REPORT ON THE THREE YEAR REVIEW OF AUTOMOBILE INSURANCE
FINANCIAL SERVICES COMMISSION OF ONTARIO

DECEMBER 2014
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Executive Summary

In 2013, the Ontario government consolidated three separate automobile insurance related statutory reviews into a single review to be conducted at least every three years under Section 289 of the *Insurance Act*. The previous three reviews were:

- A five-year review of Part VI of the *Insurance Act* (Automobile Insurance) and related regulations;
- A three-year review of the operation of regulations prescribing or prohibiting coverages and categories of auto insurance, and regulations governing prescribed or prohibited risk classification systems or elements of risk classification systems; and,
- A two-year review of the Statutory Accidents Benefits Schedule (SABS).

This is the first consolidated review.

As part of this review, the Financial Services Commission of Ontario (FSCO) invited stakeholders to provide comments and suggestions on how to ensure a stable, sustainable and competitive auto insurance system. From December 17, 2013 to March 31, 2014, FSCO received 63 submissions from stakeholders including consumers, insurance industry representatives, health care providers and organizations, legal representatives or associations, and other interested parties. Their feedback has been incorporated throughout the report and summarized in Sections 9 and 10.

Sections 1 to 3 provide an overview and history of Ontario’s auto insurance system, including claims cost and premium trends, as well as recent actions taken by government. Sections 4 to 7 examine current claims cost pressures and provide comparisons with other jurisdictions, particularly other Canadian provinces with privately-delivered auto insurance. Section 8 reviews rate approvals and risk classification, including regulations that prescribe or prohibit elements of insurer rating and risk classification. As noted above, Section 9 provides a brief summary of stakeholder feedback and Section 10 addresses a number of other issues identified in stakeholder submissions. Recommendations are incorporated throughout the report and listed in Section 11.

Government actions

Rising claims costs place upward pressure on premiums. The government has taken critical steps to improve auto insurance affordability in Ontario, including the 2010 auto insurance reforms which successfully stabilized auto insurance claims costs.

Recent government actions since the 2010 reforms include:

- Taking action on over half the recommendations made by the Ontario Auto Insurance Anti-Fraud Task Force to enhance the role of each participant in the
auto insurance sector, including insurers, health care and legal professionals, consumers, FSCO, and the government;

- Launching the Cost and Rate Reduction Strategy to build on previous anti-fraud efforts and system reforms by:
  
  o Licensing health care providers who bill auto insurers directly;
  
  o Reviewing and transforming Ontario’s auto insurance dispute resolution system to reduce costs and speed up access to accident benefits for injured drivers; and,
  
  o Implementing numerous other legislative and regulatory changes to lower costs and protect consumers.

- In addition, continuing work on long-term initiatives such as the Minor Injury Treatment Protocol aimed at developing evidence-based approaches for the treatment of injuries.

**Current system, rate and cost trends**

- Reviews conducted by the Ontario Auto Insurance Anti-Fraud Task Force and by Justice Cunningham on the Dispute Resolution System demonstrate that all auto insurance system participants and the stakeholder culture can contribute to a sustainable and well-functioning auto insurance system.

- Approved rates, which are an indicator of future premium trends, started declining in 2012 and 2013. Average premiums also started trending downward in the 2013 accident year, compared to 2012.

- Despite recent successes in tackling overutilization and fraud, Ontario continues to have the highest claims costs among Canadian provinces with privately-delivered auto insurance. Ontario’s average claims cost per private passenger vehicle was about $1,000 over the 2011 to 2013 accident year period\(^1\) - which ranges from approximately 20% higher to over twice the costs in comparable provinces.

- High auto insurance claims costs in Ontario are linked to:

  o Average accident benefits claims costs per private passenger vehicle of $305 over the 2011 to 2013 accident year period, which ranges from about 5 to 10 times the costs in comparable provinces; and,

  o Average bodily injury (tort) claims costs per private passenger vehicle are among the highest, at $363 in the 2013 accident year.

- Ontario has the most generous package of mandatory accident benefits among Canadian provinces with privately-delivered auto insurance.

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\(^1\) An accident year is the year when the accident occurred, regardless of when the claim was reported to the insurance company or when claim payments are actually made. E.g. an accident may have occurred in 2011 but claim payments are made in 2012 and 2013. Those claim payments would still be attributed to the 2011 accident year.
• Increases in the cost and frequency of bodily injury (tort) claims are now creating more pressure on the overall cost of the auto insurance system.

Looking forward

This new statutory three year review on auto insurance will help maintain focus on the rapidly evolving auto insurance landscape and help ensure that auto insurance remains available and affordable for over 9 million Ontario drivers.

This report highlights areas where the government could consider making additional reforms to further contain claims costs, increase consumer choice, and achieve other system improvements. This report also identifies areas where participants in the auto insurance system can take leadership and contribute to the affordability and appropriate functioning of the system.
Introduction

In 2013, the Ontario government consolidated three separate automobile insurance related statutory reviews into a single review to be conducted at least every three years under Section 289 of the Insurance Act (Act). This is the first such review.

Section 289 of the Act requires the Superintendent of Financial Services (Superintendent) at the Financial Services Commission of Ontario (FSCO) to undertake a review at least every three years of Part VI of the Act (Automobile Insurance) and related regulations as well as regulations involving auto insurance coverages and risk classification systems. The Superintendent is to give a report to the Minister of Finance setting out the results of the review, any recommendations made by the Superintendent and such other information as the Minister may request. See Appendix 1 for further details.

This report fulfills the requirements under Section 289 of the Act.

1 How Insurance Markets Work

Insurance is a financial contract between an insurer and an insured – it provides economic protection for the insured against specified losses in exchange for the payment of premiums. Insurance is a “promise to pay” and formalizes the transfer of risk from the insured to the insurer over a defined period of time.

Auto insurance is a type of property and casualty (P&C) insurance that provides compensation for events such as vehicle damage, personal injury, and liability for damages and injuries caused to others. Since 1980, auto insurance has been mandatory in Ontario. All vehicle owners, whether a resident, a business, or a public institution, are required to purchase auto insurance before operating a vehicle on a public road.

Insurance is based on the pooling of risk. In other words, the losses of few are paid for by the premiums of many. In Ontario, auto insurance is a “closed loop” system where all costs (including claim and claim adjustment costs, operating expenses, taxes and assessments) are recovered through premiums and investment income on those premiums. If costs go up, premiums will follow. Over the 2009 to 2013 accident year time period, claim and claim adjustment costs for private passenger automobile insurance in Ontario accounted for 75% of premiums.2

If insurers cannot recoup their costs, the availability of insurance will suffer. The long-term financial sustainability of insurers helps to ensure that auto insurance is available

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2 2013 General Insurance Statistical Agency exhibit for private passenger vehicles. Accident Year data is subject to change as claims are paid and more information becomes available on the ultimate settlement costs of claims. It can take many years for the extent and costs of injuries to be fully measured.
to vehicle owners and drivers and that there are sufficient funds to provide compensation for claimants.

Chart 1 illustrates the concept of pooling. It shows that about 1% of insured private passenger vehicles have had claims under their accident benefit coverage (coverage for treatment of injuries and certain economic losses) over the last five accident years. Appendix 2 provides more details on claim rates for key auto insurance coverages.

![Chart 1](chart1.png)


### 1.1 Key Principles of Insurance Contracts

Several key principles applicable to insurance contracts are designed to ensure the financial sustainability of insurance markets, protect insureds from unnecessarily high premiums, and establish the roles and responsibilities of insurers and insureds. These principles are described below:

**Utmost good faith**: insurance works on mutual trust and calls for the highest standards of integrity for both the insured and insurer. For example, both parties must fully and voluntarily reveal all relevant information that could influence the other party’s decision to enter into an insurance contract, and they must not provide misleading information. It also means that both parties are responsible for ‘fair dealing’ with each other at all times.

**Indemnity**: insurance generally aims to restore an insured to their pre-loss financial state. Insurance is not intended as a source of financial gain or profit for a claimant; rather, it is intended to make the insured “whole” again. Although there may be practical limitations with accurately quantifying losses, the principle of indemnity is an important one. If unfortunate events resulted in gain, this could
lead to engineering or exaggeration of losses and result in higher costs for others who pay premiums.

Loss minimization: in addition to not seeking to profit from insurance, an insured should take reasonable steps to prevent and reduce losses – as these losses will also be in part or in whole borne by others.

Fair compensation: insurance is a form of consumer protection. It is intended to restore the financial state of a person who has experienced a loss. Insurers have a duty to address eligible claims fairly in accordance with the insurance contract and any other legal requirements. At the same time, insurers have a duty to avoid servicing claims that are frivolous, excessive or ineligible.

2 Ontario’s Auto Insurance System

The requirement for vehicle owners to have auto insurance has led to increased oversight and regulation of Ontario’s auto insurance system. Key public policy objectives include consumer protection, insurance availability and affordability, consumer fairness and choice, and adequacy and timeliness of compensation. This framework also takes into account insurer financial sustainability in the context of rate and risk classification approvals.

Ontario’s regulatory scheme for auto insurance establishes:

- The role of liability in determining compensation – how responsibility for causing a collision affects eligibility for insurance coverage (see Section 2.1);
- The required elements of the auto insurance contract – mandatory and optional coverages including statutory accident benefits, third-party liability, and other coverages;
- The delivery of auto insurance – all auto insurance coverages are offered by private companies; and,
- The regulatory framework which governs how insurers determine rates and the requirement for rates to be approved prior to use in the marketplace (see Section 8).

Ontario’s auto insurance system includes both mandatory and optional coverages and benefits. The minimum auto insurance contract required by law includes:

- Statutory accident benefits coverage for treatment of injuries and certain economic losses resulting from injuries, as well as death and funeral benefits (established in the SABS);
- Third-party liability coverages for injury or vehicle damage caused to others;
- Direct compensation coverage for damage to the insured vehicle caused by another driver; and,
• Uninsured automobile protection: coverage for injury caused by an uninsured or unidentified automobile, and vehicle damage caused by an identified, uninsured motorist.

Most consumers also purchase optional underinsured motorist coverage. As well, many consumers, particularly those with newer vehicles, purchase optional loss or damage coverages such as collision or upset, comprehensive, specified perils, and all perils. Appendix 3 provides more details on mandatory and optional auto insurance coverages in Ontario.

2.1 No-fault and Tort Compensation

A fundamental element of any auto insurance system is the degree to which liability or fault for a collision affects how a person experiencing injury or property damage may seek compensation.

No-fault coverages compensate an insured person regardless of their role in causing a collision. In exchange for this guaranteed coverage, no-fault systems generally place some or total restrictions on the ability to sue an at-fault driver for injuries or damages. No-fault systems are intended to achieve quicker and more broadly accessible compensation and treatment, as well as lower settlement and legal transaction costs (by reducing liability claims).

In a fault or “tort” system, the insurer of a driver who caused a collision pays for injuries and damages to third parties. Not-at-fault claimants seek compensation via court-based awards. The at-fault driver may receive limited to no compensation under mandatory auto insurance coverages.

Many regulatory regimes seek a balance between no-fault coverages and tort access by combining no-fault accident benefits with the right to sue at-fault parties. In Ontario, access to a more comprehensive set of accident benefits is offset by greater restrictions on the right to sue for pain and suffering and excess health care expenses. In Alberta, Nova Scotia, and other provinces with privately-delivered auto insurance, there are fewer restrictions on the right to sue combined with lower accident benefits coverage. Alternatively, some jurisdictions, such as Saskatchewan, provide a choice between purchasing tort or no-fault based auto insurance.

2.2 Incentives in Auto Insurance Systems

In general, no-fault systems exchange liability costs in the tort system with no-fault accident benefit costs. The overall effect of no-fault compensation on auto insurance costs depends, in part, on the specific features of the system (e.g., generosity of no-fault benefits, strength of tort restrictions) and how system participants respond to incentives. Incentives and participant behaviours can erode or support the basic principles of utmost good faith, indemnity, loss minimization and fair compensation.
For example, unrestricted access to tort may result in extensive delays in receiving compensation, more court actions and overall higher legal costs in the system. Overly generous no-fault accident benefits may encourage overuse and overbilling as providers and recipients have little motivation to minimize costs. There are risks of higher costs in both systems.

2.3 Snapshot of Participants in Ontario’s Auto Insurance System

Figure 1. Major Participants and Interactions in the Ontario Auto Insurance System*

*Due to data limitations, Figure 1 does not fully capture all participants and their interactions. For instance, towing, storage and vehicle repair businesses and their services are not represented, information around the number of health care providers and legal representatives and their services is limited, and the cited General Insurance Statistical Agency data represents only transactions related to private passenger vehicles.

3 – 2013 FSCO Dispute Resolution System (DRS) data.
4 – 2011 accident year data from FSCO DRS group.
7 – 2013 annual average based on business information reported to Health Claims for Auto Insurance (HCAI).
8 – Registered Insurance Brokers of Ontario, as of August 2014. Number not specific to auto insurance.
A large number of individuals and businesses are involved in Ontario’s auto insurance system, including:

- Suppliers of insurance (insurers);
- Distributors of insurance (brokers and agents);
- Consumers, some of whom are claimants; and,
- Those providing services to a claimant and/or an insurer, such as:
  - Health care goods and service providers;
  - Legal representatives;
  - Towing operators, auto storage and repair shops; and,
  - Providers of other goods or services that may be covered under an insurance contract (e.g., home and vehicle modifications).

Figure 1 is a snapshot of available information about the major participants in Ontario’s auto insurance system.

**Number of Drivers and Vehicles**

There are currently over 9 million drivers and 6.9 million insured private passenger vehicles in Ontario. In 2013, the Ontario market for all insured vehicles accounted for $12.6 billion in written premiums – about 28% of all P&C written premiums in Canada. Auto insurance for private passenger vehicles accounts for over 86% of all written auto insurance premiums in Ontario.

**Number of Insurers**

There are currently 118 companies that write auto insurance in Ontario. Of these, about 92 insurers write under the private passenger auto insurance category. This is a decrease from the 101 companies that offered private passenger auto insurance in 2009.

In 2013, the 20 largest insurance companies wrote 82% of premiums for private passenger vehicles. Little has changed since 2010 when the 20 largest companies wrote 80% of premiums for private passenger vehicles. Although there appears to be a trend toward consolidation among auto insurers it is having little impact on the amount of premiums written.

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3 Source: Canadian Underwriter, 2014 Statistical Issue.
5 Office of the Superintendent of Financial Institutions (OSFI) and FSCO.
6 FSCO estimate based on General Insurance Statistical Agency market share data.
7 FSCO estimate based on General Insurance Statistical Agency market share data.
There is also an increasing trend toward Canadian ownership among national property and casualty (P&C) insurers – from 45% in 1999 to an expected 67% in 2014.\(^8\)

3 Evolution and Recent History of Auto Insurance in Ontario

3.1 Cost Reform Cycles

Ontario’s complex auto insurance system has undergone a number of significant reforms over the past 25 years. Each set of changes resulted in some initial success in stabilizing costs and premiums followed by another cycle of rising costs. Appendix 4 is a summary of the evolution of Ontario’s auto insurance system since 1980, when auto insurance became mandatory.

Over the years, rising costs in Ontario’s auto insurance system prompted governments to reform the system. Changes were made in 1990, 1996, 2003 and 2010 in an effort to re-establish an appropriate balance between rates and coverages, and between the compensation available in the tort system (the right to sue) and the no-fault accident benefits structure. In addition, the compensation framework was revised in 1994. Chart 2 illustrates this cycle and shows how costs and premiums have responded to the 1990, 1996, 2003 and 2010 reforms.

![Chart 2](image)

Source: General Insurance Statistical Agency exhibits for private passenger vehicles.

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3.2 2010 Reforms

In Ontario, accident benefits, bodily injury (tort), direct compensation property damage, and collision coverages are typically the largest components of private passenger auto insurance claims costs, as shown in Chart 3. The chart also illustrates how total claims costs for private passenger vehicles have reflected the cost reform cycles. These have changed from $5.0 billion in the 2004 accident year and $8.3 billion in the 2010 accident year, to $7.3 billion in the 2013 accident year.

