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

March 7 2014

MEDIA RELEASE

DOES BILL 171 MAKE IMPROVEMENTS TO AUTO INSURANCE COVERAGE?

At FAIR we wonder how much discussion the proposals in the DRS Review have actually had. We have not seen the report on the hearings of The Standing Committee on General Government AUTOMOBILE INSURANCE REVIEW that started in 2012. KPMG has been selected to deliver the Automobile Insurance Transparency and Accountability Expert Report sometime later this month and the Ontario Auto Insurance Three-Year Review submissions are due at the end of March. We would have hoped that our government would consider all of the information available to them when making substantial changes to our insurance regulations.

Years of FSCO inertia (specifically referred to in the Final Report) in respect to a litigation landscape littered with bogus and partisan medical reports have led us to a justice system that no longer functions. Avoiding the issue does not make the improvements we need to fix this broken system.

If we could remove all of the legitimately injured accident victims in the system whose claims have been wrongfully denied on the basis of a poor quality medical report - the preposterous wait times and high costs would be greatly reduced. The DRS Review's failure to address the core issue of bogus medical evidence will only speed up the flow of wrongful denials of legitimate injury claims thus increasing the backlog.

FAIR put a proposal forward to fix the problem – the Colorado/DAC hybrid model and the DRS Panel flatly rejected our information in favour of relying on the Colleges for oversight despite their long history of regulatory paralysis on holding third party assessors accountable.

Justice Cunningham has said "**I believe some companies need to take a hard look at the level and quality of service being provided. A number of stakeholders suggested that insurers who do not adequately explain the reasons for denials seem to invite disputes.** " And in reference to the Anti-Fraud Task Force report: "**the Superintendent recommended that health care professional associations and the insurance industry jointly develop standards for the delivery of third-party medical examinations, as well as qualifications for assessors. I understand that this recommendation has not been implemented to date.**"

If Ontario's insurers would stop using biased and even unqualified assessors to paint half of all claimants as fakers then the IBC wouldn't need to be talking in the press about the "crazy" backlog of 16,000 cases currently awaiting arbitration. Those are 16,000 injured victims who are unable to get treatment or benefits, not some sort of inconvenience and it is a statement about the dysfunction of Ontario's insurance system and the industry's incompetent and ultimately harmful claims handling practices.

The DRS report recommends all hearings under the cap of $10,000.00 be paper hearings without any personal appearance from the accident victim to expedite cases through the system. There should always be an option for in-person attendance at hearings so that an accident victim can present their side. We think that it is very important that claimants not be shut out of the process.

There's a concern regarding proposed limits on the length of the medical evidence reports. For those with a serious or catastrophic injury a report consisting of only a couple of pages would act as a systemic way of minimizing the injuries and reducing insurer payouts. That's not justice. Failing to act ensures that justice for accident victims will be just as unfair, and just as dishonest, but it will be faster.

In respect to Bill 171 update to the pre-judgement interest rate - there is no incentive to settle cases when insurers can make a fortune sitting on the dollars that are owed to the injured accident victim. Reducing the rate paid out is another incentive for some unscrupulous insurers to create more delay (often through a bogus IME/IE)- not a disincentive to fraud.

It is as simple as - if a claimant is wrongfully turned down by their insurer and waits years to get to court to finally get the funds they were owed, they've had to pay for legal representation, and that comes out of interest payments. Payments the victim would not have incurred if the claim hadn't been unfairly turned down in the first place. It is the insurers who have a high turn-down rate and who want to profit off their denials who would like to see the rate decreased.

Fix the quality of the insurer assessments and impose qualification criteria on the insurers' preferred medico-legal assessors and the reports on which our courts rely will instantly improve. System costs will drop. Cases will move through quicker in a system not clogged with tactical - but wrongful - denials of legitimate injury claims. We have watched the stakeholders and the legislators and their foremost experts spend two decades trying to get the Ontario auto insurance system to run right - but they have repeatedly and stubbornly ignored the key problem – the poor quality of the medico-legal assessments that fuel the disputes which backlog the system.

Ontario's injured accident victims deserve far better treatment and we expect our legislators to put the interests of Ontario citizens above the interests of Ontario's wealthy insurance companies.

Rhona DesRoches
FAIR, Board Chair
fairautoinsurance@gmail.com
www.fairassociation.ca