

FSRA Consultation Paper on Health Service Provider (HSP) Framework Review

Ontario Rehab Alliance Submission

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Reference: [Link to Consultation Paper](#)

Introduction

The Ontario Rehab Alliance represents primarily small to medium sized healthcare businesses that collectively employ upwards of 4000 healthcare providers. We are unique among the other provider associations in our sector as we represent licensed HSP organizations that provide the services of Regulated Health Professionals from all disciplines working in this sector along with Attendant Care (PSW) and rehabilitation support providers. Within the auto insurance sector most of our members services' focus on non-CAT and CAT clients. Some provide services through PPNs.



Most of our members work throughout the healthcare system providing services within multiple payor systems in addition to auto insurance, including WSIB, Veterans Affairs (VA), Long Term Care, Extended Health Plans, and private (self-pay), providing us with insight into compensation, recruitment and retention challenges, and related indirect costs.

Our mix of multi-discipline RHP and non-Regulated (Attendant Care, Rehab and Behavioural Support, etc.) members, in addition to the cross-sector experience, gives us a wide-angle view of our healthcare ecosystem and a deep knowledge of the factors in play throughout it.

We are the only association focused primarily on the interests and issues of health providers in the auto sector.

Health Service Provider (HSP) Framework

Since 2014 our sector has been regulated by FSCO/FSRA in a scheme intended solely to address fraud in the sector.

At inception, the incentive for HSPs to register for licensing was the ability to use the HCAI system for submitting claims and receive direct payments from auto insurers for services provided to SABS claimants.

The ORA cautiously supported the implementation of this regulatory scheme anticipating that it might, in fact, find and reduce fraud. We hoped that if effective anti-fraud measures were put in place the government would be less inclined to continue the ongoing erosion of accident benefits that had been occurring over the previous years. We also questioned, through formal submissions and presentations to the 2011/12 Anti-Fraud Task Force, how well this scheme could work without quantifiable data on fraud to provide a baseline for analysis of licensing efficacy.

A decade later here is where we are:

1. No data on fraud in the sector has been generated or analyzed by HCAI or any other mechanism.
2. Using HCAI in its current state is a burden not a boon to HSPs. *See our submission on HCAI for further detail.*
3. Licensed HSPs practices must conform to licensing expectations even when these expectations are arbitrary, contradictory and/or seem to have no bearing on fraud.

4. HSPs pay not insignificant annual fees.
5. HSPs are subject to additional administrative burden, completing Annual Information Returns (AIR) and dealing with audits that are time intensive and which most often generate 'non compliance' findings of the "not-quite-exactly-right-admin-process" variety rather than anything demonstrably fraudulent. Any HSP compliance data collected should make a clear distinction between intentional fraud and sloppy administration resulting in such things as a delay in making a change of address.

Initiative A: Opportunity to Modernize HSP Licensing Through FSRA Process and System Improvements

Without further technical information about the new software system that FSRA proposes to adopt, and how this differs from that currently in use, we are unable to confidently opine on all the goals for the software change outlined in the discussion paper. We refer to them, below, followed by our comments and questions.

- Allow for seamless and barrier-free access to licensees' information.

We are unclear what users this refers to: FSRA, HSPs, the public or others? This information is essential to understanding or commenting on the objective.

- Decrease application processing time.

Does processing time here refer to new applicants or to requests for changes to current license holders such as name, address, etc. or both? Without such context or information on current processing times and any difficulties presented, we are unable to offer useful comments. We hope that FSRA has such data. Otherwise how will FSRA determine what improvements are needed and how they will assist HSPs?

- Faster and more efficient licensing regime – through increased automation:

Again, we are unsure if this refers to the processing time that FSRA requires to review all of the applications for licenses, AIR submissions and/or requests for changes to be made to current license holders (e.g., address changes), etc.? Without information about what is currently not automated we are unable to determine the scope of improvements needed as well as the impact that they will have.

- Be more effective and efficient in identifying incorrect/likely fraudulent information due to its use of technology and analysis of accurate data.

The ORA and other HSP representatives (eg. HSP SACs) have asked FSRA and the legacy regulator multiple times to share the risk factors in use. This information has not been shared nor are we aware how this risk matrix is assembled in the ongoing absence of data on fraud. Technology, whether updated or obsolete, can only usefully analyze data if there is any data and is only valuable when there is data integrity.

