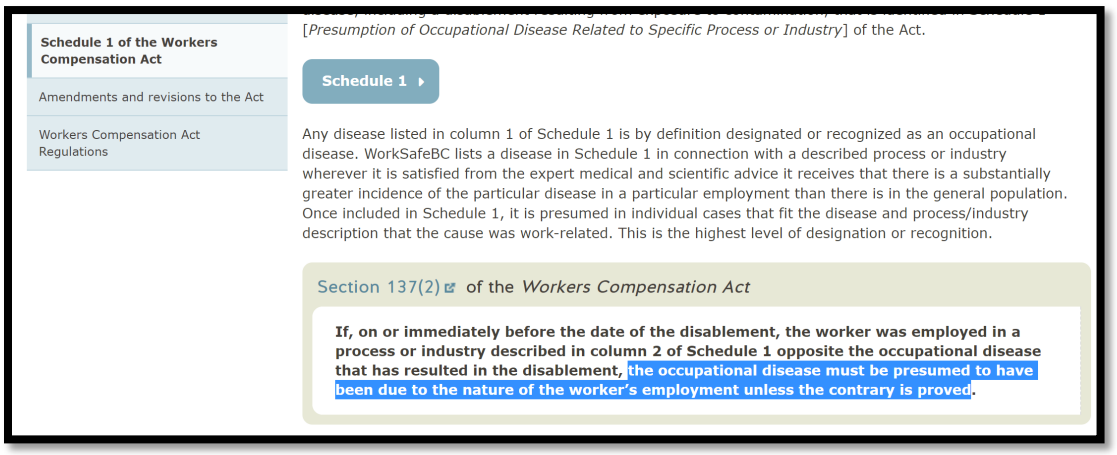
Figure 4:

(See next page)

[16] WorkSafeBC. COVID-19 claims data by industry. See https://www.worksafebc.com/en/about-us/covid-19-updates/claims/covid-19-claims-by-industry-sector

[17] CUPE has submitted five submissions on this and related issues as part of the systems reviews by Petrie and Patterson in Sections IV.I. and IV.II above.

[18] WorkSafeBC. Schedule 1 of the Workers Compensation Act. See https://www.worksafebc.com/en/law-policy/workers-compensation-law/schedule-1#:~:text=WorkSafeBC%20lists%20a%20disease%20in,is%20in%20the%20general%20population.



(Emphasis added)

The WCB needs to significantly revise the proposed Options and language to address these concerns. As summarized by the BC Federation of Labour:

> "The PRRD is proposing to amend Column 2 to include the following requirements for the description of the process or industry,
>
> a. There is a risk of exposure to a source or sources of infection significantly greater than the public at large
>
> b. The risk of exposure occurs during the applicable notice or emergency under Column 1; and
>
> c. The risk of exposure occurs within the geographical area of the applicable notice or emergency under Column 1.
>
> The BCFED is strongly opposed to the requirement for a "significantly greater risk" of exposure than the public at large. The addition of "significantly" greatly restricts the situations to which the presumption would apply - this is completely unnecessary as Column 1 already limits the presumption to a declared state of emergency - a very rare event.
>
> The BCFED opines that this requirement nullifies the whole purpose of the presumption and in fact is purposefully designed to do exactly that. The addition of "significantly" places a heavy burden of evidence for the worker's case."

SARS-CoV-2 claims acceptance on appeal will be difficult. It has been presumed that the addition of a disease to Schedule 1 will make it more likely that a claim will be accepted.

This is incorrect. For comparison purposes, only one out of nine appeals to the Review Division for tubercle bacillus (a respiratory illness used here for comparison purposes) were allowed, despite the tubercle bacillus being included in Schedule 1. The majority of the few claim appeals to the Workers Compensation Appeal Tribunal ("WCAT") for tubercle bacillus were also denied. These small samples in WCAT Tubercle Bacillus Schedule 1 Decision Outcomes Table may show the challenges workers may face in getting claims accepted on appeal.

