

Stakeholder Roundtable on Catastrophic Impairment

Summary of Proceedings

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1.0 Background and Introduction

The definition of catastrophic impairment has been a subject of government and stakeholder interest in the auto insurance system in recent years. A review of the definition of catastrophic impairment was recommended in the 2009 Superintendent's Five Year Auto Insurance Review.

In 2010, the government adopted a number of recommendations made by the Superintendent in the 2009 Superintendent's Five Year Auto Insurance Review, including the recommendation to review the definition of catastrophic impairment.

The government directed the Financial Services Commission of Ontario (FSCO) to consult with the medical community regarding the definition of catastrophic impairment. In 2010, the Superintendent struck a panel of medical experts that submitted a report proposing a new approach to the definition based on an assessment of the best available scientific evidence. In 2011, the Superintendent submitted a report to the Minister of Finance with his recommendations to amend the definition of catastrophic impairment based on the work of the Expert Panel and feedback from stakeholders.

In 2012, the government released the Superintendent's report. The Superintendent made recommendations with the objective of making the system more accurate, consistent and fair for seriously injured accident victims. While some stakeholders have raised concerns about some of the recommendations made in the Superintendent's report, the Ministry has also received positive feedback, particularly regarding proposed benefit enhancements.

It is a stated objective of this government to base auto insurance injury compensation on the best available scientific and medical evidence. A key element of this evidence-informed approach is to review and update regulations as required to reflect and ensure consistency with current scientific and medical evidence, helping to ensure that benefits in the auto insurance system are up to date. This is an approach in use elsewhere in the public policy sphere in Ontario, including within the Ministry of Health and Long-term Care.

The government faces important policy decisions on issues such as the definition of catastrophic impairment. These decisions must balance the need to ensure that accident victims receive the treatment they need with the responsibility to keep auto insurance available and affordable for Ontario drivers.

1.1 Roundtable Discussion

The Ministry of Finance held this Roundtable on Catastrophic Impairment to promote discussion of the issues among stakeholders in order to move forward in its review of the definition of catastrophic impairment. The objectives of the roundtable were to bring together stakeholders to help clarify major issues related to the definition of catastrophic impairment and promote exploration of potential areas for consensus through a discussion involving accident victims, consumers, legal professionals, health care professionals and insurers.

The Roundtable discussion focused on three key issues:

- Combining of physical and psychiatric impairments
- The definition of psychiatric impairment

- The definitions of catastrophic brain injuries and spinal cord injuries

This balance of this document provides a summary of the Roundtable proceedings, along with the key issues raised and consensus achieved.

The agenda for the Stakeholder Roundtable can be found in Appendix A.

1.2 Participants

Twenty-eight individuals participated in the Roundtable discussions. Participants were assigned to one of three tables for the small group discussions to allow for a more in-depth discussion and to provide an opportunity for all voices to be heard.

Organizations attending the Roundtable included:

- Advocates' Society
- Alliance of Community Medical and Rehabilitation Providers
- Association of Independent Assessment Centres (AIAC)
- Canadian Association of Direct Relationship Insurers (CADRI)
- Canadian Society of Chiropractic Evaluators (CSCE)
- Coalition Representing Regulated Health Professionals in Automobile Insurance Reform
- Fair Association of Victims for Accident Insurance Reform (FAIR)
- Insurance Bureau of Canada (IBC)
- Ontario Bar Association
- Ontario Brain Injury Association (OBIA)
- Ontario Psychological Association (OPA)
- Ontario Trial Lawyers Association (OTLA)
- Spinal Cord Injury Solutions

Table assignments were made in advance in an attempt to achieve the best possible balance and diversity of views and interests at each table. A complete list of participants is found in Appendix B.

1.3 Meeting Overview

The meeting opened with an introduction from Patrick Deutscher, Assistant Deputy Minister and Chief Economist, Office of Economic Policy in the Ministry of Finance. Mr. Deutscher provided an overview of the key issues surrounding the catastrophic impairment definition, the background work that had been completed by the Ministry of Finance and FSCO and the issues still to be resolved.