- Help build a profile for each applicant to show relationships across sectors and between related parties to the applicant.

Further context is required here. Does “relationships across sectors” refer to payer systems? If so, this seems like regulatory overreach. What is meant by “between related parties to the applicant”? It is difficult if not impossible to understand the scope and purpose of profiling without this information and to assess its relevance and impact on HSPs.

Use of AI to Identify Risk / Fraud

Within the context of the dearth of fraud data and the lack of transparency regarding risk factors, the prospect of FRSA using the proposed Decision Support Portal (AI) to support risk identification in licensing reviews is frankly frightening. Machine learning tools require clear inputs, realty-based data and thoughtful, informed design to be a benefit. It seems to us that none of these necessary preconditions are in place. Without these, this initiative is likely to create confusion and increases in arbitrary or contradictory messaging all resulting in further administrative burden without giving rise to useful insights.

AI is not infallible. Unreliable data will lead to inaccurate or biased results. FSRA will make incorrect decisions and HSPs will pay the price. FSRA must be able to clearly demonstrate why AI made decisions that it did in order for HSPs to trust those decisions.

There is no substitute for human oversight of the AI process as has been demonstrated elsewhere.

Prior to implementation there should be a pilot testing phase. History can be instructive: shortly after the launch of HCAI it was shut down because it was not functioning properly; it was reviewed and adjusted to make it a better system – “better” being relative in this context.

As with many of the other proposed initiatives, especially the use of new tools, there is a need for collaboration between FSRA and HSPs. Further user feedback mechanisms should be established.

Initiative B: Opportunity to Modernize Supervisory Approach with a New HSP Supervisory Tool

The rationale provided is that Market Conduct's data is currently spread across multiple sources, creating inefficiencies and limiting the ability to properly identify high risk HSPs.

The proposal is for FSRA to introduce a new centralized HSP supervisory tool combining multiple data points and incorporating risk ratings to help enhance Market Conduct's analytical capabilities and automate/streamline data. The intention is to allow FSRA to be more proactive in the compliance space, efficiently use resources in the highest risk areas, identify fraud through greater data sets and identify and deploy resources to address bad actors.

As noted in several places above we are not confident that new tools such as this one and others being proposed can be of benefit when the two foundational, necessary pillars of sound data, and a risk matrix based on that data, is non-existent.

We suggest that any such initiative be paused until such time as data arising from FSRA's newly proposed Fraud Reporting Service can be usefully employed. *Please refer to our submission on the Fraud Reporting Service for further comments.*

Initiative C: Opportunity to Enhance Cooperation and Collaboration with Regulatory Health Colleges (RHC)

The discussion paper outlines that building relationships with RHCs was part of FSRA's previous enhancements to HSP licensing and is an area of current focus. It suggests that FSRA hopes to enhance communication and collaboration with RHC on compliance issues.

Frankly, this seems less like an initiative and more like something that should have been an integral component of HSP licensing from the start. The ORA and our association colleagues in the sector have long questioned the need for two separate licensing regimes for Regulated Health Professionals in the sector.

For a number of years HSP stakeholders, the legacy regulator FSCO, and several RHCs were involved in a successful, if technically clunky, pilot project designed to enable specific RHPs



providing services in the auto insurance sector to be alerted when their College registration numbers were used. The ORA and HSP participants in the Professional Credential Tracker pilot felt this was an excellent fraud identification and mitigation tool. For reasons that were never made clear the project was not continued beyond the pilot despite HSP stakeholder requesting that it be reinstated.

We believe that more meaningful communication and collaboration between FSRA and RHC will only be valuable in supporting FSRA's anti-fraud mandate for HSP licensing if it is accompanied and informed by meaningful communication and collaboration with HSP licensees and/or the associations that represent them.

As a starting point FSRA should identify and report on current problems and successes, in order to determine the objectives of the new model and evaluate if it subsequently works as intended.

HSPs should be involved in the development and review of the model. Privacy will be a paramount concern regarding data-sharing between FSRA and RHCs. It is vital that FSRA share its privacy protection strategy, ensuring it is in compliance with all relevant legislation.

Further, it is vital that this initiative to enhance collaboration reduces duplicative processes and aligns with - without replicating or compromising - the mandates of both RHCs and FSRA.

HSP Framework Review Consultation Questions

1. What features should a HSP licensing system focus on to have better user functionality?

HSP licensing software and HCAI should be integrated, enabling pre-population of fields, etc.

