

# 2024 MFL Health and Safety Report Card



# 2024 MFL HEALTH AND SAFETY REPORT CARD

## OVERALL GRADE: C+ (UP FROM D IN 2022)

### INTRODUCTION

The Manitoba Federation of Labour (MFL) is the province's central labour body, made up of thirty (30) affiliated unions representing 130,000 unionized workers from the public sector, private sector, and building trades. Workplace health and safety is a key priority for the MFL and our affiliated unions. The MFL conducts health and safety research, provides health and safety education and training to our members, and lobbies and advocates for stronger laws, stricter enforcement, and greater investment in injury and illness prevention to keep all workers safe and healthy.

Every worker has the right to a safe and healthy workplace, and every family has the right to expect that their loved ones will return home safely at the end of every workday. Workplace injuries and illnesses are preventable. When we have the right laws, enforcement strategies, and prevention programs, we can ensure that all workers stay safe and healthy on the job. When workers do get injured or ill, they should have access to the workers compensation benefits and supports they need, including a safe and healthy return to work.

While employers have the legal duty to ensure safe and healthy workplaces, it is also true that the laws that governments pass, the policies they implement, and the investments they make have a major influence on our workplace health and safety system. That's why it's so important to have a government that's committed to ensuring safe and healthy workplaces for all workers. An effective workplace health and safety system doesn't just happen – it has to be built, sustained and evolve to meet changing workplace hazards.

While many improvements to workplace health and safety have been won by workers and unions over the course of many decades of fighting for worker safety, the fact that at

least 25,000 Manitoba workers are injured on the job<sup>1</sup> and more than 20 die each year is a sobering reminder of the need to remain vigilant in our efforts to make workplaces safe and healthy for all Manitobans.

This report card is part of the MFL's efforts to raise awareness about the importance of workplace health and safety and encourage government to give it the priority and focus it deserves. The Report Card evaluates the Manitoba Government's track record on workplace health and safety in four (4) main areas:

1. Manitoba's workplace health and safety laws
2. Enforcement
3. Prevention
4. Workers compensation

In the two-year period since the MFL's last Report Card, there has been a change in government, and the current government has been in power for about one year. This has been taken into account in assessing progress in the areas dealt with on this Report Card. Some of the challenges we face in workplace health and safety and workers compensation will take more time to address than others. Progress on those matters will be more thoroughly assessed in subsequent Report Cards when sufficient time has passed to take the required actions, including substantive legislative changes.

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<sup>1</sup> It is important to keep in mind that these statistics reflect only a portion of the actual number of injuries and fatalities. They exclude those instances where a WCB claim was not filed (including as a result of claim suppression) or was filed and denied. They also exclude the nearly 30 percent of Manitoba's workforce not covered by WCB.

# WORKPLACE HEALTH AND SAFETY LAWS: GRADE IMPROVED TO C FROM D

*Some early positive steps have been taken, but the Workplace Safety & Health Act and Regulations are overdue for major modernization.*

With respect to Manitoba's workplace health and safety laws, the current government has a lot of work to do after the previous government's neglect. The Pallister / Stefanson government sought little to no input from workers on workplace safety and health measures, weakened regulations that keep workers safe and healthy on the job, and put no effort into modernizing Manitoba's laws to meet evolving workplace hazards. The new NDP government has already demonstrated a new approach to listening to workers and other stakeholders, and has signalled that workplace safety and health will be a priority going forward.

## **Comprehensive, Tripartite Review of the Workplace Safety and Health Act Underway**

At the time of preparing this Report Card, the *Workplace Safety and Health Act* is undergoing a comprehensive tripartite review, including labour, employer and technical experts, which is expected to conclude by the end of 2024. While we are pleased that the new government is making time to listen to labour and other stakeholders, we would encourage the government to take early action (apart from other amendments that will follow from the final report and



recommendations) to address significant gaps in our legislative and regulatory framework in order to deal with high priority hazards, such as those related to asbestos, workplace violence and psychological health. We urge the government to identify areas needing

urgent attention on which the review committee has already reached consensus and move as quickly as possible to make long-overdue changes to the primary Act and Regulations for protecting Manitoba workers from injury and illness. The fact that the Act has not yet been substantially updated prevents us from awarding a higher grade in this area at this time.

### **Minister's Advisory Council Reestablished in Law**

The provisions of our *Workplace Safety and Health Act* and Regulations are most effective when they are shaped by input and advice from stakeholders and health and safety professionals. That is why we are pleased that the current government has legislated the reinstatement of the Minister's Advisory Council on Workplace Safety and Health and appointed members to the council. This body of labour and employer representatives, along with technical experts was previously eliminated by the Pallister government, despite having provided valuable advice on legislative and regulatory matters for decades up to that point.