The brief introductory remarks were followed by a presentation by Dr. Pierre Côté, the Chair of the Catastrophic Impairment Expert Panel. Dr. Côté's remarks outlined the panel's terms of reference, guiding principles and methodology for reviewing the current definition and improving

the accuracy and fairness of the determination. The Expert Panel's report was reviewed along with the outstanding challenges to be resolved.

Justin Peffer, Manager of the Economic Analysis and Evaluation Unit in the Ministry of Health and Long-Term Care (MOHLTC) made a presentation on evidence-based decision making in the health sector. He outlined the Ministry's relationship with the research and evidence generation community and the role that evidence plays in health policy development. He also outlined some of the issues and challenges associated with relying on the best available evidence in a dynamic environment of ongoing change.

Following the brief presentations, the participants convened in their small groups to discuss a number of issues and specific questions. A complete list of questions can be found in Appendix C.

2.0 Themes Addressed

Discussion during the meeting focused around 6 key themes. Robust and thoughtful discussion took place at each of the three tables. Not all groups were able to address all issues and questions in the allotted time. There were limited areas of consensus within and between the tables.

Each of the areas of discussion is summarized below:

2.1 Challenges associated with the current definition of catastrophic impairment

- Many participants agreed that the current definition lacks clarity for some types of injuries or impairments. Many felt that a new definition is needed; one that is not subject to change from its initial intent.
 - This view was not universal and it was suggested that there is a lack of data available to provide a full perspective of the extent to which the definition needs to be revised (e.g., how many people are identified as CAT, statistics to demonstrate under what section of the current definition claimants have qualified, etc.).
 - For example, many cases are clearly CAT, while many are not. It is the cases at the margins of the definition that are the focus of this discussion and it is not known how many “grey area” cases exist. Some participants noted that the definition is becoming clearer as a result of various court decisions.
 - It was suggested by some participants that there is a need to have a better understanding of how significant the problem with the current definition actually is.
 - It was suggested that, perhaps as a result of a lack of clarity around the definition, there are many “questionable” CAT assessments, which leads to the need for a more universally applied definition. On this point, many agreed with the Panel; there is a lack of training and qualification to conduct assessments.
- None disagreed that it is important to ensure that any new system does not disenfranchise claimants. It was suggested that some recommendations around the definition do not include analysis of who would “miss out” on benefits, if implemented.
- It was agreed by all that no “bright line” exists to define CAT impairment versus non-CAT impairment for some types of injuries or impairments. This leads to numerous disputes and money spent, lack of appropriate care and treatment, etc.
 - Given the challenges posed by this binary categorization of impairments (i.e., catastrophic vs. non-catastrophic), it was suggested by some that a more nuanced definition be created.
 - There was a shared acknowledgement that accident benefits should support the recovery of seriously injured and catastrophically impaired claimants.
- It was identified that the current situation is a legal versus medical definition.

2.2 Combining of physical and psychiatric impairments

- There was considerable discussion of this point in all three groups; however, there was no consensus regarding:
 - Appropriateness of combining physical and psychiatric impairments: some supported combining, others did not support combining without a reliable, medical evidence-based approach to doing so.
 - How best to combine
 - Some agreed if it can't be done properly, it should not be done
 - Some agreed it should be done irrespective
- Many participants did agree that there should be a “whole person impairment” (physical and psychiatric impairment considered together) assessment available for catastrophic impairment.
- There was agreement that further research should be conducted. However, groups were unable to reach consensus regarding how to proceed in the interim; i.e., whether combining physical and psychiatric impairments should be allowed or excluded while research is conducted. It was agreed that, to the extent possible, science and data should inform tools and procedures.
- Concern was expressed by some that tools must not allow for false positive and/or false negative outcomes.