Prior to the 2010 reforms, auto insurance claims costs for private passenger vehicles were rising dramatically – peaking at $8.3 billion in the 2010 accident year. This was largely due to accident benefits costs which increased from $1.6 billion in the 2004 accident year to $3.8 billion in the 2010 accident year.\(^9\)

**Decrease in Reported Injuries**

It would be reasonable to expect that the number of reported injured persons and injury claims would parallel one another. However, that has not been the case in Ontario. Between 2004 and 2010, the number of reported injured persons fell, while the number of accident benefits claims grew significantly. Chart 4 illustrates the overall trend of declining numbers of injured persons and increasing accident benefit claims since 2004.

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\(^9\) General Insurance Statistical Agency exhibits for private passenger vehicles.
Overutilization and Fraud

The Superintendent’s 2009 Report on the Five Year Review of Auto Insurance identified the principal factor contributing to pre-2009 increases in claims costs as an overutilization of accident benefits in the system, including over-assessing and over-treating patients, rather than a rise in the number of motor vehicle accidents or injuries.

The government’s 2010 reforms tackled rising claims costs by introducing new cost controls, making more coverage options available to consumers and focusing on evidence-based approaches to treatment of minor injuries. Appendix 5 provides more information on key accident benefit and tort changes in 2010.

Insurance fraud was likely an additional factor contributing to the dramatic increase in claims costs prior to 2010. In July 2011, the government appointed the Ontario Automobile Insurance Anti-Fraud Task Force (AFTF) to assess the extent and nature of fraud in Ontario’s auto insurance system and to recommend actions to reduce fraud. The AFTF concluded that exaggeration of accident benefit claims, unwarranted billing by participants in the system (e.g., overcharging and billing for goods and services not provided), staged accidents and other forms of fraud played a significant role in “unexplained” cost increases of $2 billion or approximately $300 per registered

Sources: General Insurance Statistical Agency exhibits for private passenger vehicles; Ministry of Transportation (MTO) Ontario Road Safety Annual Reports (ORSAR) 2004 to 2011. Road safety data is not available beyond 2011.
passenger vehicle, from 2006 to 2010 accident years. The AFTF also noted that the most dramatic growth occurred in accident benefits, where medical benefit costs more than doubled (105% growth) and examination and assessment costs nearly quadrupled (288% growth).

In addition to recommending government and FSCO actions, the AFTF called on all system participants – insurers, consumers, claimants, health care providers, lawyers and paralegals, and auto towing, storage and repair businesses – to help fight auto insurance fraud.

**Impact of 2010 Reforms**

Although claims costs for private passenger vehicles decreased significantly after the September 2010 reforms (see Chart 2), they rose again by approximately 12% from the 2012 accident year to the 2013 accident year. This increase may be due to several factors including potential erosion of cost control measures, insurers increasing their reserves in reaction to uncertainty around future claim costs, and severe winter weather in late 2013.

It should be noted that claims data is subject to change as more information about the ultimate cost of claims becomes available. It can take many years for the extent and costs of injuries and treatment to be known and fully measured.

### 3.3 Recent Premium Trends

Average written premium increases slowed after the 2010 reforms and have started to move downward in the 2013 accident year as shown in Table 1.

Another indicator of rate movement is the average rate change approved by FSCO, which helps predict the future direction of average premiums. Rate approvals have been trending downward since 2012. There is always a lag between rate approvals and actual premiums in the marketplace, because an approved rate change does not impact consumers until they renew their insurance policies.

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12 2013 General Insurance Statistical Agency exhibit for private passenger vehicles shows that the number of physical damage claims for certain coverages increased in 2013 accident year – by 7% for direct compensation (not at-fault vehicle damage) and by 9% for collision (optional coverage for a driver’s at-fault vehicle repairs).
Table 1 – Average Premiums and Rate Approvals for Private Passenger Vehicles

<table>
<thead>
<tr>
<th>Year</th>
<th>Average Written Premium (per vehicle)</th>
<th>Average Rate Approval by FSCO</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>$1,374</td>
<td>+8.77%</td>
</tr>
<tr>
<td>2010</td>
<td>$1,481</td>
<td>+6.18%</td>
</tr>
<tr>
<td>2011</td>
<td>$1,532</td>
<td>+4.83%</td>
</tr>
<tr>
<td>2012</td>
<td>$1,549</td>
<td>-0.26%</td>
</tr>
<tr>
<td>2013</td>
<td>$1,543</td>
<td>-4.79%</td>
</tr>
<tr>
<td>2014</td>
<td>-</td>
<td>-0.90%                       (January to September)</td>
</tr>
</tbody>
</table>

Sources: 2013 General Insurance Statistical Agency exhibit for private passenger vehicles (accident year basis), and FSCO (calendar year basis).

3.4 Recent Government Actions

The September 2010 automobile insurance reforms reduced claims costs and gave drivers more choice and flexibility in choosing levels of coverage. In an effort to avoid a repeat of past reform cost cycles, the government has continued to focus on improving the product in Ontario and deal with the ongoing challenges associated with fraud and misuse of the system; which, if left unchecked, will inevitably contribute to rising premiums as has been seen in the past.

The 2010 reforms also included a number of longer-term initiatives, and further actions were announced in the 2011, 2012 and 2013 Ontario Budgets. Initiatives that have been introduced by the government and FSCO after September 1, 2010 are described below.

3.4.1 Ontario Automobile Insurance Anti-Fraud Task Force

In November 2012, the AFTF issued a final report with 38 targeted recommendations. The recommendations formed an integrated anti-fraud strategy by enhancing the role of each participant in the auto insurance sector, including insurers, health care and legal professionals, consumers, FSCO, and the government. To date, the government has taken action to address more than half of the AFTF’s recommendations. These include:

a) Requiring insurers to provide all reasons when denying claims;
b) Requiring insurers to issue additional information to claimants on invoices and expenditures paid out on their behalf in bi-monthly benefit statements;
c) Working with health care providers to use the Health Claims for Auto Insurance database to flag clinics that are misusing their credentials and cut down on identity theft;
d) Giving insurers authority to require claimant confirmation of receipt of goods and services that have been billed;
e) Providing the Superintendent with authority to stipulate by Guideline the maximum payable by insurers for goods as well as services;
f) Making it an offence to request, require or permit a claimant to sign an incomplete claim form;
g) Allowing insurers that receive an initial application for benefits to request one examination per claimant, under oath, to assist in determining priority issues;
h) Creating an online and phone tip reporting system for suspected auto insurance fraud;
i) Consolidating three statutory auto insurance reviews into one 3 Year Review of the auto insurance system;
j) Giving the Superintendent the power to impose administrative monetary penalties for contraventions of insurance legislation and regulations; and,
k) Licensing the billing and business practices of health care providers and facilities paid directly by auto insurers (described below).

A number of the AFTF’s recommendations were also implemented through the 2013 Cost and Rate Reduction Strategy outlined below.

3.4.2 Cost and Rate Reduction Strategy

The 2013 Ontario Budget introduced a Cost and Rate Reduction Strategy to build on previous anti-fraud efforts and system reforms that successfully stabilized auto insurance rates in Ontario. In August 2013, this strategy targeted a 15% average rate reduction by August 2015.

As part the Cost and Rate Reduction Strategy, FSCO conducted an analysis of the change in average rates from August 2013 to August 2014 which showed that average rates declined by 6.03%. The analysis was conducted in accordance with the methodology set out in Ontario Regulation 237/13.

Cost and Rate Reduction Strategy Launch

The launch of the Cost and Rate Reduction Strategy included legislation that:

- Expanded and modernized the Superintendent’s investigation and enforcement powers;
- Restored the Superintendent’s authority to require insurers to file for new rates; and,
- Clarified that Superintendent Guidelines, incorporated by reference in the SABS, are binding.

The restored rate filing authority was used in 2013 and 2014 to require insurers to file for new private passenger auto insurance rates.

As part of the Cost and Rate Reduction Strategy announcement, the government also created a transparency and accountability mechanism in the form of an independent annual report on the impact of auto insurance reforms introduced, current costs and pressures in the system and recommendations on further actions that may be needed to
meet the government’s rate reduction targets. KPMG was selected to prepare the report. KPMG completed an interim report which was released by the Ministry of Finance on April 15, 2014. KPMG’s first annual report was posted on the Ministry of Finance’s website on December 11, 2014. A second annual report is expected in fall 2015.

**Licensing of Health Care Providers Billing Auto Insurers**

As a measure to reduce fraud and abuse in the auto insurance system, the AFTF recommended that the Superintendent be given the authority to regulate and licence the business and billing practices of the health service providers (clinics) that are paid directly by auto insurers. The 2013 Ontario Budget provided the Superintendent with this authority and FSCO began accepting licensing applications on June 1, 2014. The licensing and oversight process became fully operational on December 1, 2014. Now, all health care clinics and assessors that want to be paid directly by auto insurers for specified expenses require a licence from FSCO.

**Review and Transformation of the Dispute Resolution System**

FSCO’s Dispute Resolution System (DRS) was established in 1990 to provide a timely and cost-effective alternative to the courts to resolve disputes in respect of accident benefits. There have been no significant changes to the DRS since its creation in 1990.

The demand for DRS services has grown significantly since inception. Additionally, although the DRS was originally envisaged as a system that would help resolve disputes between insurers and claimants without the need for legal representation, there has been a shift toward greater legal representation of claimants with accident benefit disputes. This may reflect a number of factors, including complexity of the auto insurance product, insurer claims adjustment practices, fractious insurer-claimant-legal relationships, and claimant expectations.13 Appendix 6 provides more details.

In August 2013 the Minister of Finance appointed the Honourable J. Douglas Cunningham, former Associate Chief Justice of the Ontario Superior Court of Justice, to conduct a review of the DRS system. Justice Cunningham delivered an interim report in November 2013 and a final report in February 2014.

The DRS review made a number of observations, including:

- A high demand for DRS services, particularly in the Greater Toronto Area (GTA);
- Treatments were the most commonly disputed issue; and,
- The claims process and the DRS having become adversarial (contrary to the original intent of the DRS).14

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The DRS review also commented on:

- The culture of the DRS, including the potential impact of claims management practices by some insurers (high case loads and lack of adjuster training) on decision-making and the DRS; and,
- The focus on cash settlements instead of appropriate treatment which was linked to the leveraging of the DRS cost structure (insurers pay for all mediation and the bulk of arbitration fees) and insurer preference for cost certainty and claim settlement on a full and final basis.\(^{15}\)

The DRS review recommended that the system be reformed based on the principles that cost structures should discourage abuse of the system while protecting accessibility for claimants, and that a positive culture among stakeholders and early resolution of disputes should be encouraged. The final report proposed a transformation of the dispute resolution process that would expedite the resolution of disputes through a new streamlined framework and operate through an independent adjudicative tribunal. The recommendations were intended to reduce costs, and most importantly, speed up access to accident benefits for those who are legitimately entitled to benefits.

In November 2014 the government passed the *Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014*. This Act sets out a framework to transform the dispute resolution system based on the recommendations set out in Justice Cunningham’s report.

**February 2014 Regulation Changes**

The government continued its focus on fraud and consumer protection by introducing additional regulation changes effective February 1, 2014 that:

- Required that a pre-existing condition that may prevent a person from being treated within the minor injury guideline (MIG) must be documented prior to an accident;
- Clarified that once an election is made for income replacement, non-earner or caregiver benefits, the election is final, except if a claimant is subsequently determined to have a sustained a catastrophic impairment; and,
- Established that friends and family members providing attendant care services are to be compensated for their actual economic loss.

**Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014**

In addition to legislative changes to transform the dispute resolution framework (discussed earlier), the *Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014*, sets out a series of additional reforms aimed at lowering costs in the automobile insurance system and strengthening consumer protection. These include:

\(^{15}\) Ontario Automobile Insurance Dispute Resolution System Review, Interim Report, 2013
• Giving the province authority to change the current 60-day period that a vehicle can be stored after an accident without notice to the owner, where required;
• Including tow trucks in the province’s existing Commercial Vehicle Operator’s Registration System; and,
• Changing the pre-judgement interest rate for pain and suffering awards to current market conditions of 1.3% per annum from the current level of 5% per annum.

**Overdue payments**

In November 2014, the government amended the SABS provisions regarding interest on overdue SABS payments. Effective January 1, 2015, in cases where there is a dispute in respect of a person’s entitlement to or amount of statutory accident benefits, interest on overdue payments will be based on the same pre-judgment interest rate used in the courts for past pecuniary losses, which is currently set at 1.3% annually. This interest rate applies from the date on which a mediation proceeding is commenced and ends on the date a settlement is reached or decision is issued on the dispute. In situations where accident benefit payments are overdue and there is no dispute, the interest rate of 1% per month compounded monthly will continue to apply.

### 3.4.3 Other Long-term Initiatives

**Development of the Minor Injury Treatment Protocol**

One of the longer-term initiatives included in the September 2010 reforms was to undertake an evidence-based review of the treatment of minor automobile accident injuries. This review is being overseen by a team of scientists and medical experts. The team was also tasked with developing an evidence-based Minor Injury Treatment Protocol (MITP) for a broad spectrum of minor injuries. A final report is expected by the end of 2014. Consultation with stakeholders on the report’s recommendations will take place following the completion of the MITP project.

**Definition of Catastrophic Impairment**

In 2010, the government directed FSCO to strike a panel of medical experts to examine the definition of catastrophic impairment set out in the SABS, and to set out qualifications and experience requirements for health professionals who conduct catastrophic impairment (CAT) assessments.

In December of 2010 an expert panel of clinicians and academics, chaired by Dr. Pierre Côté, was established to review and make recommendations to the Superintendent. The Expert Panel submitted two reports: the first in April 2011, which recommended changes to the definition of catastrophic impairment; and, the second in June 2011 which made recommendations on the training, qualifications and experience of assessors who conduct catastrophic impairment assessments.
Both reports were posted on FSCO’s website. Following consultations on the reports, the Superintendent submitted a report and recommendations to the Minister of Finance. The Ministry of Finance released the Report of the Superintendent on the Definition of Catastrophic Impairment and conducted a public consultation in July 2012. The Ministry of Finance also hosted a roundtable with stakeholders on key issues in March 2013.

These efforts focused on potential updates to the SABS catastrophic impairment definition, rather than other structural changes such as modifying accident benefit limits available for catastrophic impairment or allowing courts to determine awards to seriously injured drivers and giving consumers more choice to purchase the coverage that meets their needs.

Section 5.2.1 compares Ontario’s accident benefits regime for catastrophic impairment with those in other Canadian provinces with privately delivered auto insurance. Appendix 7 contains catastrophic impairment data.

Bodily Injury Claims Study

In 2013, FSCO undertook a third party liability bodily injury claim study. The recently completed study provides more information for the government, the insurance industry and other stakeholders on the costs and factors contributing to bodily injury claims. The last comprehensive study examined closed claims from 1986.16

Following a public tender, Pinnacle Actuarial Services was selected to conduct the study. Pinnacle conducted an extensive survey of closed and open claims from 2005 bodily injury claims involving automobile insurers in Ontario representing over 85% of the 2005 auto market share. Pinnacle’s report on the study was completed in 2014 and is posted on FSCO’s website at http://www.fsco.gov.on.ca/en/auto/Pages/automobile-insurance-bodily-injury-claim-study.aspx

Recommendation 1

The government should continue to closely monitor Ontario’s auto insurance system, claims costs, and activity of participants in the system and make timely legislative and regulatory changes to address emerging problems, issues or areas of rising costs.

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Although government has taken critical steps to improve auto insurance affordability, continued monitoring of Ontario’s auto insurance system can help identify further system changes that may be needed to avoid a repeat of past cost reform cycles.

Areas where the government could consider making additional reforms to further contain claims costs, increase consumer choice, and achieve other system improvements are highlighted in the report, including:

- Statutory accident benefits (Sections 5.1 & 5.2, Recommendation 3);
- Consumer choice around auto insurance coverages (Section 5.2, Recommendation 4);
- Consumer and auto insurance stakeholder education around treatment and recovery (Section 5.3.1, Recommendation 5);
- The tort (bodily injury) system (Section 7, Recommendation 7); and,
- Standard deductible levels for physical damage related coverages (Section 8.3, Recommendation 8).