### **Restoring Regulatory Protection for Safe Training and Supervision of Apprentices**

Regulatory changes made by the previous government put apprentices at increased risk of workplace injury and illness by changing the ratio for the number of apprentices that could be supervised by a single journeyman. Instead of one apprentice for each journeyman, the PCs change allowed for a single journeyman to supervise multiple apprentices (and an unlimited number of apprentices at higher levels). The current government has followed through on its election commitment by reinstating a 1:1 ratio for all trades under the Apprenticeship and Certification Regulation. In addition to improving the quality of training apprentices will receive, this change significantly improves workplace safety for apprentices as they learn their trade.

### **Easing the Path to Unionization and Safer Workplaces**

It is well-documented that unionized workplaces are safer and healthier than non-



## DID YOU KNOW?

**Unionized workplaces have**

- **31% fewer time-loss injuries**
- **29% fewer severe injuries**

unionized workplaces.<sup>2</sup> There are many reasons for this. Unionized workers who feel the employer is not meeting its workplace health and safety obligations have the benefit of a union to advocate for them, and the job security that comes with union membership means workers are more likely to stand up for their rights. Unions also prioritize health and safety in collective agreements.

Unionized workers are also more likely to be trained in protecting themselves from workplace hazards. Recent legislative changes to the *Labour Relations Act* that make the path to union certification easier for those who want to unionize will therefore also promote safer and healthier workplaces.

### **Workers Continue to be Endangered by Exposure to Asbestos, Manitoba's #1 Occupational Killer**

One of the areas in which Manitoba's current regulatory framework is dangerously inadequate is protection from the deadly hazards of asbestos. Asbestos remains Canada's number one occupational killer and, in Manitoba, workers continue to die from asbestos exposure every year. More than 60 Manitoba workers have died from asbestos-

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<sup>2</sup> Examples of the many studies that confirm this include a recent study by the Ontario Construction Secretariat showing that unionized workplaces in that sector are 31% safer than non-unionized (<https://iciconstruction.com/2021/01/11/unionsafetyeffect2021/>) and "Health & Safety in the Canadian Workplace" (<https://gpmccanada.com/health-safety-canadian-workplace/>).

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More than **60** Manitoba workers have died from asbestos-related diseases over the past decade.

related diseases in the past decade. As our buildings and infrastructure reach their life span, many more workers continue to be exposed through demolition and renovation work. As evidence of the ongoing level of exposure, WSH Officers issued 68 Stop Work Orders related to work with or around asbestos in the first eight months of 2024.

Yet, despite repeated calls from Labour over many years, Manitoba does not even have mandatory training standards for workers (who work with asbestos or may be exposed to asbestos) related to recognizing and protecting themselves from this deadly hazard. While SAFE Work Manitoba has recently developed new training standards for working with asbestos, with advice from labour and employers, the decision to follow these standards rests entirely with individual employers—the standards are completely voluntary. A straightforward regulatory change could make these standards mandatory and go a long way towards ensuring Manitoba workers do not continue to be exposed to this serious and often fatal hazard.

In addition to mandatory training standards, Manitoba urgently needs a system for certifying and licensing companies that engage in highly hazardous activities like abatement and remediation of asbestos, and for those who test materials for the presence of asbestos. In the absence of such a system, there is no way of ensuring that firms undertaking these activities are qualified to do so in a safe manner. This is a serious issue not only for workers but for homeowners and other consumers who engage firms to perform these services. British Columbia is among the provinces that has recognized the need for rigorous oversight of these highly hazardous activities and earlier this year established a system of certification and licensing.



For too long Manitoba's 'wild west' approach has left workers vulnerable to the deadly hazards of asbestos.

We urgently need stronger protections for training, certification and licensing.

-Karl Hollinshead, Business Manager for International Association of Heat and Frost Insulators and Allied Workers Local 99

We are pleased that the government has committed in the recent Throne Speech to take action on asbestos, and we urge that mandatory training standards along with a new system for certification and licensing be implemented with urgent priority.

### **No Action to Improve Access to Paid Sick Days, Even After Covid-19 Highlighted the Need**

Far too many workers in Manitoba are still forced to go to work sick because they either do not have access to any paid sick days or have a very limited number. When workers are forced to go to work sick, they not only risk prolonging and worsening their illness, but create a risk that their co-workers will contract the illness as well. A sick person in the workplace is a workplace health hazard, representing a danger to their co-workers, patients/customers and the general public. It is past time that Manitoba had legislation to protect workers from having to make the impossible choice between going to work sick to pay the bills and staying home to recover and protect their co-workers. Labour continues to call for an amendment to the Manitoba Employment Standards Code to enshrine 10 paid sick days per year for all workers.