Table 1:

Decision #	Date	Excerpt	Cat
A1603492 DENIED	2016-06-15	Is the workers latent TB due to the nature of her employment?	com
A1601208 DENIED	2016-08-09	At issue is whether the workers diagnosed latent TB was due to the nature of her employment activities from January 2013 to July 2013.	com
2016-00381 ALLOWED	2016-02-09	The issue in this appeal is whether the workers diagnosed latent TB infection was a personal injury arising out of and in the course of her employment on December 31, 2013.	com
2015-02999 DENIED	2015-09-30	Did the worker contract latent TB due to the nature of her employment? Is she eligible for preventative treatment?	com
2010-00342 ALLOWED	2010-02-03	The issue is whether the review officer correctly determined that the worker is entitled to temporary wage loss benefits, effective September 23, 2008.	com
2008-00562 DENIED	2008-02-21	At issue is whether the workers tuberculosis (TB) infection is due to the nature of his employment.	com
2005-04565 ALLOWED	2005-08-30	Did the worker develop an occupational disease due to the nature of his employment? Jurisdiction Sections 239(1) and 241(1) of the Workers Compensation Act (Act) provide that a worker may appeal a decision of a RO to the Worker Compensation Appeal Tribunal (WCAT).	com
2004-01560 DENIED	2004-03-29	Whether the workers exposure to and infection with the tuberculosis bacillus arose due to the nature of her employment? Jurisdiction This appeal was filed with Review Board.	com

IV.IV.II. 90 DAY WAITING PERIOD:

CUPE is also opposed to the proposed 90 day waiting period in Section 2, pages 1 and 3 of the Discussion Paper. Workers need coverage now. Why? Many workers in BC do not have paid sick leave. According to the Conference Board of Canada's Report Disability Management - Opportunities for Employer Action, only 1/3 of workers (employees, including supervisory workers) between the ages of 18-24 have paid sick days.[19] Where they do there are a number of restrictions on usage and percent of income paid.

An analysis from the Canadian Centre for Policy Alternatives ("CCPA") shows that in 2019, only 38% of illness or disability leave taken for more than a week was paid.[20] As per Lim:[21]

> "The report found Canadians with lower incomes took fewer paid leave days compared to those with higher annual incomes.
>
> Only 14 per cent of leave of more than a week taken by workers in the lowest income decile was paid, compared to 74 per cent of those in the top income decile. One in five workers making $15 an hour or less had leave over a weeklong paid by employers in 2019, the study says."

Many Employers actively use Attendance Management Programs to discourage use of sick leave, even where there are disabilities. Employment Insurance benefits are usually limited to 55% of insurable earnings (up to a maximum of $573 a week) and time limited to 15 weeks generally.[22] There is also the Canada Emergency Response Benefit ("CERB") of 2,000 dollars a month for four months. As per Lim:[23]

> "Gig workers would also not be eligible for EI unless they've registered as self-employed at least 12 months prior and paid into the program. The study says only 17 per cent of self-employed workers and 20 per cent of part-time workers who were unemployed received EI benefits in 2018."

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[19] Conference Board of Canada. (2014). Disability Management - Opportunities for Employer Action. See http://www.edencanada.ca/uploads/Resources/EDEN_Fact_Sheet_2.pdf

[20] Lim, J. (2020). Study warns that many workers lack access to paid leave during pandemic. iPolitics. See https://ipolitics.ca/2020/03/16/study-warns-that-many-workers-lack-access-to-paid-leave-during-pandemic/

[21] Lim, J. (2020). Study warns that many workers lack access to paid leave during pandemic. iPolitics. See https://ipolitics.ca/2020/03/16/study-warns-that-many-workers-lack-access-to-paid-leave-during-pandemic/

[22] Employment Insurance Canada. Disability Benefits. See https://www.canada.ca/en/financial-consumer-agency/services/living-disability/disability-benefits.html

[23] Lim, J. (2020). Study warns that many workers lack access to paid leave during pandemic. iPolitics. See https://ipolitics.ca/2020/03/16/study-warns-that-many-workers-lack-access-to-paid-leave-during-pandemic/

IV.V. THERE SHOULD NOT BE A REQUIREMENT FOR A STATE OF EMERGENCY:

There are several areas of the Discussion Paper that refer to the requirement for the State of Emergency as per Section 7 page 12, Section 8.1 and 8.1.2. at pages 13, 14 and 15 of the Discussion Paper. Section 7, page 12 states:

> "In contrast, a number of US jurisdictions have passed legislation, executive orders, or made other administrative policy changes bringing into force a rebuttable presumption that COVID-19 infections in certain workers are work-related.
>
> Each state has specific criteria for adjudicating their presumptions; but many have similar requirements. For example, most of the presumptions:
>
> - are limited to COVID-19 infections;
>
> - apply only during the period subject to a declared state of emergency"

As per the BC Federation of Labour, there should not be the requirement for a State of Emergency:

> "The second proposal in Column 1 requires a state of emergency for presumption to apply. As explained in the Discussion Paper the proposed Schedule 1 presumption is in "response to the exceptional circumstances brought about by the COVID19 outbreak in BC." The current state of emergency declared in response to COVID19 is an historic event. Declaring a BC state of emergency for an infectious disease recognizes that there is a serious risk of infection and only then is presumption applicable.
>
> The limitation to exceptional circumstances means that other infectious outbreaks such as the common cold would be assessed on the usual case by case basis.
>
> The BCFED accepts this limitation but is concerned that it will exclude workers who may develop an infectious viral disease either prior to the declaration of any of the listed emergencies or after the emergency is lifted."

And,

> "The presumption should be simplified to apply to all workers working outside the home during a state of emergency.
>
> The World Health Organization declared COVID19 a pandemic on March 12, 2020. BC declared a Public Health Emergency on March 17, 2020, followed on March 18 with the

government declaring a province-wide state of emergency under the *Emergency Program Act.* The first COVID19 case in BC was confirmed on January 28, 2020 and the first WCB COVID19 claim was filed on March 12, 2020.

Workers were developing the disease prior to the declarations of the public health and the province-wide state of emergency.

Currently, the state of emergency is being extended on a 2 - week by 2 - week time frame. We have no idea how long this will go on and may depend upon the numbers of infections as BC moves through the re-opening phases.

We are also concerned for those workers who may be infected by a serious novel virus before a state of emergency is formally declared. And there may be a novel virus that pose a serious threat to workers that never rises to the seriousness of declaring a state of emergency."

A second issue is the proposed requirement that exposure occur within the geographical area of the applicable emergency. CUPE disagrees with this. CUPE has numerous conferences, education sessions, travel by workers between areas, travel by staff representatives e.g. for Workers Compensation Appeal Tribunal hearings and health and safety issues, etc. Travel between provinces is common.

CUPE also questions how sectors like aviation would be addressed e.g. flight attendants.

IV.V. THERE IS UNCERTAINTY AND A LACK OF INFORMATION ON SUBSEQUENT WAVES OF SARS-COV-2 AND COVID-19:

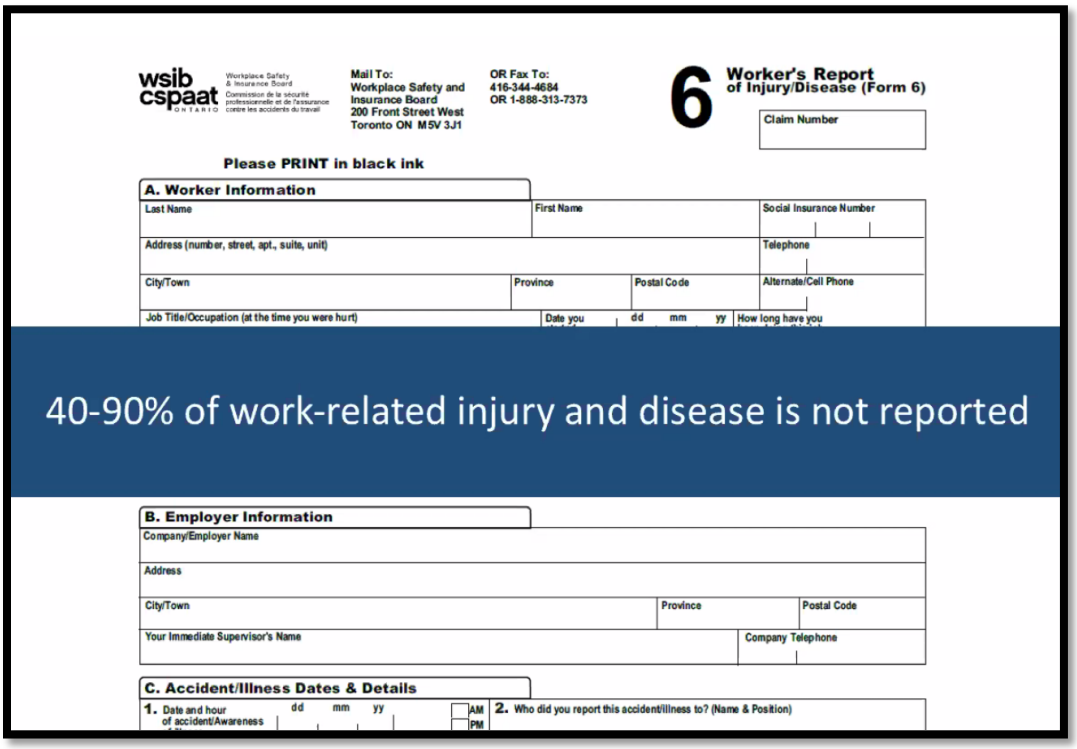
As stated below in Section IV.VI. there is a lack of scientific, medical, statistical, and other information regarding SARS-CoV-2 and COVID-19 generally. This represents a significant barrier to preparing for subsequent waves of SARS-CoV-2 and COVID-19 and addressing which occupations and which workers may be at greater risk. As stated in the Vancouver Sun (June 06, 2020, NP6 "Workers file for benefits over COVID"):