The system should have features that enhance user functionality such as clear instructions and an easy-to-use application process, better search capabilities and the ability to ensure that HSPs can search their application status, etc.

The licensing system, in addition to generating revenue for FSRA, must include significantly increased education to HSP's on issues/concerns and specifically data that FSRA should be routinely sharing with HSP's.

For example:

- Percentage of approvals, partial approvals and denials

- Average cost of treatment plans by impairment, and overall cost to a client broken down by company as well as individual RHP
- Percentage of approvals, partial approvals and denials following an insurer exam
- Which HCAI codes are typically denied or partially approved
- Average cost of treatment broken down by RHP or Non regulated, if identified on treatment plan
- Percentage of direct versus indirect treatment time for company and individual RHP

2. Are there any concerns/considerations FSRA should keep in mind when developing and implementing the HSP Supervisory Tool?

Please refer to our comments under Initiative B, above.

3. What areas of licensing and supervision can RHCs and FSRA work together on to better alleviate issues in the sector?

Collaboration should ensure that licensing criteria align with professional standards and best practices. FSRA and RHCs must be aligned on appropriate communications to HSPs, especially those that impact and announce any regulatory changes that HSPs must be aware of.

Reduction of red tape and administrative burdens in both licensing processes is critical.

Feedback mechanisms must be established in order that HSPs can communicate concerns, observations, etc..

4. What are the key implementation considerations that must be taken into account for each initiative (i.e., timing, communication, education, etc.)?

Once a determination is made by FSRA to proceed with any of the proposed initiatives, HSPs must be consulted about the lead time required to prepare for any changes.

5. How can FSRA help to ensure that prioritized initiatives / changes are communicated to HSPs and other stakeholders?

There is a need for robust communication plans to keep HSPs informed while implementation is ongoing. Education/professional development must be provided to HSPs to understand what is expected of them.

FSRA should create value in the process for HSP's through education and insights as outlined elsewhere in this submission.

In addition to the above, we expect that FSRA's usual communication channels to insurers and HSPs, along with industry newsletters such as the ORA's and similar insurer mechanisms will be employed. Presumably FSRA can mine contact information for other stakeholders gleaned from this and past consultations and reach out to consumers through its existing mechanisms.

6. Are there any considerations which have been missed that should be considered as part of the HSP review and/or the proposed initiatives?

Attendant Care

HCAI will be adding a number of non regulated providers to HCAI with the move to invoicing attendant care via HCAI. Processes must be put in place for the PSW companies to register in a timely and seamless fashion. HCAI registrations have been quite stagnant for the past few years. Adding attendant care billing via HCAI will increase HCAI registrants (attendant care provider firms) and subsequently increase overall licensing fees.

Evaluation

All changes should be monitored for effectiveness against stated and shared objectives, and the evaluation results shared with stakeholders.

Comparison

At the inception of HSP licensing by FSCO there were not, to our knowledge, any comparable licensing regimes. Is this still the case or have such regimes emerged since? If so, what can be learned from them? If not, does that tell us anything about the usefulness of this one?

Conclusion

This discussion paper proposes that FSRA adopt new initiatives aimed at expanding its reach. The ORA wonders why its reach needs to be expanded and what is the evidence that this is necessary? This is not intended to be a contentious comment. Rather, we wish to ensure that the appropriate initiatives are prioritized. This, because all costs are ultimately paid by the sector. To that end, it is not clear whether the existing framework is working or not. Without



baseline or end data available to analyze it is near impossible to offer constructive input on these matters.

It is imperative that FSRA clarify its objectives and what problems it is trying to resolve so that stakeholders may be satisfied that the real problems have been addressed and that the solutions being recommended by FSRA are a necessary and well considered response to the problems identified.

The number of times that this submission has asked for clarification of wording or for greater contextual information highlights the need for FSRA to engage in further consultations once it has determined the direction it wishes to go and the recommendations it will make to the Minister in March of 2025. Otherwise, how will stakeholders know whether FSRA has understood the submissions being made, the stakeholder concerns that are being raised, whether stakeholders were heard and generally whether it understands how the final proposal will impact HSPs?

Without another period of consultations on the recommendations it will be difficult for stakeholders to buy into the final proposal, especially if there is a sense that they have not been heard.

We are pleased to have had this opportunity to offer comments and hope to be included in further discussions.

Sincerely,

Laurie Davis
Executive Director