## **ENFORCEMENT: GRADE IMPROVED TO C+ FROM D**

***Some modest progress but the Workplace Safety & Health Branch needs to be substantially rebuilt to be effective.***

The enforcement activities undertaken by the Workplace Safety and Health Branch play a vital role in our health and safety system. Workplace inspections identify dangerous workplace conditions and practices, and the resulting compliance measures, such as Improvement Orders and Stop Work Orders, ensure those hazards are addressed. Sanctions such as fines, penalties and convictions not only hold to account employers who violate the Act and Regulations but also motivate others to fulfill their responsibilities through prevention.

## **Workplace Health and Safety Inspections**

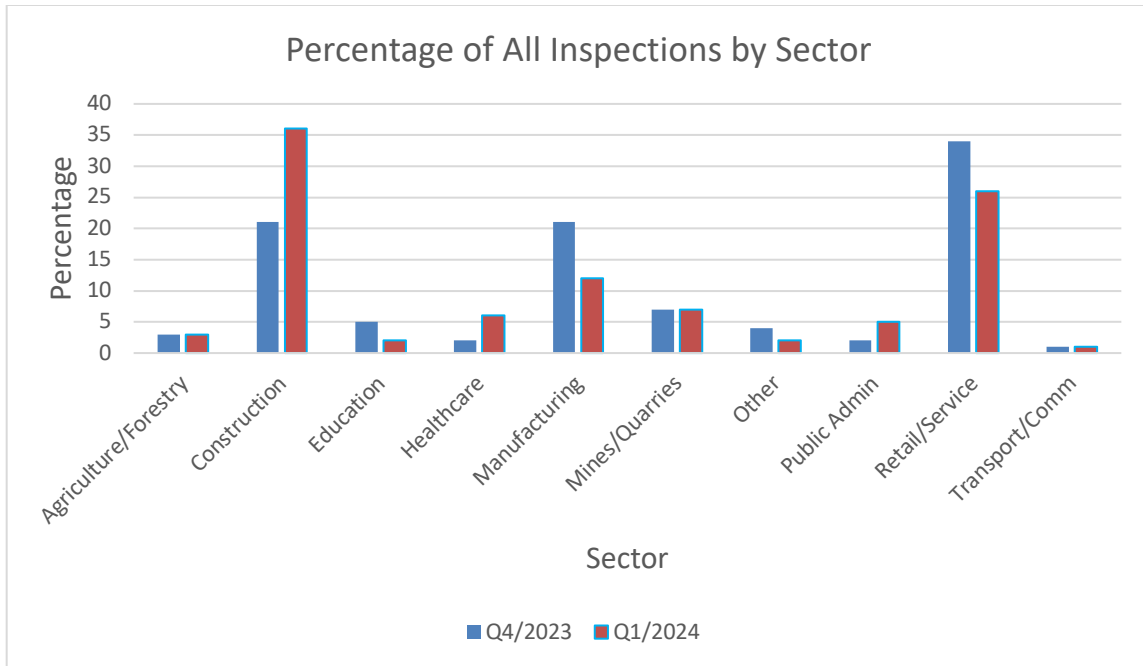
The number of inspections carried out by Safety and Health Officers (SHOs) has been fairly consistent over the past decade or so, generally between 5,500 and 6,000 per year. There was a notable increase in the percentage of inspections resulting in Improvement/Stop Work Orders in 2023-24. This could be seen as a negative trend in that it indicates an increase in contraventions and, therefore, in workplace hazards. On the other hand, particularly under the Workplace Safety and Health Branch's approach of identifying and targeting priority industries for inspections, it may indicate that inspectors are finding and correcting contraventions that would have otherwise gone undetected.



### **Inspections in Highest Injury Rate Sectors: Healthcare and Public Sector**

A recent positive trend is the increase in the percentage of inspections carried out in healthcare and the public sector. As discussed further in the next section on Prevention, healthcare and the public sector have had the highest and second-highest injury rates in the province, respectively, for many years. Yet, they have both long tended to be subject to very minimal inspection

activity—in the range of 1-2% of all inspections carried out. That figure increased in 2024, with 6% of all inspections now being targeted at healthcare and 5% at the public sector. Given the Branch's stated strategy of focusing inspections on priority areas, the number conducted in these two sectors should certainly continue to increase.



### Number of Safety and Health Officers

The ability to undertake compliance activities depends on having highly qualified staff to do so. A decade ago, the Branch had 60 SHOs. Last year, that number was down to 48. We are pleased to see the addition of 4 new SHOs this year to bring the number up to 52 and we are hopeful this is a first step towards further increases in the staff complement so that injury and illness hazards can be reduced through additional compliance activities.

