

## **'FAIR – supporting auto accident victims through advocacy and education'**

FAIR Association of Victims for Accident Insurance Reform  
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FAIR Association of Victims for Accident Insurance Reform is a not-for-profit organization centered on providing advocacy and education for Ontario's MVA victims. Our members are MVA survivors and their supporters.

Thank you for the opportunity to have our input on the FSCO's Draft 2015 Statement of Priorities. Victims and those who support them have questions about the priorities.

Why is it that there is so little mention of the priorities/concerns of the injured victims the system purports to serve?

If it is truly the mandate of the FSCO and the "measurement of providing regulatory services that protect the public interest and enhance public confidence in the regulated sectors" then shouldn't the quality of the coverage and access to that coverage be of utmost importance?

If people had confidence in the quality of the coverage and access to benefits as promised, would over 20,000 people be signing a petition?

When hundreds of people rally at Queen's Park to protest the cuts to benefits to the most catastrophically injured of Ontario's auto accident victims; is that not a clear signal that consumers (in this case people who have used the product) have lost confidence in our coverage?

Why are we cutting coverage to the most severely injured and yet not ensuring that Ontario's auto insurers are doing what they should be to control their own costs? Why is FSCO not investigating the extent to which insurer claims-handling tactics are contributing to the very costs the insurers are now willing to take out of the claims dollars of the most seriously injured victims?

Given the recent StatsCan revelation that there are 61,063 auto insurance related cases in Ontario's courts (and this is aside from the thousands of cases at the FSCO DRS Unit) is this not causing some concern about the consumer complaint resolutions discussed in the 2015 Draft Statement of Priorities? Does it not speak to Ontario's insurers' abilities to adjust claims in a timely fashion and the industry's compliance with laws and regulations?

Despite the high number of unresolved claims in the system, nothing is being done to address how this is happening largely due to poor quality medical opinion reports used by insurers to deflate claims. Why?

Why is FSCO willing to rely on Ontario's Health Regulatory Colleges for oversight of those who produce the medico-legal opinions upon which access to benefits rely; while knowing full well that the IME/IE system has become a wild-west of incompetence and shoddy opinions for sale and that media coverage continually reveals these Colleges are not up to the task of self-regulation? Why is FSCO not interested

in regulating the quality of the insurers' IMEs through consumer protection avenues even after it was suggested in the Anti-Fraud Task Report?

Given that regulatory inaction regarding the quality of the medico-legal "expert" opinion evidence used in our courts and at FSCO is at the core of the litigation/arbitration backlogs ; has anything been done to calculate the costs of the download to the tax-payer funded systems in Ontario during the years it takes resolve these cases?

Is FSCO aware that Ontario's insurers deny and delay model of claims handling is leading to increased ill health for victims who ultimately are foisted onto public systems and are often left without adequate treatments and rehabilitation? Does FSCO care?

Why has FSCO not made any move in the direction of assisting claimants in understanding the process of making a claim and simplified the process and the forms? Wasn't the FSCO accident benefits scheme intended to be one free of the need for lawyers merely to access medically prescribed reasonable and necessary treatment?

Why has FSCO continued to allow the Insurance Bureau of Canada (IBC) to take the role of informing the public about the level of coverage they have when it is part of the FSCO mandate to "enable informed decisions by consumers"? So why is the government relying on the lobbying arm of Ontario's insurance companies to disseminate all of the information consumers need to know? Why have FSCO's Auto Insurance Division and the IBC become so intimately and inextricably entwined that it is hard to tell if it isn't the IBC that decides FSCO's priorities?

Is FSCO aware that the IBC spin on 'Ontario has the richest benefits in Canada' is factually untrue and has been soundly rejected by the mainstream press? Why does FSCO continue to set priorities which are based on this falsehood?

Has FSCO reviewed the latest report prepared by York University's Schulich School of Business and considered the data regarding profits and overpayments by consumers in that report?

To the extent that "FSCO measures success in relation to meeting its overarching mandate of providing regulatory services that protect the public interest and enhance public confidence in the regulated sectors" – then how does FSCO reconcile protests at Queen's Park, critical press coverage, and unanimity among all the stakeholders that the system is "broken"/vexed/dysfunctional" – with "successful regulation"?

If we are buying peace of mind through our policies and if half of all claims are turned down and ending up in our courts then it is a false security that Ontario's insurers have sold us. FSCO ought to be addressing the ways in which injured Ontario auto accident victims are becoming more and more abused and mistreated in this perpetually vexed and ever-worsening system.

