



FAIR Association of Victims for Accident Insurance Reform

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FAIR Submission to: FSRA proposed 2021-22 Statement of Priorities and Budget ID 2020-014

Thank you for the opportunity to speak to the auto insurance issues facing Ontario consumers. FAIR is a grassroots not-for-profit organization of Ontario car accident survivors who have been injured and who have struggled with the current auto insurance system in Ontario.

We appreciate the considerable effort from FSRA to focus on improving regulatory efficiency and effectiveness in an effort to better serve the public interest.

Our comments will be in respect to the following auto insurance issues:

- 5.1 Empower and protect P&C and auto insurance consumers
- 5.2 Support and implement government's auto insurance priorities
- 5.3 Implement auto insurance data and analytics strategy

While the preamble in this document speaks to Consumer issues the focus quickly shifts to the less contentious territory of auto insurance rate regulation, filing and underwriting. It cannot be stressed enough that no matter how much we pay for auto insurance, if we cannot access the coverage when we need it, it isn't a product that should be seen as reliable. Quality of the insurance product needs to be a priority.

We are aware of a significant number of complaints in the queue at FSRA and some of our members have waited for over a year to receive a response to their complaints. Like all the systems that are supposed to be assisting consumers/claimants, the FSRA system appears to be bogged down by the weight of insurers failing to live up to their promises through unfair and deceptive practices. We can find no evidence of any insurer being held to task on the FSRA website and that is concerning.

It's important the care of some of Ontario's most vulnerable patients take priority over an issue like "take all comers" requirements when the potential for harm is clear. The recent revelation in a College of Physician and Surgeon decision (CPSO #1111896) that states the **"College does not regulate the quality control of third-party IME for the province of Ontario and the insurance industry"** should be

extremely concerning to the Regulator given there is a promise to protect auto insurance consumers. This goes to our suggestion FSRA needs to be more pro-active than reactive to complaints by consumers. Other than a few mentions in respect to the fair treatment of customers, it's like we are not even in the room. That is also evident in the mention of deterring fraud and abuse in the auto insurance landscape. No one condones fraud but there is a skewed picture of where that fraud comes from when insurers are not even mentioned as possibly adding to the fraud in Ontario. FSRA should start by acknowledging that the current 'fraud estimate' used in the system and in the media has not been substantiated and the fact that one insurer now claims that fraud is in excess of \$2 billion should be addressed.

It should draw attention that insurers, who have inserted their inflated estimate of fraud into the narrative as fact, are also privy to intimate medical details of Ontario patients. It is disturbing that the Privacy Commissioners Office granted an exemption to Canatics with respect to gathering and studying personal information to "prevent" fraud. Unfortunately, this is a group made up of the 9 biggest insurance companies that write the lion's share of Ontario's policies, some of whom have an inordinate amount of hearings on the schedule at the Licensed Appeal Tribunal. Essentially Ontario auto insurers have created an environment where they can't be investigated for any of their own fraudulent activity and if FSRA is bottlenecked with complaints; it's a perfect environment because without sanctions it's an invitation to continue.

As FSRA works toward revamping the OCF forms that must be filled out by consumers at the time of a claim, it would be a good point to reconsider the wide and unfettered access these insurers have to their customer's personal health data. The fact that insurers base access to coverage on their customer signing that it is ok for their insurer to share information with: **"Insurers; insurance adjusters, agents and brokers; employers; health care providers; hospitals; accountants; financial advisors; solicitors; organizations that consolidate claims and underwriting information for the insurance industry; fraud prevention organizations; other insurance companies; the police; databases or registers used by the insurance industry to analyze and check information provided against existing information; and my agents or representatives as designated by me from time to time"** ought to be worthy of attention. The well-being and 'fair' treatment of these vulnerable patients should be high priority given insurers and those working for them **"may pool this information with information from other sources and may analyse this information for the limited purpose of preventing, detecting or suppressing fraud"** and claimants must consent to insurers **"collecting, using and disclosing information"**. It's unacceptable that consumers' private information is at risk since they must sign and agree the insurer and persons acting for their insurer **"may be required or permitted by law to disclose this information to others without my knowledge or consent"** to initiate the claim itself and then have no control over their personal information for the entirety of the claim.

Continued focus on fraud without including the information about insurer fraud (medical file manipulation is a considerable driver of costs) is a concern for the public who picks up the pieces when this fraud allows insurers to skate away from their obligations. The taxpayers, whose dollars are used to fund the LAT hearings system and the Courts, are really paying for latent and ineffective quality control performed by the courts. The over 50,000 auto insurance cases on the civil court docket for many years and the steady stream of injured victims at LAT is concerning and expensive and it will continue without

any consumer protection or safeguards in the system. There are currently no corrective measures, no disincentives for insurers who are incompetent file managers or who abuse their own customers. When there is a structural or systemic problem, such as tens of thousands of individuals unable to collect on the promise of coverage every year, the costs to taxpayers for social supports is enormous but the individual costs to those injured and without adequate resources is immense because timely treatment matters.

That is what we'd expect to be the priority when it comes to auto insurance -injured consumers and their path to wellness because the true test of this product only happens when it is used by consumers and that is where the attention belongs.

We appreciate the enormous work that goes into reforming the oversight for Ontario's financial products and that there are many challenges. We know that FSRA has been actively engaging consumers in the past year but this failure to really identify the horrible situation for MVA claimants speaks to the active and intense pressure by insurers who have stacked the FSRA's Stakeholder Advisory Committee (SAC). As long as insurer profit takes precedence over the well-being of Ontario's injured car crash survivors we can't see how Consumer protection will improve.

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