

June 29, 2015

The Honourable Kathleen Wynne
Premier of Ontario and President of the Executive Council
Room 281 Main Legislative Building
Queen's Park
Toronto, Ontario
M7A 1A1

Dear Premier Wynne:

On behalf of the Ontario Trial Lawyers Association ("OTLA"), I am writing to provide comment and feedback to you on the recent changes to auto insurance in the 2015 Ontario Budget, to comment on the proposed changes to auto insurance currently posted on the province's regulatory registry, and to request a meeting with you to discuss our concerns.

Premier, I wish to state at the outset that we feel strongly that your government is unjustly penalizing Ontario's injured people with these measures. It is our view, and the view of over 20,000 Ontarians who signed a recent petition, that your government has failed to strike the right balance between protecting Ontario's citizens when they are injured and ensuring a sustainable automobile insurance industry.

Both the legislative amendments to the Insurance Act in the budget and the proposed regulatory amendments to the Statutory Accident Benefits Schedule will do lasting harm to the most vulnerable members of society – injured auto accident victims including those who have suffered catastrophic injuries.

It is not too late. In fact, it's never too late to do the right thing. I urge you to reconsider these changes. As an association, we are not stubbornly advocating for maintaining the status quo. We recognize that change and meaningful reform are sometimes needed. But frankly, we are at a loss to understand why the government, at the urging of the Insurance Bureau of Canada, continually enacts changes that serve primarily to bolster an already extremely profitable insurance industry at the expense of the premium paying public and claimants. Changes to auto insurance are rarely designed to enhance coverage for victims.

This latest round of proposed changes, sadly, is no exception.

These changes will bolster insurance company returns at a time when they least need assistance. Because of reforms implemented five years ago, insurance companies are in fact well positioned financially to reduce premiums right now to achieve a 15% reduction, maintain coverage, and realize respectable and reasonable profits. It is all possible, despite the advice that you have received on this matter, presumably from the IBC.

It cannot be stated strongly enough: your government's proposed changes, including reducing the coverage for medical and rehabilitation benefits and attendant care benefits for the catastrophically injured from \$2 million to just \$1 million, will dramatically reduce insurer costs and generate further profits by imposing further cuts on victims.

Premier, you are no doubt aware of the findings of Professors Lazar and Prisman that the majority of companies selling insurance in Ontario are extremely profitable, and it is only a few companies losing money that drag down the aggregate average for insurer profit to give the appearance that the industry as a whole is losing money. Any economist hired by the insurance industry will come to the same conclusions when the minority of companies that are performing poorly (perhaps due to inefficient claims handling practices) are removed from the analysis. The fact is that most of the insurance companies selling automobile insurance in Ontario are making a lot of money.

Perhaps you are aware that earlier this month at Queen's Park there was a rally held in support of injured accident victims. This was on June 3, the very day the legislature passed the budget bill that included amendments to the Insurance Act. On that day, we heard from a number of car accident victims who spoke passionately about their experiences. They spoke about how they struggled to recover following debilitating injury from their car crashes. They spoke about their depression. They spoke about their pain and the challenges of living with chronic pain. They described how their recoveries would have been greatly diminished or made impossible had it not been for the timely assistance of their vital insurance coverage. They told us how, with the assistance of the insurance benefits currently available, each of them was able to return to the workforce.

Premier, I suspect that you have been assured that these changes will not affect people unduly, or that there will still be enough coverage to help people because Ontario has the "most generous" coverage in the country. This is simply not the case. It may be the most generous system for insurance company profits, but certainly not for victims.

At best, this is an out of date comparison that does not bear up to scrutiny today. It is true that Ontario has auto insurance coverage that some provinces do not have including, for example, catastrophic coverage. But we are not alone in providing that coverage, and catastrophic coverage is about to be gutted and eligibility drastically reduced in Ontario by your government. Other provinces also have greater access than Ontarians to publicly funded non-physician health care to support critically injured victims. We cannot look at auto coverage in isolation. In addition, Ontario has drastically reduced opportunities to sue for damages compared to other provinces. We are the only province that has a stringent threshold that must be reached before a person can sue for pain and suffering (a person must have suffered a permanent and serious impairment. This is coupled with a deductible, which was \$30,000, but in the budget that was just passed, has now been indexed to increase with inflation – retroactive to 2003. Ontario's deductible is therefore now approximately \$38,000. For people whose injuries fall below a \$120,000 assessment, they must hand over the first \$38,000 of their damages to the insurance company of the driver who injured them. No other province penalizes its injured people in this fashion. The combination of the threshold and the deductible has removed a significant percentage of cases from the system. Most of the provinces have fewer restrictions on the right to sue, and no deductibles.

It cannot be said that Ontario is the best place to recover from a car crash and to seek justice for one's losses.

Ontario's insurance coverage for minor injuries – which encompass the vast majority of accident victims - compares very poorly to the rest of the country. This is not a matter of opinion. It's a fact.

We have also heard government officials suggest that Ontario's costs are out of control compared to other provinces. Again, this is a very misleading statement. For example, here in Ontario, insurers rely heavily on the abusive practice of subjecting as many as 50 per cent of all injured accident victims to excessive medical assessments for the purpose of denying their claims. It is not at all uncommon for those assessment costs to vastly outstrip the actual treatment dollars. To add insult to injury, insurance companies count all these assessments broadly as "treatment" and then complain that our overall treatment costs are high, and that Ontario victims are more *needy* than people elsewhere.

Premier, once again, we ask for your time to meet a group representing a broad coalition of people opposed to these changes.

We ask that you consider and keep in mind the perspective of the victims, and especially those future auto accident victims who have yet to discover how inadequate their government has allowed their insurance coverage to become.

I want to close with one of the comments I heard from a victim at the rally, who said that her coverage should not be seen as "benefit" that is extended as some kind of favour or charity, but as a precious resource for which she had paid dearly through her insurance contract, and desperately required for her recovery. Please ensure that those resources are in place in the future, and that fairness and balance in our compulsory auto insurance is restored.

It is not too late to do the right thing and consider a different perspective. It is not too late to recognize that insurance companies are already making healthy profits, and injured people do not need to be further penalized to allow insurers to make even greater profits.

Thank you for your consideration of these issues, and we look forward to meeting with you.

Yours truly,



Maia Bent
President