

HOME | ABOUT FSCO | FORMS | PUBLICATIONS & RESOURCES | NEWS ON DEMAND | CONTACT US

PRINT

**FSRA** is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.

and FAQs.

#### Follow FSCO on social media









About Service Providers	>
Publications & Resources	>
Public Registry	>
Related Information	>

# **Service Providers 2017/2018 Market Conduct Compliance: Examination Results**

You are here: Home > Service Providers > 2017/2018 Market Conduct Compliance: Examination Results

### Contents

**Executive summary Supervisory activities On-site examinations Desk reviews Escalations and enforcement Conclusion and next steps** 

# **Executive summary**

#### Introduction

The Financial Services Commission of Ontario (FSCO) is a regulatory agency established by the Financial Services Commission of Ontario Act, 1997 and accountable to the Minister of Finance. FSCO oversees insurance, pension plans, mortgage brokering, credit unions and caisses populaires, co-operative corporations, loan and trust companies in Ontario, and health service providers ("service providers").

A regulated service provider is defined as a business that provides specific goods or services ("listed expenses") to Statutory Accident Benefits Schedule (SABS) claimants, and submits invoices on behalf of the claimants through the Health Claims for Auto Insurance (HCAI) system.

FSCO oversees approximately 4,700 licensed service providers and continues to receive and process new applications daily.

Since the licensing system began on December 1, 2014, FSCO has conducted a total of 978 on-site service provider examinations, which is equivalent to approximately 21 per cent of the total licensed service provider population. These examinations help FSCO determine if service providers are following the law. Should unlawful practices be found, FSCO takes appropriate action to protect consumers and combat fraud.

In addition to on-site examinations, FSCO expanded its oversight in 2017/18 to include desk reviews. Desk reviews are conducted through email and telephone exchanges with service providers. Similar to onsite examinations, desk reviews assess service providers' compliance with the Insurance Act and



# ★ Scheduled Online Service Disruption Notice

Please consult our **outage schedule** for more details.

applicable regulations. Desk reviews are an additional tool for oversight, allowing FSCO to reach more service providers to ensure service providers are following the law.

This report summarizes FSCO's findings from the 190 on-site examinations and 106 desk reviews conducted during fiscal year 2017/18 (April 1, 2017 – March 31, 2018). This report also sets expectations, accountability and compliance requirements that govern the industry and help protect consumers.

### Summary of findings

For fiscal year 2017/2018, the sector's overall compliance rate during on-site examinations was 34 per cent and the sector's overall compliance level was 63 per cent for desk reviews. While the on-site compliance rate reflects a small improvement – one per cent higher than the previous year – FSCO still considers this compliance rate to be unacceptable. In comparison, the other sectors regulated by FSCO generally maintain compliance levels of over 90 per cent. The results from the on-site examinations and desk reviews for licensed service providers are summarized in Chart 1.

Chart 1: Summary of Findings

On-site Examinations			
	Top Findings	Reference	
1	Ontario Claims Forms (OCFs) not signed by regulated healthcare professionals and/or patients	Section 38 of Ontario Regulation 34/10	
		Section 40 of Ontario Regulation 34/10	
		Superintendent's Guideline No. 02/18 – Recordkeeping	
2	Policies and procedures not established/appropriate	Section 17 of Ontario Regulation 90/14	
3	Patient identity not verified	Section 5 of Ontario Regulation 90/14	

Desk Reviews			
	Top Findings	Reference	
1	Rostered Health Professionals list in HCAI outdated/inaccurate	Superintendent Guideline No. 02/18	
2	Invoices submitted in a name that does not correspond to the service provider's licence	Section 6 of Ontario Regulation 90/14	
3	Business changes not reported	Section 20 of Ontario Regulation 90/14	

Note: Chart 1 details the top findings and corresponding regulations and/or guidelines

# Supervisory activities

The process for selecting licensees for on-site examinations or desk reviews applied a risk-based approach. Complaint data, filing information, or information brought forward by market intelligence staff were used to identify risks. FSCO predominantly selected higher-risk service providers for on-site examinations and medium-risk service providers for desk reviews. Desk reviews validated information that was reported through filing requirements or survey/questionnaire completion to gain a better understanding of licensed entities. On-site examinations were more detailed than desk reviews and gave access to a wider variety of information about a licensed entity.