Sincerely,  
Rhona DesRoches  
FAIR, Board Chair

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## **Bad news for crash victims**

<http://www.torontosun.com/2015/05/30/bad-news-for-crash-victims>

## **Hundreds rally against cuts to auto insurance benefits**

<http://www.fairassociation.ca/>

<http://www.accidentbenefitcoalition.com/>

<http://www.insurancebusiness.ca/news/update-rally-against-insurers-deemed-a-great-success-192073.aspx>

<http://www.torontosun.com/2015/06/06/car-crash-victims-deserve-better-deal?token=5a07ee94cbae2fbfcd08f5bad3ee6dd9>

**Over 20,000 people sign a petition to stop slashing benefits** <https://www.change.org/p/ontario-mpps-finance-minister-charles-sousa-stop-reducing-ontario-accident-benefits>

We've already overpaid for coverage!!! [Lazar Prisman report 033115 FINAL](#)

### **Auditor General Report Auto Insurance Regulatory Oversight – Oct 2013**

[http://www.auditor.on.ca/en/reports\\_en/en13/401en13.pdf](http://www.auditor.on.ca/en/reports_en/en13/401en13.pdf)

Assessment of Health-system Costs Recommendation 7 In view of the fact that it has been five years since the last review of the assessment of health-system costs owed by the auto insurance sector despite the significant increase in health-care costs related to automobile accidents over the same period, the Financial Services Commission of Ontario should work with the Ministry of Finance, the Ministry of Health and Long-Term Care, and the insurance industry to review the adequacy of the current assessment amount. Status The Insurance Act requires all automobile insurers operating in Ontario to pay an annual “assessment of health-system costs” to recover the costs to the province of providing medical care to people injured in motor-vehicle accidents. FSCO is responsible for collecting the assessment from insurers, with each insurer paying a pro-rated share of the total. The assessment has not been changed since 2006, when it was set at \$142 million, even though, as we reported in 2011, overall health-care spending and medically related SABS benefits costs substantially increased since 2006. We were advised that the Ministry of Finance is undertaking to review the current assessment amount, as noted in the Minister’s August 24, 2013, policy statement. **Pg 301**

### **Auditor General Auto Insurance Regulatory Oversight – Dec 2011**

[http://www.auditor.on.ca/en/reports\\_en/en11/301en11.pdf](http://www.auditor.on.ca/en/reports_en/en11/301en11.pdf)

Review of the Profit Provision When determining whether to approve a rate filing, FSCO conducts its assessment by factoring in a reasonable profit for the insurance company based on a 12% return on equity (ROE). A study conducted in 1988 set the ROE at 12.5% based on its relationship to the long-term Canada Bond rate, which was 10% at the time. The ROE was last changed to 12% in 1996, and we were advised that FSCO has not since conducted a comprehensive review of what it considers a reasonable profit for insurance companies operating in Ontario. Given that long-term Canada Bond interest rates were substantially lower at the time of our audit, standing at about 3%, have been low for some time, and are forecasted to stay low for some time, the current 12% ROE could be higher than appropriate, assuming that FSCO still considers the long-term bond rate to be an appropriate benchmark. In any case,

given that it has been 15 years since the 12% ROE was established, we believe that a reassessment is long overdue. **Pg 59**

The current rate of injury claims that result in mediation stands at about 50% of all claims. We believe that this high rate could indicate significant dissatisfaction by claimants with the handling of claims by insurers and/or lack of clarity from FSCO in the guidance and manner in which statutory accident benefits are administered. **Pg 61**

**Assessment of Health-system Costs** The Insurance Act was amended in 1996 to require all automobile insurers operating in Ontario to pay an annual “assessment of health-system costs” to recover the costs to the province of providing medical care to people injured through someone else’s fault. The government of the day initially set the assessment at about \$80 million a year for the entire industry to help defray costs incurred by the Ministry of Health and Long-Term Care that ought to be paid by insurers. FSCO is responsible for collecting the assessment from insurers, with each insurer paying a pro-rated share of the total. In 2005, our audit of the recovery of health costs resulting from accidents led us to conclude that the Ministries of Health and Finance did not have satisfactory policies and procedures in place to monitor the adequacy of the initial \$80-million annual assessment. Subsequently, the government increased the annual assessment in September 2006 to about \$142 million. The Health and Finance Ministries reported in our 2007 follow-up that they had established a joint working group that year to conduct further analysis to ensure that future assessment amounts adequately cover the cost of health care provided to individuals injured in automobile accidents. The ministries also said at the time that it would take some time to develop the appropriate mechanism. **Pg 65**