**Recommendation 2**

*All participants in the auto insurance system have a responsibility to continue to focus on reducing and controlling auto insurance costs and dealing with the ongoing challenges associated with fraud and misuse of the system.*

Areas where participants in the auto insurance system can take leadership and contribute to a well-functioning and affordable auto insurance system are identified throughout this report, including:

- Assessments and examinations (Section 6, Recommendation 6);
- Auto insurance claims adjustment and handling (Section 9, Recommendation 9); and,
- Taxi insurance availability and optional insurance coverages for rental vehicles (Section 10, Recommendation 10).

4 Ontario’s Experience Compared to Other Jurisdictions

Affordability and availability pressures in the auto insurance system are not unique to Ontario. All jurisdictions experiencing cost pressures must grapple with the design of their auto insurance systems and how those systems interact with health care systems, road safety mechanisms, the legal system, and behaviour of system participants.
4.1  System Comparison to Provinces with Privately-Delivered Auto Insurance

The auto insurance systems in Alberta, Nova Scotia, Prince Edward Island (PEI) and New Brunswick are considered comparable due to structural similarities to Ontario’s framework (e.g., privately delivered auto insurance and mandatory no-fault accident benefits together with some degree of access to tort).

When compared to other provinces that have privately-delivered auto insurance – Alberta, Nova Scotia, PEI, New Brunswick, and Newfoundland and Labrador – Ontario’s system provides the most generous package of mandatory accident benefits, including a higher tier limit for medical-rehabilitation coverage for catastrophic impairments, a separate benefit for attendant care, and a longer timeframe in which to access medical-rehabilitation benefits.

Alberta, Nova Scotia, PEI and New Brunswick have fewer restrictions on the right to sue and a smaller set of accident benefits. Newfoundland and Labrador primarily has a tort-based (third-party liability) system with optional accident benefits.

Appendix 8 of this report compares key accident benefit coverages in Ontario and other provinces with privately-delivered auto insurance.

Ontario is the only such province that offers a comprehensive and formal alternative dispute resolution system for insurer-claimant disputes over accident benefits.

Ontario is further differentiated by its large metropolitan centres. Increased densities in large urban cities may result in more traffic, collisions, opportunities for system participants to interact, and different auto insurance dynamics.

4.2  Experience in the UK and Select US Jurisdictions

In the United Kingdom (UK), motor insurance cost increases have been linked to fraudulent and exaggerated motor insurance claims, particularly for whiplash injuries. Certain practices by system participants have also been identified as likely contributing factors. These include insurer business practices of settling whiplash cases before a medical assessment, and UK solicitors offering inducements to people considering making claims.17

In the US, jurisdictions such as Michigan, New York and Florida also appear to be wrestling with rising costs of auto insurance claims. In 2013, New York adopted new regulations allowing investigation of healthcare providers participating in the no-fault

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auto insurance system and banning fraudulent providers from receiving payment from insurers. In 2012, Florida passed legislation to reduce medical care limits for non-emergency treatment, restrict attorney fee awards in individual and class action no-fault disputes, and increase penalties for licensed health care practitioners who are found guilty of fraud. Michigan, which is the only state that mandates unlimited, lifetime medical and rehabilitation coverage, has considered reforms such as creating an anti-fraud authority, introducing fee schedules for medical services, and placing restrictions on some accident benefit coverages.

4.3 Claims Costs Comparison to Provinces with Privately-Delivered Auto Insurance

Although reforms and ongoing initiatives have reduced claims costs for private passenger vehicles since 2010, Ontario continues to have the highest per-vehicle claims costs compared to other Canada provinces with privately-delivered auto insurance. Ontario’s average claims cost per private passenger vehicle was about $1,000 over the 2011 to 2013 accident year period. This is approximately 20% higher to over twice the costs than in comparable provinces. Chart 5 illustrates these differences. Appendix 9 compares private passenger vehicle claims costs and premiums of these provinces in more detail.

Ontario’s higher total claims costs are linked to higher payouts on accident benefit claims as well as high payouts on bodily injury (tort) claims. As shown earlier in Chart 3, these two coverages accounted for 64% of total claims costs in the 2013 accident year. A more detailed discussion on accident benefits and tort (bodily injury) claims is found in the next three sections.

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5 Accident Benefits

Benefits defined in Ontario’s SABS are designed to compensate claimants for eligible medical and rehabilitation expenses that are reasonable and necessary in order to aid recovery from an injury sustained in a motor vehicle accident. Statutory accident benefits also cover eligible economic losses, such as income replacement benefits, death and funeral benefits, lost education expenses, and replacement of certain goods, such as eyeglasses.

5.1 Accident Benefit Claims Experience for Private Passenger Vehicles

Changes in Claims and Frequency

Accident benefit claims costs for private passenger vehicles grew rapidly from $1.60 billion in the 2004 accident year to $3.78 billion in the 2010 accident year, an increase of approximately 137%. These costs rose as a result of increases in both the number of claims (from 62,529 to 79,882) and average per-claim cost (from $25,522 to $47,366, peaking in the 2009 accident year at $51,851). These trends contrast with a general decrease in individuals reported as injured in motor vehicle collisions. As noted earlier, the Superintendent’s 2009 Report on the Five Year Review of Automobile Insurance and the AFTF attributed these increases to overutilization in the system and fraud.

After the government’s 2010 reforms and subsequent measures to reduce costs, accident benefit claims costs for private passenger vehicles fell from $3.78 billion in the
2010 accident year to $1.92 billion in the 2012 accident year. However, accident benefit costs are again beginning to move upward. In the 2013 accident year they rose by approximately 12% to $2.15 billion. The number of claims and average per-claim cost also decreased between the 2010 and 2012 accident years, and then started to rise in the 2013 accident year. With this decrease, accident benefit claims costs are the second largest portion of total claims costs, accounting for approximately 30% in the 2013 accident year. Bodily injury claims costs represent the largest portion and account for approximately 34% of total claims costs.

| Table 2 - Accident Benefit Claims Experience (private passenger vehicles) |
|-----------------------------|----------|----------|----------|----------|----------|
| No. of AB claims            | 2004     | 2009     | 2010     | 2012     | 2013     |
| No. of AB claims per 100 earned vehicles | 1.055    | 1.133    | 1.217    | 0.927    | 0.985    |
| Average AB cost per claim   | $25,522  | $51,851  | $47,366  | $30,549  | $31,786  |
| Average AB cost per insured vehicle | $269     | $588     | $576     | $283     | $313     |
| Total AB claims costs       | $1.60 B  | $3.81 B  | $3.78 B  | $1.92 B  | $2.15 B  |

**Changes in Specific Accident Benefit Coverage Costs**

Following the 2010 reforms, decreases in accident benefit claims costs for private passenger vehicles were seen in medical benefits, exams and assessments, and housekeeping between the 2010 and 2013 accident years. Claims costs for other accident benefit coverages also decreased due to other cost controls implemented in 2010 and reduced overuse and fraud in the system – shown in Chart 6.
Physical Damage Claims Costs Remained Relatively Unchanged While Accident Benefits Claims Costs Changed Significantly between 2004 - 2013

Chart 6

Physical Damage Claims Costs Remained Relatively Unchanged While Accident Benefits Claims Costs Changed Significantly between 2004 - 2013

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2010</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive</td>
<td>67.93</td>
<td>52.05</td>
<td>60.96</td>
</tr>
<tr>
<td>Collision</td>
<td>161.01</td>
<td>150.26</td>
<td>164.50</td>
</tr>
<tr>
<td>Direct Compensation</td>
<td>132.86</td>
<td>138.79</td>
<td>145.67</td>
</tr>
<tr>
<td>Medical</td>
<td>88.84</td>
<td>103.19</td>
<td>109.67</td>
</tr>
<tr>
<td>Exams &amp; Assessments</td>
<td>41.94</td>
<td>129.01</td>
<td>50.60</td>
</tr>
<tr>
<td>Attendant Care</td>
<td>35.89</td>
<td>72.01</td>
<td>58.59</td>
</tr>
<tr>
<td>Income Replacement</td>
<td>57.65</td>
<td>71.58</td>
<td>57.21</td>
</tr>
<tr>
<td>Housekeeping</td>
<td>12.01</td>
<td>43.87</td>
<td>3.19</td>
</tr>
<tr>
<td>Caregiver</td>
<td>4.39</td>
<td>23.15</td>
<td>0.12</td>
</tr>
</tbody>
</table>


Claims and Dispute Trends in the Greater Toronto Area

The number and cost of accident benefit claims for private passenger vehicles grew more rapidly in the Greater Toronto Area (GTA) than the rest of the province prior to and during the 2010 accident year (see Chart 7). However, these have now decreased in the wake of the 2010 reforms and other ongoing initiatives. Although claims costs have decreased on average in the GTA, individual policyholders may experience premium decreases or even increases at policy renewal based on several factors, such as changes in individual circumstances (coverages and deductibles chosen, vehicle insured, driving experience, other risk factors) and the claims experience of their particular insurer.

Other recent reports and reviews also identified differences between auto insurance claim costs and disputes in various areas of Ontario, particularly when comparing the GTA to other parts of the province. The AFTF noted that the GTA accounted for $1.7 billion (out of $2 billion) in “unexplained” accident benefit costs from 2006 to 2010 accident years. The DRS review noted that the while around 50% of accident injuries occur in the GTA, 80% of dispute applications (both mediation and arbitration) originate in the GTA.
5.2 Comparison to Other Provinces with Privately-Delivered Auto Insurance

Despite the success of the 2010 reforms and other recent actions, average accident benefit claims costs for private passenger vehicles in Ontario continue to be higher than those in other Canadian provinces with privately-delivered auto insurance. Additionally, these costs rose in the 2013 accident year compared to 2012. Average accident benefits claims costs per private passenger vehicle were $305 over the 2011 to 2013 accident year period – which ranges from about 5 to 10 times higher than in comparable provinces. Chart 8 illustrates these differences.
As noted earlier, Ontario provides the most generous package of mandatory accident benefits than comparable provinces. The following section compares key features of statutory accident benefit coverages and accident benefits systems in Ontario and other provinces.

5.2.1 Key Accident Benefits

Ontario has more generous key accident benefits coverages than in comparable provinces.

Although Ontario’s standard medical and rehabilitation benefit limit of $50,000 is equivalent to the limits in Alberta, Nova Scotia, New Brunswick and PEI, Ontario has the only system that provides a higher tier limit of $1,000,000 for catastrophic injuries.

Additionally, Ontario has a separate attendant care benefit that is not included in the medical and rehabilitation limit – a maximum of $36,000 for non-catastrophic injuries (available over 2 years), and an additional $1,000,000 maximum for catastrophic injuries (no time limit).

Ontario also has a higher maximum income replacement benefit (IRB) which provides compensation for lost income due to an injury incurred in an auto accident. Table 3 shows that maximum compensation available under Ontario’s IRB is more generous than in comparable provinces. For example, even though Alberta provides an identical monetary limit to Ontario ($400/week) for IRBs, Ontario provides the benefit for a partial disability for 104 weeks, and if totally disabled, there is no time limit. By comparison, Alberta does not provide any benefit for partial disability and limits the payout if totally disabled.
disabled to 104 weeks. While Nova Scotia, PEI and New Brunswick provide identical time payment limitations as Ontario, their income replacement limits are substantially lower at $250/week.

Table 3 – Income Replacement Benefits

<table>
<thead>
<tr>
<th>Province</th>
<th>Benefit Calculation</th>
<th>Weekly Limit</th>
<th>Partial disability time limit</th>
<th>Total disability time limit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ON</strong></td>
<td>70% of gross income less amounts available for loss of income from all other sources</td>
<td>$400/week</td>
<td>104 weeks</td>
<td>None</td>
</tr>
<tr>
<td><strong>AB</strong></td>
<td>80% of gross income less any payments for loss of income from employment received by or available to such insured person</td>
<td>$400/week</td>
<td>No benefit available for partial disability</td>
<td>104 weeks</td>
</tr>
<tr>
<td><strong>NS</strong></td>
<td>80% of net income less any payments for loss of income from other sources</td>
<td>$250/week</td>
<td>104 weeks</td>
<td>None</td>
</tr>
<tr>
<td><strong>PEI</strong></td>
<td>80% of net income less any payments for loss of income from other sources</td>
<td>$250/week</td>
<td>104 weeks</td>
<td>None</td>
</tr>
<tr>
<td><strong>NB</strong></td>
<td>80% of net income less any payments for loss of income from other sources</td>
<td>$250/week</td>
<td>104 weeks</td>
<td>None</td>
</tr>
</tbody>
</table>

5.2.2 Duration of Medical and Rehabilitation Benefits

The maximum timeframe for Ontario accident benefit claimants to have their medical and rehabilitation costs paid is longer than in comparable systems. The standard medical and rehabilitation benefit in Ontario can be paid for a period of 10 years and, if the claimant has a catastrophic injury, it can be paid for as long as the claimant continues to qualify, up to the policy limit.

In contrast, in Alberta, the medical and rehabilitation benefit of $50,000 is only available in the 2 year period after an accident. In Newfoundland and Labrador, Nova Scotia, New Brunswick and PEI it is available for a period of up to 4 years after the accident.

5.2.3 Eligibility Test for Other Goods and Services

To be eligible for any medical and rehabilitation goods and services in Ontario, the proposed expense must meet a test of being reasonable and necessary.

In Alberta, Nova Scotia, New Brunswick and PEI, the eligibility requirement for core medical, surgical, dental, chiropractic, ambulance, hospital, or professional nursing

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22 IRBs could be higher in other provinces on a weekly basis in certain circumstances.
services is similar to Ontario’s reasonable and necessary test. However, unlike Ontario, other goods and services in those provinces are subject to a stricter eligibility test that requires the expenses to be essential for treatment and rehabilitation of the injured person. In addition to this stricter eligibility test, the opinion must be shared by the claimant’s physician and the insurer’s medical adviser in order for the expense to be paid.

Recommendation 3

The government should examine and consider the accident benefits structures of comparable auto insurance systems in Canada that have lower costs.

Potential changes that could be considered to more closely align Ontario’s accident benefits system with comparable provinces include:

- Modifying catastrophic impairment accident benefit limits or allowing courts to determine awards to seriously injured drivers and giving consumers more choice to purchase the coverage that meets their needs;
- Combining medical-rehabilitation and attendant care benefits or limits;
- Reducing the duration of medical-rehabilitation benefits for non-catastrophic impairments; and,
- Introducing a stricter eligibility test for other goods and services.

Recommendation 4

The government should examine and consider giving consumers more flexibility and choice to buy coverage options that reflect their individual circumstances and needs.

In tandem with any changes to statutory accident benefits, consumers should have the choice to buy expanded benefits and levels.
Reforming the mandatory benefits structure could impact the Motor Vehicle Accident Claims Fund (MVACF)\textsuperscript{23} in costs paid out for accident benefit and bodily injury claims. In addition, possible MVACF claimants may be impacted by their ability to access optional benefits.

### 5.2.4 Treatment Planning and Approval

Health care professionals play a critical role in the recovery of claimants injured in a motor vehicle accident through treatment and assessment services. In Ontario, there are 26 regulated health professionals that can prepare treatment plans for claimants under the SABS. Of these, nine are designated as health practitioners who can certify treatment plans, as well as disability for income replacement and non-earner benefits. Insurers can also approve care and treatment provided by unregulated health professionals.

At the end of July 2014, 30,588 unique health care professionals were registered in the Health Claims for Auto Insurance system (HCAI) roster. HCAI is used to transmit claim forms electronically to insurers, so the number of registrants in the roster reflects the number of health care professionals that can participate in the auto insurance system. These registrants provide services to about 62,000 injured persons each year, the vast majority of whom (96%) were reported as having “minimal” or “minor” injuries.\textsuperscript{24} The number of registrants may increase with the planned expansion of the number of regulated health professions in Ontario to include homeopaths, naturopaths and psychotherapists.

