



## **Ontario Association of Social Workers Response: FSRA Proposed 2021-22 Statement of Priorities**

The Ontario Association of Social Workers (OASW) is pleased to provide input to the Financial Services Regulatory Authority of Ontario (FSRA) regarding FSRA's proposed 2021-22 Statement of Priorities. We have done so as members of the Coalition of Health Professionals Associations in Ontario Automobile Insurance Services and also see value in making an independent submission to draw attention to the link between FSRA's Statement of Priorities and the opportunity to increase a focus on the claimant within these priorities, by outlining unnecessary barriers that are impeding the ability for Ontarians who have been in motor vehicle accidents (MVAs) to get timely access to the high-quality mental health care they deserve.

Registered Social Workers (RSW) are key Health Service Providers in the MVA sector, who have been providing critical mental health care, system navigation and case management services to victims of MVAs and their families for decades. Due to their extensive expertise in providing such care, RSWs occupy a unique vantage point from which to provide input on FSRA's proposed 2021-22 Statement of Priorities, specifically Property and Casualty (Auto) Priorities.

OASW applauds the work done to date to reset the regulatory foundation and continues to welcome FSRA's overall goal of driving towards regulatory efficiency and effectiveness. In principle, we agree with the cross-sectorial priorities that focus on protecting the public interest, enabling innovation, modernizing systems and processes, and transitioning to a principle-based regulatory approach.

However, we believe that more detail is required to operationalize these priorities at the auto insurance sector-specific level. Therefore, our comments will be focused on key deliverables linked to Property and Casualty (Auto) Priorities that we believe require further articulation to support FSRA's stated desire to reinforce and drive a fundamental consumer-focused culture across the organization.<sup>1</sup>

### ***5.1 Empower and Protect P&C and Auto Insurance Consumers***

As a first priority linked to the auto insurance sector, OASW was pleased to see a focus on empowering and protecting P&C auto insurance consumers. However, we believe that priority 5.1 does not go far enough to articulate how FSRA intends to protect the consumer as a claimant.

For several years, OASW has flagged that red tape and unnecessary barriers are impeding the ability for Ontarians who have been in MVAs to get timely access to the high-quality mental health care they deserve following an accident. A number of these barriers fall within the purview of FSRA and include:

- The unreasonable reduction of proposed therapy hours by adjusters who do not have the clinical skill, scope of practice or education to do so;
- The non-negotiated assignment of arbitrary Social Work fees (which is contrary to the requirements of Professional Services Guideline); and;

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<sup>1</sup> FSRA Board of Directors Progress Note (April 2018). Retrieved from <https://www.fsrao.ca/sites/default/files/comments/2019-05/Excerpt-from-FSRA-Progress-Report.pdf>



- The unreasonable denial of or reduction in funding for time required to provide social work services such as collaborating with other professionals, session preparation, writing reports, form completion, etc.

These denials of key elements of treatment and assessment plans, as well as the denial of reasonable and customary social work fees to provide necessary mental health care, result in delayed access to this critical care and do not protect the interests of claimants when it is most critical to do so.

**Comment on Key Deliverable Under 5.1:** *Finalize a proposed rule defining Unfair or Deceptive Acts or Practices (UDAP) under the Insurance Act, seek approval from the Minister of Finance to bring the proposed rule into force, and implement a supporting supervisory regime.*

As discussed in our joint submission to FSRA (October 6, 2020), with fellow representatives of the HSP SAC, OASW believes one vehicle for addressing the above behaviour by insurers is by clearly defining unfair or deceptive acts or practices under the *Insurance Act* through a comprehensive FSRA rule, to include the following principles of fair claims handling:

- **Good Faith:** Providing access and supporting claimants in finding coverage for purchased benefits where such coverage exists within the policy to maximize their recovery in the most expeditious manner, and where not doing so negatively impact recovery.
- **Timeliness:** Expeditiously facilitate delivery of goods and services recommended by regulated health care practitioners to maximize and speed recovery. In the event that goods and services are denied by the insurer, this principle extends to the expeditious arrangement of the appropriate examination(s) and, subsequently, the timely delivery of the report and the insurer's determination regarding the issue(s) in dispute. The expectation of timeliness additionally applies to the payment for approved goods and services.
- **Accountability and Transparency:** Accessible accountability mechanisms to enable: a) the reporting of suspected violations; b) the issuing of penalties significant enough to effectively discourage such violations; and, c) ensuring transparency through public posting of confirmed violations to support consumer education and protection.

Although OASW welcomes an overall focus in priority 5.1 on enhancing consumer choice, promoting innovation and fostering a more competitive and stable auto insurance marketplace, these goals cannot exclude a focus on similarly protecting the consumer at the point at which they formally access accident benefits. Therefore, we maintain that addressing the needs of the consumer as claimant, requires equal attention under priority 5.1.

### **About OASW**

*OASW is the voice of social work in Ontario. It is a voluntary, provincial, non-profit association which represents 6,400 members and advances the interests of social workers and the client groups they serve. All practicing members have a university degree in social work, with most working under the SABS having a master's or doctoral degree.*