2.3 Definition of psychiatric impairment

- Many attendees felt that some of the existing tools (e.g., Global Assessment of Functioning or GAF scale) are not up to date.
- There was also some support for the notion that using an updated list of criteria to make the definition more reliable is positive but concerns were raised about the details of the criteria proposed.
- Concern was raised regarding inconsistent evaluations of psychological impairment. Consistency of application becomes more challenging when flexibility is a principle that is valued.
- Some participants raised concerns regarding:
 - recommendations regarding mental behavioural disorders
 - replacing current definition with new recommendations

2.4 Definition of catastrophic brain injuries

- Some participants raised issues with timing and threshold of tests for brain injury.
- While there was much discussion, groups did not reach consensus on use of the Glasgow Coma Scale (GCS). Some supported its use, while others were clear that if the GCS was to be used in determining catastrophic brain injuries the legal language needs to be clarified.

- Some expressed concern regarding the Expert Panel's proposal to determine CAT eligibility for certain injuries or impairments partly based on hospital or institutionalized care, given the unequal access to hospital-based resources across Ontario. This is further hampered by the limited number of trauma centers, which creates accessibility issues for rural claimants in Ontario. Others noted that the Superintendent's report responded to this concern, and did not recommend hospitalization or institutionalized as an eligibility criterion.
- Concern was raised regarding the inability to re-assess claimants determined to be eligible for catastrophic impairment benefits at a later stage in the process when recovery may have occurred.

2.5 Definition of catastrophic spinal cord injuries

- There was limited discussion of this issue at the three tables. This was primarily related to the intense interest in the preceding issues, as well as a perception by some that this issue is less problematic than the others.
- It was identified that there are few regulated health professionals educated in the assessment methodology and that the interpretation could be problematic.
- Some participants expressed support for the use of international standards in determining whether or not certain American Spinal Injury Association (ASIA) categories of spinal cord injuries should be considered catastrophic.

2.6 Other Issues

A number of other issues were raised throughout the day, including:

- Addressing paediatric brain injury
- Provision of interim benefits

Participants wished for the Ministry of Finance to recognize these additional issues and identify a process for engaging in further consultation.

3.0 Evaluation

At the end of the Stakeholder Roundtable participants were asked to complete a brief evaluation of the session.

Evaluation results were generally positive, particularly with respect to the small-group discussions and afternoon plenary. Participants reported that they were pleased to have attended and felt that their time was well-used. Most participants reported that they learned something new and enjoyed meeting and interacting with others who are interested in these issues.

The negative feedback received was in regards to the amount of time allocated to each segment of the agenda. Groups found it challenging to address all of the issues and specific questions within the available time. Some indicated that they could have spent all day discussing the first two set of questions. Further, it was reported that it was difficult to find areas of common ground and achieve consensus given the limited time and the broad range of participants and perspectives.

Participants reacted positively to the Stakeholder Roundtable format, appreciated the diversity of participants, the wide range of viewpoints conveyed and expressed support for further consultations using a similar methodology in the future. Participants confirmed a willingness to further engage with the Ministry and each other on these important issues.

A more detailed summary of the evaluation results is contained in Appendix D.

**Appendix A:
Roundtable Agenda**

STAKEHOLDER ROUNDTABLE ON CATASTROPHIC IMPAIRMENT

March 15, 2013

9:00 a.m. – 2:30 p.m.