> "The white paper says evidence is unclear about which occupations are most at risk"

While the WCB statistics indicate trends, these are merely trends based on reported cases. As the current scientific and medical literature indicates, up to 50% of people are non-symptomatic and 25% to 30% have some symptoms. Many of these workers will not file claims.

This does not even address claims suppression and under reported as per a number of previous CUPE submissions and the slide from Howse (2019)[24] below:

Figure 5:



IV.VI. THE LACK OF INFORMATION REGARDING SARS-COV-2 AND COVID-19 GENERALLY:

IV.VI.I. LACK OF SCIENTIFIC, MEDICAL, STATISTICAL AND OTHER INFORMATION:

As per Section 8, page 13 of the Discussion Paper, it states that:

> "As discussed, rather than a typical systematic review, the expedited process required WorkSafeBC's Evidence Based Practice Group and Clinical Services to conduct a more streamlined approach via a Rapid Review of the expert medical and scientific research."
>
> (Emphasis added)

[24] Howse, D. CRWDP New Researcher webinar #8: Injured Workers' Moral Engagement in the Compensation System: The Social Production of Problematic Claiming Experience.

Appendix A of the Discussion Paper essentially admits that where it states at page 28:

> "Summary:
>
> - In this rapid review, we found that the majority of retrieved epidemiological studies on COVID-19 are largely descriptive and vary significantly in terms of their sources of cases, and resulting distribution of environmental and personal risk factors for infection.
>
> - A smaller number of epidemiologic studies of variable methodological and reporting quality utilize analytic designs to allow for an estimate of the relative risk of infection, mostly among HCWs in comparison to the general population.
>
> - The level of evidence on this important subject is currently low, as is the consistency of findings between this small mix of studies. Currently, there is some evidence from two large cohort studies documenting that the overall incidence of COVID-19 infection is higher among some HCWs when compared to the general population. However, in a single report from a local (Canadian) jurisdiction, the incidence and therefore relative risk of occupational-related COVID-19 infection, specifically, is lower in comparison to the general population.
>
> - Based on the limited analytic epidemiologic research currently available, the general conclusion of this rapid review is that there is no consistent association between work within a specific occupation and a greater risk of COVID-19 infection."
>
> (Emphasis added)