### On-site examinations

FSCO examined the following key areas:

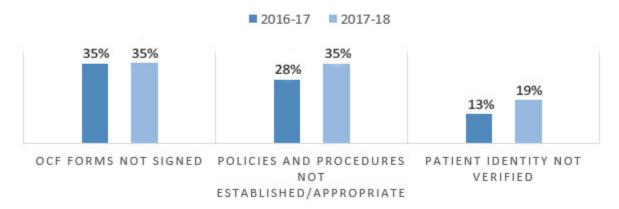
- licence validation: confirmation of articles of incorporation, master business licence, location and identification of principal representative
- provision of information: duty to provide business and accounting information
- billing practices: duty to verify identity, verification of name use and invoice submission practices
- business systems and practices: duty to establish policies and procedures and the duties of the principal representative
- reporting information to FSCO: duty to report business changes to FSCO

FSCO examiners conducted staff interviews, which are important for assessing the overall suitability of the principal representative (PR), who is expected to provide appropriate supervision. The PR must ensure that procedures and standards of practice are not only in place, but also that they are available, understood, and followed by all staff.

### Detailed findings

The top three areas of non-compliance remained consistent for the past two years, although the level of non-compliance for two of the three top findings has increased. Those findings are shown in Graph 1.

# Graph 1: Top On-Site Examination Findings



Description of Graph 1: Top On-Site Examination Findings image

Note: Graph 1 details the percentage of examinations where these findings occurred

# 1. OCF-18, OCF-23 and OCF-21 forms not signed by regulated healthcare professionals and/or patient

The Superintendent's Guideline No. 02/18 requires all OCFs to be completed in full. When OCFs are signed by the claimant prior to completion, or submitted without a claimant or regulated healthcare professionals' signatures, there is a greater opportunity for fraud. The compliant steps for submitting OCF-18, OCF-23 and OCF-21 is to (1) complete the form, (2) obtain the required signature(s), and (3) submit the form. If a service provider requires additional time to complete a form, then the submission should be delayed. The deficiencies identified are largely associated with OCF-21s, where the participating facility did not have the authorized signatures of the regulated health professional providing treatment or an authorized signature on behalf of the regulated health professional.

## 2. Policies and procedures not established/appropriate

Section 17 of **Ontario Regulation 90/14** Prequires that policies and procedures are in place to avoid the submission of misleading information to an insurer, and to prevent a business from facilitating such activities by others. Results from FSCO's 2017/18 on-site examinations concluded that 35 per cent of service providers did not have policies and procedures that address all aspects of section 17 of Ontario Regulation 90/14. The examination focused on ensuring policies and procedures were appropriate to the nature and volume of the service provider's business involving statutory accident benefits. Observations in this area ranged from service providers not establishing policies and procedures to instances where polices and procedures were in place but required improvements (e.g. requirement to establish procedures for addressing and resolving complaints).

### 3. Patient identity not verified

Service providers have a legal duty to verify the identity of Statutory Accident Benefits Schedule (SABS) claimants. The service provider must verify that goods and services are provided to the person involved in the motor vehicle accident. The findings varied from occurrences where the service providers were not able to demonstrate that an identity confirmation process was in place

(e.g., through a checkbox on intake and visit forms confirming that identity was verified) to instances where verification of claimant identity was limited.