Niagara Room, Macdonald Block

900 Bay Street, Toronto

AGENDA

9:00 – 9:20	Registration – Coffee provided
9:20 – 9:30	Introduction Patrick Deutscher, ADM and Chief Economist, Office of Economic Policy, MOF
9:30 – 9:50	Approach taken by the Catastrophic Impairment Expert Panel Dr. Pierre Cote, Chair of the Catastrophic Impairment Expert Panel
9:50 – 10:10	Evidence-based approaches in the Ministry of Health and Long-term Care Justin Peffer, Manager, Economic Analysis and Evaluation Unit, MOHLTC
10:10 – 10:30	Break
10:30 – 12:00	<p><i>Roundtable participants will be split into small groups to discuss key issues regarding the Superintendent's Report on the Definition of Catastrophic Impairment. Groups will be asked to outline their positions on these issues and discuss with other table members in order to explore any common ideas or possible consensus of views.</i></p> <p><i>Rob Crawford and Denley McIntosh, Roundtable Facilitators, will monitor discussions and ask for updates or discussion of a different topic based on the progress made by the groups.</i></p> <p>Discussion of key issues</p> <ol style="list-style-type: none">1. Combining of physical and psychiatric impairments2. Definition of psychiatric impairment
12:00 – 12:30	Working Lunch
12:30 – 1:15	Continued discussion of key issues <ol style="list-style-type: none">3. Definitions of catastrophic brain injuries and spinal cord injuries
1:15 – 2:15	Report back from tables on key issues and conclusions
2:15 – 2:30	Concluding remarks Rob Crawford, Roundtable Facilitator

Appendix B: Roundtable Participants

The following individuals attended the March 15 Roundtable discussion. The table below provides the name of each participant and the organization represented.

Name	Organization
Peter Athanasopoulos	Spinal Cord Injury Ontario
Joanne Davis	Canadian Association of Direct Relationship Insurers (CADRI) – CAA
James Daw	Consumer Representative
Rhona DesRoches	Fair Association of Victims for Accident Insurance Reform (FAIR)
Dr. David Dos Santos	Canadian Society of Chiropractic Evaluators (CSCE)
Tracey Glionna	Association of Independent Assessment Centres (AIAC)
Nick Gurevich	Alliance of Community Medical and Rehabilitation Providers
Dr. Rocco Guerriero	Association of Independent Assessment Centres (AIAC)
Elizabeth Hall	Ontario Bar Association
Paul Harte	Ontario Trial Lawyers Association (OTLA)
Patricia Howell	Alliance of Community Medical and Rehabilitation Providers
Judith Hull	Advocates' Society
Dr. Faith Kaplan	Ontario Psychological Association (OPA)
Tammy Kirkwood	Fair Association of Victims for Accident Insurance Reform (FAIR)
Dr. Brian Levitt	Ontario Psychological Association (OPA)
Bill McClelland	Canadian Association of Direct Relationship Insurers (CADRI) – TD
Andrew McCormick	Canadian Association of Direct Relationship Insurers (CADRI) – State Farm
Ralph Palumbo	Insurance Bureau of Canada (IBC)
Dr. Moez Rajwani	Coalition Representing Regulated Health Professionals in Automobile Insurance Reform
Karen Rucas	Coalition Representing Regulated Health Professionals in Automobile Insurance Reform
Lee Samis	Insurance Bureau of Canada (IBC)
Dr. Doug Salmon	Alliance of Community Medical and Rehabilitation Providers
Phillipa Samworth	The Advocates' Society
Dr. Carlan Stants	Canadian Society of Chiropractic Evaluators (CSCE)
Barb Sulzenko-Laurie	Insurance Bureau of Canada (IBC)

Name	Organization
Dr. Charles Tator	Spinal Cord Injury Solutions
Adam Wagman	Ontario Trial Lawyers Association (OTLA)
Ruth Wilcock	Ontario Brain Injury Association (OBIA)

**Appendix C:
Questions for Roundtable Discussion**

QUESTIONS FOR DISCUSSION

General introduction questions

- ❖ From your perspective, what are the challenges associated with the current definition of catastrophic impairment?
- ❖ From your perspective, what are the positive aspects of the current definition of catastrophic impairment?
- ❖ What are the principles that should form the basis for any changes to the definition of catastrophic impairment? (Examples include: scientifically valid and evidence-based, consistency and fairness; widely accepted by practitioners using the methodology.)

Combining of physical and psychiatric impairments

- ❖ Should physical and psychiatric impairments be combined when determining catastrophic impairment?
- ❖ Keeping in mind the government's stated direction to rely on an evidence-based approach to determining funding for health treatment/services, is there a valid, reliable scientific method available for combining physical and psychiatric impairments?

