

FAIR Association of Victims for Auto Insurance Reform
579A Lakeshore Rd. E. P.O. Box 39522
Mississauga, ON L5G 4S6
<http://www.fairassociation.ca/>

March 11, 2013

Dear Stakeholder,

This letter is to apologize for our oversight in not copying you our "Open Letter" (scroll down) on the subject of "secret cautions" in the context of Ontario's auto insurance 'independent' medical examinations (IME/IE). FAIR believes this is a matter affecting many of Ontario's health regulatory Colleges. We believe that both the OMA and the OPA have an important role to play in the matter since their respective positions on the issue of "secret cautions" of IME/IE preferred vendors of auto insurer commissioned assessments would carry significant weight. Both the OPA and OMA can influence Ontario health policy and practices in a way that FAIR cannot.

In the context of the recent back and forth between the *Toronto Star* and the Ontario government on the subject of "secret cautions" the Minister of Health stated that there is nothing in the legislation to prevent the Colleges from disclosing these secret cautions to the public.

The CPSO and the Minister of Health have taken the position that, in the interests of public safety, the CPSO needs to disclose the names of the private clinics that have failed inspections. FAIR's position is a simple one: that if willing consumers of other health service commodities offered at these clinics deserve this sort of transparency and disclosure - then why are seriously injured Ontario auto accident victims being denied the same? Unlike the willing consumers of these private clinics' services; injured auto accident victims have no choice but to attend medico-legal assessments (IMEs/IEs).

Seriously injured and highly vulnerable auto accident victims are captive consumers of these medico-legal assessors - some of whom are recipients of multiple "secret cautions" for previous substandard auto insurer assessments. It isn't the injured and sometimes cognitively impaired accident victims shopping for these assessments - it is the auto insurers. It's been said by some of the stakeholders that the IME/IE marketplace is like any other - a "buyer beware" market. But to use this reasoning as a defence for keeping the track record of the Ontario auto insurers' preferred vendors a secret from the subjects of their assessments requires a failure to remember that it is the insurer - not the injured claimant - who is the buyer. And if injured auto accident victims fail to submit to these scheduled assessments with assessors that their insurers have chosen - their policy benefits (income replacement and treatment benefits, etc.) are immediately suspended. In fact, the Premier is currently considering adopting a regulatory change that will soon allow insurers to fine injured auto accident victims \$500 if they fail to submit to scheduled insurer commissioned medico-legal assessments.

So shouldn't these assessors come as advertised by the auto insurers - highly qualified, completely impartial and well-respected by their licensing body? Is it fair for auto insurers, FSCO, the Colleges and the preferred insurer medico-legal assessors to continue to hide "secret cautions" related to previous flawed insurer assessments from the vulnerable accident victims who are forced to submit to these assessments?

FAIR would appreciate feedback from the OPA and OMA on this issue as well as any Colleges that care to provide their views.

Sincerely
Rhona DesRoches
FAIR, Board Chair
<http://www.fairassociation.ca/>

[An Open Letter to Ontario's Auto Insurance Stakeholders March 4 2013](#)

.....it is unfair to require injured claimants to submit to insurer commissioned medico-legal assessments conducted by assessors who have been "secretly cautioned" for previous substandard assessments. Some health professionals doing these assessments in the Ontario auto insurance sector have been

cautioned by their licensing body (College) more than once – but are not required to disclose these cautions to the subjects of their assessments. To make the matter even worse – the Ontario Auto Insurance Anti-Fraud Task has recommended to FSCO – and through FSCO to the Finance Minister - a regulatory change allowing a \$500 fine to be levied against any injured claimant who fails to submit to a scheduled insurer assessment (IME/IE). If injured claimants are to be coerced into submitting to insurer commissioned IME/IEs in this way – then the insurers’ preferred assessors shouldn’t be hiding “secret cautions” from the now captive subjects of these ‘independent’ assessments.

It is upon the outcome of these assessments that insurance adjusters base their decisions as to whether or not to provide treatment benefits (and/or other policy benefits) as spelled out in the accident victim’s policy. So it is important that.....

[An Open Letter to Ontario’s Auto Insurance Stakeholders Feb 19 2013](#)

Sent to: Kathleen Wynne, Premier; Andrea Howarth, Leader NDP; Tim Hudak, Leader Conservative Party; C. Sousa, Minister of Finance; Financial Services Commission of Ontario; Insurance Bureau of Canada; College of Physicians and Surgeons of Ontario; Health Professions Appeal and Review Board; Alliance of Community & Medical Rehab Providers; Ontario Trial Lawyers Association; Canadian Society of Medical Examiners; Association of Independent Assessment Centers; Deb Mathews, Minister of Health; J. Singh, MPP, NDP; Alan Shanoff, Toronto Sun

.....FAIR would like to know what each of the stakeholders think of this “three strikes” rule as a first step toward purging the rogue assessors from the Ontario auto insurance system. This rule would apply evenly to insurer assessors and treatment provider assessors alike. Do you support this idea – or do you oppose it? If you oppose a three strikes rule – why? What alternative solution for the substandard assessment problem do you have to offer?So FAIR would appreciate a timely reply in order that we, together with the other stakeholders, can all move forward in a collaborative effort to clean up the Ontario IME system and make sure that auto accident victims are treated fairly and with dignity.