**Approaches to Treatment in Comparable Provinces**

The variety of regulated health professionals able to approve treatment plans for auto accident claimants contrasts sharply with comparable provinces. In Alberta, within the Diagnostic and Treatment Protocols Regulation (DTPR), treatment approvals are limited to three regulated health professions – physicians, chiropractors and physical therapists – within their scope of practice. The DTPR establishes a set block of 10 or 21 treatments, depending on the severity of the minor injury. Health care professionals can refer DTPR patients to other treatment providers such as massage therapists, within the specified 10 or 21 treatments. Treatments under the DTPR are not subject to insurer approval.

If the health care professional is uncertain about the injury, or if the injury is not resolving appropriately or in the time expected, they may refer a patient to an Injury Management Consultant (IMC) – also a physician, chiropractor or physical therapist – who can recommend additional treatment options. Referrals to an IMC are not subject to insurer approval, as long as they occur prior to the conclusion of the 10 or 21 treatments.

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\textsuperscript{23} MVACF provides compensation to people involved in automobile accidents when no other automobile insurance exists to respond to claims.

\textsuperscript{24} Based on Ontario Road Safety Annual Report 2011
treatments and within 90 days of the accident. The purpose of the referral is to establish or confirm a diagnosis and/or provide recommendations on the best treatment options to facilitate recovery, not to gain approval for additional treatment beyond the original 10 or 21 treatments. In effect, the IMC is a second opinion to assist the treating health professional.

Outside of the DTPR anyone who provides necessary medical, surgical, chiropractic, dental, hospital, psychological, physical therapy, occupational therapy, massage therapy, acupuncture, professional nursing and ambulance services can recommend treatment, provided the expense is reasonable. For other services outside of this list, only the insured person’s attending physician together with the insurer’s medical advisor can authorize treatment.

Nova Scotia has a treatment protocol based on Alberta’s protocol described above. In both Alberta and Nova Scotia, the protocols are reported to be voluntarily and widely used. New Brunswick plans to establish a protocol similar to Alberta and Nova Scotia.

In Alberta, both the protocol and an accompanying health care practitioners’ guide emphasize the importance of patient education, and expect health practitioners to educate their patients about the nature of their injuries. Nova Scotia’s protocol also outlines expectations around patient education in relation to a number of injuries common to motor vehicles accidents.

5.3 Experience with the Minor Injury Guideline

The current minor injury definition, MIG and a $3,500 limit on medical and rehabilitation benefits for minor injuries were introduced in September 2010 as part of a broad package of auto insurance reforms. Goods and services provided under the MIG are subject to a streamlined pre-approved process that facilitates quick access to treatment and rehabilitation. As the vast majority of people injured in auto collisions are reported to have injuries that are “minimal” or “minor”25, it is expected that the MIG applies to most claimants.

During consultation for this report, differing views were expressed around the MIG, the minor injury definition, and the $3,500 limit for medical and rehabilitation benefits. Some health care provider organizations, consumers, and an association of legal representatives for plaintiffs have suggested that some claimants with minor injuries may need more treatment than is currently offered by the MIG. It was also suggested that some insurer examinations to determine whether a claimant has a minor injury may not necessarily be conducted by objective assessors and that not all assessors are equally qualified. The recently clarified requirement for documentation prior to the accident to support pre-existing conditions was also noted as a stringent requirement. In contrast, insurers reported that the minor injury definition is being challenged and may erode over time, particularly for minor psychological conditions.

The number of mediation applications regarding the MIG appears to be increasing – from 2% of applications received in 2013 to about 8% of applications received from January to September 2014. Between January and September 2014, 5% of mediation cases proceeded to arbitration based solely on a MIG dispute. Ongoing monitoring of MIG related disputes is required as the auto insurance system continues to transition to the post-2010 accident benefits regime.

Ontario’s experience with the MIG contrasts with the experience noted above in Alberta and Nova Scotia.

5.3.1 Education of System Participants around Treatment and Recovery

Consumers, health care providers, and insurers would benefit from improved information and dialogue about appropriate and necessary treatment of minor injuries common to motor vehicle accidents. This will help inform expectations about treatment type, frequency and length, as well as recovery outcomes.

As noted earlier, Alberta expects health care providers to educate claimants about the nature of their injuries. The Senior Medical Advisor to the Superintendent of Insurance in Alberta has issued a health practitioner’s guide regarding treatment, which includes specific points about patient education. Nova Scotia’s protocol has similar expectations for health care providers around patient/claimant education.

**Recommendation 5**

*The Ministry of Finance and FSCO should work with experts to develop a program to educate consumers and auto insurance stakeholders about expectations for treatment and recovery following a motor vehicle accident.*

Any education program should include relevant findings from the Minor Injury Treatment Protocol project.

6.0 Assessments and Insurer Examinations

*Accident Benefits Assessments and Insurer Examinations*

In Ontario, an assessment or insurer examination conducted in relation to an accident benefit claim is a clinical evaluation of a claimant’s health status and may be requested by a claimant or their health care provider (assessment) or an insurer (IE).
Assessments and IEs may be conducted in relation to claims for medical and rehabilitation benefits, attendant care benefits, income replacement and other benefits, and catastrophic impairment status.

The costs of claimant-initiated assessments are included in the available medical and rehabilitation benefits of $3,500 for minor injuries, $50,000 for serious injuries and $1,000,000 for catastrophic injuries. This means funds spent on assessments are not available to treat a claimant. The costs of IEs are not deducted from medical and rehabilitation benefits that are available to injured drivers.

In the 2010 reforms, a $2,000 cap on accident benefits assessments and IEs was implemented to help control costs.

**Accident Benefit Assessment and Insurer Examination Costs**

Assessment and IE costs continue to be a cost driver in the accident benefits system as shown in Table 4.

| Table 4 - Examination Claims Experience (Private Passenger Vehicles) by Accident Year |
|---------------------------------|-----|-----|-----|-----|-----|
|                                 | 2004 | 2009 | 2010 | 2012 | 2013 |
| No. of examination claims       | 36,448 | 47,375 | 48,970 | 31,070 | 36,127 |
| No. of claims per 100 insured vehicles | 0.615 | 0.730 | 0.746 | 0.459 | 0.527 |
| Average cost of examinations per insured vehicle | $41.94 | $130.34 | $129.05 | $41.74 | $50.60 |
| Total examination costs         | $248.6 million | $846.2 million | $847.1 million | $282.8 million | $346.9 million |
| Total AB claims costs           | $1.60 B | $3.81 B | $3.78 B | $1.92 B | $2.15 B |


The Ontario Health Claims Database (HCDB) Standard Report, produced by the Insurance Bureau of Canada (IBC), reports on automobile insurance health claims data submitted through HCAI. It also illustrates the high costs paid for assessments and IEs in the adjustment of accident benefit claims by reporting on billing and payments for accidents that occurred on or after January 1, 2011. To date, 2011 is the year with the most claims development so it is most representative of ultimate costs. In that year, the HCDB reported an average cost of $4,932 per IE claimant and $1,319 per assessment claimant (as of July 30, 2014). These figures do not include the costs of cancelled and missed appointments.

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26 The HCDB system collects and reports up-to-date information on the expenses paid by insurers on select medical and rehabilitation expenses billed through HCAI. It does not include any reserves or project future claims development to ultimate costs.

Missed or Cancelled Appointments

As of June 30, 2014, over 12,700 or about 21.5% of claimants injured in 2011 had missed or cancelled appointments, resulting in costs of $16.7 million.\(^{28}\) The average cost paid by insurers was over $1,300 per claimant who missed or cancelled one or more appointment.

The Professional Services Guideline, most recently issued by the Superintendent in September 2014, confirmed that insurers are not liable for the cost of missed or cancelled appointments for assessment or treatment by a health care provider. The Professional Services Guideline does not apply to missed IEs, which likely account for the majority of missed or cancelled appointments reported through the HCDB Standard Report. Missed IEs may be subject to contractual terms set out between individual insurers and IE providers.

The AFTF heard that claimants may be counselled by their legal advisers to avoid attending IEs, and noted that intentional non-attendance adds costs to the auto insurance system and increases premiums for all drivers.\(^{29}\) The AFTF recommended that insurers be allowed to collect a $500 cancellation fee from claimants who fail to attend IEs without a reasonable notice or explanation.

Critical Role of Assessments and Insurer Examinations

Assessments and IEs are important to both health care providers and insurers in evaluating and assessing eligibility and needs of claimants. Health care providers must examine and assess claimants to diagnose and recommend a proper course of treatment and assess disability.

Insurer examinations are used to respond to applications for benefits or to determine whether a claimant is, or continues to be, entitled to a benefit. Although IEs are not required to gain access to services, insurers often request an IE to substantiate certain medical and rehabilitation claims, particularly if an injured person seeks treatment beyond the MIG, is not recovering as expected, or is seeking a determination of catastrophic impairment. IEs can help prevent over-treatment and unnecessary costs.

Assessors

The DRS review noted that assessors in Ontario’s auto insurance system should be impartial, and recommended that experts should be required to certify their duty to the proposed Tribunal to provide fair, objective and non-partisan evidence.\(^{30}\) The AFTF recommended that the regulatory health colleges work together to develop professional


\(^{30}\) Ontario Automobile Insurance Dispute Resolution System Review, Final Report, 2014
standards and training, guidelines, and best practices to improve the quality of independent medical assessments of auto insurance claimants conducted by their members.  

*Stakeholder feedback*

Through consultation for this report, some stakeholders noted cost, quality and frequency concerns around assessments and examinations, as well as qualification and impartiality of assessors. The high number of IEs and other assessments appears to contribute to an adversarial climate between claimants and their auto insurers.

*Experience in Comparable Provinces*

The high cost of assessments and examinations appear to be an Ontario phenomenon. Other provinces with comparable provinces do not have similar cost pressures associated with assessments or IEs. This is likely linked to a number of structural and other differences in their auto insurance systems. As noted earlier, treatment protocols in Alberta and Nova Scotia are widely used.

In Alberta and Nova Scotia, secondary assessments or examinations regarding accident benefits claims are conducted by an Injury Management Consultant (physician, chiropractor or physical therapist) who has met criteria approved by their respective regulatory college. In Alberta, assessments regarding minor injury designation for the purpose of tort (bodily injury) claims are conducted by a Certified Examiner. Certified Examiners are physicians who have not treated or been consulted on the diagnosis or treatment of the claimant being assessed for minor injury designation, and who meet criteria approved by their regulatory college. The opinion of the Certified Examiner is accepted as prima facie evidence (accepted as correct unless proven otherwise) in court.

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Recommendation 6

Health care and insurer representatives should jointly examine and make recommendations on:

a) appropriate qualifications for auto insurance examiners
b) standards and processes in requesting, writing and delivery of auto insurance assessments and examinations
c) frequency and costs associated with auto insurance assessments and examinations, including missed or cancelled appointments

Health care and insurer representatives could examine the current $2,000 cap, the number of assessments and examinations, and mechanisms by which insurers can address missed IE costs through contractual arrangements. Improvements and controls in the quality, number and cost of assessments and examinations, including missed or cancelled appointments, could help reduce overall cost pressures in the auto insurance system.

As well, when a claim is disputed in the DRS or in court, both sides rely on their own expert medical witnesses. This compounds the assessment and IE costs in both the accident benefit system and bodily injury (tort) cases. There are no established limits for plaintiff or defendant costs for expert medical witnesses in the tort system. Associated costs may be included in plaintiff legal costs and bodily injury claim costs paid for by insurers. The bodily injury side of automobile insurance is discussed in the following section.

7.0 Bodily Injury (Tort)

In Ontario, if a person is injured in an accident, and is not at-fault for the accident, they are eligible to sue the at-fault driver for economic loss or health care expenses in excess of their accident benefit coverages and for pain and suffering, subject to certain limitations. In order to sue for excess health care expenses and for pain and suffering, the injuries of the injured person must meet a verbal threshold of permanent serious disfigurement, or permanent serious impairment of an important physical, mental, or psychological function, or, death.

A $30,000 deductible applies to court awards for pain and suffering (or $15,000 for family members under the Family Law Act). This deductible does not apply for pain and suffering awards if the damage award exceeds $100,000 (or $50,000 for family
members under the *Family Law Act*). These deductible amounts were set in 2003 and have not changed since that time.

### 7.1 Bodily Injury Claims Experience for Private Passenger Vehicles

The focus of the 2010 reforms and several ongoing initiatives has been on accident benefit costs and increasing consumer choice. This attention was prompted by the rapid rise in costs experienced between 2004 and 2010 and the reported level of abuse and fraud.

Bodily injury claim costs are the largest portion of total claim costs, increasing from about 26% of total costs in the 2010 accident year to 34% of total costs in the 2013 accident year. The overall level and frequency of bodily injury costs have increased and are now creating more pressure on the overall cost of the auto insurance system.

*Increase in Claims Costs and Frequency*\(^{32}\)

Table 5 below illustrates the increase in both the frequency and total claims costs of bodily injury (BI) claims.

Between the 2004 to the 2013 accident years, BI claims costs for private passenger vehicles increased from approximately $1.32 billion to $2.48 billion, an increase of approximately 88%. This is mainly due to a significant increase in the frequency of these claims. For the 2004 accident year, the frequency of BI claims was 0.145 per 100 vehicles. By the 2013 accident year, the frequency of BI claims increased to 0.253 per 100 vehicles. The impact on the average claim cost per vehicle for BI coverage has increased correspondingly, from $222.75 per vehicle in the 2004 accident year to $362.64 in the 2013 accident year, a jump of approximately 63%.

<table>
<thead>
<tr>
<th>Table 5 – Bodily Injury (Tort) Claims Experience for Private Passenger Vehicles</th>
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</thead>
<tbody>
<tr>
<td><strong>No. of BI Claims</strong></td>
</tr>
<tr>
<td>8,630</td>
</tr>
<tr>
<td><strong>No. of BI claims per 100 earned vehicles</strong></td>
</tr>
<tr>
<td>0.145</td>
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<tr>
<td><strong>Average cost per BI claim</strong></td>
</tr>
<tr>
<td>$153,310</td>
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<tr>
<td><strong>Average BI cost per insured vehicle</strong></td>
</tr>
<tr>
<td>$222.75</td>
</tr>
<tr>
<td><strong>Total BI claims costs</strong></td>
</tr>
<tr>
<td>$1.32B</td>
</tr>
</tbody>
</table>

\(^{32}\) All data from General Insurance Statistical Agency exhibit for private passenger vehicles.
Factors Contributing to Increases in Bodily Injury Claims Costs

The increase in BI claims costs and frequency is likely attributable to a number of factors. The deductible levels for non-pecuniary (pain and suffering) damages ($30,000 and $15,000 for Family Law Act claims) and the disappearing deductible for damages over $100,000 have eroded over time due to inflation. These levels remain unchanged from 2003. The effect of these deductible levels on decreasing awards and discouraging minor or smaller claims has diminished as a result.

The increase in BI costs may also be a result of many years of court decisions and the increasing scope of settlements weakening the impact of the verbal thresholds and deductibles. Insurers have been reporting an increase in other forms of economic or pecuniary losses being added to and included in settlements, over and above lost income and future earning capacity. These economic losses are not subject to the restriction on the right to sue by way of the verbal threshold or subject to the deductible.

Specific examples cited by auto insurers are health service provider fees and the costs of assessments. Despite the limits set out in the Professional Services Guideline and limits on assessment costs, fees and assessment costs in excess of these limits for past services are being shifted to and added to bodily injury claims and included in special damage awards.33

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33 Special damage awards include past wage loss, out of pocket expenses, past medical and rehabilitation costs, and past housekeeping expenses.
The Automobile Third Party Liability Bodily Injury Closed Claim Study in Ontario of closed 2005 accident bodily injury claims found that 31% of all special damage awards were paid for housekeeping and home maintenance expenses.\(^{34}\) As housekeeping and home maintenance costs are pecuniary or economic forms of losses, they are not subject to the restriction on the right to sue. The cost of awards for housekeeping and home maintenance expenses are likely to rise further following the 2010 reforms, as accident benefit coverage for these expenses are only available on an optional basis for non-catastrophic injuries.

