

FAIR Association of Victims for Accident Insurance Reform  
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Response to: FSCO's 2014 Statement of Priorities

May 30, 2014

Dear Mr. Howell,

FAIR Association of Victims for Accident Insurance Reform is a not-for-profit consumer organization whose members are accident victims, their supporters and consumers who have an interest in Ontario's insurance system. Our perspective is one of the end users of Ontario's insurance product and we represent those most affected by changes to coverage, Ontario's accident victims.

Thank you for the opportunity to respond to the FSCO 2014 Draft Statement of Priorities.

We would like to think that the well-being and recovery of Ontario's accident victims is priority one for Ontario's government. The constant erosion of coverage, the abuse of Ontario's vulnerable accident victims by insurers and their experts tells us that this isn't so.

The reality of making an auto accident claim in Ontario versus the "open and transparent system that protects the public" that is described on the FSCO website and in this draft statement are two totally different realities.

The draft report speaks of enhancing consumer confidence in FSCO when it is clear that the system isn't working and the overpriced coverage we purchase isn't there when we need it. Congratulating yourselves on a great job done is disingenuous when it isn't an accurate reflection of what is really going on in respect to Ontario's auto insurance coverage. We have a system that is at best described as dysfunctional and at worst as causing harm to innocent accident victims. This isn't a system that is effective, timely or fair.

It is a false promise that FSCO has an open and transparent system - the public should know that many of the recent changes to coverage were done without adequate consultation with the public or accident victims. In fact, accident victims were closed out of any hearings in respect to Bill 171 - as if the 9 million drivers in Ontario just didn't matter.

This week we find out that accident victims' treatment providers will have to pay additional fees for using HCAI when they assist MVA victims to access care and treatment. How is this fighting fraud in the system? How does that fix anything? It surely won't be far down the road that the IBC will be saying (again) that claims costs have risen and that benefits need to be cut again.

Over and over the changes to our coverage read like a Christmas wish list for the Insurance Bureau of Canada. Many of our concerns are in the FAIR submission to the 3 year review <http://www.fairassociation.ca/wp-content/uploads/2014/04/FAIR-Submission-to-the-3-Year-Review-March-31-2014-1.pdf> and in <http://www.fairassociation.ca/wp-content/uploads/2014/05/FAIR-Submission-on-Bill-171-April-30-2014.pdf>

Why is FSCO still not taking any action to protect vulnerable accident victims from predatory assessors? FAIR has asked this question many times - we've asked the Anti-Fraud Task Force, Justice Cunningham at the DRS review, and our legislators. FSCO is aware that some of Ontario's regulatory colleges are failing in their duty and yet you are quite willing to rely on this broken system of flawed medical assessments rather than fix this fundamental problem.

Accident victims do not feel protected or that they are being assisted in a "fair and open system" that is looking after their best interests. Half of those who make a claim are unable to access medical rehab and other needed benefits and yet the "FSCO aims to improve the ways in which it regulates and delivers services to foster consumer protection in the financial services sectors."

Where is the protection talked about in this statement? Why are tens of thousands of Ontario's accident victims lining up for hearings when they've been wrongfully denied the benefits they paid for in a time of need?

Why are accident victims still being subjected to poor quality or bogus medical examinations that are virtually without oversight? Why are MVA victims still being abused by some individuals in the medical community whose incomes are dependent on the insurer that hires them to do these poor quality reports? We ask the question but we already know the answer – benefits are paid out (or not) based on these medical reports and all an insurer needs is one medical professional to say an MVA victim doesn't need the treatment prescribed by another professional and the claim is denied.

We'd ask the question why there are so many accident victims lined up for hearings at FSCO but we already know the answer to that too. See paragraph above.

We'd ask why cases are still taking so long and why legal costs are so high but we already know that the line-up and the costs are the direct result of improper or incompetent denials - see the paragraph above.

Victims only have one real question that needs answering – when are you going to fix this dysfunctional system?

We know there is some fraud everywhere in any system and legitimate accident victims support fraud awareness. But they don't support insurer incompetence or fraudulent deflating of their injuries so insurers can save more money.

Why are insurers not subjected to the same scrutiny as are claimants and rehabilitation and support workers? Why are Ontario's insurer physician assessors not held accountable for their actions when they produce biased or unqualified reports – the whole system is based on whether or not an accident victim is injured so why isn't there any quality or regulatory action on assuring these reports have value? Isn't that lack of oversight the how and why there are so many claims turned down in Ontario and why our courts are clogged up with cases?

