

A photograph of three workers in a warehouse setting. They are wearing orange high-visibility safety vests over dark jackets. The worker in the center is a Black man wearing safety glasses and earplugs. The worker on the left is a woman with curly hair, also wearing safety glasses and earplugs. The worker on the right is a man wearing safety glasses and earplugs. They are standing in front of blue metal shelving units. A semi-transparent white box with orange text is overlaid on the bottom half of the image.

Workers Compensation Amendment Act, 2015 (Bill 9/35)

BCCPA May 30, 2016

Agenda

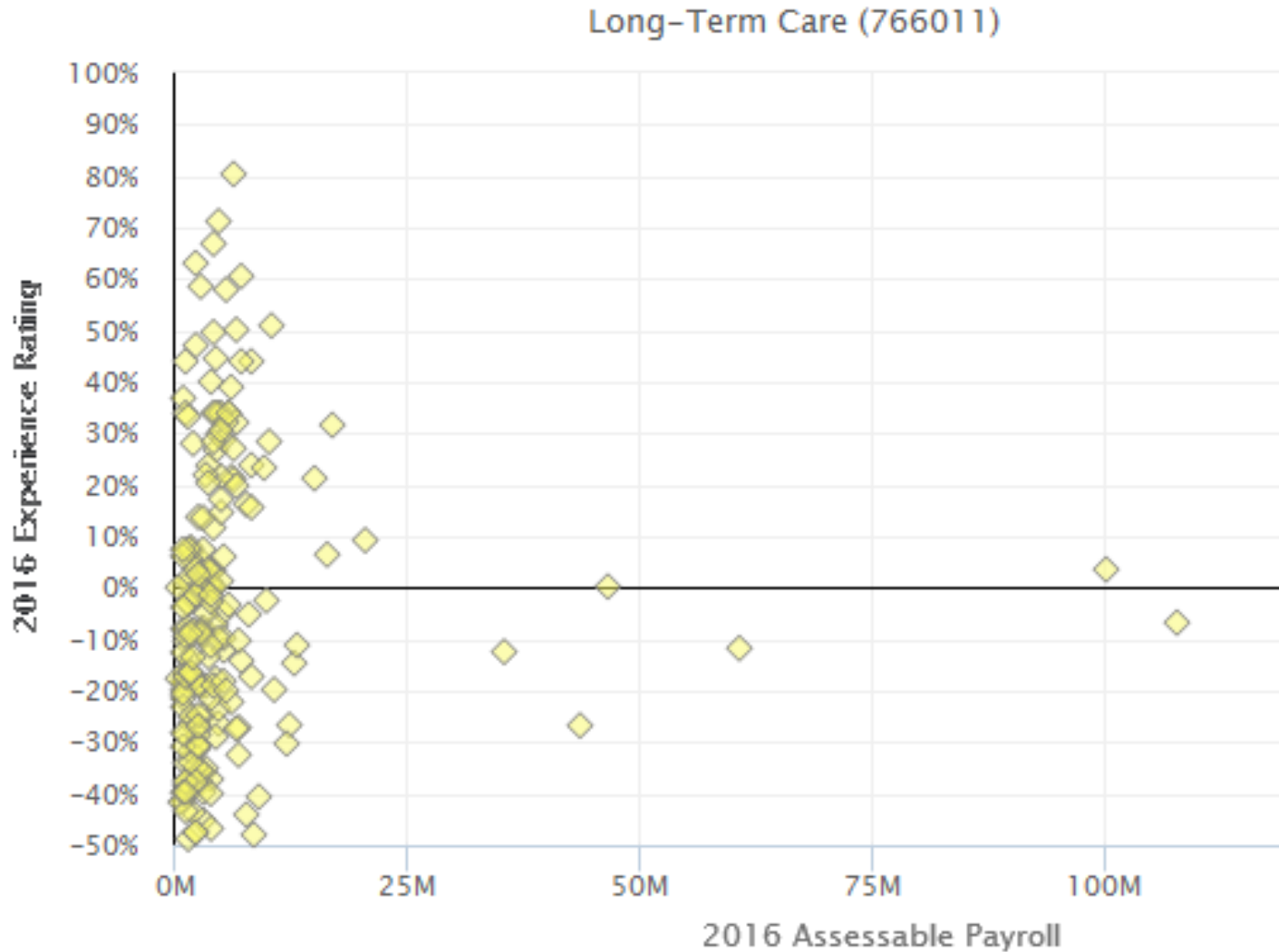
- Current state of Long Term Care
- Bill 9/35 history and overview
- Stop Work Orders
- Employer Incident Investigations
- Compliance Agreements
- What's Next