### Still no Use of the Westray Law

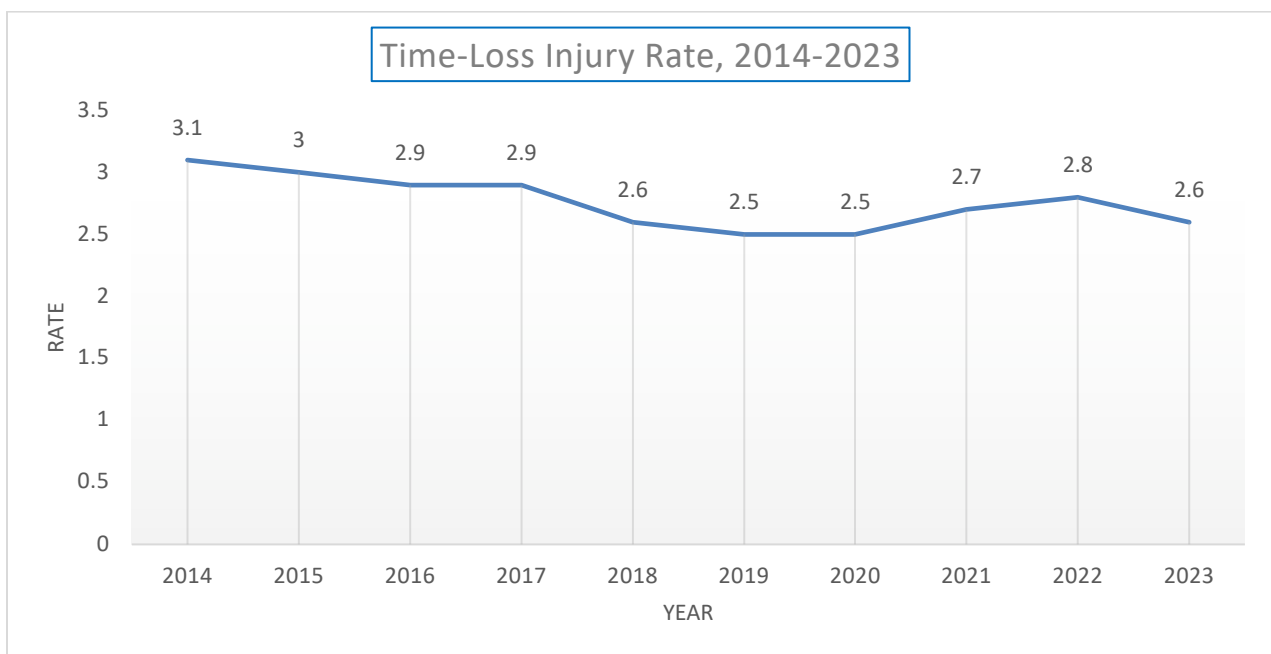
This year marks thirty (30) years since the passage of Bill C-45, or the Westray Law, which amended the Criminal Code of Canada to allow for the criminal prosecution of negligent employers who are responsible for worker fatalities. Since that time, there have been 557 recognized workplace fatalities in Manitoba, and there has been not one charge laid under Bill C-45. When the Westray Law was introduced, it was aimed at underscoring the seriousness of employer neglect in contributing to workplace tragedies and acting as a deterrent against negligence. If the Westray law is going to fulfill its purpose, it must actually be utilized.

## PREVENTION: GRADE IMPROVED TO B- FROM C+

*Improvement to injury rate has stalled; health care and public sector suffering from many years of neglect.*

### Injury Trends

Manitoba's reported time-loss injury rate has declined slightly over the past decade, from 3.2 in 2013 to 2.6 in 2023. However, the rate of decline has stalled in recent years, with the time-loss rate basically remaining unchanged since 2018.<sup>3</sup>