Will the new prosecution office take legal action on the for-hire medico-legal experts who falsely deflate injuries and treat it as the insurer fraud it is? If "FSCO supports that fraudsters should be vigorously pursued and prosecuted where evidence warrants" it would clean up some of the insurer fraud– or will insurers be given a free pass again by investigators and prosecutors who turn a blind eye to the fraudulent practice of unqualified accusations of malingering by pro-insurer assessors?

The Statement of Priorities mentions nothing about ensuring adequate coverage for Ontario's accident victims but plenty about mitigating risks. We'd like to point out that the risk of promoting such poor coverage for Ontario's citizens and failing to ensure that Ontario's insurers stand behind their contracts leads to a significant

cost download to the taxpayers. An insurance product that only covers half of those individuals who are injured is hardly a bargain.

FSCO knows full well that the Minor Injury Treatment Protocol report is some years away and since 2010 too many claimants have fallen through the cracks and are left without care or resources. This study should have been done before such radical slashing of coverage for Ontario consumers. It is hardly a strategy to do such a study after making these changes that have benefited Ontario's insurers while impoverishing Ontario's accident victims.

If FSCO aims to improve the ways in which it regulates and delivers services to foster consumer protection in the financial services sectors then why are you not holding insurers accountable when they wrongfully deny a legitimate claim? Why is it that through Bill 171 accident victims will have the interest on money owed to them on overdue payments reduced to such an extreme low level that it will encourage Ontario's insurers to deny even more claims?

And why support less access to justice for accident victims? Is it so insurers can make even higher profits or is it to just keep the number of people who are denied access to treatment and benefits under wraps and out of sight – if they can't access the courts, they don't exist as unsatisfied customers.

Victims of Ontario's deplorable auto accident insurance coverage have their own list of Highlights from 2014 and they can be found on the FAIR web-page at:  
<http://www.fairassociation.ca/who-we-are-activities-and-actions/>

We continue to write and to voice our concerns to the government but it appears that our concerns are falling on deaf ears. So in fairness to our members we think that you should read what accident victims really think about what a great job the Financial Services Commission of Ontario is doing with the auto insurance sector below.

## FAIR Association of Victims for Accident Insurance Reform

**“How can a blameless victim of insurance crime obtain substantive legal advocacy, when the criminals are employed by insurance companies whose policies and practices are employed in predatory ways to deny claim services, intimidate, threaten and injure vulnerable claimants in a flawed system endorsed by disinterested law enforcement and bureaucratic enablers?”**

**“Forcing everyone to purchase car insurance without adequate coverage and more roadblocks than a obstacle course, is a disservice to all motorists. Can you imagine becoming permanently disabled and having to settle for significantly**

**less than the cap applied to your condition? Now you are being expected to live out the rest of your life on a shoestring budget and significant physical obstacles. The younger the accident victim is only makes the situation worse.”**

**“ My Adjusters denied, delayed my legitimate accident benefits off and on for 5 years with the use of bogus reports. My case file was manipulated to provide false representation of a matter of fact by deleting parts of the file and duplicating others.”**

**“I have been watching the benefits of legitimate survivors benefits being slashed over and over to help the insurers profit margins. Mr. Palumbo, how do you and the IBC sleep at night? God forbid, you or yours are very seriously injured in a MVA and ASSUME the benefits are available. For the amount of money being spent by the insurers to paint a survivor as a fraudster in a claim, with the IBC lining the pockets of the people willing to accept the your word without actual PROOF, also the insane amounts being spent on advertising to get the public to buy into the fraud, thousands of victims could be making maximum in their recoveries with the funds and resources that the IBC and INSURERS squander!”**

**“For a few bucks, this government has made it clear that they have sold out not only accident victims and their families, but every rate payer who is under the illusion that, should they become injured in an auto accident, the insurer,who has received thousands upon thousands of dollars from the rate payer, will actually provide the benefits the insurer is obliged to provide. This is a government with no compunction as to remove the rights of Ontario residents and accident victims for the appeasement of an industry.”**

