

ORA COMMENTS: FSRA 2021-22 PRIORITIES

Submitted: October 26, 2020

The Ontario Rehab Alliance (ORA) is highly supportive of FSRA's stated priorities for 2021-22. This submission will comment primarily on broad-strokes intentions and hoped-for outcomes.

At the Cross Sectoral level, we believe that all four priorities: Protect the Public Interest, Enable Innovation, Modernize Systems and Processes, and Transition to Principles Based Regulation may be harnessed to drive improvement to the auto insurance sector.

The ORA has made a number of previous submissions, along with other HSP associations, that reference our keen support for modernized systems and processes, and have offered multiple examples and specific suggestions of how and where we see the greatest need for these. As Principles-Based Regulation is a new form in Ontario's regulatory environment we find it challenging to forecast how this transition might change our operations or the experience of our injured clients, so have focused our remarks elsewhere.

We see the Auto Sector priorities: **5.1** Empower and protect auto insurance consumers, **5.2** Support and implement government's auto insurance priorities and **5.3** Implement auto insurance data and analytics strategy, as closely linked to the system change goals articulated by Health Service Providers. These were reflected in the HSP SAC feedback on FSRA's proposed UPAP revisions and were more recently outlined by the ORA in its Pre-Budget Submission recommendations to the Minister of Finance earlier this month, namely:

- **Strengthen accountability with effective checks and balances.** Previously announced reforms, such as Care Not Cash and premium discounts related to use of Preferred Providers will, as currently conceived, weaken insurer accountability to consumers.
- **Enhance transparency and education.** Consumers should have access to data on claims handling practices to support informed decision making when purchasing accident benefits.
- **Support the viability and survival of a healthy MVA rehab sector with significant reductions in the direct and indirect costs of regulatory burden, and a long overdue increase to rates.**

ACCOUNTABILITY & TRANSPARENCY: CONSUMERS ARE ALSO CLAIMANTS

We are most thankful that for the past several years accident benefit levels have been left intact. The erosion of benefits and the removal of accountability measures over the past decade have exposed consumers to the vagaries of claims handling practices and compromised the possibility of full recovery when injured.

Recently proposed reforms to the auto insurance system, both regulatory and legislative, have emphasized the importance of meeting the needs of consumers. The ORA respectfully points out that these proposals have been largely aimed at consumers at the point-of-sale, when products are chosen and purchased, and not to the rights and needs of consumers at the point at which they become a claimant. Arguably, it is at this point that insured persons truly become consumers.

In what other sector are consumers mandated to buy a product but are not enabled to hold the seller to account if it fails to deliver? Sadly, while there are many instances of good faith conduct on the part of insurers, unfair and unsupported denials and delays are ubiquitous. It is for this reason that personal injury lawyers are so necessary in the current system. Reforms that might weaken the capacity of claimants to hire legal representatives must be accompanied by new, accessible accountability mechanisms to take their place.

Such measures should ensure that insurers are held accountable to support claimants in accessing coverage for purchased benefits where such coverage exists within the policy and where recommended by a healthcare provider, to maximize their recovery in the most expeditious manner.

We caution that reforms to promote consumer choice for cost savings purposes may well sacrifice the consumer's access to care in the event they are injured in a collision.

Accessible, meaningful accountability mechanisms should include the public reporting of claims handling practices and violations, and the issuing of penalties significant enough to effectively discourage such violations.

REGULATORY BURDEN & VIABILITY OF HSPS IN AUTO INSURANCE SECTOR

The pandemic has brought about severely decreased revenues simultaneous to extraordinary cost increases in our sector. Our members have had to make investments in and expansion of telehealth platforms, reconfigure clinic spaces, undertake training and reshaping of practices for telehealth delivery, and absorb steep administrative cost increases related to billing, policy and practice changes.

The sourcing and cost of PPE needed to resume or maintain in-person treatment has added an exponential expense. To limit virus spread and meet physical distancing guidelines clinics have dramatically reduced the volume of patients treated per hour and incorporated cleaning and sanitizing between patients. Additionally, many licensed providers are experiencing significant costs related to processing and paying for goods or services that clients require that are sourced from non-licensed vendors/providers.

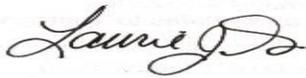
While the delayed filing of AIRs, the simplified version of the AIR and the deferred payment of annual FSRA licensing fees in response to the pandemic was appreciated, these measures have not sufficiently addressed the regulatory burden now borne by our significantly weakened sector.

More broadly we ask: *do the costs of the FSRA's regulation of licensed and regulated healthcare providers result in noticeable, quantifiable benefit to consumers? Can FSRA or insurers gather and share any data that might show evidence of this?*

Since the last modest increase to our rates in 2014 we have seen continuous increases in regulatory costs. In addition to FCSO/FSRA licensing we have had to respond to Information and Privacy Commission requirements that drive further investment in IT, training, education, and administration. Staff compensation in other healthcare sectors is tied to annual increases. Our frozen rates make it impossible to compete for human resources and challenge our capacity to continue to offer the highest level of care and most positive outcomes for clients.

As the world continues to evolve and costs escalate, our sector must be able to respond. When we are not able to do so, our businesses – now more important than ever- will fail, our clients will suffer, and more pressure will be brought to bear on the other components of our stretched-to-capacity health care system.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Laurie Davi". The signature is written in black ink on a white background.

Laurie Davi