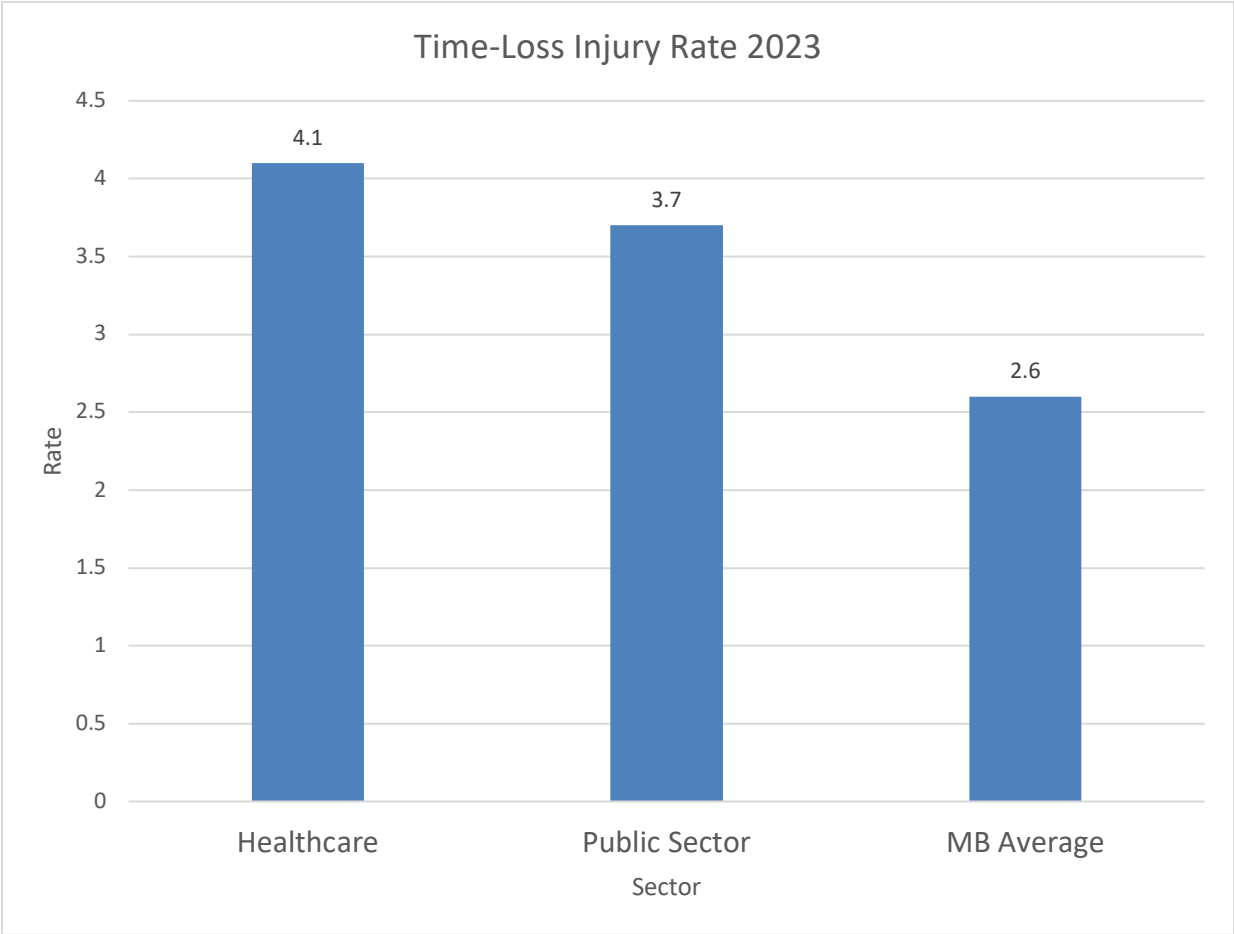


There are also certain sectors that are especially concerning. While the rate in healthcare declined from 2022 to 2023 (from 5.1 to 4.1), the sector continues to have the highest time-loss injury rate in the province, nearly 50% higher than the provincial average and much higher than sectors such as manufacturing and natural resources. In 2023, 4,587 health care workers were injured badly enough to miss work—that is 12 time-loss injuries every single day of the year. Women workers are particularly impacted as 85% of all injuries in healthcare are to women workers. The public sector is another area of concern.

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<sup>3</sup>As noted earlier, the reported injury rate underestimates the true extent of injuries as a result of claim suppression, disallowed claims and non-covered industries.

While the time-loss injury rate in the public sector also went down in 2023, at 3.7, it is tied with construction for the second-highest injury rate in the province. Injury rates in health care and the public sector are also much higher than the overall average rate for all sectors (2.6).



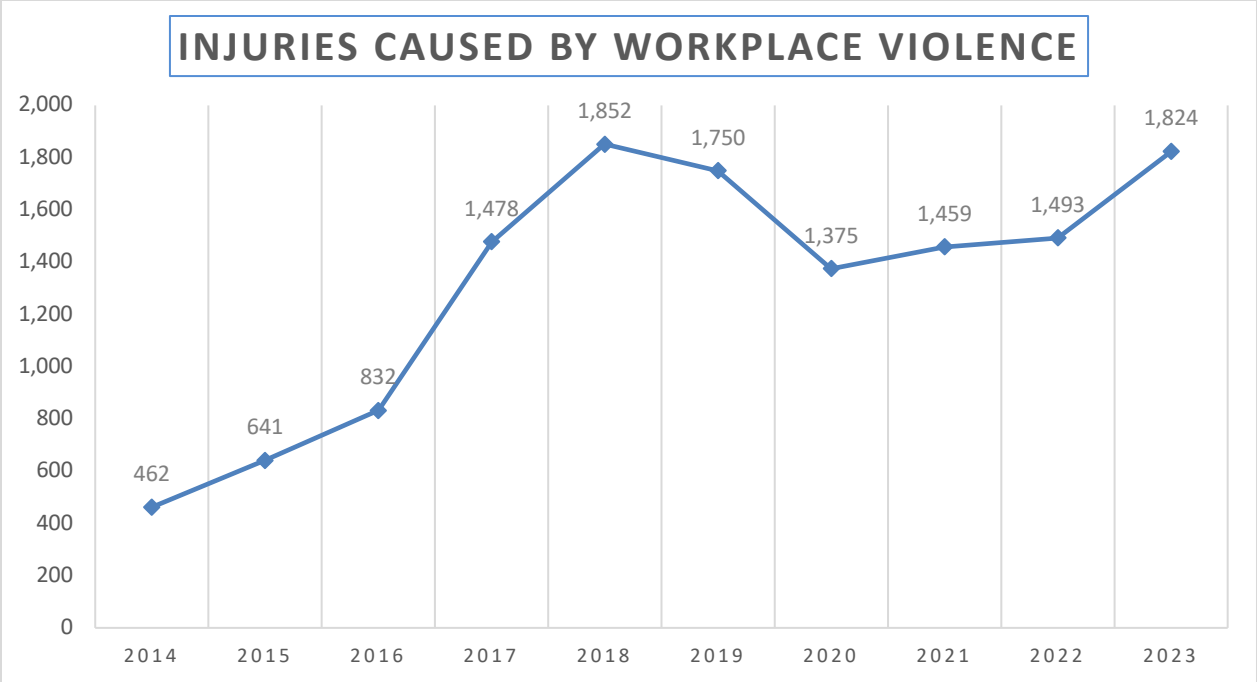
These are areas in which the provincial government has a special responsibility, as an employer and a funder. In addition to the toll these injuries take on workers and their families, they consume vast amounts of resources through WCB premiums and other costs that could be reinvested into health and other public services. They also contribute to short staffing and overwork and add to challenges with recruitment and retention in these sectors.