**“What about bill 59 and then the 2003 changes to coverage? What about the fact that we only have \$3,500 coverage less the cost of a insurance medical assessment since the 2010 reforms? Where does it end? High premiums, virtually no coverage and an abusive system that requires a lawyer to even figure out. It's fake coverage with big business just siphoning off their profits - no money left for accident victims. What a scam. With the removal of the punitive value of pre-judgement it's an open season on victims. Just take our money and run when there's no reason to stand behind the policy thanks to our government's mishandling of this file.”**

**“Last year their profit was 4.4 BILLION, yet, they keep using the old unproven complaint that their are millions of malingerers (liars) out their costing insurance premium to go up! BULL!! Please do not forget that the 4.4 Billion is from the millions of citizens across Canada that are paying through**

**the nose for car insurance and the worse treated in this country and in fact in the whole of North America is right here in Ontario!!!”**

**“If they state the reason for their actions is to counter fraud, why are they spending more money to avoid making payments than would take to simply make the payments as originally promised?”**

**“The Financial Services Commission of Ontario and the Insurance Bureau of Canada are one and the same with our government bending to their every wish.”**

**“The Insurance Companies are using the smoke screen of "fraud" to further attack seriously injured victims, and all the Parties are playing right along. I realize there is fraud in the system, but it is getting blown "way" out of proportion. Accident victims are being labelled a fraud until proven innocent and with Bill 171, they will have fewer resources to fight this injustice. Somehow the biggest fraud never gets “seriously” put on the table and that would be the for-hire Independent Medical Examination (IME) Doctors. They treat accident victims with contempt or worse and deny or delay legitimate claims and benefits. Does this sound like a system that is trying to help people recover? In my opinion, this is a Human Rights abuse story.”**

**“We’ve known for a very long time that the insurance companies and governments have been in bed together for decades while innocent victims suffer and are robbed blind due to so much corruption in this Ontario of ours. It is so shocking that the Ontario Governments of the day are willing to abuse the rights of accident victims for the generous political contributions paid by Insurance Companies and the Insurance Bureau of Canada, IF their desires are met.**

**(IN FACT IT'S THE GENERAL PUBLIC'S MONEY BEING MANIPULATED TO SEE TO IT THAT INSURANCE COMPANIES AND YOUR GOVERNMENT ARE TOTALLY IN CONTROL AND FOR PROFIT/POWER WHILE TRUE VICTIMS ARE DOING WITHOUT AND ARE LEFT IN PAIN).**

**How many times has the Insurance Industry, over many years, state that billions are wasted on fraudulent claims and yet they refuse to produce their evidence?”**

**“Is this not a human rights issue when the abuse of the injured is so wide-spread?”**

**“Since 2003, accident victims have been treated with contempt by the insurance industry and it’s regulator. Injured persons and their families are receiving less and less in benefits and even more are being outright denied any**

**benefits. Regulatory and legislative changes to auto insurance have greatly reduced financial and medical benefits while industry profits have exponentially risen within the same time frame. The argument for such changes has been the effort to combat fraud but does little to do so. How is punitively fining accident victims \$500 for missing an assessment reduce fraud? With the exception of accident victims, the industry, government and other stakeholders have persevered in side stepping the issue of IME's. Assessments that I have filling up an entire file cabinet all favour the insurance company, a typical outcome when doctors are paid by the insurer. These documents are sometimes not even authored by the examining doctor. These assessments are used to delay and deny benefits, sometimes by a medically untrained adjuster deciding on an accident victim's medical needs such as medications and therapies. These medications and therapies are critical to an accident victim's recovery in the first two years following an accident. IME's are the most critical part of a claim to assess the severity of an accident victim's injuries, incorrect or fraudulent reports guarantee an unfair and unjust outcome. Misrepresentation of the truth by any party involved denies justice to be seen as being done."**

**"Why is our government even agreeing to a tax on justice in the first place? Another reason for insurance companies to fight their own customers when the law helps them beat up the defenseless victims. Our government is helping big business cheat their own customers - welcome to Ontario."**

**"Scam on top of scam - it's as if the government has never heard of 'protect the public interest' when it comes to insurers - too busy counting donations."**

**"The absurdity of a government who mandates that every driver has insurance and yet stays silent about the coverage we get, cooks secret deals, takes 'contributions', and abuses their power by changing coverage without consultation has no business saying they are acting in the best interests or protecting the rights of their citizens."**