Definition of psychiatric impairment

No single assessment tool exists to measure psychiatric impairment. To overcome this gap in medical evidence, it is being proposed that a combination of requirements be used to determine psychiatric impairment, including the use of the Global Assessment of Functioning (GAF) scale to measure impairment.

- ❖ From your perspective, what are the positive aspects of this proposal to update the definition of psychiatric impairment?
- ❖ From your perspective, what are the challenges associated with this proposal to update the definition of psychiatric impairment?

Definition of catastrophic brain injuries

It is being proposed that the Extended Glasgow Outcome Scale (GOS-E) replace the Glasgow Coma Scale (GCS) as the primary measurement tool to assist in the determination of catastrophic brain injury.

- ❖ From your perspective, what are the positive aspects of this proposal?
- ❖ From your perspective, what are the challenges associated with this proposal?

Definition of catastrophic spinal cord injuries

To incorporate current scientific knowledge about the classification of spinal cord injuries, it is being proposed that the definition of paraplegia and quadriplegia be updated to through the introduction of the American Spinal Injury Association (ASIA) scale as a measurement tool.

- ◆ From your perspective, what are the positive aspects of this proposal?
- ◆ From your perspective, what are the challenges associated with this proposal?

General closing question

Is there another priority issue that you would like to identify and make recommendations about to the government regarding the potential update to the definition of catastrophic impairment?

**Appendix D:
Roundtable Participant Evaluation Results**

Catastrophic Impairment Stakeholder Roundtable

Workshop Evaluation Results

March 17, 2013

Overview of findings

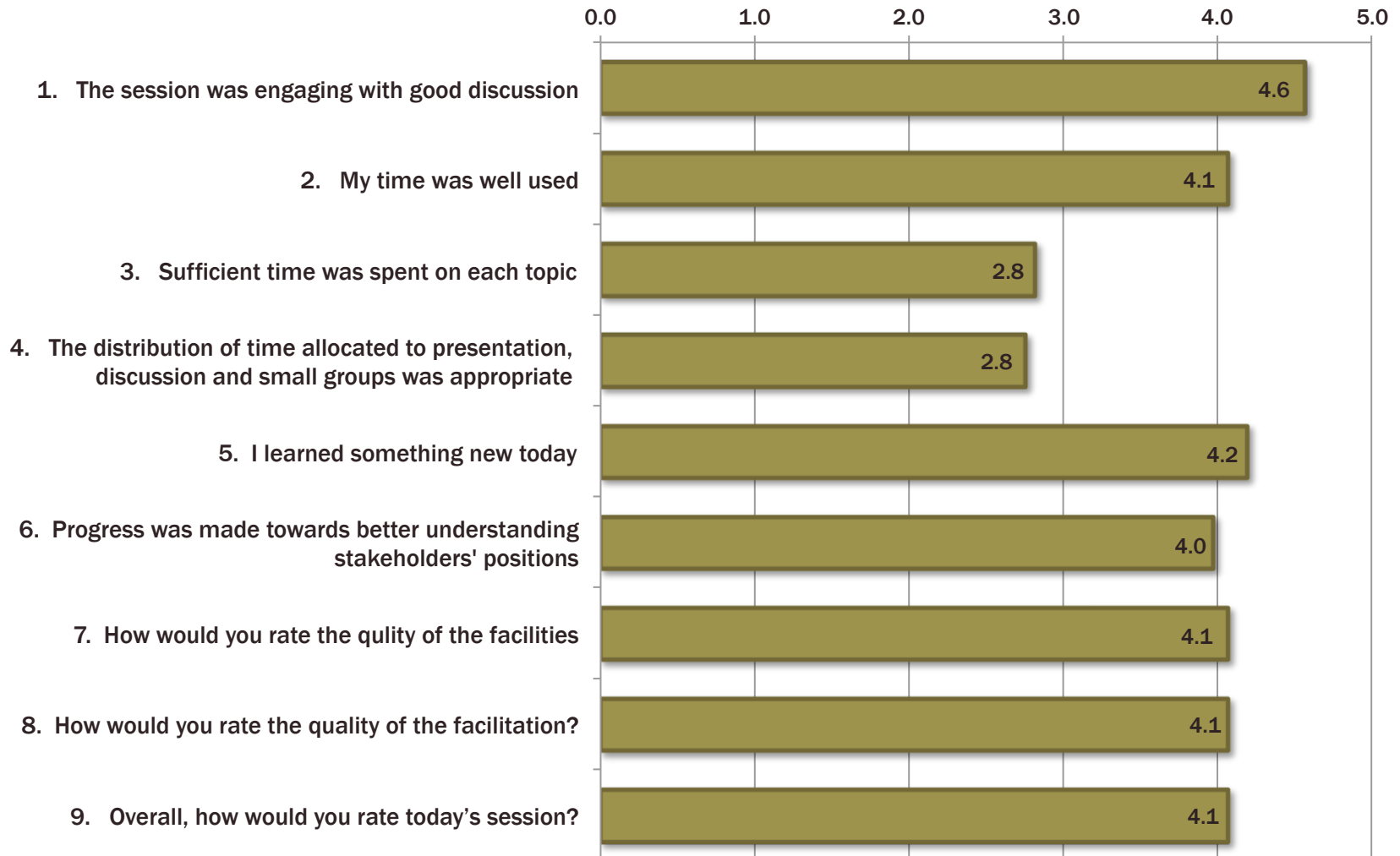
- Evaluation results were generally positive
 - Participants were pleased to have attended, felt that their time was well-used
 - Most participants reported that they learned something new
 - Positive feedback re: small-group discussions and afternoon plenary
 - Overall rating on the day was favourable