The closed claim study also found that approximately 22% of gross payments for bodily injuries were for legal and associated costs, including party-and-party costs, disbursements and prejudgment interest. These legal costs were awarded by the courts or agreed upon in settlements and do not include the additional legal costs paid for by claimants, primarily in the form of contingency fee arrangements. These costs also do not include insurer legal expenses. The study also reported that insurer external counsel costs were about 9.2% of total gross payments.

Some insurers have suggested contingency fee arrangements in Ontario can range up to 40% of a final settlement. It appears that there are varying forms of contingency fee arrangements, depending on the magnitude and riskiness of the claim, including some sliding scale arrangements. Additional transparency for consumers may be needed to assist in understanding the impact and magnitude of these arrangements.

### 7.2 Comparison to Other Provinces with Privately-Delivered Auto Insurance

Despite having the most extensive limits on the right to sue among provinces with privately-delivered auto insurance, Ontario’s claims cost for BI coverage for private passenger vehicles remains one of the highest in Canada at $363 per insured vehicle in the 2013 accident year. Chart 10 compares these costs.

In Alberta, Nova Scotia, PEI, and New Brunswick, there are no thresholds or deductibles similar to those in Ontario. However, many provinces provide access to pain and suffering awards up to a capped amount for those with a minor injury. Alberta has a cap on pain and suffering awards for minor injuries of $4,777, while Nova Scotia has a similar cap of $8,213, and PEI recently introduced a $7,500 cap which is the same as New Brunswick’s cap. Unlike the other provinces with privately-delivered auto insurance, in Newfoundland and Labrador accident benefits are optional and there is no restriction on the right to sue, although there is a $2,500 deductible on awards for pain and suffering. Appendix 10 contains a summary of key tort characteristics in Canadian provinces with privately-delivered auto insurance.

Some provinces place restrictions on legal costs. New Brunswick caps contingency fees at 25% and if the matter proceeds to an appeal, the maximum percentage will increase to 30%. Alberta has various tariff limits in place on awards for legal costs.

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35 Minor injury tort caps may be subject to annual review or indexation.
Additional Cost Controls Needed for Rising Bodily Injury Costs

As noted, there are a number of factors contributing to the higher cost of BI claims in Ontario and the higher premiums being paid for this coverage.

The government has already moved to reduce bodily injury costs by passing the *Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014*, which reduces the annual rate of prejudgement interest for non-pecuniary damages from 5% to the current market condition rate of 1.3%.

**Recommendation 7**

*The government should examine and consider additional ways to address the rising cost of bodily injury claims.*

Areas to review could include expanding the scope of the verbal threshold, indexing bodily injury deductible levels to the CPI to reflect current 2014 costs, empowering consumers through greater transparency of potential legal costs, and establishing limits for legal costs.

8 Rate Approval and Risk Classification

The *Insurance Act* requires the three year review of automobile insurance to include a review of the operation of regulations made under paragraphs 35 to 36.1 of subsection 121(1) which deals with prescribed coverages and categories of auto insurance as well as accepted and prohibited risk classification systems (RCS) or elements thereof.

8.1 2010 Risk Classification System Changes

As part of the reforms implemented on September 1, 2010, several changes were made to Ontario Regulation (O. Reg.) 664 involving prescribed coverages and prohibited risk classifications.

Subsection 14.1 (2) of O. Reg. 664 included a new $500 Direct Compensation deductible to be made available to drivers. Subsection 16 (2) of O. Reg. 664 prohibited the use of accidents on or after September 1, 2010, for risk classification purposes, where the insured was 25% or less at-fault. This change was recommended in the Superintendent’s 2009 *Report on the Five Year Review of Automobile Insurance*.

There have been no significant issues since these provisions were implemented.
8.2 Initiatives and Innovations Following 2010 Reforms

Following the 2010 reforms FSCO implemented a number of significant initiatives in the rate and risk classification approval process. To facilitate these changes, FSCO consulted with the insurance industry through its standing advisory committees and the Rating and Underwriting Technical Advisory Committee (RUTAC). RUTAC, which is comprised of representatives of automobile insurers and the Insurance Brokers Association of Ontario, meets regularly and serves as a forum to discuss issues pertaining to the use of specific rating or underwriting criteria and filing procedures.

8.2.1 Usage Based Automobile Insurance

As part of the 2012 and 2013 Ontario Budgets and the government’s 2013 Cost and Rate Reduction Strategy, the government encouraged the development and use of new technologies to reward safe driving and reduce costs and premiums. Usage based insurance (UBI) relies on new methods for pricing automobile insurance by basing and varying premiums on actual driving characteristics such as distance driven, time of driving (e.g., rush hour or after dark), and how the vehicle is driven (e.g., instances of hard braking, cornering, and acceleration).

This information is typically captured by an electronic device installed in the vehicle with the insured’s express consent. The data is collected and transmitted by the insured to the insurer via personal computer or, with more recent telematics devices, the information is sent wirelessly via a third party service provider as contracted by the insurer.

UBI has the potential to capture some of the core driving behaviours that are linked to risk, such as hard braking, speeding, and rapid acceleration and to then correlate these data points with actual accident data. Drivers, in turn, have more control over their auto insurance costs, as their usage patterns and driving behaviour can directly influence their rates. In addition to savings for drivers, long-term benefits from UBI programs could include fewer accidents and less congested roads by encouraging safer and less frequent driving.

To facilitate the introduction of UBI in Ontario, FSCO consulted with the insurance industry, UBI technology providers, and privacy regulators and reviewed UBI systems used in other countries. On October 3, 2013, FSCO issued Property & Casualty Bulletin No. A-05/13 – Usage Based Insurance Pricing In Ontario. The Bulletin sets out clear principles and requirements that insurers must have in place in order for FSCO to review and approve UBI rate and risk filing applications. The Bulletin focuses on consumer protection, ensuring there is express consent, protection of privacy and transparency in how the information is used and accessed and how data can be transferred to other insurers.

Insurers with UBI programs follow the existing rate and RCS filing requirements. In the absence of claims experience to support UBI rates, FSCO has conditionally approved
the use of those UBI programs which meet the Bulletin requirements, giving participants a minimum of a 5% discount for enrolment. Approved UBI programs can only discount rates and cannot surcharge (i.e. increase rates due to data collected), during this conditional period. This approach will allow insurers to collect data to support the development of a more comprehensive UBI program. The conditional period will also give consumers more comfort using UBI systems while encouraging safer driving habits. Insurers may be able to use a more comprehensive UBI program after two full years of experience.

To date, 11 insurers representing about 30% of the private passenger vehicle market have received approval for UBI programs. Several other insurers have expressed interest in introducing a UBI program in the near future.

Insurance companies have provided enrollment discounts to consumers who agree to participate in a UBI program and are also offering additional discounts for good driving behaviour ranging up to 25%.

FSCO will continue to support insurers in developing and adopting ways to reward safer and less frequent driving, such as UBI programs.

8.2.2 2013 Cost and Rate Reduction Strategy

The government’s 2013 Cost and Rate Reduction Strategy set out in the 2013 Ontario Budget included several amendments to the Automobile Insurance Rate Stabilization Act, 2003 (AIRSA) that were proclaimed in force effective August 16, 2013. Section 7 of AIRSA restored the Superintendent’s authority to order insurers to file applications for approval of new rates and risk classification systems. This power was restricted under AIRSA in 2003.

On August 23, 2013, FSCO issued revised filing guidelines which were used in the fall and winter of 2013-14 by insurers ordered to file new rates. Applications were then reviewed based on all requirements, including the requirement to adequately contribute to the government’s rate reduction target.

8.2.3 Increased Transparency and Exchange of Information

To assist in facilitating the review of a large volume of rate filings and to provide more transparency, FSCO began sharing actuarial reports and summaries with the applicant company to support FSCO’s opinion where proposed rates were not consistent with statutory standards. This change was coupled with an additional opportunity for insurers to make written submissions to FSCO before a final determination was made on a rate filing. These new processes enhanced insurers’ understanding of FSCO’s analysis of rate filings and its processes in the fall and winter of 2013-14, and have now been incorporated into FSCO’s regular rate filing procedures.
8.3 Prescribed Coverages

Section 14.1 of O. Reg. 664 currently requires that for collision and upset coverage and for direct compensation property damage, a deductible or amount of reduction of $500 is to apply to contracts for drivers, unless the contract provides for a different amount. These are the standard deductibles issued in Ontario auto insurance contracts unless the driver requests lower or higher deductible amounts.

For comprehensive coverage, the current deductible prescribed under O. Reg. 664 is $300, unless the contract provides for a different amount. The $300 standard deductible amount is inconsistent with the $500 standard deductible or reduction required for the other physical damage coverages.

The standard comprehensive deductible was previously increased to the current $300 level in 1996 and has not been adjusted since that time. Approximately 60% of all private passenger vehicles insured in 2013 that purchased optional comprehensive coverage have a $300 deductible.38

Recommendation 8

The government should examine and consider increasing the standard policy deductible for optional comprehensive coverage.

The standard policy deductible for optional comprehensive coverage could be increased from $300 to $500 to be in line with deductibles for other physical damage related coverages. Increasing the deductible to $500 would harmonize deductible levels to one consistent and recognizable amount for consumers. A $500 deductible would also provide some savings while also giving consumers the choice to set the deductible at an appropriate level for their individual circumstances.

8.4 Rate Approval and Risk Classification Issues Identified in Three Year Review Submissions

8.4.1 Risk Classification and Territorial Rating

Insurers must file their RCS for FSCO approval. The Insurance Act and AIRSA require risk classification systems to be just and reasonable, reasonably predictive of risk, and distinguish fairly between risks. Regulations impose restrictions on the factors an

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insurer can consider when calculating a driver’s auto insurance rate (e.g., insurers cannot use not-at-fault accidents).

RCS set out the factors that an insurer will use when determining the prices they charge for auto insurance. RCS include territories, which insurance companies identify as sharing similar risks due to traffic density, road conditions and other factors.

In approving RCS changes proposed by insurers, FSCO takes into account information such as whether proposed factors are a surrogate for prohibited factors, whether there is data to demonstrate claims cost differences associated with the factors, and whether there is an understandable link between the proposed factor and driving behaviour.

Auto insurers have been developing more detailed and complex RCS in segmenting risk. The use of predictive modeling has changed the way many automobile insurance policies are priced. Sophisticated models use detailed data sets to refine precisely how much each customer should be charged. The complexity of RCS and predictive modeling has led to increased scrutiny by FSCO to ensure compliance with legislative requirements.

Auto insurance rates are determined by a combination of factors including a driver’s personal profile (e.g., at-fault accidents, convictions, years licensed, use of the vehicle, and type of vehicle), the amount of coverage purchased, the deductible selected, location and the insurance company chosen. Actuarial principles require that the risk classification system used to assigned risks to classes that share common characteristics is based on cost. Territorial rating recognizes that all vehicles within a given territory share similar risks because of common traffic density, terrain, road conditions and infrastructure, speed limits, crime rates (as it relates to auto theft) and weather conditions.

FSCO has issued guidelines to ensure rating by territory is conducted in a fair manner. The guidelines require:

a) No more than 55 territories in the province and no more than 10 in the city of Toronto;
b) A minimum of 2,500 vehicles in each territory for statistical credibility and to avoid unfairly targeting certain risks;
c) Territories must be contiguous (i.e. insurers cannot pick out a series of isolated pockets and form a territory). Insurers generally use the first three characters of a postal code referred to as the forward sortation area, in defining territories; and,
d) When establishing a new territory, the rates may not change by more than 10% from the existing territory.

Some consumers and other groups have suggested the use of territories is unfair and should be eliminated altogether. In a jurisdiction as large as Ontario with a mix of highly urbanized and rural areas, significant climate differences, variable road quality and
traffic density, alongside other differences, eliminating territories would significantly increase cross-subsidization of drivers in higher claims areas by those in lower claims areas.

As part of a presentation and submission made to the Standing Committee on General Government on April 15, 2013, FSCO analyzed the impact of removing territorial rating, resulting in all drivers in the province paying the same premium. The analysis found there would be significant cross-subsidization in communities across the province. Average private passenger premiums in the GTA would see a reduction of 24% while other communities in the province could experience increases ranging up to 41%.39

Insurance companies, on the other hand, have recommended fewer restrictions on territorial rating so that they can more accurately reflect risk and claims experience in rates. Companies have recommended increasing the current limit on the number of territories as well as eliminating other restrictions such as ensuring territories are contiguous. In response to filings ordered by the Superintendent in the second half of 2013 and early 2014, a number of insurers proposed changes to territories that did not comply with FSCO guidelines and were rejected.

Although further precision and refinement in the allocation of risk and claims experience may increase accuracy and decrease cross-subsidization, it may also decrease consumer confidence in the use of territorial rating, particularly in communities where it is perceived certain neighbourhoods are being unfairly targeted.

FSCO’s current guidelines for the use of territories appear to be an appropriate balance between pricing risks accurately and ensuring rating by territory is conducted in a fair manner.

8.4.2 Prior Approval of Rates and Risk Classification Systems

As noted earlier, FSCO is required to approve each insurance company’s auto insurance rates and RCS and any changes to rates and RCS. If an auto insurer wants to make a rate change, either upwards or downwards, it must file an application with FSCO. As well, if an insurer proposes changes to its RCS, by either introducing new rating factors, or changing the manner in which an RCS factor is used in determining rates, it must file an application. Between July 1, 2013 and September 30, 2014, FSCO approved auto insurance rates that were almost 4.8% lower, on average, than the rates originally proposed in companies’ rate filing applications. The approval process, in conjunction with amendments to AIRSA in August 2013, has resulted in an additional estimated savings of almost a half a billion dollars in private passenger auto insurance premiums, for rate approvals from July 1, 2013 to September 30, 2014.

A number of insurers have proposed moving from the current prior approval system, where rates and RCS must be approved by FSCO before they can be used, to a "file and use" system. Under a file and use system, filings generally require less actuarial information and data to support a rate or RCS change, and are deemed to be approved in a specified number of days after submission. Insurers believe this process would decrease delays and costs in approving rates and promote more competition and innovation among insurance companies.

Although there may be differences, all Canadian provinces with privately-delivered auto insurance require prior approval of private passenger vehicle insurance rates and RCS. File and use rate filing systems are used in a number of U.S states.

On September 12, 2014, FSCO issued revised simplified rate filing guidelines for rate decreases as well as small increases in specific situations following a rate decrease. This simplified process allows companies to adjust rates upwards following a rate decrease where there is a change or adverse development in market conditions and may encourage companies to move forward more rapidly with rate decreases.

8.5 Summary of Rate Approval and Risk Classification

The regulations around prescribed coverages and categories as well as accepted and prohibited RCS or elements, together with the provisions outlined in sections 410 to 417 of the Insurance Act that are not part of the scope of this review, provide a comprehensive framework to respond to a wide array of rate and risk classification practices that have and continue to emerge. Additionally, AIRSA contains provisions specific to private passenger automobile insurance filings that reinforce the just and reasonable requirements for rates and RCS. It also provides the Superintendent with additional powers to require insurers to make rate filings, vary one or more elements of proposed RCS or vary their rates, and contribute to the achievement of an industry-wide average rate reduction target. No additional changes are recommended at this time.

9 Stakeholder Feedback

Between December 17, 2013 and March 31, 2014, stakeholders were invited to provide comments and suggestions on how to ensure a stable, sustainable and competitive auto insurance system. Sixty-three (63) submissions were received from stakeholders including consumers, an association of motor vehicle accident victims, insurance industry representatives, health care provider organizations, legal representatives or associations, and other interested parties.

All groups appeared to agree on certain core objectives of Ontario’s auto insurance system, such as insurance affordability and compensation for eligible claimants. However, few areas of consensus emerged across stakeholder groups around how to achieve an appropriate balance of objectives.
While stakeholders recognized the importance of affordability, opinions diverged on how to address cost pressures in the auto insurance system. An association of legal representatives for plaintiffs suggested reductions in system complexity and insurer examinations, while insurers generally favoured measures such as continuing anti-fraud efforts and transformation of the DRS, as well as reducing mandatory accident benefits and reforming the tort system.