### Desk reviews

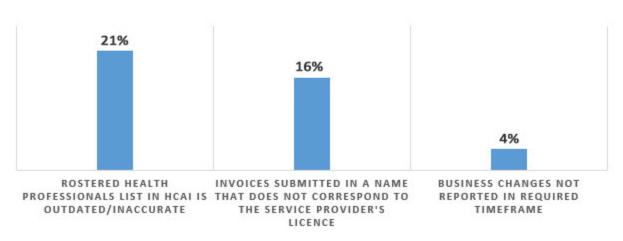
FSCO examined the following key areas:

- HCAI enrollment: facility's rostered health professionals list is up-to-date
- billing practices: verification of use of name and invoice submission practices
- reporting information to FSCO: duty to report business changes to FSCO

### Detailed findings

Desk reviews are an efficient and effective approach allowing regulatory resources to be focused on a narrower examination scope. Desk reviews were conducted on facilities with a lower number of reported SABS claimants and on-site examinations were conducted on facilities with a higher number of reported SABS claimants. A visual depiction of the overall desk review findings are shown below in Graph 2.

# Graph 2: Desk Review Findings



Description of Graph 2: Desk Review Findings image

Note: Graph 2 details the percentage of desk reviews where these findings occurred

### 1. Rostered Health Professionals List in HCAI is outdated/inaccurate

Protecting credentials is the responsibility of both the service provider and the regulated health care professional. Further to **Superintendent's Guideline No. 02/18**, a facility must update its Rostered Health Professionals List in HCAI within 10 days of a practitioner leaving or upon receiving a request from a Rostered Health Professional to be removed from the list. This can be done by

adding an end date in HCAI to the Rostered Health Professional's record.

- 2. Invoices submitted in a name that does not correspond to the service provider's licence
  Under Section 6 of Ontario Regulation 90/14 , a licensed service provider shall not submit an
  invoice for a listed expense to an insurer using any name or licence number other than those that
  correspond to the service provider's licence. This means that the name registered in HCAI must
  match the legal or trade name registered with FSCO, and must be listed on FSCO's public registry
  of licensed service providers.
- 3. Business changes not reported in required timeframe

  Section 20 of Ontario Regulation 90/14 stipulates that a licensed service provider shall provide updated information to the Superintendent within five business days after a business change occurs. Examples of business changes include a change in location or mailing address, a

### Escalations and enforcement

FSCO is committed to consumer protection. Where there is evidence of non-compliance, FSCO will escalate the matter and will pursue regulatory action where warranted.

There were several reasons for escalations and possible enforcement action due to the following findings during the 2017/18 on-site examinations:

- updated information not provided to the Superintendent within five business days
- authorized signature not on file for OCF-21 invoices submitted

director or partnership change, or change in contact information.

• facility's Rostered Health Professionals List in HCAI not up-to-date

Regulatory action can range from imposing an Administrative Monetary Penalty (AMP) to licence suspension or revocation, and can include a combination of enforcement actions. FSCO's regulatory decisions are based on the facts and circumstances of each case.

FSCO's enforcement activities, once finalized, are posted on FSCO's website.

# Conclusion and next steps

2017/18 marks the fourth full year of the service provider licensing regime. FSCO communicates requirements to service providers in various forms, including bulletins, guidelines and annual symposiums. Licensed service providers are required to understand and comply with the standards of practice prescribed in **Ontario Regulation 90/14** under the Insurance Act. FSCO encourages licensed service providers to visit the **service provider pages** on FSCO's website in order to reinforce understanding of their legal obligations.

There are several member organizations that provide information and tools that service providers can also use to achieve compliance. Licensed service providers should contact their associations for further information.

In addition to FSCO's regulatory oversight activities, we encourage consumers, members of the insurance industry and service providers to report suspected fraud through FSCO's Fraud Tip Hotline or by completing an **online form**. Where contraventions of the Insurance Act are found, FSCO will consider the circumstances and, where warranted, take enforcement action.

Page: **5,311** | Find Page:

CONTACT US | SITE MAP | HELP | ACCESSIBILITY | PRIVACY | IMPORTANT NOTICES

© QUEEN'S PRINTER FOR ONTARIO, 2012-15 - LAST MODIFIED: DEC 13, 2018 10:52 AM