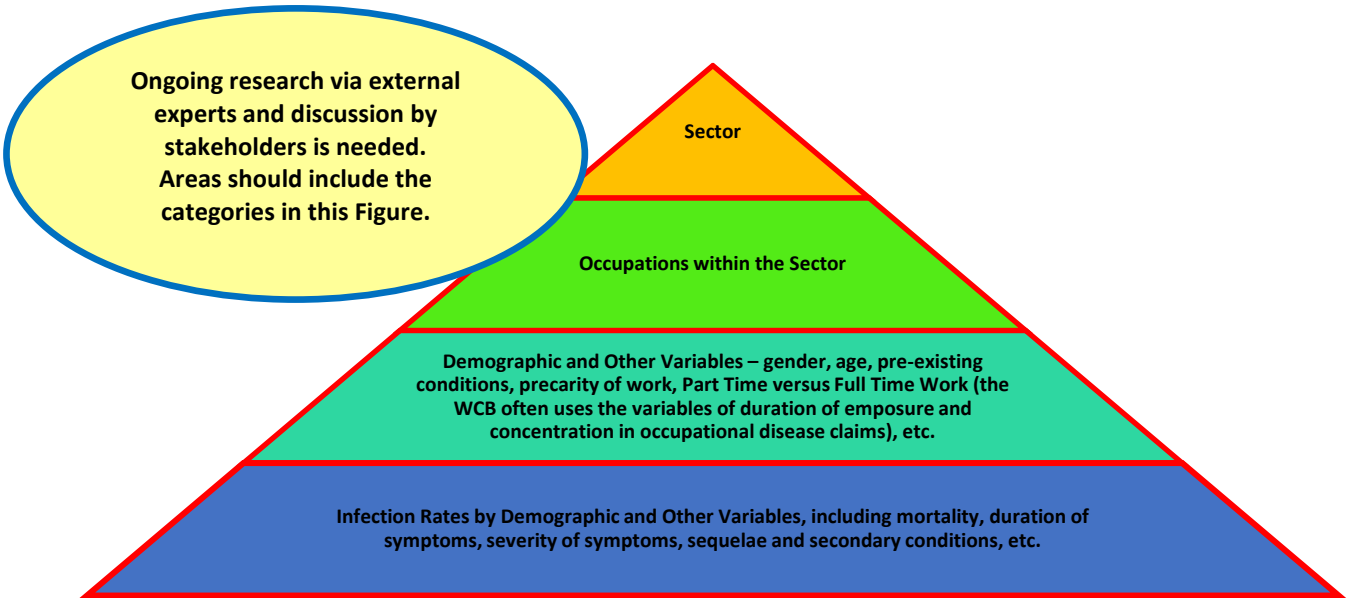
Despite this, the WCB concludes that:

> "the general conclusion of this rapid review is that there is no consistent association between work within a specific occupation and a greater risk of COVID-19 infection."

CUPE disagrees with the conclusions above. The questions and resulting conclusions are mis-framed. There is still a lack of scientific, medical, statistical, and other information regarding SARS-CoV-2 and COVID-19 generally as per the four bullets above in Appendix A of the Discussion Paper (page 28).

As seen with SARS, there were scientific and medical studies still being conducted 15 years after SARS began. Without an accurate depiction of the true extent of the number of cases, infection rates, types of infection, duration, sectors, workers in precarious employment versus regular employment, demographic variables within sectors and occupation groups such as age and gender, etc. be addressed? Here is a sample Figure of how that process:

Figure 6:



IV.VI.II. ADDITIONAL CORONAVIRUSES – HAVE THESE BEEN CONSIDERED:

Various worker stakeholders have opined that the definition of disease be expanded or revised to address the issues above (and in Section IV.VII. below). SARS-CoV-1 is one of seven known coronaviruses to infect humans, including:

Human coronavirus 229E (HCoV-229E)	Human coronavirus HKU1 (HCoV-HKU1)
Human coronavirus NL63 (HCoV-NL63)	Middle East respiratory syndrome-related coronavirus (MERS-CoV)
Human coronavirus OC43 (HCoV-OC43)	SARS-CoV-2

How will the proposed Options address or affect the other (or additional) coronaviruses? Does the current Discussion Paper address the multiple mutations of SARS-CoV-2 that have occurred in BC? [25]

[25] Shore, R. COVID-19: UBC team using every tool in its science kit to get ahead of virus. Vancouver Sun. June 07, 2020. Retrieved June 08, 2020 from https://vancouversun.com/health/local-health/covid-19-ubc-team-using-every-tool-in-its-science-kit-to-get-ahead-of-virus

IV.VII. SEQUELAE, SECONDARY CONDITIONS AND COMPLICATIONS RELATED TO SARS-COV-2 AND COVID-19 NEED TO BE CONSIDERED AND ACCEPTED AS PART OF SCHEDULE 1:

There are a number of sequelae and secondary conditions e.g. pulmonary and cardiac conditions,[26] related to SARS-CoV-2 and COVID-19. As per the New England Journal of Medicine:

> "During the study period in 2020, a total of 9806 cases of Covid-19 were reported in the study territory. During this period, 362 cases of out-of-hospital cardiac arrest were identified, as compared with 229 cases identified during the same period in 2019 (a 58% increase)."

