

FAIR Association of Victims for Accident Insurance Reform

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FAIR Submission to:

FSRA Proposed Guidance: Automobile Insurance Rating and Underwriting Supervision

Guidance No. AU0142INT

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FAIR (Fair Association of Victims for Accident Insurance Reform) is a grassroots not-for-profit organization of car crash survivors and their supporters. We are the end-users of the auto insurance product.

Our comments are limited to the FSRA's stated goal of "fair consumer outcomes" as this is mentioned 48 times throughout the document.

The term "outcomes" presumes that this is a metric that has been measured and the insurance Ontario drivers purchase is graded for quality. That isn't the case on the ground for Ontario's claimants.

It isn't ensuring financial safety, fairness, and choice for everyone if only some claimants can access the recovery resources such as treatment and rehabilitation they need for recovery and a return to work.

We would point out that the fair treatment of consumers starts with acknowledging and investigating the existing problems with the insurer– client relationship once a claim has been made. It's not just about cost at the purchase point – it's about value and the promise of coverage.

The Tribunals Ontario 2022-23 Annual Report reveals that 13,983 injured car crash survivors applied for a hearing at the License Appeal Tribunal (LAT) because they weren't getting what they needed or what they paid for.

Consumers should be concerned that insurers are not acting in good faith or are behaving in a way that causes consumers to have a reasonable apprehension of bias because the system has put few curbs or disincentives in the system to deter insurers from behaving badly.

The recent revelations from the Ontario Trial Lawyers Association (OTLA) regarding the urgent need for a review of the Licence Appeal Tribunal amplifies our concern that Ontario's

vulnerable patients/claimants have their access to benefits and medical care unfairly curtailed in a failing insurer driven justice model. The OTLA/inHealth data paints a picture of despair for claimants who find themselves in an adversarial and complicated system where “out of the 4,500 decisions made by the LAT, self-represented individuals have succeeded only 33 times”. The data shows claimants are only successful at LAT hearings 10% of the time and this should be a red flag for a lack of fairness. It is simply unbelievable that 90% of unpaid and injured claimants are wrong about what they are entitled to. This isn't just the insurers not acting in good faith during the claims process; this is the auto insurance system, from start to finish, not acting in good faith.

If the goal of fair consumer outcomes is to be met it will have to start with FSRA bringing all of the stakeholders together; The Minister of Finance, the Minister of Health, the Minister of the Attorney General and the LAT, the Regulatory Colleges, and the insurers must all agree that their points of contact with claimants in the current system will focus on the fair treatment of this vulnerable group of consumers.

FSRA must take the long view and focus on the measurable outcomes for consumers, gather that information, and set in motion the steps for accountability to protect claimants to foster the fair treatment of consumers.

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Tribunals Ontario 2022-23 Annual Report

https://tribunalsontario.ca/documents/TO/Tribunals_Ontario_2022-2023_Annual_Report.html#lat

OTLA pushes for urgent Licence Appeal Tribunal review

<https://www.lawtimesnews.com/practice-areas/personal-injury/otla-pushes-for-urgent-licence-appeal-tribunal-review/389679>