

**MINUTES – BOARD MEETING**  
**1:00pm - March 28, 2018 and 9:00am – March 29, 2018**

Present: Haley Flaro, Douglas Jones, Lucien Sonier, Hector Losier, Tina Soucy, Gaëtan Guérette, Michèle Caron, Maureen Wallace, Jim Stanley

Absent: Dorine Pirie (March 29), Julie Marr (March 29)

Staff present: Tim Petersen, Michael McGovern, Laragh Dooley, Carolyn MacDonald, Shelly Dauphinee, Amanda Aubé

Staff present for portion of meeting: Beverly Stears, Cathy Bent

Also present: Anne McInerney

**March 28, 2018**

**1 In-Camera Session**

**2 Board Performance Assessment Results and Action Plan**

*In-camera*

**March 29, 2018**

**1 Chairperson's Remarks**

The Chairperson welcomed the Directors to the meeting.

**2 Declaration of any Conflicts of Interest**

The Chairperson asked any Board members who have any conflicts of interest arising from the meeting agenda to declare that conflict. No conflicts were declared.

**3 Adoption of the Agenda**

The Board added the appointment of an employer representative to the Fatality Review Committee as agenda item 16.

**Moved, seconded, and on consensus**, the agenda was adopted as amended.

**4 Adoption of Minutes / Review of Task List**

**(a) Approval of Minutes**

While reviewing the February 2018 Board minutes, the Board requested that staff continue ongoing follow up and action on Item 6 related to duty to accommodate in the *Workers' Compensation Act*, specifically about the possibility of merging the duty to accommodate and the related enforcement.

**Moved, seconded, and on consensus**, the minutes of February 22, 2018 were approved as written.

**(b) Task List of March 29, 2018**

WorkSafeNB's acting Corporate Secretary & General Counsel reviewed the Task List with the Board.

The Board noted the value of the Task List for tracking key activities. The Board requested that when Task List items are complete, they be moved to a separate document to track completed activities.

**5 Human Resources Evaluation Committee Report (*Verbal Update*)**

Staff provided the Board with an update on the activities of the Human Resource Evaluation Committee meeting on March 28, 2018, including:

- Review of the Terms of Reference and roles;
- Discussion on how quorum is established at meetings;
- Discussion on scheduling of meetings,
- Review of year end results;
- Received an update on the arbitration proceedings related to the pay equity review of a WorkSafeNB position.

The Board requested a legal opinion on whether the Vice-Chair of the Board of Directors is a voting member be brought at a future meeting.

**6 Audit Committee Report (*Verbal Update*)**

Staff provided the Board with an update on the activities of the Audit Committee meeting of March 28, 2018, including:

- Review of the Terms of Reference;
- Discussion on organizing an education session for Audit Committee members;
- Review of the Audit Committee Handbook;
- Review of preliminary Accident Fund funded position and investment returns for 2017.

**7 Acting President & CEO's Report**

WorkSafeNB's acting President & CEO presented his report to the Board. He updated the Board on some additional items and answered questions about his report, as follows:

### Accessibility at WorkSafeNB's Head Office

He explained that options have been explored to install elevators and/or lifts at WorkSafeNB's head office. The Board decided to wait until an evaluation of WorkSafeNB's real estate is complete before making a decision.

### Workers' Compensation Appeals Tribunal (WCAT) Decisions

He noted there may be significant future financial liability resulting from the WCAT's ongoing position on retroactivity in its decisions related to WorkSafeNB's use of estimated capable earnings (ECE) when calculating benefits for injured workers in its claim decisions. The Board discussed if WorkSafeNB should plan for the potential financial liability for those claims which are eligible for appeal of this issue in its current budget. The Board discussed the importance of managing liabilities, but also noted that taking a retroactive position now may set an unfavourable precedent. The Board decided not to take any action on this item at this time, but will revisit this in the future by way of a formal recommendation from staff.

The Board inquired why WorkSafeNB is not attending all WCAT hearings. WorkSafeNB's acting Corporate Secretary & General Counsel explained that WorkSafeNB is not currently resourced for attendance at every hearing, and therefore appeals are assessed and prioritized based on potential policy challenges and financial liability. Staff advised the Board that a position has been created for a WorkSafeNB representative at WCAT hearings which is anticipated to be filled in the near future. The Board requested that the potential financial liability of WCAT hearings attended and not attended by WorkSafeNB be included in the reporting going forward.

### Government Relations

WorkSafeNB's acting President & CEO noted that WorkSafeNB has had very positive meetings and discussions with the Assistant Deputy Minister of the Department of Post-Secondary Education, Training and Labour (PETL) and that relationship is strong.

### Violence in the Workplace

The Board discussed the complaint and enforcement process related to upcoming legislative changes related to violence and harassment in the workplace. The Board was advised by WorkSafeNB's Vice President of WorkSafe Services that because WorkSafeNB does not currently have sufficient resources to enforce these incoming regulations, an external firm will be engaged until new enforcement officers are hired and existing officers are trained. She also noted the value of the 30 day consultation period because it will give WorkSafeNB and its stakeholders the opportunity to effectively weigh in. WorkSafeNB's President & CEO noted that education related to the new regulations is critical and a focus on mediation

would be useful. The Board requested an update on this issue once the new legislation is released.