As per WebMD 1 in 6 people will have complications relating to SARS-CoV-2 and COVID-19, including some that are life-threatening – and these can be long term or even permanent.[27] There are at least 12 complications that SARS-CoV-2 and COVID-19 can cause:[28]

Figure 7:

(See next page)

[26] New England Journal of Medicine. See https://www.nejm.org/doi/full/10.1056/NEJMc2010418
[27] WebMD. Complications Coronavirus Can Cause. See https://www.webmd.com/lung/coronavirus-complications#1
[28] WebMD. Complications Coronavirus Can Cause. See https://www.webmd.com/lung/coronavirus-complications#1

Complications Coronavirus Can Cause

If you have COVID-19, the illness that comes from infection with the recently discovered coronavirus, your symptoms may be relatively mild and manageable at home. That's true for most people. But if you're older or have another illness such as diabetes or heart disease, you're more at risk for the serious form of COVID-19.

Some people -- about 1 in 6 -- will have complications, including some that are life-threatening. Many of these complications may be caused by a condition known as cytokine release syndrome or a cytokine storm. This is when an infection triggers your immune system to flood your bloodstream with inflammatory proteins called cytokines. They can kill tissue and damage your organs, including your lungs, heart, and kidneys.

COVID-19 complications may include the following.

Acute Respiratory Failure

IN THIS ARTICLE

This does include secondary bacterial and fungal infections or changes to mental health and cognitive functioning.[29,30] As per Scientific American:

> "Many studies have already found that a significant number of hospitalized COVID-19 patients have and are continuing to develop dangerous secondary bacterial co-infections such as bacterial pneumonia and sepsis."
>
> "Bacterial co-infections such as pneumonia pose a serious threat to high-risk COVID-19 patients, with many factors coming together to create severe, life-threatening and, in some cases, deadly complications that cannot be ignored by the health care community."
>
> "Early results have shown that COVID-19 may cause brain effects such as encephalopathy, similar to the 2002 Severe Acute Respiratory Syndrome, which showed seizures and brain tissue injury. Moreover, COVID-19 causes respiratory failure, which is linked to increased risk of dementia due to a lack of oxygen to the brain."

The Discussion Paper and proposed Options do not address this issue. The Discussion Paper states at Section 7, page 12:

> "In contrast, a number of US jurisdictions have passed legislation, executive orders, or made other administrative policy changes bringing into force a rebuttable presumption that COVID-19 infections in certain workers are work-related.
>
> Each state has specific criteria for adjudicating their presumptions; but many have similar requirements. For example, most of the presumptions:
>
> - are limited to COVID-19 infections"

This needs to be addressed.

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[29] Schacht, O. (2020). COVID-19 Patients Need to Be Tested for Bacteria and Fungi, Not Just the Coronavirus. Scientific American. Observations / Opinion. Retrieved June 08, 2020 from https://blogs.scientificamerican.com/observations/covid-19-patients-need-to-be-tested-for-bacteria-and-fungi-not-just-the-coronavirus/

[30] Halloway, S. & James, B.D. (2020). Scientific American. Observations / Opinions. A Tsunami of Dementia Could Be on the Way. Retrieved June 08, 2020 from https://blogs.scientificamerican.com/observations/a-tsunami-of-dementia-could-be-on-the-way/

V. CONCLUSION:

Thank you for allowing CUPE the opportunity to comment on the proposed changes.

The primary principle should be that Presumption must apply to claims if the virus and / or COVID-19 (the manifestation of the virus) is present in the worker's workplace regardless of the presence of a state of emergency, the sector, the occupation, the individual job or job duties, the presence of vulnerabilities and pre-existing conditions, etc.