Current state of Long Term Care (766011)

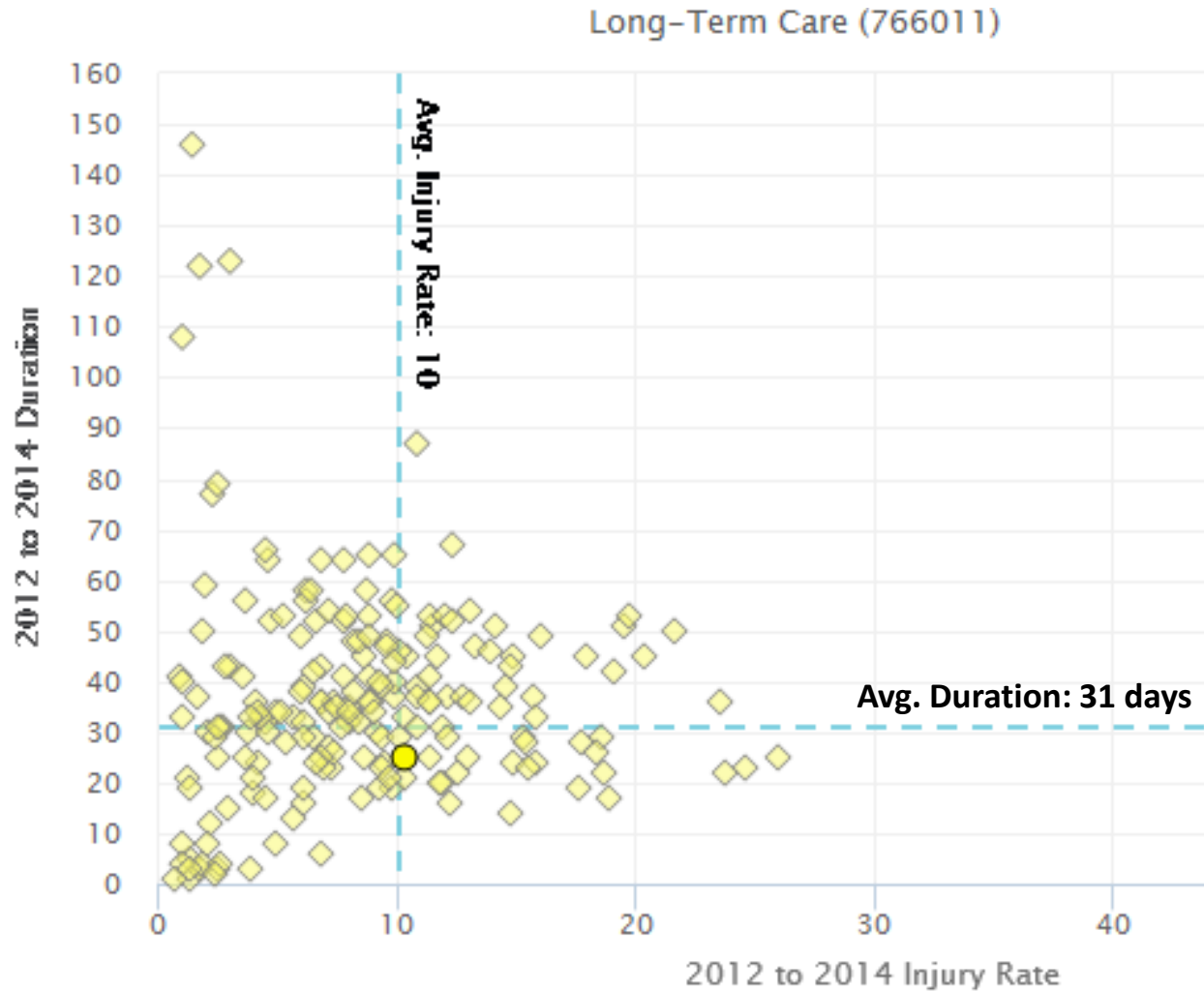
	2011	2012	2013	2014	2015
# Time-loss Claims	2,868	2,935	2,912	2,926	2,927
CU Injury Rate	9.6	9.7	9.2	9.3	NA
BC Injury Rate	2.3	2.3	2.3	2.3	NA
Six-Month Truncated Duration	37	35	37	33	36
Total Work Days Lost	124,883	120,145	120,644	112,758	110,090
Claim Costs Paid	\$21,876,946	\$24,450,359	\$23,252,822	\$22,956,098	\$21,969,773
Assessable Payroll	\$1,261,460,060	\$1,304,414,865	\$1,379,004,435	\$1,389,377,617	\$1,501,264,164
CU Base rate	\$2.70	\$2.42	\$2.50	\$2.75	\$2.66
Assessment Amount	\$34,283,902	\$31,597,366	\$34,314,234	\$37,771,308	\$39,497,983
# Employer-CUs	345	347	350	355	355