Thirty-four (34) submissions, more than half of all submissions, were received from individual consumers. Recurring consumers comments were heard around the affordability of auto insurance, fairness of insurer claims handling practices (unsupported or excessive denials), fairness of insurer rating practices, and the insurer examination process (unqualified and partisan assessors, inadequate examinations and intrusiveness).

**Consumer Choice and Control over Auto Insurance Costs**

Some insurers suggested giving drivers even greater flexibility in designing their own auto insurance product through reducing the package of mandatory accident benefits while allowing drivers to purchase additional coverage levels. Insurers also suggested measures to contain bodily injury (tort) costs. However, some health care provider organizations, an association of motor vehicle accident victims, and an association of legal representatives for plaintiffs suggested that current accident benefit coverages and limits should be maintained or increased.

**Assessments and Examinations**

Stakeholders commented on the cost, quality, and fairness of examinations and assessments, as well as assessor standards and impartiality. Some consumers and health care provider organizations, as well as an association of legal representatives for plaintiffs commented on assessor impartiality and standards and/or the costs, fairness and intrusiveness of insurer examinations. Insurers noted issues around financial limitations on insurer examinations, the need for greater transparency between both sides and the cost of cancellation fees where claimants do not attend insurer examinations.

**Insurer Claims Adjustment and Handling Practices**

Some consumers, health care provider organizations, and an association of legal representatives for plaintiffs commented on the fairness and consistency of insurer adjustment and claims handling practices – particularly around the MIG and unexplained or unsupported denials. Several of these commenters recognized the role of insurer adjustment and claims handling in reducing fraud, but stated this should not be at the expense of legitimate claimants.

As noted earlier, the DRS review commented that some insurer adjustment and claim handling practices, such as high case loads and insufficient adjuster training, might
impact the DRS system. It also noted a focus on cash settlements instead of appropriate treatment, linked partly to insurer inclination for cost certainty and claim settlement on a full and final basis.

**FSCO Follow-Up to CEO Attestations**

One of the changes announced in the 2011 Ontario Budget was a requirement for the CEO or most senior official responsible for an insurer’s operations in Ontario to sign an attestation annually. The attestation specifies that an insurer has SABS cost controls in place to address fraud and abuse, that these are effective and reviewed regularly; and, that insurers treat legitimate claimants fairly in accordance with the law. In light of comments received on insurer claims, adjustment and handling practices, it is noteworthy to highlight FSCO’s market conduct activities in response to these attestations. As a follow-up to these attestations, in 2012 FSCO began using a SABS market conduct assessment questionnaire for all insurers who write automobile business in Ontario over four phases. Risk-based on-site reviews of select companies are being conducted.

In Phase One, 34 auto insurance companies representing about 65% of the Ontario private passenger vehicle insurance market share completed the SABS questionnaire. A report on Phase One activities, which is available on FSCO’s website, found that most companies surveyed had sufficient policies in place to ensure sound business practices of good governance over SABS claims handling. However, the report identified potential issues with company monitoring and reporting on the MIG and assessment expenses to ensure files do not exceed prescribed thresholds, as well as insurers having a lack of statistical evidence to compare actual results with performance benchmarks. The report also recommended that companies maintain and regularly review statistics for potential fraudulent or suspicious claims, and analyze information from employee/customer surveys, complaints or other feedback for possible trends or pervasive issues.

The report also noted that some companies appear to be outsourcing some or all claims handling functions to third parties. Insurers remain accountable for fair treatment of legitimate claimants through compliance with all regulatory requirements. In such cases, insurers are strongly recommended to have written agreements with third-party adjusters or companies to not only confirm compliance with regulatory requirements, but also consistency with internal insurer policies and practices. Insurers should also monitor the performance of outsourced functions and/or activities.

As part of FSCO’s oversight activities of the auto insurance sector, FSCO also evaluates, investigates, and takes action where warranted on potential violations of requirements in the *Insurance Act* and related regulations. Most complaints received about auto insurance do not result in a finding of contravention of the law. FSCO also monitors trends on auto insurance complaints received, including those about claims and settlement activities. Internal FSCO data shows that claims and settlement complaints for private passenger vehicles have decreased from 372 in 2011 to 160 in
2013. This corresponds with a drop from 73% (2011) to 49% (2013) out of all private passenger auto insurance related complaints. The most frequent claims and settlement complaints include claims procedures (e.g., timeliness of SABS payments, treatment plans, assessment fees), delays in settlement, and refusal of claims.

Recommendation 9

Insurance industry associations should conduct an industry-wide review of auto insurance claims adjustment and handling policies, practices and performance.

As part of this industry-wide review, insurance industry associations should seek input from insurers, health care providers, legal representatives and consumers to identify issues, develop recommendations, and implement a strategy to improve auto insurance claims adjustment and handling. This industry-wide review should consider adjuster training and experience standards, adjuster case loads, agreements with all third-party adjusters or companies, and better SABS claims tracking on fraud, MIG, and assessment expenses.

10 Other Issues Identified in Three Year Review Submissions

10.1 Use of Electronic Documents

A number of insurers have recommended FSCO allow greater use of the electronic delivery of policy documents to insureds. Some companies have also recommended the use of electronic insurance cards or “pink slips” for use as proof of insurance.

Ontario’s *Electronic Commerce Act, 2000*, already enables auto insurers and others doing business in Ontario to implement electronic document delivery and electronic counterparts to traditional written documents and written signatures, provided certain functional equivalency rules are followed. FSCO has encouraged the use of electronic transactions to both improve efficiency and consumer satisfaction. FSCO was involved in the Uninsured Vehicles Project which was a joint program between the Ontario Ministry of Transportation (MTO) and the insurance industry. In 2011 it was implemented and rebranded as the Insurance Validation Program. Now, auto insurance can be verified on-line when a vehicle registration is being renewed through MTO. The initiative is assisting in reducing fraud, improving road safety and contributing to fair insurance rates by reducing the number of uninsured vehicles on Ontario’s roads. MTO has expanded access to this database to police services to permit roadside verification of insurance coverage.
FSCO has also been working with the Canadian Council of Insurance Regulators (CCIR), the inter-jurisdictional association of Canadian insurance regulators, to review the use of electronic communications and transactions between insurers and consumers. CCIR established an Electronic Commerce Committee to review the use of electronic communications and transactions between insurers and consumers and consider risks to consumers, regulatory gaps, and legislative and regulatory issues arising from current and possible future applications of electronic commerce.


With respect to the use of electronic automobile insurance cards, the primary concern is the production and use of fraudulent insurance cards or images on electronic devices. Technological solutions appear to exist to address these concerns and have been implemented in some U.S. jurisdictions. Implementation of similar changes in Ontario requires further consultation with the insurance industry, the Ministry of Transportation, police forces and inter-jurisdictional regulators through CCIR.

FSCO will continue to work with CCIR, stakeholders and other government agencies to facilitate and expand the use of electronic commerce in auto insurance.

### 10.2 Taxis and Rental Vehicles

In 2013, FSCO received complaints regarding the non-renewal of a large number of taxi insurance policies and the subsequent limited availability of insurance for taxi cabs in the regular insurance market in Hamilton and other areas of southwestern Ontario. During this period, FSCO and the Ministry of Finance met with the insurance and taxi industry to monitor this issue and review marketplace solutions with key industry participants. Many of these taxis were able to find insurance coverage in the regular market through fleet or individually rated policies.

Taxi insurance, including insurance for limousines that are not subject to the Public Vehicles Act, 1990, is a specialty market that is offered through a small number of insurers. Some companies operate as fleets where insurance is provided through a fleet insurance program. The remainder obtain insurance directly from insurers as part of this specialty market. Insurance for taxis is also available through the Facility Association (FA) to all owners and drivers who are unable to obtain automobile insurance through the voluntary insurance market. The rates and RCS for taxis, limousines and other public vehicles, where written on a non-fleet basis, must be filed and approved for use by FSCO.
Due to the nature of the business, taxis are considered a high risk. Factors contributing to the severe risk exposure of taxi cabs include:

a) The size of the territory in which the vehicle operates;
b) The number of hours the vehicles are on the road (some vehicles are on the road 24 hours a day);
c) The number of drivers using the vehicle; and,
d) Exposure to passenger claims.

In addition, the taxi market has some unique features where it is subject to municipal licensing processes and some municipalities have their own requirements which may affect insurance costs and availability. In some cases, a taxi plate owner may not be the owner of the taxi and that person may not be the actual driver or one of the drivers of the taxi.

The issue around the high costs and availability of taxi insurance in the voluntary market is not unique to Ontario. In New Brunswick, Nova Scotia, PEI, and Newfoundland and Labrador, insurance for taxis is obtained primarily through the FA. In these provinces, the FA services approximately 96% to 99% of the taxi business. In Alberta, approximately 44% of written taxi premiums were provided by the FA. In Ontario, taxis appeared to fare better with taxis in the FA accounting for approximately 16% of total written taxi premiums in 2013.40

As part of this review, a number of submissions focused on possible changes to improve the availability and price of taxi insurance. One submission suggested that the loss transfer provisions dealing with accident benefits costs involving motorcycles and heavy trucks be expanded to included taxis. Under this proposal, passengers of taxis injured in accident who do not have access to their own automobile insurance policy would have accident benefit costs in excess of $2,000 transferred to the other at-fault vehicle.

Another issue identified in a submission is the inability of consumers who rent vehicles to purchase higher levels of bodily injury coverage. Currently, higher optional coverages are only available to renters who have higher coverage through their own vehicle policies. Tourists from other jurisdictions and renters who do not own a vehicle have no options for higher coverages.

Greater input from the insurance industry and affected groups is needed to further review and identify possible actions that can be taken to address these concerns.

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Recommendation 10

Automobile insurers, brokers and the taxi cab industry representatives should form a committee to explore and make recommendations to expand the availability of taxi insurance and optional insurance coverages for rental vehicles.

11 List of Recommendations

1. The government should continue to closely monitor Ontario’s auto insurance system, claims costs, and activity of participants in the system and make timely legislative and regulatory changes to address emerging problems, issues or areas of rising costs.

2. All participants in the auto insurance system have a responsibility to continue to focus on reducing and controlling auto insurance costs and dealing with the ongoing challenges associated with fraud and misuse of the system.

3. The government should examine and consider the accident benefits structures of comparable auto insurance systems in Canada that have lower costs.

4. The government should examine and consider giving consumers more flexibility and choice to buy coverage options that reflect their individual circumstances and needs.

5. The Ministry of Finance and FSCO should work with experts to develop a program to educate consumers and auto insurance stakeholders about expectations for treatment and recovery following a motor vehicle accident.

6. Health care and insurer representatives should jointly examine and make recommendations on:
   a) appropriate qualifications for auto insurance examiners
   b) standards and processes in requesting, writing and delivery of auto insurance assessments and examinations
   c) frequency and costs associated with auto insurance assessments and examinations, including missed or cancelled appointments
7. The government should examine and consider additional ways to address the rising cost of bodily injury claims.

8. The government should examine and consider increasing the standard policy deductible for optional comprehensive coverage.

9. Insurance industry associations should conduct an industry-wide review of auto insurance claims adjustment and handling policies, practices and performance.

10. Automobile insurers, brokers and the taxi cab industry representatives should form a committee to explore and make recommendations to expand the availability of taxi insurance and optional insurance coverages for rental vehicles.
Appendix 1

This review is a consolidation of three previous statutory reviews:

- A five-year review of Part VI of the Insurance Act (Automobile Insurance) and related regulations;
- A three-year review of the operation of regulations prescribing or prohibiting coverages and categories of auto insurance, and regulations governing prescribed or prohibited risk classification systems or elements of a risk classification systems; and,
- A two-year review of the Statutory Accidents Benefits Schedule (SABS).

Part VI includes provisions that deal with approval of forms, motor vehicle liability policies, statutory conditions, direct compensation for property damage, court proceedings, and dispute resolution. Regulations under Part VI include the Statutory Accident Benefits Schedule (SABS), uninsured automobile coverage, fault determination rules, disputes between insurers, court proceedings and coverages and categories of automobile insurance and risk classification systems.

Section 289 of the *Insurance Act* requires:

- The Superintendent to undertake a review at least every three years or more often at the request of the Minister of the following matters:

  1. Part VI (Automobile Insurance) and any related regulations, excluding those made under the paragraphs of subsection 121 (1) that are referred to in paragraph 2.
  2. A review of the operation of such regulations made under paragraphs 35, 36 and 36.1 of subsection 121 (1) as the Minister may request.

- The Superintendent to give a report to the Minister setting out the results of the review, any recommendations made by the Superintendent and such other information as the Minister may request.
- The Minister to lay the Superintendent’s report before the Assembly at the earliest reasonable opportunity.
- The Superintendent to begin a review under this section no later than 2013.

Paragraphs 35, 36, and 36.1 under subsection 121(1) are:

- 35. prescribing coverages and categories of automobile insurance that may be provided by insurers and prescribing coverages and categories of automobile insurance that insurers are prohibited from providing;
- 36. prescribing a risk classification system or elements of a risk classification system that must be used by insurers or a class of insurers in classifying risks for a coverage or category of automobile insurance; and,
- 36.1 prescribing elements of a risk classification system that insurers or a class of insurers are prohibited from using in classifying risks for a coverage or category of automobile insurance.
### Appendix 2

**Ontario Private Passenger Auto (PPA) Insurance Claims and Costs for Select Coverages**

#### Ontario PPA Accident Benefits coverage – claims and costs

<table>
<thead>
<tr>
<th>Accident Year</th>
<th>Insured Vehicles</th>
<th>Claims</th>
<th>Claims per insured vehicle</th>
<th>Claim Costs</th>
<th>Average cost per claim</th>
<th>Cost per insured vehicle</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>6,492,051</td>
<td>73,564</td>
<td>1.13%</td>
<td>$3,814,395,697</td>
<td>$51,851</td>
<td>$587.55</td>
</tr>
<tr>
<td>2010</td>
<td>6,563,999</td>
<td>79,882</td>
<td>1.22%</td>
<td>$3,783,673,464</td>
<td>$47,366</td>
<td>$576.43</td>
</tr>
<tr>
<td>2011</td>
<td>6,666,669</td>
<td>67,626</td>
<td>1.01%</td>
<td>$2,128,027,644</td>
<td>$31,468</td>
<td>$319.20</td>
</tr>
<tr>
<td>2012</td>
<td>6,774,926</td>
<td>62,840</td>
<td>0.93%</td>
<td>$1,919,708,363</td>
<td>$30,549</td>
<td>$283.35</td>
</tr>
<tr>
<td>2013</td>
<td>6,856,005</td>
<td>67,541</td>
<td>0.99%</td>
<td>$2,146,822,685</td>
<td>$31,786</td>
<td>$313.13</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>33,353,650</strong></td>
<td><strong>351,453</strong></td>
<td><strong>1.05%</strong></td>
<td><strong>$13,792,627,854</strong></td>
<td><strong>$39,245</strong></td>
<td><strong>$413.53</strong></td>
</tr>
</tbody>
</table>

#### Ontario PPA Bodily Injury (tort) coverage – claims and costs

<table>
<thead>
<tr>
<th>Accident Year</th>
<th>Insured Vehicles</th>
<th>Claims</th>
<th>Claims per insured vehicle</th>
<th>Claim Costs</th>
<th>Average cost per claim</th>
<th>Cost per insured vehicle</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>6,494,909</td>
<td>14,447</td>
<td>0.22%</td>
<td>$2,015,451,373</td>
<td>$139,508</td>
<td>$310.31</td>
</tr>
<tr>
<td>2010</td>
<td>6,564,581</td>
<td>16,726</td>
<td>0.25%</td>
<td>$2,168,353,395</td>
<td>$129,642</td>
<td>$304.68</td>
</tr>
<tr>
<td>2011</td>
<td>6,651,810</td>
<td>13,789</td>
<td>0.21%</td>
<td>$2,026,669,682</td>
<td>$146,980</td>
<td>$318.77</td>
</tr>
<tr>
<td>2012</td>
<td>6,767,425</td>
<td>14,420</td>
<td>0.21%</td>
<td>$2,157,263,376</td>
<td>$149,603</td>
<td>$325.00</td>
</tr>
<tr>
<td>2013</td>
<td>6,850,664</td>
<td>17,334</td>
<td>0.25%</td>
<td>$2,484,295,369</td>
<td>$143,319</td>
<td>$362.64</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>33,329,390</strong></td>
<td><strong>76,715</strong></td>
<td><strong>0.23%</strong></td>
<td><strong>$10,852,033,196</strong></td>
<td><strong>$141,459</strong></td>
<td><strong>$325.00</strong></td>
</tr>
</tbody>
</table>

