

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

FAIR Association of Victims for Accident Insurance Reform
579A Lakeshore Rd. East, PO Box 39522
Mississauga, ON, L5G 4S6
<http://www.fairassociation.ca/>

July 31, 2015

FAIR response to the Final Report of the Minor Injury Treatment Protocol Project, titled "Enabling Recovery from Common Traffic Injuries: A Focus on the Injured Person"

Thank you for the opportunity to respond to the Report of the Minor Injury Treatment Protocol Project.

FAIR Association of Victims for Accident Insurance Reform is a not-for-profit organization of MVA victims and their supporters who are concerned about and have struggled with the current auto insurance system in Ontario. FAIR works toward changes to auto insurance legislation that will improve the way all MVA victims are treated and cared for under provincial insurance legislation.

With tens of thousands of Ontarians injured each year in auto accidents, and \$2,800,000.00 to work with it is unfortunate that the Panel chose to interview a mere 11 MVA victims about their claims experience when designing a system to serve that very group of individuals. It certainly doesn't speak to a focus on the injured person as the title suggests. The ill-conceived Minor Injury Guideline was designed as an interim measure in 2010 while this evidence-based treatment protocol was developed so with 5 years of history to review, surely the victim sample of recovery results, experiences and/or suggestions should have included a larger group of participants to keep the study relative to the estimated 300,000 MVA injury claims that have been made since the 2010 introduction of the MIG?

Since these treatment protocols or pathways don't appear to match up with the reality of the MIG as it is applied right now in terms of dollars and cents, is it not now necessary to get rid of the Minor Injury Guideline presently in use? Clearly, according to these recommended pathways and treatment recommendations, the MIG is and has been contrived purely to serve Ontario's insurers and their profits rather than to serve the needs of Ontario MVA victims. In other words, the MIG has been an obstacle to recovery for innocent victims when the funds for med/rehab are inadequate and/or inaccessible.

We are not qualified to speak on treatment protocols but we can see that individuals who have been injured after the 2010 MIG introduction have had a much more difficult time accessing treatment resources and recovery tools with insurers fighting to keep victims below the MIG threshold of \$3500.00 for med/rehab.

Each new threshold and change to legislation has caused countless MVA victims to incur high legal costs and it is only recently in the [Scarlett v. Belair](#) decision that some MIG clarity has been achieved at great cost to that individual MVA victim whose insurer has continued to deny responsibility to cover treatment costs. The \$3500.00 MIG threshold has restricted access to rehab and caused harm and financial grief for thousands of MVA victims. Victims whose recovery may have been stalled for the last 5

years unless they have been able to personally cover the cost of their own treatment despite having paid their insurer in good faith for coverage.

We appreciate the commentary about the poor choice to have named these common auto accident injuries as a “minor injury”. Sadly the acknowledgement that these injuries are not always ‘minor’ in nature is undone by the consistent recommendation in this report to “Reassure patients about the benign and self-limited nature of their pain.” Since most MVA victims seek medical attention because of pain, this recommendation seems counterproductive to the necessary investigations into the root cause of pain and possible treatment of many potential conditions. Such comments belittle the victim’s experience with their injury and more importantly, it suggests that their pain is of no consequence and passes blame for the pain onto the victim. The [International Association for the Study of Pain](#)'s widely used definition states: "Pain is an unpleasant sensory and emotional experience associated with actual or potential tissue damage, or described in terms of such damage."

It appears that victims will be expected to do more unsupervised exercises going forward with these recommendations. This will work for some MVA victims but not all and there is a concern that some victims’ recoveries could be compromised through lack of care and oversight of therapies. By limiting options for the treatment provider/victim relationship in respect to what may be necessary supervision, there can become limited opportunities for recovery.

It is very unclear what the meaning is behind “Do not provide ineffective or experimental treatments” without greater detail. Unclear or concise wording is often behind insurer delays and denials of claims.

The ‘slotting’ of injuries into these various categories means that the victims themselves must be exactly the same way, with the same injuries and identical recovery paths with the idea that all will have the same results. The reality is quite different with each recovery unique.

The inclusion of Mild traumatic brain injury (MTBI) in this MIG Treatment Protocols is worrisome given the latest data on this type of injury and the importance now placed on timely rehabilitation and treatment given the potential long term effects. Victims are often extremely upset following this type of injury and frequently need psychological intervention as well as treatments that are not discussed in this document.

We do think that there should have been more interaction with treatment providers who are in everyday contact with MVA victims and who are ideally situated to give the most informed opinion on how these common MVA injuries should be addressed or whether these protocols are in compliance with Ontario’s health regulatory college regulations and expectations.

Thank you for the opportunity to bring our concerns forward.

Sincerely,

Rhona DesRoches
FAIR, Board Chair
fairautoinsurance@gmail.com