2016 base rate: \$2.42

Experience Rating vs Payroll



Injury Rate vs Duration



LTC H&S gaps

- Inspections
- Investigations
- Effective H&S committees
- Industry best practices
 - Violence prevention
 - Safe patient mobility
 - Infection control
 - Falls
- H&S management system and safety culture



Bill 9/35 Overview

Workers Compensation Amendment Act, 2015

Bill 9/35 History

- July 1, 2014: WorkSafeBC Review and Action Plan by Gordon Macatee
- May 14, 2015: Bill 9 passed by Royal Assent making changes to the *Workers Compensation Act*
- Effective September 15, 2015: Additional provisions of Bill 9 brought into force by Order-in-Council
- Effective January 1, 2016: *Workers Compensation Amendment Act, No. 2, 2015* (Bill 35) comes into effect and impacts employer incident investigations
- In 2016: Implement further changes to the Act with Bill 35 and OHS Citations

Changes effective May 14, 2015

- Expanded stop work order powers
- Changes to employer incident investigations
- Expanded injunction powers
- Changes to penalty due diligence

Changes effective September 15, 2015

- Compliance agreements
- New 45-day timeline to request a review of Prevention orders
- Two new members on WorkSafeBC's Board of Directors
- Employer OHS Citations (in force now, to be implemented in February 2016)



Stop Work Orders

Stop work orders

Two major legislative changes:

- **Lower threshold** for issuing stop work orders
- **Wider scope** of stop work orders

Stop Work

By order of WorkSafeBC, until further notice.

Entire work site Portion of work site

Employer's/owner's name: _____

Site address: _____

Officer's Name: _____

Date issued: _____ Time issued: _____

Reason/scope of Stop Work Order:

Refer to WorkSafeBC Inspection Report #: _____

Issued pursuant to section 191 of the *Workers Compensation Act.* **WORK SAFE BC**

Stop work orders

Lower threshold

WorkSafeBC can now consider a stop work order when:

- There are reasonable grounds to believe there is a high risk of serious injury, serious illness, or death
- or**
- An employer
 - fails to comply with a provision of the Act or the Regulation
- and**
- has failed to comply with an order under that provision in the previous year
- and**
- there are reasonable grounds to believe there is a risk of serious, injury, serious illness, or death

Stop work orders

Wider scope

WorkSafeBC can now stop work or prevent work from starting at any of an employer's other workplaces if there are reasonable grounds to believe that the same or similar unsafe conditions exist or would exist at the other workplace.

High Risk Violation
(as per Policy D12-196-2)?

Yes



Yes

Non-compliance with prior
order from violation + same
violation again **and** risk of
serious injury?

Same or similar conditions at other
workplaces? **And** same employer?

Yes



Stop work orders

Interim **policy provides guidance on:**

- When to consider a stop work order
- When a stop work order is appropriate
- The scope of a stop work order (area covered)
- The use of a stop operations order
- The duration of a stop work order



Employer Incident Investigations

Employer Incident Investigations

Three major legislative changes:

1. Two phases of incident investigation, instead of one
2. Specific timelines for investigation completion, where previously there were none:
 - 48 hours for preliminary investigation
 - 30 days for full investigation
3. Investigation reports must be prepared in accordance with policies of WorkSafeBC's Board of Directors, not the *Occupational Health and Safety Regulation*

Employer Incident Investigations

Preliminary incident investigation policy

Employers must:

- Immediately undertake a preliminary investigation into an incident
- Identify any unsafe conditions, acts, or procedures that significantly contributed to the incident
- Identify what interim corrective action they plan to take between the date of incident and date the full investigation report is due (within 30 days of the incident)
- Take all actions reasonably necessary, during the interim period, to prevent a recurrence of the incident

Employer Incident Investigations

Preliminary Incident Investigation Policy (continued)

Employers must:

- Prepare a report of their preliminary investigations within 48 hours of the incident
- Provide WorkSafeBC a copy of the report **only upon request** and, as soon as practicable, give a copy to the joint committee or worker representative or, if neither exist, post in the workplace
- Prepare a report, if they take interim corrective action, that includes:
 - unsafe conditions, acts, or procedures that resulted in the corrective action
 - interim corrective action taken
 - date the corrective action was completed
- Provide the corrective action report to the joint committee, worker representative, or if neither exist, post in the workplace