“I have never understood this until you just explained it to me.”

Overview (2)

- Negative feedback regarding the amount of time allocated to each segment of the agenda
 - Groups found it challenging to address all four issues and specific questions
 - Some said that they could have spent all day discussing the first two set of questions
 - Difficult to achieve consensus given the limited time and range of participants
- Some felt that the MOHLTC presentation was not relevant to the discussion; added little value

Evaluation results



Written responses to evaluation questions

Verbatim transcription of written responses

What aspects of this meeting were most productive and/or informative? Why?

- Hearing different perspectives
- Persons like Dr. Tator, who has spent 30+ years treating these folks provides for very practical experience & adds to this discussion
- Multi-stakeholder communication was helpful in understanding all the relevant issues.
- Good discussion in small groups and final outcomes
- End discussion involving all 3 groups - different views
- Rob's facilitation & outreach was excellent.
- Learning from the individual health-care practitioners and assessors regarding what they needed was good. Clarity is important but flexibility to meet purposes of the SABS (appropriate compensation) was both possible & desirable.
- Engaging with different stakeholders; hearing new perspectives that I had not considered.
- Interesting to hear information from people with differing expertise.
- Hearing different interest groups try to reach agreement.

What aspects of this meeting least productive and/or informative? Why?

- Not sure if outcomes were achieved
- I think that facilitators should be professionals who are very familiar with the medical term, tests, etc. That helps to facilitate conversation + consensus
- Overhead presentation was a waste of time; detracted from process
- MOHLTC presentation was not relevant
- Understandable bias of some stakeholders delayed discussions; hard for facilitator to control
- Difficult to gain consensus and make informed input given the time
- Non-medical people weighing in on medical/clinical issues. Did not look at system as a whole e.g., gaps in service; reason for change; what are major problems with the system - is it even CAT?
 - re: goals of the day -- it was not possible for us to reach a consensus on any specific CAT definition within this format given the variety of backgrounds (lawyer, insurance vs. clinicians). I feel this forum showed we need to study this further before making changes