There have been some positive steps in healthcare. The creation of the Manitoba Association for Safety in Healthcare (MASH) has the potential to motivate healthcare employers to improve their health and safety management systems to meet the standards required for SAFE Work Manitoba Certification. Also, the government is well on its way to fulfilling its commitment to hire an additional 1,000 healthcare workers, having already hired 873. Once this initial milestone is achieved, recruitment and retention efforts must continue so that we have the staff complement required to reduce the stress and overwork that are key contributors to workplace injuries.

### **Workplace Violence**

The number of workplace injuries caused by violence has quadrupled over the past decade. In 2023 alone, there were over 1,800 such injuries, meaning an average of 5 workers every day of the year were injured by violence at work. These injuries can be physical and/or psychological and take a huge toll on workers and their families. The regulatory measures in place are clearly inadequate or are not being adequately enforced. In healthcare, the training and hiring of Institutional Safety Officers has the potential to prevent some of these incidents. However, such measures must be coupled with stronger legislative and regulatory measures as well as real consequences for employers who do not implement and adhere to them.

Workplace violence is clearly a public safety issue, and while we were pleased to see the government's recently released Public Safety Strategy recognize the need to address increasing violence in retail workplaces, the problem extends to many other workplaces as well. Healthcare, for example, accounts for about one-third of all workplace violence injuries, while transit, public services, education and other sectors have also seen sharp increases. We are hopeful this will be taken into account as the strategy is rolled out and that government will work with labour and other partners to address the issue across all workplaces.



NOTE: Figures represent only injuries where a claim was filed and accepted by the WCB.

**SAFE Work Certification**

The SAFE Work Certification Program, established a decade ago, sets out the health and safety standards that employers must have in place in order to achieve SAFE Work Certification. Those employers who achieve SAFE Work Certification qualify for a percentage rebate on their WCB premiums. Since the program was established, there has been consistent but modest growth in the number of employers certified. However, at 18% of Manitoba employers certified, the program remains well below its target of 42%. Industry-Based Safety Programs (IBSPs) have been established in a number of sectors to support employers in meeting the SAFE Work Certification standards and coordinate the auditing process that determines whether they have been met. Most recently, the addition of an IBSP in healthcare (Manitoba Association for Safety in Healthcare or “MASH” in 2022) has brought the percentage of employers served by an IBSP to 55%, closing in on the target of 72%.

# WORKERS COMPENSATION BOARD: GRADE IMPROVED TO C FROM C-

## *Incremental Progress Made in Some Areas; Bolder Action Needed*

The workers compensation system exists to help workers recover and return safely to work after an injury or illness. To do this, the compensation system must meet workers where they are at and recognize injuries and illnesses that are happening in today's workplaces. Over the past two years, there has been some movement to modernize Manitoba's workers compensation system and better address injuries, but the system continues to be held back by under-resourcing of prevention efforts, major staff vacancies, and discriminatory benefit eligibility criteria. This year, the MFL is providing a slightly improved grade of C for workers compensation, up from a grade of C-. We believe that with a faster follow-through on a number of priorities, workers compensation has the potential to be significantly improved in the future. We are also encouraged by the more consultative and evidence-based approach of the new WCB leadership.