Employer Incident Investigations

Full Incident Investigation Policy

Employers must:

- Undertake a full investigation immediately following completion of the preliminary investigation
- Determine the cause or causes, and identify unsafe conditions, acts, or procedures that significantly contributed to the incident
- Submit their full investigation report to WorkSafeBC and the joint committee, worker representative, or if neither exist, post it at the workplace, within 30 days of the incident (latter was previously voluntary)

Note: extensions may be granted where the employer can demonstrate that delays are due to factors outside their control

Employer Incident Investigations

Full Incident Investigation Policy (continued)

Employers must:

- Provide a copy of the report that outlines their corrective action to the joint committee, worker health and safety representative, or post it at the workplace
- The report must include:
 - unsafe conditions, acts, or procedures that made the corrective action necessary
 - corrective action taken to prevent recurrence of similar incidents
 - names and job titles of those responsible for implementing the corrective action
 - date the corrective action was taken

Investigation resources

The screenshot shows the top navigation bar with the WorkSafeBC logo, links for 'Forms & Resources', 'Law & Policy', and 'Contact Us', and a 'Log in | Create an account' button. Below the navigation is a search bar and a breadcrumb trail: 'Home > Health & Safety > Create & manage a healthy & safe workplace > Incident investigations > Conducting an employer investigation'. The main content area features a sidebar with 'Incident investigations' and 'Conducting an employer investigation' highlighted. The main heading is 'Conducting an employer investigation', followed by a paragraph explaining that employers are responsible for investigating certain incidents or near-misses and submitting reports to WorkSafeBC. Below this are two columns of links: 'Incidents requiring an investigation' and 'Reports and the reporting process'.

This section is titled 'Incidents requiring an investigation' and explains that employers are responsible for immediately conducting an investigation if certain incidents occur. A list of these incidents includes: serious injury to a worker or a worker's death, injury requiring medical treatment, minor injury with potential for causing serious injury, major structural failure or collapse, major release of hazardous substances, diving incidents, dangerous incidents involving explosive materials, and blasting incidents causing personal injury.

The screenshot shows the 'Investigations of accidents and incidents' page. It features the same top navigation bar as the previous screenshot. Below the navigation is a search bar and a 'Return to Search Results' button. The main heading is 'Investigations of accidents and incidents', followed by a sub-heading 'Facilitator guide'. A large image of the 'Joint Occupational Health and Safety Committee Foundation course - Facilitator guide' PDF cover is displayed. To the right of the image is a 'Download PDF' button and a list of metadata: 'Publication Date: Unavailable', 'File type: PDF (1 MB)', and 'Asset type: Guide'. Below this is a 'See also' section with a list of related resources: 'Facilitator guide', 'Optional workshop facilitator guide', 'Optional workshop slides', 'Slides', and 'Reference guide and workbook'.

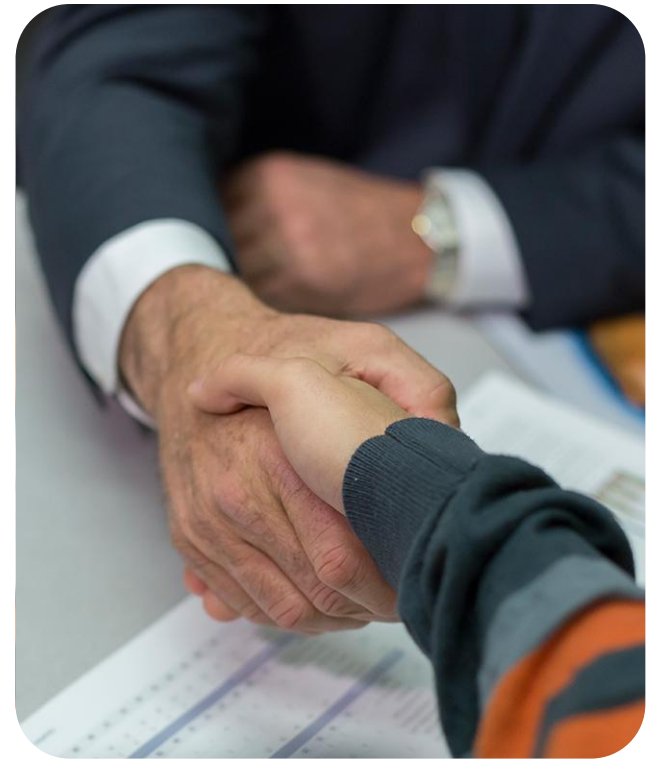


Compliance Agreements

Compliance agreements

Effective September 15, 2015

- A new enforcement tool that will allow WorkSafeBC to engage with responsive employers to improve workplace health and safety
- An alternative to a compliance order
- Voluntary