#### Client Experience Improvement Update (M18-22)

WorkSafeNB's Director, Service Excellence introduced Memorandum M18-22 and presented an update on the Client Experience Improvement Roadmap to the Board. She highlighted the following:

Initiative 5: Further develop leadership capability and competency: She advised the Board that a vendor has been engaged in contract negotiations.

Initiative 8: Process for client insight and complaint handling: She noted that the Client Satisfaction Survey will resume in the very near future.

WorkSafeNB's new website, which will launch in April, will have a banner requesting a one question rating of WorkSafeNB with an option to have a follow-up call if that is requested by the client.

WorkSafeNB's President & CEO requested that staff incorporate a net promoter score into the measurement strategy for client satisfaction.

Initiative 13: Business requirements for core systems modernization: She explained that WorkSafeNB's Controller is working with procurement and WorkSafeNB's Vice President of Corporate Services on how to build a best in class system before a request for proposal is sent out.

Initiative 26: Evaluate and improve call intake and management: She explained this involves determining whether WorkSafeNB will resolve client issues on the first call or provide a first touch answering service that would then direct the client to the appropriate department. She also noted that technology is being explored to shorten incoming call queues.

The Board inquired if IT changes which are being made now will remain at the end of this project. She explained that while some changes may not remain at the end of the project, IT changes are only being done if the benefits of implementing them now outweigh the potential of having to abandon them at a later date.

The Board discussed the level of customization that may be required in the IT systems given the items that are specific to WorkSafeNB (case management, employer assessments, etc.). WorkSafeNB's President & CEO noted the growing opportunities by using the cloud system.

The Board confirmed that legal reviews of all changes are done to ensure any privacy issues are identified.

#### Legal Department Update (Verbal)

WorkSafeNB's acting Corporate Secretary & General Counsel provided the Board with an update.

He provided an update on a few of ongoing legal actions, reviewed recent court decisions relevant to WorkSafeNB and gave an overview of any potential legal actions against WorkSafeNB.

He explained that as procedures at the WCAT are finalized, the question of WorkSafeNB representation at the WCAT hearings which have been recently raised by Advocate Services will likely be resolved.

He advised that WorkSafeNB is currently awaiting recommendations from recent Coroner's Inquests for consideration by the Board. He noted that conversations have begun on resourcing the implementation of the recommendations.

The Board requested written legal updates going forward.

#### Communications Corporate Report (M18-23)

WorkSafeNB's Writer, Senior Design Specialist introduced Memorandum M18-23 related to the Q4 Communications Report.

WorkSafeNB's Vice President of WorkSafe Services introduced a communications consultant who presented a proposal to enable WorkSafeNB to share information with the public resulting from serious workplace injuries or fatalities in the interest of education and awareness. The proposal included various resources in a centralized section of WorkSafeNB's website, with a "push" to the public by way of email, e-news, etc. The Board was in agreement with the direction taken by staff, and requested that this information be brought to the Fatality Review Committee as this request originated from that Committee. The Board also clarified that the Communications department will bring this item back to the Board at a future meeting.

**Moved, seconded, and on consensus**, the acting President & CEO's report was accepted by the Board of Directors.

#### **8 Board Committee Members (Change to Human Resources Evaluation Committee Membership)**

The Board of Directors made some changes to the Board Committee membership to ensure that each Board member was a primary member on at least one Board committee.

**Moved, seconded, and on consensus**, the Board of Directors appointed Michèle Caron as a primary worker representative and Maureen Wallace as an alternative worker representative on the Human Resources Evaluation Committee.

## **9 2017 Year-End Results (M18-25)**

WorkSafeNB's Assistant Director, Planning & Policy introduced Memorandum M18-25 related to the 2017 Year-End Results with the Board. As the Board received information on WorkSafeNB's goals, additional items and questions were addressed as follows:

### Service Goal

The Board confirmed that staff are very optimistic that WorkSafeNB will be able to resume its Client Satisfaction Survey shortly as privacy concerns have been addressed.

### Safety Goal

The Board inquired how electronic reporting of accidents could be increased. Staff explained the solution may involve the use of WorkSafeNB's website or its app to submit an electronic Form 67.

### Support Goal

Staff explained that work continues to determine the best measure(s) for this goal. While reviewing results under this goal, the Board discussed with staff the difficulty WorkSafeNB decision makers are experiencing in attempting to make timely decisions while taking into account various items such as personal conditions of the client. WorkSafeNB's Vice President of WorkSafe Services explained to the Board that staff has been engaged to keep them up-to-date on the changing workers' compensation system and how WorkSafeNB can best work within this changing system.

The Board inquired how partial return to work factors into the duration of a claim. WorkSafeNB's Vice President, WorkSafe Services explained that if only partial return to work is done, the claim is considered to be ongoing.

