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

November 11, 2013

Sent by email to: transparencyproject@cpso.on.ca

Thank you for the opportunity to express our views regarding the proposed College Transparency Principles and how the existing lack of information is harming Ontario's motor vehicle accident victims. FAIR is a not-for-profit consumer organization whose members, car accident survivors, are profoundly affected by the lack of transparency that exists at the college in respect to Third Party medical opinion vendors.

The credibility of the College of Physicians and Surgeons of Ontario is directly related to how those who look to the College to enforce and stand behind their regulations are treated when they make a complaint.

Far too often, when accident victims bring their shoddy treatment, and even shoddier IME reports at the hands of Ontario's independent medical examiners, to the attention of the College, they are turned away without satisfaction and without adequate reasons given. When, and if, the College investigates a patient's complaint about an IME vendor, the action taken by the College is inadequate to protect the public from mistreatment at the hands of these rogue physicians. The problem is compounded when the College keeps the complaints secret from the public, cloaking the IME vendor with immunity from accountability. This lack of transparency about complaints is putting even more vulnerable accident victims at risk because they cannot protect themselves when the IME vendor is perpetually 'cleansed' by the lack of information available. The College has facilitated unacceptable behaviour by way of keeping secrets from the public - consistently telling the public that there are no disciplinary actions taken against a physician by conveniently classifying the College actions as remedial and confidential.

Accident victims are lined up by the thousands at the Financial Services Commission of Ontario looking for hearings to access the treatment they were promised and then denied on the basis of an often flawed or unqualified 'expert' medical opinion. Treatments and rehabilitation that have been recommended by other, more reputable physicians, who are doing their best to care for their patients, are stalled for years because of the poor oversight at the College level and a failure to rein in and hold accountable these rogue medical opinion providers. Innocent, legitimate accident victims, some cognitively impaired, are treated like criminals, often threatened and intimidated during an IME. The 'independent' reports that are generated are too often of poor quality and of little use except to disqualify that patient for treatment recommended by other health professionals.

Others in Ontario's auto insurance industry have made comments that cry out for better regulatory oversight and governance and that too is ignored. Your own members have pointed out these IME quality issues are unfairly affecting those good physicians who are indeed committed to 'do no harm' when assessing vulnerable accident victims.

The lack of transparency and failure to hold physicians assessors accountable has led to Ontario's Arbitrators, who must decide whether or not an injured driver is entitled to treatment or benefits, to label some of these medical reports on which they must rely ***"'inaccurate, failed, misleading, defective, incomplete, deficient, not correct and flawed".***

The President of the Association of Independent Assessment Centres (AIAC) said ***"The value of these independent assessments is directly proportionate to the independence and quality that courts and arbitrators attach to them."***

The President of the Canadian Society of Medical Evaluators (CSME) recently wrote that Ontario's auto insurance IME domain is at risk of **"*public scandal*" due to the inferior quality of *"amateurish, biased and fraudulent"*** medico-legal assessments.

A discussion at a FSCO Dispute Resolution Services Counsel meeting included the comment ***"100% of ALL assessments are "doctored" – in that the actual doctors and assessors are not able to do MOST of the report..."***.

In reviewing the transparency principals posted here we see no meaningful movement to increase transparency at a time when society, consumers, and your own members are demanding that there be greater oversight and disclosure to the public. We understand that these are principals or a template to work from but when reviewing words such as 'appropriate' and 'relevant' to quantify the information to be shared in principles #1 and #3, it does cause some concern as to who will decide what is relevant and what is not?

We disagree strongly that #4 addresses the danger to the public when, even at this consultation stage, there is a reluctance to share the information on "single incidents". Whether an isolated incident is predictive or not of future behaviour is splitting hairs in an effort to control the outflow of information. It is not up to the College to be predictive but rather to be open to disclosing information and up to the public to decide what is relevant and what is not.

Principal #5 has wording that again attempts to quantify and limit the flow of information with the College failing to put the public's interest first when creating a 'safe harbour' for those who have caused harm to Ontario's patients. The present policy of 'secret' remedial and educational cautions has caused much harm to vulnerable and often cognitively impaired auto accident victims. While the interests of the public may be well-served by remedial/educative cautions in some cases, there is no real reason to keep these cautions from the public other than to protect the reputations of physicians by cloaking them with immunity from public scrutiny. It is the injured and the ill patients who come to CPSO seeking 'safe harbour' from the abusive physician, not the other way around. FAIR has written to the College on numerous occasions in respect to these 'secret' remedial approaches to medical mistakes without ever once receiving an answer - an approach often taken when it comes to addressing the problems with Third Party Assessors. The confidentiality discussed in Principal #5 is exactly what has caused harm and precisely what needs to change through transparent and open regulation enforcement.

Principal #6 is again an attempt to protect physicians over patients. If members are unwilling to acknowledge their problems or respect the College, then that becomes a different issue, separate from transparency; as stated, the protection of the public is and should remain paramount. Ontario's IME vendors have long taken advantage of the 'procedural fairness' which has kept the public in the dark and allowed them to act with impunity. Transparency is not a form of punishment but rather a window to

the truth and valid information. The quote "There may be unintended consequences and potential risks to the public of making more information available." from the Ontario College of Teachers is very disturbing in that they seem to be giving options and reasons not to disclose that highly favour the institution who limits information to limit public awareness.

The consequences now, to the injured and disabled who are examined by partisan and often unqualified IME vendors, cannot be measured so easily. Windows of timely treatment lost, lives derailed, innocent people impoverished, families torn apart, all so a few physician assessors can make a tidy stack of money from Ontario's private insurers. The silence about what CPSO members are up to, the tacit approval allowed by keeping cautions private and confidential has caused harm to the College's reputation but even greater harm to the 60,000 recipients of these 'medical' reports every year. Only the for-hire physicians have benefited by the closed door to information policy in place today.

Principal #7 addresses transparency and risk in part only because there is an attempt (again) to quantify the amount of transparency relative to what the College would decide as "the most serious behaviour". This can be rectified by the College showing equal respect to accident victims and all patients who complain about physicians and by recognising that such complaints are truly serious in nature when a person must wait upwards of 5 or more years to have their day in court only to see an Arbitrator or Judge throw out the offending medical opinion which has stood in the way of treatment. Treatment, we would add, that your more respectable and caring members who do try to assist patients toward wellness, have recommended.

We would point out that one of the more recent FSCO Arbitration decisions has one of Ontario's IME providers recommending that a MVA victim have their leg amputated in order to reduce costs for an insurance company. We think this speaks to how far Ontario's Third Party medical opinion vendors will go to make money off the back of an innocent accident victim and an indicator of how poor the standards and oversight have become at CPSO – only made possible by the lack of transparency. Public safety should not be forgotten so that a few rogue assessors can get rich and a more transparent system would alert the public to potential hazards when attending IMEs.

We are hopeful that the College of Physicians and Surgeons will do the right thing; promote transparency and protect vulnerable patients in Ontario, some of whom are seriously injured auto accident victims. We appreciate the opportunity to have our member voices heard and we look forward to continuing the discussion in the future.

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Regulated Health Professions Act, 1991 S.O. 1991, CHAPTER 18 **Treatment, etc., where risk of harm**
30. (1) No person, other than a member treating or advising within the scope of practice of his or her profession, shall treat or advise a person with respect to his or her health in circumstances in which it is reasonably foreseeable that serious bodily harm may result from the treatment or advice or from an omission from them. 1991, c. 18, s. 30 (1); 2007, c. 10, Sched. M, s. 6.