CUPE reserves the right to respond to any additions or changes to the current Consultation and any changes to related Compensation Policy, Practice Directives, OHS Regulations, OHS Policies, OHS Guidelines, OHS Standards, Forms, etc.

Respectfully submitted,

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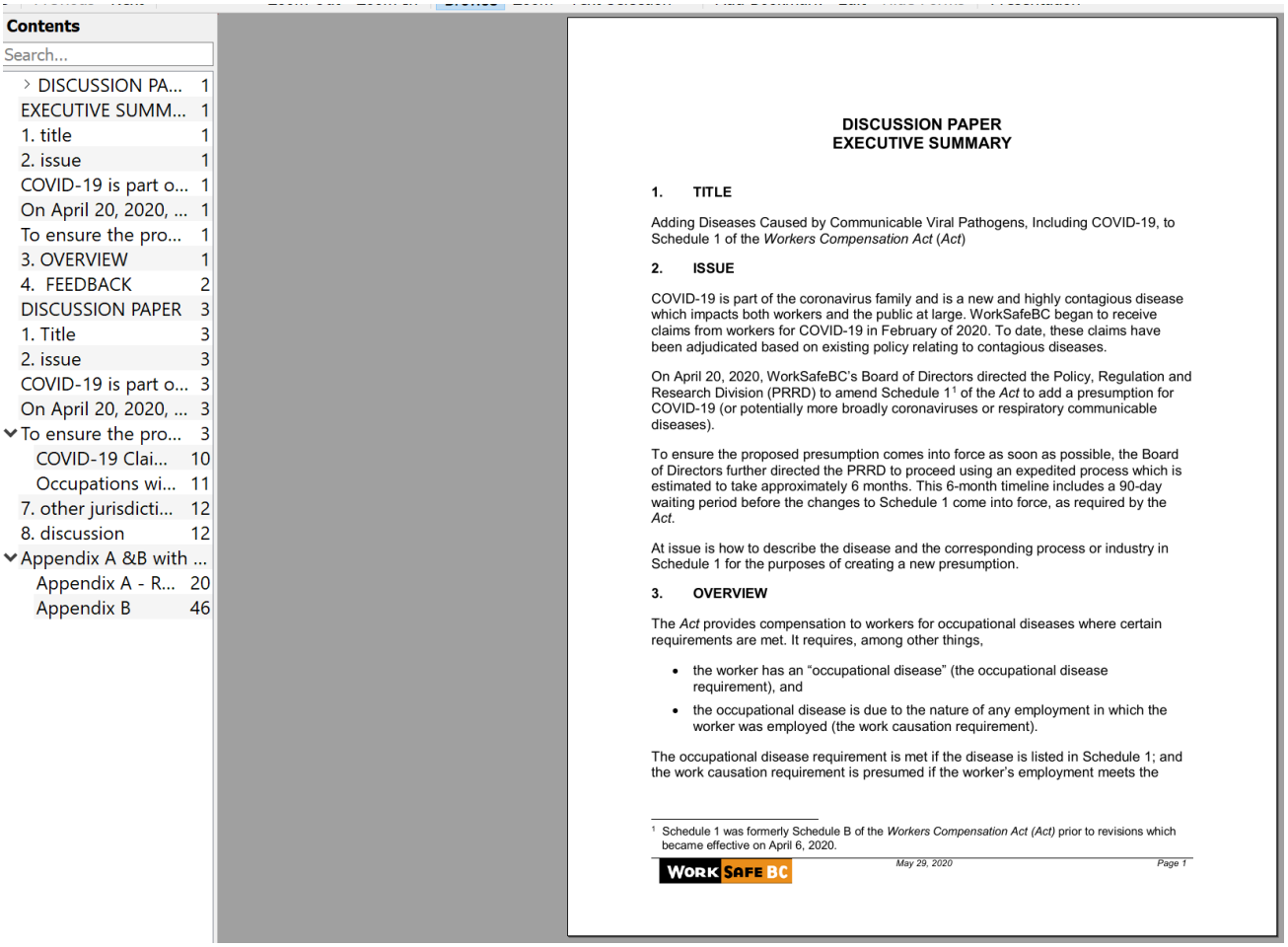
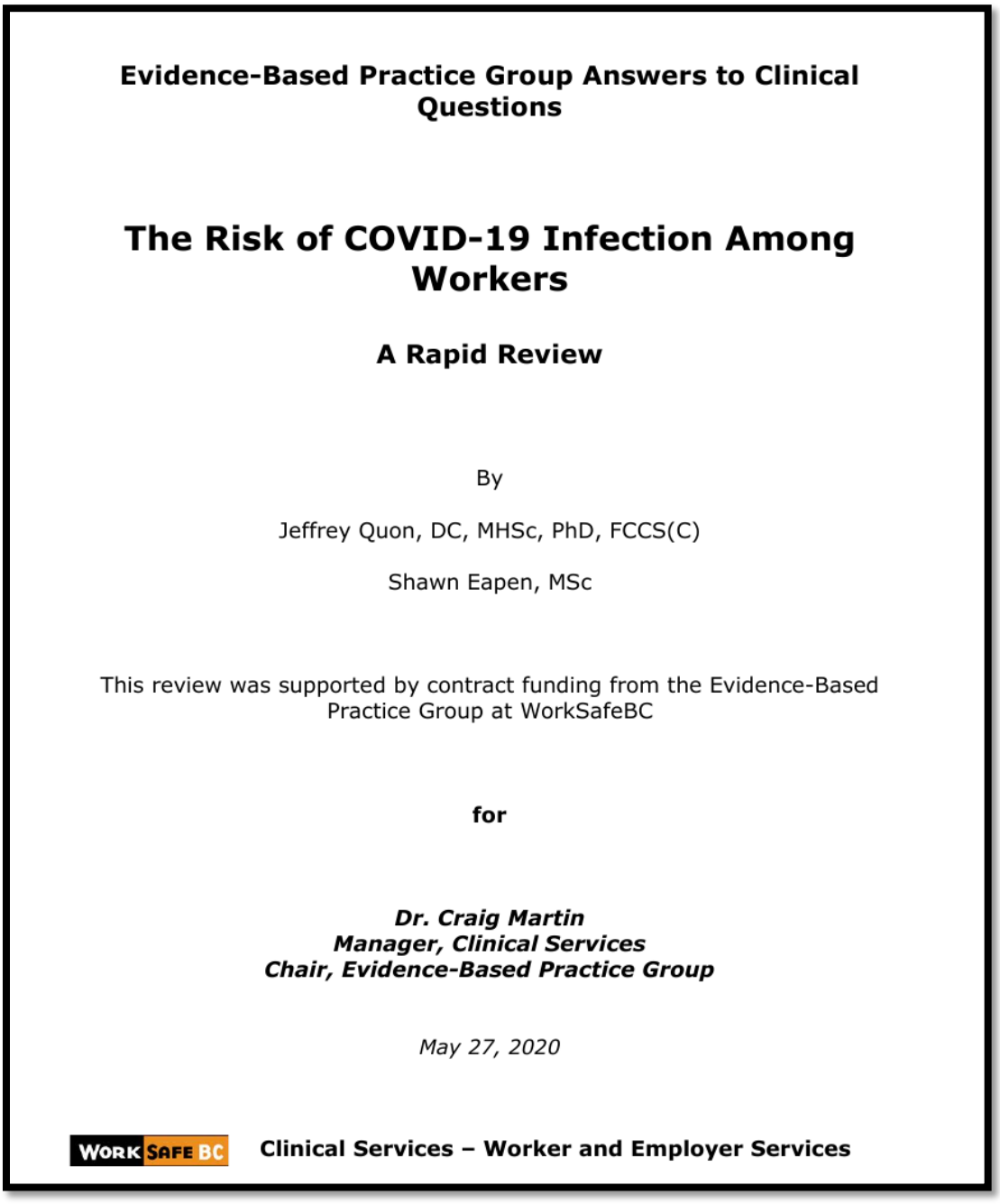
VI. APPENDICES:

APPENDIX A:

Page 1 of 46 only for explanation purposes.



APPENDIX B:



Evidence-Based Practice Group Answers to Clinical Questions

The Risk of COVID-19 Infection Among Workers

A Rapid Review

By

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This review was supported by contract funding from the Evidence-Based Practice Group at WorkSafeBC

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WORK SAFE BC **Clinical Services – Worker and Employer Services**

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