

OCTOBER 2024 MONTH IN REVIEW

New Brunswick**LAWS & ANNOUNCEMENTS****New Laws**

Sep 12: In an effort to incentivize doctors to take on more patients, New Brunswick implemented a new compensation model for fee-for-service primary care physicians. The government is also creating a provider and patient registry enabling doctors, regional health authorities, and the Department of Health to track the patient load of each family physician in the province.

Workers' Comp

Sep 3: WorkSafeNB revised its policy ([Policy 21-208 Workers Under 21](#)) on calculating loss of earnings benefits for injured workers under the age of 21. In determining whether the average earnings of a worker under age 21 would have likely increased, the agency will consider if, on the date of accident, the worker: i. Is attending or has been accepted into a post-secondary institution education program; ii. Has entered into an apprenticeship agreement or enrolled in a certification program; iii. Is participating in a contractual or documented on-the-job training program; and/or iv. Has received an employment offer/contract.

Workers' Comp

Sep 25: WorkSafeNB revised [Policy 23-600](#), Setting Basic Assessment Rates, to clarify that the maximum per claim cost for rate setting in 2024 is \$155,000 and will increase after that to 2 times the average maximum assessable earnings over the exposure period rounded to the nearest \$10,000, if higher.

CASES**Return To Work: Failure to Provide Requested Medical Info Doesn't Prove Worker Quit**

Did he quit or was he fired? The worker in this case was returning to work from an injury but didn't submit further medical information his company requested. Nor did he call his supervisor to discuss his return. So, the company concluded that he

abandoned the job and closed his file. The worker then sued for wrongful dismissal. After hearing from 7 witnesses, the New Brunswick board concluded that the worker didn't resign. While his failure to respond to requests for medical information and reach out to his supervisor might have suggested an intent to resign, the worker didn't "make an express statement or action that he intended to quit or abandon his employment." Given all of the things he had done to advance his return and his 20 years of employment with the company, the lack of an express statement of resignation showed that it was the company who pulled the plug. **Result:** It owed the worker 4 weeks' termination notice [[*Russell v Atlas Structural Systems Limited*](#), 2024 CanLII 81397 (NB LEB), July 15, 2024].

Action Point: Find out how to implement a legally sound [Return to Work Compliance Game Plan](#) for injured workers.