#### Ontario PPA Collision coverage (all deductibles) – claims and costs

<table>
<thead>
<tr>
<th>Accident Year</th>
<th>Insured Vehicles</th>
<th>Claims</th>
<th>Claims per insured vehicle</th>
<th>Claim Costs</th>
<th>Average cost per claim</th>
<th>Cost per insured vehicle</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>4,386,979</td>
<td>128,209</td>
<td>2.92%</td>
<td>$665,156,493</td>
<td>$6,427</td>
<td>$151.62</td>
</tr>
<tr>
<td>2010</td>
<td>4,422,614</td>
<td>120,531</td>
<td>2.73%</td>
<td>$664,553,484</td>
<td>$6,730</td>
<td>$150.26</td>
</tr>
<tr>
<td>2011</td>
<td>4,480,513</td>
<td>120,826</td>
<td>2.70%</td>
<td>$697,111,402</td>
<td>$6,955</td>
<td>$155.59</td>
</tr>
<tr>
<td>2012</td>
<td>4,563,920</td>
<td>116,328</td>
<td>2.55%</td>
<td>$683,932,694</td>
<td>$7,089</td>
<td>$149.86</td>
</tr>
<tr>
<td>2013</td>
<td>4,634,796</td>
<td>126,760</td>
<td>2.73%</td>
<td>$762,421,873</td>
<td>$6,942</td>
<td>$164.50</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>22,488,822</strong></td>
<td><strong>612,654</strong></td>
<td><strong>2.72%</strong></td>
<td><strong>$3,473,175,946</strong></td>
<td><strong>$6,826</strong></td>
<td><strong>$154.44</strong></td>
</tr>
</tbody>
</table>
## Ontario PPA Comprehensive (all deductibles) coverage – claims and costs per insured vehicle

<table>
<thead>
<tr>
<th>Accident Year</th>
<th>Insured Vehicles</th>
<th>Claims</th>
<th>Claims per insured vehicle</th>
<th>Claim Costs</th>
<th>Average cost per claim</th>
<th>Cost per insured vehicle</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>4,937,658</td>
<td>141,235</td>
<td>2.86%</td>
<td>$334,155,457</td>
<td>$2,366</td>
<td>$67.67</td>
</tr>
<tr>
<td>2010</td>
<td>4,978,508</td>
<td>116,776</td>
<td>2.35%</td>
<td>$259,126,622</td>
<td>$2,219</td>
<td>$52.05</td>
</tr>
<tr>
<td>2011</td>
<td>5,035,145</td>
<td>155,790</td>
<td>3.09%</td>
<td>$321,304,204</td>
<td>$2,062</td>
<td>$63.81</td>
</tr>
<tr>
<td>2012</td>
<td>5,110,808</td>
<td>150,530</td>
<td>2.95%</td>
<td>$315,419,558</td>
<td>$2,095</td>
<td>$61.72</td>
</tr>
<tr>
<td>2013</td>
<td>5,170,879</td>
<td>144,692</td>
<td>2.80%</td>
<td>$315,199,980</td>
<td>$2,178</td>
<td>$60.96</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>25,232,998</strong></td>
<td><strong>709,023</strong></td>
<td>2.81%</td>
<td><strong>$1,545,205,821</strong></td>
<td><strong>$2,179</strong></td>
<td><strong>$61.24</strong></td>
</tr>
</tbody>
</table>


Costs = insurer incurred claim costs and adjustment expenses projected to ultimate values using GISA factors.

Insured vehicles = earned vehicles.
## Appendix 3

### Ontario's Automobile Insurance Coverages

<table>
<thead>
<tr>
<th>Mandatory Coverages</th>
<th>Optional Coverages</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Third-Party Liability</strong></td>
<td><strong>Third-Party Liability</strong></td>
</tr>
<tr>
<td>• Pays for legal claims as a result of lawsuits for excess economic damages and pain and suffering</td>
<td>• Higher limits for third-party liability coverage available; coverage in most policies is $1 million</td>
</tr>
<tr>
<td>• Minimum coverage by law is $200,000</td>
<td>• Lower mandatory deductible</td>
</tr>
<tr>
<td>• Court awards for pain and suffering include policy deductible amounts</td>
<td><strong>Direct Compensation</strong></td>
</tr>
<tr>
<td></td>
<td>• Various deductibles, including $0</td>
</tr>
<tr>
<td><strong>Statutory Accident Benefits Schedule (SABS)</strong></td>
<td><strong>Collision</strong></td>
</tr>
<tr>
<td>• Provides benefits, if a person is injured in an accident, regardless of who caused the accident.</td>
<td>• Coverage for repairs to an insured vehicle for the portion that the insured driver is at-fault, various deductibles</td>
</tr>
<tr>
<td>• Includes medical and rehabilitation, income replacement, attendant care, death and funeral coverages</td>
<td><strong>Comprehensive</strong></td>
</tr>
<tr>
<td></td>
<td>• Pays for losses from theft, fire and non-collision damage, various deductibles</td>
</tr>
<tr>
<td><strong>Direct Compensation</strong></td>
<td><strong>Optional Accident Benefits</strong></td>
</tr>
<tr>
<td>• Covers damage to an insured vehicle to the extent that another driver was at-fault for the accident</td>
<td>• Can include higher limits for standard Accident Benefits coverages, indexation or coverages such as housekeeping and caregiving</td>
</tr>
<tr>
<td><strong>Uninsured Automobile Coverage</strong></td>
<td><strong>Other Optional Coverages</strong></td>
</tr>
<tr>
<td>• Protects drivers from damage caused by an uninsured motorist</td>
<td>• Such as the cost of a rental vehicle during repair of an insured vehicle</td>
</tr>
</tbody>
</table>
Appendix 4

Evolution of Auto Insurance in Ontario

Successive governments have had to respond to rising costs of auto insurance and re-establish an appropriate balance between price and coverages through various reforms. The principal focus of many of these reforms has involved the right to sue (the tort system) and the accident benefits structure. Following is a description of how the system has evolved over the past 25 years.

Late 1980s

In the mid-1980s the Ontario Task Force on Insurance, headed by Dr. David Slater, was appointed to study problems of availability, affordability and adequacy of general liability insurance in Ontario.

The Slater Task Force released its report in May of 1986. Although the focus of the Slater Task Force was primarily on forms of liability insurance other than auto, Dr. Slater did make some recommendations concerning auto insurance and the issue of tort reform.

In November of 1986 the government appointed the Honourable Justice Coulter Osborne to conduct a review of the tort system for compensation for injuries in automobile accidents and the consequences of the implementation of a no-fault automobile accident scheme.

The Report of Inquiry into Motor Vehicle Accident Compensation in Ontario (Osborne Report) by the Honourable Mr. Justice Coulter Osborne was released in 1988. However, costs continued to rise due primarily to the costs of litigation and court awards. The government requested that a reference hearing be held by the Ontario Automobile Insurance Board in 1989 on no-fault systems. This led the Liberal government to implement reforms in 1990 that were commonly known as the Ontario Motorist Protection Plan (OMPP).

1990 – Ontario Motorist Protection Plan

The OMPP represented a fundamental shift in focus from the primary delivery of compensation through the tort system to compensation primarily being paid directly for physical damage and no-fault accident benefits for injuries. In exchange for these no-fault accident benefits, access to the right to sue for damages for both economic loss and pain and suffering was restricted to cases involving death or injuries that were permanent, serious and physical in nature. The changes also adopted a number of recommendations set out in the Osborne Report. In addition, a system for rate approvals was introduced along with a mediation and arbitration system for disputes between claimants and insurance companies. This was delivered outside of the courts through the Ontario Insurance Commission (the predecessor to FSCO).
1994 – Bill 164

In September 1990, a New Democratic government was elected. Its platform had included the establishment of a public auto insurance system. In September 1991, the government decided not to proceed with a government-run system and instead implemented an expanded accident benefits schedule in January 1994, through Bill 164 (Insurance Statute Law Amendment Act). The reforms significantly expanded the level and access to accident benefits while eliminating the right to sue for economic damages and expanded access to sue for pain and suffering for serious injuries. An increase in costs and in premiums followed.

1996 – Bill 59

Following the election of the Progressive Conservative Party in 1995, the government reintroduced the right to sue for economic losses and continued limited access to court for pain and suffering with a $15,000 deductible. The mandatory medical and rehabilitation coverage was also reduced to $100,000 for non-catastrophic injuries and $1,000,000 for catastrophic injuries. Other changes included the ability for the Commissioner of Insurance (predecessor to the Superintendent of Financial Services) to issue fee schedules for health care providers and services, and the requirement for providers to submit treatment plans and seek prior approval before commencing treatment. While costs and premiums stabilized initially after 1996, by 2000 costs had again risen substantially.

2003 Reforms

In response to the sharp increase in the costs of both accident benefits and court settlements, premiums increased significantly up to and through 2003 triggering action by government. In 2003, a number of significant reforms were implemented including Bill 198, Keeping the Promise for a Strong Economy Act (Budget Measures), 2002, introduced by the Progressive Conservative government. These reforms:

a) Introduced a Pre-approved Framework (PAF) guideline for the treatment of whiplash injuries, which accounted for the majority of automobile insurance medical and rehabilitation claims. A limit was set on the amount that could be billed without prior approval;
b) Reduced the maximum hourly rate by 30% for most health care providers by issuing professional fee guidelines;
c) Expanded the right to sue for excess health care expenses;
d) Doubled the deductible for court awards for pain and suffering to $30,000 (and $15,000 for family members for Family Law Act awards); and,
e) Initiated a regular review of the automobile insurance system every five years to be conducted by the Superintendent of Financial Services and to be reported back to the Minister of Finance.
Later in 2003, the new Liberal government introduced the *Automobile Insurance Rate Stabilization Act, 2003* (Bill 5), as a temporary measure to freeze auto insurance rates and then facilitate a rate reduction of 10%.

As with most previous cycles, the reforms were initially followed by a reduction in premiums and more stable costs. However, premiums again began to rise in 2008, although the average nominal premium only returned to the 2003 level by the end of 2009.

Rising costs and premiums led the government to address the design of the auto insurance product utilizing recommendations set out by the Superintendent in the *2009 Report on the Five Year Review of Automobile Insurance* and other work.

**September 2010 Reforms**

In September 2010, a series of reforms were introduced which included new cost controls, a focus on evidence-based approaches to treatment and increased optional coverages available to consumers. Key changes included:

- a) Reducing standard medical coverages and standard attendant care benefit coverages (giving consumers the option to purchase additional coverages based on individual needs and budgets);
- b) Making caregiver, housekeeping and home maintenance expense coverage optional for non-catastrophic injuries;
- c) Capping the costs for assessments at $2,000 per assessment (whether initiated by an insurer or claimant);
- d) Capping treatment coverage for minor injuries at $3,500;
- e) Requiring insurers to provide claimants with statements every two months that would list the amount of remaining coverage for the medical and rehabilitation, and attendant care benefits; and,
- f) Providing more options for consumers to tailor their coverages according to their needs.
## Appendix 5

### Comparison of Key Accident Benefit and Tort Changes of September 1, 2010 to Previous System

<table>
<thead>
<tr>
<th></th>
<th>Previous System</th>
<th>Reforms Effective September 1, 2010</th>
</tr>
</thead>
</table>
| **Income Replacement Benefit (IRB)** | • 80% of net income to $400/week after 1 week of disability  
• First 104 weeks test is “substantial inability to perform tasks of his or her pre-accident employment”  
• Benefit limited to 12 weeks after accident for whiplash associated disorders (WAD) I injuries and 16 weeks for WAD II | • 70% of gross income to $400/week after 1 week of disability  
• First 104 weeks test is “substantial inability to perform tasks of his or her pre-accident employment” |
| **Optional IRB**     | • Optional benefit provides for up to $600, $800 or $1,000 per week             | • No change                                                                                      |
| **Non-Earner Benefit** | • $185/week after 26 weeks of disability  
• Test is “completely unable to carry on a normal life” and either does not qualify for IRB, is a full time student, or graduated in the past year but not employed | • No change                                                                                      |
| **Caregiver Benefit** | • $250/week for first person in need of care and $50 for each additional person, flat amounts  
• First 104 weeks test is “substantial inability to engage in caregiving activities”  
• After 104 weeks benefit continues to be paid if “complete inability to carry on normal life” | • Under standard policy payable only to individuals with catastrophic impairments  
• Up to $250/week for the first person in need of care and $50 for each additional person, expense driven |
| **Optional Caregiver Benefit** | • $325/week for the first person in need of care and $75 for each additional person | • Available as an optional benefit for non-catastrophic injuries                                   |
| **Housekeeping and Home Maintenance Expenses** | • $100/week for 104 weeks for non-catastrophic impairments  
• $100/week lifetime for catastrophic impairments | • Under standard policy payable only to individuals with catastrophic impairments  
• Available as an optional benefit for non-catastrophic injuries, for up to 104 weeks |
| **Medical and Rehabilitation Benefits** | • $100,000 maximum over 10 years or to age 25 if under 15  
• $1 million lifetime maximum for catastrophic impairments  
• Goods and services require prior | • $50,000 maximum over 10 years or to age 25 if under 15  
• $1 million lifetime maximum for catastrophic impairments  
• $3,500 maximum for minor |

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## Comparison of Key Accident Benefit and Tort Changes of September 1, 2010 to Previous System

<table>
<thead>
<tr>
<th>Previous System</th>
<th>Reforms Effective September 1, 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>approval (within 10 days) by insurer except emergency ambulance services</td>
<td>injuries which include a sprain, strain, whiplash disorder, contusion, abrasion, laceration, subluxation and any clinical associated sequelae</td>
</tr>
<tr>
<td>No prior approval required for WAD I or II injuries treated under a Pre-approved Framework Guideline</td>
<td>Goods and services require prior approval (within 10 days) by insurer except emergency ambulance services, prescription drugs and goods under $250</td>
</tr>
<tr>
<td>WA D I or II injuries treated under a Pre-approved Framework Guideline</td>
<td>No prior approval required for minor injuries treated under a Minor Injury Guideline</td>
</tr>
<tr>
<td>Goods and services require prior approval (within 10 days) by insurer except emergency ambulance services, prescription drugs and goods under $250</td>
<td></td>
</tr>
<tr>
<td>No prior approval required for minor injuries treated under a Minor Injury Guideline</td>
<td></td>
</tr>
</tbody>
</table>

### Attendant Care Benefit

- Up to $3,000/month for incurred expenses with an overall maximum of $72,000 in the first 104 weeks
- Up to $6,000/month for incurred expenses with a lifetime maximum of $1 million for catastrophic impairments
- No attendant care benefit payable for WAD I or II injuries
- Up to $3,000/month for incurred expenses with an overall maximum of $36,000 in the first 104 weeks
- Optional benefit of $72,000 available
- Up to $6,000/month for incurred expenses with a lifetime maximum of $1 million for catastrophic impairments
- No attendant care benefit payable for minor injuries
- Incurred expenses defined as services received from an attendant in the course of their employment or from a person who sustains an economic loss while providing the services

### Optional Medical, Rehabilitation and Attendant Care Benefit

- Up to $1,100,000 lifetime for medical and rehabilitation expenses and $1,072,000 lifetime for attendant care expenses (but no more than $1,172,000 in combined expenses) for non-catastrophic impairments
- Up to $2 million lifetime for medical and rehabilitation expenses and $2 million lifetime for attendant care expenses (but no more than $3 million in combined expenses) for catastrophic impairments
- Optional benefits of $100,000 and $1 million combined with attendant care available
- Another higher level of optional benefits from previous system still available
### Comparison of Key Accident Benefit and Tort Changes of September 1, 2010 to Previous System