The Board requested ongoing reporting from staff related to Risk Management in the future.

The Board discussed whether the results of the Task Force and Auditor General findings will be provided to WorkSafeNB ahead of public release. Staff advised the Board that it anticipates that the Auditor General's reports on the topics of governance and claims management will be provided to WorkSafeNB ahead of going to Public Accounts so that WorkSafeNB will have some time to respond to the findings. The Board requested that WorkSafeNB's President & CEO advise the Deputy Minister of PETL in an upcoming meeting that WorkSafeNB would like the opportunity to see these reports before they are released so that the findings can be incorporated into WorkSafeNB's Strategic Plan.

## **10 2017 Government Mandate Letter Year-End Results (Information Only) (M18-27)**

WorkSafeNB's Assistant Director of Planning & Policy introduced Memorandum M18-27 related to progress made on the 2017 Government Mandate Letter. She explained

WorkSafeNB's Year-End Results will accompany the Annual Report to be sent to Government. The Board noted that a "Progress at a Glance" section may be the most effective way to present this information.

The Board requested that WorkSafeNB explore effective ways to advance the item related to the improvement of linguistic responsibilities. The Board requested that staff bring a report to the Board in June 2018 providing an overview of how this mandate item is being managed.

## **11 Identifying Gaps in WorkSafeNB's Governance Process (M18-26)**

WorkSafeNB's Assistant Director of Planning & Policy introduced Memorandum M18-26 related to some areas which may be identified as gaps in WorkSafeNB's governance process based on key items the Auditor General has been reviewing as part of its audit on governance practices. The Board requested that a draft Terms of Reference for a Governance Committee be brought back for review in April 2018.

The Board also requested a Skills Matrix be brought back in April 2018.

The Board also discussed the function of the Fatality Review Committee and noted its desire to start evaluating the function of that Committee.

## **12 Proposed Policy – Sponsorships & Partnerships (M18-28)**

WorkSafeNB's Assistant Director of Planning & Policy introduced Memorandum M18-28 which provided information related to the drafting of a proposed policy entitled Sponsorships & Partnerships.

The Board clarified that any funding for research initiatives would not fall under this policy and that those requests are not often received.

The Board requested some revisions to the sample list of programs which will be considered for partnerships, adding a requirement for written submissions, adding items around accountability and the terms of funding.

WorkSafeNB's Assistant Director of Planning & Policy advised the Board that after the requested revisions have been made, the policy will proceed to stakeholder consultation. As no budgeting exists for 2018, the policy will be made effective Jan 1, 2019.

The communication strategy will be brought back to the Board after the consultation is complete and the Board prepares to approve the policy.

## **13 Governance – Engaging Stakeholder Technical Committees (M18-18)**

WorkSafeNB's Assistance Director of Planning & Policy introduced Memorandum M18-18 related to Policy 41-011 Governance – Engaging Stakeholder Technical Committees in Legislative and Regulatory Reform, noting this policy is up for a 60 month review. No policy changes are proposed at this time.

The Board clarified that WorkSafeNB is proactive with education and consultation in order to fulfil the item in the Terms of Reference attached to this policy which states that committee members will adequately consult with constituents to represent their constituents' views on proposed changes.

The Board also discussed the challenge related to WorkSafeNB securing time on the legislative agenda. WorkSafeNB's Vice President of WorkSafe Services advised that she meets with the Assistant Deputy Minister each month and conveys impacts of not acting on certain matters.

**Moved, seconded, and on consensus**, the Board of Directors:

- Rescinded Policy 41-011 Governance – Engaging Stakeholder Technical Committees in Legislative and Regulatory Reform, Release 001; and
- Approved Policy 41-011 Governance – Engaging Stakeholder Technical Committees in Legislative and Regulatory Reform, Release 002.

#### **14 Governance – Balancing Decisions (M18-19)**

*Deferred to April 2018 Meeting*

#### **15 Firefighters' Compensation Act Consultation – Presumptive Cancers**

WorkSafeNB's Assistant Director of Planning & Policy explained that the Board previously made a commitment to conduct consultations resulting from a meeting with stakeholders related to adding additional presumptive cancers in the regulations to the *Firefighters' Compensation Act*. To date, the conversation on this matter has primarily been around costing impacts.

The Board reviewed the Stakeholder Consultation document and requested some revisions including a clearer explanation of the concepts around relative vs. attributable risk, the inclusion of some sources in the conclusion, as well as adding information provided by WorkSafeNB's consulting actuary in 2009 as an appendix.

Staff advised the Board that the consultation document will be posted on WorkSafeNB's website and also targeted to municipalities. The Board noted that this document could also form part of a broader presentation for education purposes.

The Board also requested that the messaging to stakeholders clearly indicate that the results of the stakeholder consultation will be brought back to the Board for discussion by the Board before any decision on this issue is made.



**16 Appointment to Fatality Review Committee**

No appointment was made at this time.

The meeting adjourned for the day at approximately 3:00pm.