### **Presumptive Coverage for some Occupational Diseases**

Historically, when workers developed an occupational disease, it was often extremely difficult for them to meet the WCB's benefit eligibility test which required the worker to prove that a workplace exposure was the "dominant cause" of their disease. This meant many workers already suffering from an occupational disease faced the additional struggle of trying to obtain workers compensation benefits, and many were denied those benefits.

We were therefore pleased to see the establishment of a "Schedule of Occupational Diseases Regulation" under the *Workers Compensation Act* in 2023 (as recommended by the last Act review). It provides presumptive coverage for the diseases listed in the Schedule. This means that when a worker has the listed disease and the corresponding workplace exposure, they do not have to prove, as they were required to do previously, that their work was the *dominant cause* of their disease; work is presumed to be the cause unless the contrary is proven. Effective September 1, 2024, the list was expanded to

include three additional poisonings as well as three additional cancers caused by asbestos.

This Schedule and the recent expansion of the list have the potential to assist many workers suffering from an occupational disease in getting the workers compensation benefits and supports they need and deserve. While Labour was critical of the WCB's initial approach for failing to include many diseases for which there is clear scientific evidence of occupational cause, we are pleased that the WCB has modified its approach and is now working with leading occupational disease experts. We look forward to the list being further expanded to include all diseases with a recognized workplace cause.

### **Safe Return to Work and Role of WCB Health Care Advisors**

For some time now, the MFL has been raising concerns about Health Care Advisors on contract to the WCB having undue influence over claim decisions, such as whether and how a worker is fit to safely return to work. This includes reported instances of the medical opinions of the internal Health Care Advisors overriding those of the worker's treating physician, sometimes solely on the basis of a file review without ever examining the injured worker.

We are pleased that the WCB has established a new policy on "Conflicting Health Care Evidence and Opinions," effective July 1, 2024, that has the potential to address some of these concerns. It includes a number of provisions regarding the circumstances in which WCB staff should seek an opinion from a Health Care Advisor, how that opinion should be considered in the context of other input such as that from the worker's treating physician, and requirements for documenting reasons for seeking a WCB Health Care Advisor's opinion. There is also an explicit prohibition on privileging the opinion of the WCB Health Care Advisor over those of other health care providers such as the worker's treating physician.

The WCB is also planning other initiatives to improve the return-to-work process and the objectivity of decision making. This includes staff training on identifying and avoiding

aggressive return to work practices, and a new process for conducting Independent Medical Exams in cases where there is disagreement or uncertainty about a worker's condition and fitness for return to work.

If properly implemented, these measures have the potential to address some of the most serious concerns with the return-to-work process and the role of WCB Health Care Advisors. Ongoing monitoring and evaluation will be required to determine if they are meeting that goal.

### **Coverage for Psychological Injuries**

The last MFL Report Card noted that removing psychological injuries from the category of “occupational disease” under the Workers Compensation Act was a positive step as it meant such claims were no longer subject to the “dominant cause” test that applies to occupational diseases.

Unfortunately, however, there has been no progress since then in removing the continuing arbitrary barriers that still exclude many psychological injury claims from coverage and approval. Unlike the criteria for adjudicating physical injury claims, the Act requires that a psychological condition be of a specific type and be caused by specific circumstances. This continues to create obstacles for workers with psychological injuries obtaining the WCB benefits and supports they need and deserve to be able to return to work.

The WCB established a policy effective May 1, 2023, that extended coverage to psychological injuries caused by “excessive workload”. However, the policy has done nothing to improve access to workers compensation support for workers with psychological injuries. In fact, since the policy change was made, just one claim has been accepted under the new provision.