Entering into a compliance agreement

Factors to consider

- Not available for high risk violations or where violation poses immediate risk to workers
- Employer has not contravened same provision in the past year at any location
- No cancelled compliance agreements within past three years
- WorkSafeBC believes the employer will likely fulfill obligations

Drafting a compliance agreement

Requirements:

- Must be in writing
- Signed by appropriate and authorized employer representative
- Describe the contravention(s) to be addressed
- Describe the agreed upon corrective actions
- Include interim measures required to ensure worker safety
- Set out the action deadline, report deadline, and end date
- Must be posted and distributed

Amending a compliance agreement

Requirements:

- A compliance agreement may be amended when both WorkSafeBC and the employer agree
- Must be in writing
- Cannot be amended if the action or report deadline have been missed, or if the agreement has ended or been cancelled

Cancelling a compliance agreement

Agreement will be cancelled if:

- It no longer adequately protects worker health and safety
- Employer does not meet deadlines
- Employer provides false or misleading information
- WorkSafeBC receives new information indicating there is an immediate risk to worker health and safety

Posting a compliance agreement

Requirements:

- The compliance agreement, as well as any amendments, reports, or notices of cancellation, must be posted in the workplace
- And must be provided to the joint health and safety committee or worker health and safety representative at the workplace (where applicable)



What's next?

Employer OHS Citations

Implemented February 2016:

- Proposed **New Lower Maximum Administrative Penalties Regulation** (LMAPR) and associated policy
- OHS Citations will be imposed only for non-compliance with orders, or requirements for compliance reports
- Not available for orders arising out of high risk violations
- Employers will always receive a written warning before being issued an OHS Citation
- A first OHS Citation will be \$500 (half the maximum)
- Any further OHS Citations issued within three years will be \$1,000 (the maximum)
- Amounts adjusted annually pursuant to consumer price index

New Basic Penalty Amounts

Penalty Payroll	Basic Penalty Amount	2x	4x	6x
Up to \$250,000	\$1,250	\$2,500	\$5,000	\$7,500
\$500,000	\$2,500	\$5,000	\$10,000	\$15,000
\$1,000,000	\$5,000	\$10,000	\$20,000	\$30,000
\$2,500,000	\$12,500	\$25,000	\$50,000	\$75,000
\$5,000,000	\$25,000	\$50,000	\$100,000	\$150,000
\$10,000,000	\$50,000	\$100,000	\$200,000	\$300,000
\$20,000,000	\$100,000	\$200,000	\$400,000	\$600,000
\$30,000,000	\$150,000	\$300,000	\$600,000	Stat Max
\$40,000,000	\$200,000	\$400,000	Stat Max	
\$50,000,000	\$250,000	\$500,000	Stat Max	
\$62,803,457 or more	\$314,017.29 (half statutory max)	Stat Max (\$628,034.57)		

Bill 35

Effective January 1, 2016:

- Immediate reporting of all workplace fires or explosions with the potential to cause serious injury to a worker
- Increased role for workplace health and safety committees and worker OHS representatives including:
 - Employer provision of preliminary and full incident investigation reports
 - **Meaningful** participation in employer incident investigations
 - Advising employees about significant proposed equipment and machinery changes that may affect worker health and safety
- WorkSafeBC to proactively assist workplace health and safety committees in resolving OHS-related disagreements



Stakeholder Awareness and Communication

Stakeholder awareness and communication

- Posted updates to worksafebc.com
- Included information in employer assessment mailouts
- Sent information to ENews subscribers
- Included stakeholder information in *WorkSafe Magazine*
- Reached out to stakeholders through Industry and Labour Services and Prevention Field Services
- Provided information through health and safety associations, employer and industry associations, and the BC Federation of Labour

Resources posted on worksafebc.com

Under **Regulation & Policy**

- High-level summaries of the changes to the *Workers Compensation Act*:
 - [Legislative Change: A Primer on Stop Work Orders](#)
 - [Legislative Change: A Primer on Employer Incident Investigations](#)
 - [Legislative Change: A primer on Injunctions and Due Diligence](#)
 - [Legislative Change: A Primer on Compliance Agreements](#)

In the **Prevention Manual**

- Occupational health and safety policies re: the Bill 9 amendments

Under **Safety at Work**

- Employer incident and accident investigation resources, including forms and joint committee training materials



Questions?