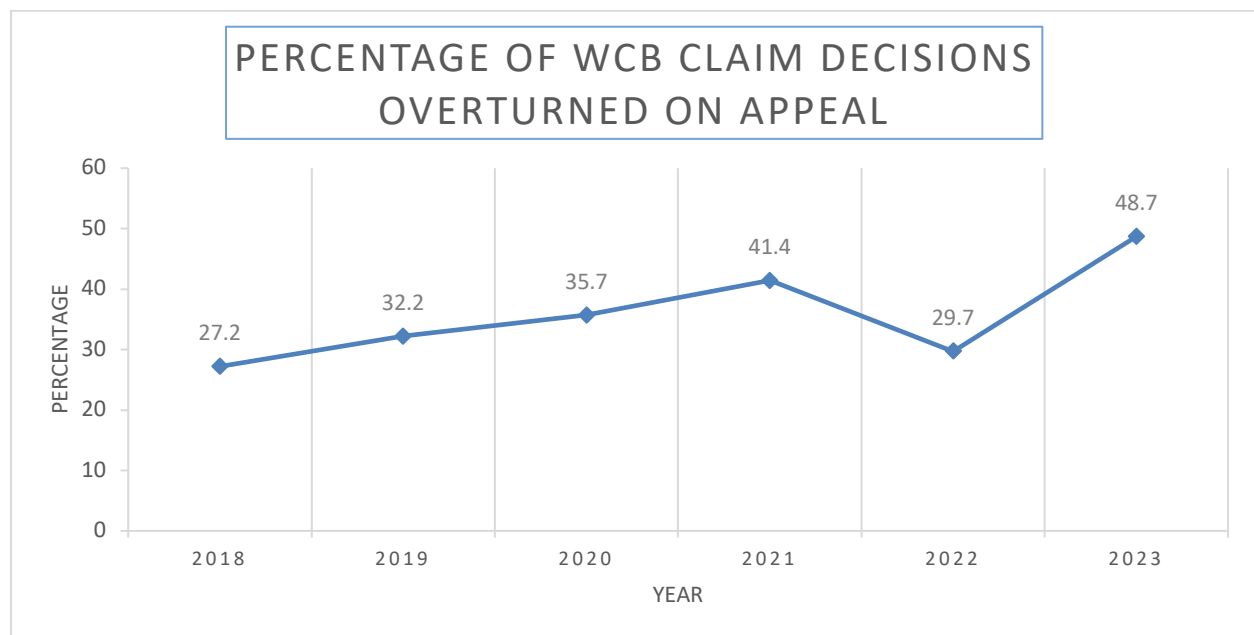
It is time to stop the piecemeal, ad hoc approach to this issue. Remove the existing arbitrary barriers, and provide workers compensation for all psychological injuries caused

by work. Whether an injury is to a worker’s body or mind, all workers deserve support to recover and return to work safely.

### Quality/Accuracy of Decision-Making

When a worker disagrees with a WCB claim decision and has exhausted their options for internal reconsideration by the WCB, they can proceed to the independent Appeal Commission. The percentage of WCB decisions upheld or overturned by the Appeal Commission is therefore a good indicator of the accuracy and quality of WCB decisions, including those made by the WCB Review Office which is the last internal option before proceeding to the Appeal Commission.

In recent years, there has been a concerning increase in the percentage of WCB decisions being overturned by the Appeal Commission. Apart from an anomalous drop in 2022, that percentage has been increasing steadily, going from about 27% in 2018 to nearly 50% in 2023. The average duration from appeal filing to the decision is about 30 weeks. Far too many workers are forced to go through the difficult and time-consuming appeal process to obtain the WCB benefits to which they are entitled. Whether this is due to staffing levels or some other factors at the WCB, it is a growing problem that needs to be addressed.



## **Directing Funds to Employer Rebates vs. Prevention, Benefits and Services**

Following the practice from several years prior, and as required under the WCB funding policy, in 2024, the WCB again disbursed back to every covered employer a portion of the funds that were in excess of its 130% funding target. The 2024 rebated amount was a total of \$118 million. Instead of being given back to employers, who are already paying the lowest workers compensation premiums in the country, this money should have been invested in areas of need such as service improvements, workers' benefits and injury and illness prevention.

Since the 2024 disbursement, the WCB board has changed its funding policy to provide more discretion in what it does with funds in excess of the funding target. The policy now requires that, when considering whether to provide a refund to employers, the board must consider a number of factors including "future business requirements or planned investments in the WCB system."

There are certainly many needs that should be taken into account. In the area of prevention alone, with about 25,000 injuries per year, a time-loss injury rate unchanged from five years ago, and an average of twenty worker fatalities annually, it seems clear that at least a portion of this money should be invested in prevention.

## **CONCLUSION – OVERALL GRADE: C+**

There have been a number of notable improvements since the previous Report Card, particularly over the past year.

These include re-establishment of the Minister's Advisory Council under the *Workplace Safety & Health Act* and changes to other acts and regulations that further support workplace health and safety, including the reestablishment of safe apprentice ratios. Government action in response to the in-progress tripartite review of the *Workplace Safety and Health Act* will be a critically important opportunity to make further improvements and address both emerging and long-standing concerns.

Enforcement is starting to be enhanced in problem areas including healthcare and the public sector. Much more needs to be done to increase compliance in those and other sectors, which will require additional resources for more Safety and Health Officers.

Injury rates continue to be extraordinarily high in healthcare and the public sector, and reducing those rates is crucial to reducing the overall rate which has been largely unchanged for a number of years. Violence stands out as a significant and growing cause of workplace injuries and addressing it will take a comprehensive approach using all tools available, including enhanced legislative and regulatory provisions as well as better enforcement.

In the realm of workers compensation, recent regulatory and policy changes have the potential to bring improvement in the areas of occupational disease claims and medical support for return to work. Limited scope for psychological injury claims continues to be a significant issue to the detriment of countless workers, and can only be addressed through legislative changes to finally eliminate arbitrary barriers that mean these workplace injuries are treated in a fundamentally different way than others.

Overall, the current government has done well to date with their limited time in office and has both great challenges and great opportunities before it.

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