<table>
<thead>
<tr>
<th></th>
<th>Previous System</th>
<th>Reforms Effective September 1, 2010</th>
</tr>
</thead>
</table>
| **Medical Assessments and Examinations requested by insured** | • Insured requested assessments not subject to monetary limits but subject to prior approval (within 3 days) by insurer if over $200  
• Rebuttal examinations available for denial of benefits following an insurer examination capped at $900 (no cap for catastrophic impairments) | • Claimant requested assessments subject to the medical and rehabilitation monetary limit chosen by insured and requires prior approval (within 10 days) by insurer  
• Completion of listed forms (including assessments) capped at $200 by Professional Services Guideline  
• All other insured requested assessments capped at $2,000  
• Future care reports not recoverable  
• Attendant care examinations only conducted by occupational therapists and registered nurses  
• Catastrophic impairment assessments only conducted by physicians or, in the case of brain injuries, neuropsychologists  
• In-home assessments not available for minor injuries  
• No rebuttal examinations |
| **Insurer Examinations**            | • Insurer examination is required for denial of benefits for medical reasons  
• Restrictive time and geographic limits for conducting insurer examinations  
• Insurer examinations not subject to monetary limits | • Insurer examinations are discretionary  
• No time or geographic limits  
• Insurer examinations capped at $2,000 |
| **Death Benefits**                 | • $25,000 paid to surviving spouse  
• $10,000 paid to each surviving dependant  
• $10,000 paid for loss of each dependant | • No change |
| **Funeral Expenses**               | • $6,000 maximum for funeral expenses | • No change |
| **Optional Death and Funeral Benefit** | • $50,000 paid to surviving spouse  
• $20,000 paid to each surviving dependant | • No change |
| Comparison of Key Accident Benefit and Tort Changes of September 1, 2010 to Previous System |
|---------------------------------|-------------------------------------------------|
| **Previous System** | **Reforms Effective September 1, 2010** |
| $20,000 paid for loss of each dependant | | |
| $8,000 maximum for funeral expenses | | |
| **Optional Dependant Care Benefit** | Optional benefit provides $75/week for the first dependant and $25 for each additional dependant to a maximum of $150/week | No change |
| **Optional Indexation Benefit** | Optional benefit annually increases income replacement benefit, non-earner benefit, and caregiver benefit payments, medical and rehabilitation limits, and attendant care limits to changes in CPI | No change |
| **Lost Educational Expenses** | Up to $15,000 in lost educational expenses (tuition, books, equipment, room and board) | No change |
| **Visitor Expenses** | Incurred expenses for relatives (defined the SABS) while visiting insured during treatment or recovery | No change |
| **Interest** | 2% per month compounded monthly | 1% per month compounded monthly |
| **Catastrophic Impairment** | Definition includes loss of both arms, loss of both legs, or loss of an arm and a leg | Definition expanded to include the loss of an arm or leg |
| **Deductible from pain and suffering damages** | $30,000 ($15,000 for FLA claims) | Option to purchase an endorsement to reduce deductible to $20,000 ($10,000 for FLA claims) |
| | No deductible applied if general damages exceed $100,000 ($50,000 for FLA claims) | No deductible applied if general damages exceed $100,000 ($50,000 for FLA claims) |
| | No deductible for fatality claims | No deductible for fatality claims |
Appendix 6

As shown in the chart below, the demand for mediation services for accident benefit claim disputes was relatively stable until 2008 when mediation applications grew significantly until peaking in 2011. This was followed by rapid growth in the demand for arbitration services, increasing by 168% in 2012 and 2013 compared to the previous 2 years. This was related to a 92% increase in mediation case closures during the corresponding periods when several initiatives were employed to address a mediation backlog. Other factors affecting the rise in arbitration applications were a 24% increase in mediation cases not fully settled in 2013 compared to 2011, and an increase in the number of those files proceeding to arbitration. This increased from approximately 50% of unsettled mediation cases proceeding to arbitration in 2009 to about 70% in 2013.

![Changes in Accident Benefit Disputes](image)

Source: FSCO Dispute Resolution System Group.

<table>
<thead>
<tr>
<th>Legal representation of auto insurance claimants in the DRS</th>
<th>2000</th>
<th>2004</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mediation</strong></td>
<td>78%</td>
<td>97%</td>
<td>98%</td>
</tr>
<tr>
<td><strong>Arbitration</strong></td>
<td>91%</td>
<td>98%</td>
<td>99%</td>
</tr>
</tbody>
</table>

Source: FSCO Dispute Resolution System Group.
Legal Representation in the Dispute Resolution System

Data source: FSCO Dispute Resolution System Group.

Legal representation = claimants represented by law firms, licensed paralegals and SABS representatives (specialized paralegals from 2003 to 2008).
To help understand the impact on the automobile insurance system of the catastrophic impairment definition, FSCO reported on the results of a survey of insurance companies for the Superintendent’s Report on the Definition of Catastrophic Impairment in the SABS (December 15, 2011).\textsuperscript{41}

To assist in the ongoing review and understanding of the catastrophic impairment (CAT) definition, FSCO conducted a follow-up survey of insurers on the number of claimants who suffered a CAT. The survey required insurers to identify the number of CAT claimants from automobile accidents that occurred in calendar years 2002 to 2009. After 2009 the data is incomplete due to the length of time required for a CAT application to be submitted and the duration of disputes regarding the application to be resolved.

The survey only applied to private passenger vehicles and covered 22 companies which represent 79.3% of the 2013 private passenger vehicle market based on written premiums. Insurers were instructed to count a CAT claimant as a claimant who has been specifically determined as suffering a CAT or where the insurer has made reserves on the claim for the possibility of a CAT designation despite an ongoing dispute.

The figures in the table below are extrapolated to estimate the number of CAT claimants for the entire market. These figures are preliminary and may increase further with claims development and new applications.

<table>
<thead>
<tr>
<th>Accident Year</th>
<th>CAT claimants originally identified by 2011 survey</th>
<th>CAT claimants identified in 2013 survey</th>
<th>Total 2013 CAT claimants extrapolated for entire market</th>
<th>Total number of reported Accidents*</th>
<th>Total number of reported Injured Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>376</td>
<td>433</td>
<td>546</td>
<td>244,642</td>
<td>84,192</td>
</tr>
<tr>
<td>2003</td>
<td>362</td>
<td>403</td>
<td>508</td>
<td>246,463</td>
<td>77,879</td>
</tr>
<tr>
<td>2004</td>
<td>383</td>
<td>466</td>
<td>588</td>
<td>231,548</td>
<td>73,008</td>
</tr>
<tr>
<td>2005</td>
<td>457</td>
<td>537</td>
<td>677</td>
<td>230,258</td>
<td>71,850</td>
</tr>
<tr>
<td>2006</td>
<td>461</td>
<td>589</td>
<td>743</td>
<td>216,247</td>
<td>68,793</td>
</tr>
<tr>
<td>2007</td>
<td>403</td>
<td>570</td>
<td>719</td>
<td>233,487</td>
<td>67,166</td>
</tr>
<tr>
<td>2008</td>
<td>273</td>
<td>479</td>
<td>604</td>
<td>229,196</td>
<td>62,743</td>
</tr>
<tr>
<td>2009**</td>
<td>-</td>
<td>487</td>
<td>614</td>
<td>216,315</td>
<td>62,562</td>
</tr>
</tbody>
</table>

*Source: Ontario Road Safety Annual Report 2011
**2009 data incomplete for several companies

\textsuperscript{41} Superintendent’s Report on the Definition of Catastrophic Impairment, 2011
As originally reported in the Superintendent’s Report on the Definition of Catastrophic Impairment in the Statutory Accident Benefits Schedule, the data shows that while the number of accidents and personal injuries has declined, the number of CAT claimants has increased. From 2002 to 2009 the total number of CAT claims increased by approximately 12.5%. These figures were even higher in the 2005 to 2007 accident years. As illustrated by the change between the original 2011 survey (2nd column) and the 2013 survey (3rd column) the number of CAT claims may increase with further development and applications.

In addition to this survey, a review of mediation and arbitration applications where CAT is indicated also shows a significant increase in the number of disputes involving CAT. Details are contained in the tables below.

### Number of Mediation Applications involving Catastrophic Impairment

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Mediation Applications</th>
<th>Total Applications with CAT impairment indicated</th>
<th>Applications with CAT indicated</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>36,508</td>
<td>839</td>
<td>2.3%</td>
</tr>
<tr>
<td>2012</td>
<td>28,408</td>
<td>883</td>
<td>3.1%</td>
</tr>
<tr>
<td>2013</td>
<td>22,259</td>
<td>1,050</td>
<td>4.7%</td>
</tr>
<tr>
<td>2014 to End of July</td>
<td>14,859</td>
<td>759</td>
<td>5.1%</td>
</tr>
</tbody>
</table>

Source: FSCO

### Number of Arbitration Applications involving Catastrophic Impairment

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Arbitration Applications</th>
<th>Total Applications with CAT impairment indicated</th>
<th>Applications with CAT indicated</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>4,787</td>
<td>117</td>
<td>2.4%</td>
</tr>
<tr>
<td>2012</td>
<td>8,363</td>
<td>271</td>
<td>3.2%</td>
</tr>
<tr>
<td>2013</td>
<td>15,355</td>
<td>493</td>
<td>3.2%</td>
</tr>
<tr>
<td>2014 to End of July</td>
<td>6,122</td>
<td>211</td>
<td>3.5%</td>
</tr>
</tbody>
</table>

Source: FSCO

Between 2011 (the first full year where CAT application data was tracked) and 2013 the percentage of mediation applications involving CAT increased from 2.3% to 4.7%. As of July 2014, this figure further increased to 5.1% of applications. For arbitration applications, the percentage of applications involving CAT also increased from 2.4% in 2011 to 3.2% in 2013. As of July 31, 2014, 3.5% of arbitration applications indicated that CAT was an issue in dispute.
### Appendix 8

**Key Basic Accident Benefits Coverages in Canadian provinces with privately-delivered auto insurance**

<table>
<thead>
<tr>
<th>Province</th>
<th>Medical and Rehabilitation</th>
<th>Attendant Care</th>
<th>Income Replacement</th>
<th>Death &amp; Funeral</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ontario</td>
<td>$50,000 10yr cut-off or age 25 if under 15, $1,000,000 for catastrophic injuries</td>
<td>$36,000 max for first 104 weeks, $1,000,000 lifetime for catastrophic injuries</td>
<td>Up to $400 per week</td>
<td>$10,000 to $25,000, $6,000 funeral</td>
</tr>
<tr>
<td>Alberta</td>
<td>$50,000 2yr cut-off</td>
<td>No additional. Included under medical limit.</td>
<td>Up to $400 per week</td>
<td>$1,000 to $25,000, + $2,000 per dependent if death of head, $5,000 funeral</td>
</tr>
<tr>
<td>Newfoundland / Labrador</td>
<td>Optional $25,000 4yr cut-off</td>
<td>Optional No additional. Included under medical limit.</td>
<td>Optional Up to $140 per week</td>
<td>Optional $2,000 to $10,000, Optional $1,000 funeral</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>$50,000 4yr cut-off</td>
<td>No additional. Included under medical limit.</td>
<td>Up to $250 per week</td>
<td>$5,000 to $25,000, $2,500 funeral</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>$50,000 4yr cut-off</td>
<td>No additional. Included under medical limit.</td>
<td>Up to $250 per week</td>
<td>$5,000 to $50,000, + $1,000 per dependent if death of head, $2,500 funeral</td>
</tr>
<tr>
<td>Prince Edward Island</td>
<td>$50,000 4yr cut-off</td>
<td>No additional. Included under medical limit.</td>
<td>Up to $250 per week</td>
<td>$5,000 to $50,000, + $1,000 per dependent after first survivor if death of head, $2,500 funeral</td>
</tr>
</tbody>
</table>
## Appendix 9

### Average Claims Cost Per Private Passenger Vehicle ($) by Major Coverage Ontario and Other Provinces with Privately-Delivered Auto Insurance 2009 to 2013 (accident year)

<table>
<thead>
<tr>
<th></th>
<th>Ontario</th>
<th>Alberta</th>
<th>New Brunswick</th>
<th>Nova Scotia</th>
<th>Newfoundland &amp; Labrador</th>
<th>Prince Edward Island</th>
</tr>
</thead>
<tbody>
<tr>
<td>*<em>Total</em></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>$1,262</td>
<td>$769</td>
<td>$544</td>
<td>$475</td>
<td>$656</td>
<td>$403</td>
</tr>
<tr>
<td>2010</td>
<td>$1,259</td>
<td>$810</td>
<td>$519</td>
<td>$470</td>
<td>$741</td>
<td>$413</td>
</tr>
<tr>
<td>2011</td>
<td>$988</td>
<td>$771</td>
<td>$494</td>
<td>$512</td>
<td>$746</td>
<td>$431</td>
</tr>
<tr>
<td>2012</td>
<td>$949</td>
<td>$864</td>
<td>$458</td>
<td>$500</td>
<td>$793</td>
<td>$374</td>
</tr>
<tr>
<td>2013</td>
<td>$1,060</td>
<td>$867</td>
<td>$490</td>
<td>$518</td>
<td>$823</td>
<td>$423</td>
</tr>
<tr>
<td><strong>2009-2013</strong></td>
<td>$1,102</td>
<td>$818</td>
<td>$500</td>
<td>$496</td>
<td>$754</td>
<td>$409</td>
</tr>
<tr>
<td><strong>2011-2013</strong></td>
<td>$999</td>
<td>$835</td>
<td>$481</td>
<td>$510</td>
<td>$788</td>
<td>$409</td>
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</table>

### Third Party Liability

<p>| | | | | | | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
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<td>2009</td>
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<td>$426</td>
<td>$279</td>
<td>$242</td>
<td>$431</td>
<td>$230</td>
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<tr>
<td>2010</td>
<td>$476</td>
<td>$424</td>
<td>$261</td>
<td>$242</td>
<td>$489</td>
<td>$238</td>
</tr>
<tr>
<td>2011</td>
<td>$450</td>
<td>$455</td>
<td>$243</td>
<td>$276</td>
<td>$494</td>
<td>$257</td>
</tr>
<tr>
<td>2012</td>
<td>$459</td>
<td>$482</td>
<td>$218</td>
<td>$265</td>
<td>$511</td>
<td>$217</td>
</tr>
<tr>
<td>2013</td>
<td>$515</td>
<td>$477</td>
<td>$241</td>
<td>$287</td>
<td>$526</td>
<td>$247</td>
</tr>
<tr>
<td><strong>2009-2013</strong></td>
<td>$471</td>
<td>$454</td>
<td>$248</td>
<td>$263</td>
<td>$492</td>
<td>$238</td>
</tr>
<tr>
<td><strong>2011-2013</strong></td>
<td>$475</td>
<td>$472</td>
<td>$234</td>
<td>$276</td>
<td>$511</td>
<td>$240</td>
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</table>

### Accident Benefits

<p>| | | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>$588</td>
<td>$40</td>
<td>$77</td>
<td>$32</td>
<td>$43</td>
<td>$32</td>
</tr>
<tr>
<td>2010</td>
<td>$576</td>
<td>$39</td>
<td>$76</td>
<td>$45</td>
<td>$54</td>
<td>$26</td>
</tr>
<tr>
<td>2011</td>
<td>$319</td>
<td>$38</td>
<td>$63</td>
<td>$45</td>
<td>$48</td>
<td>$33</td>
</tr>
<tr>
<td>2012</td>
<td>$283</td>
<td>$42</td>
<td>$60</td>
<td>$48</td>
<td>$50</td>
<td>$23</td>
</tr>
<tr>
<td>2013</td>
<td>$313</td>
<td>$40</td>
<td>$61</td>
<td>$53</td>
<td>$53</td>
<td>$35</td>
</tr>
<tr>
<td><strong>2009-2013</strong></td>
<td>$414</td>
<td>$40</td>
<td>$67</td>
<td>$45</td>
<td>$50</td>
<td>$30</td>
</tr>
<tr>
<td><strong>2011-2013</strong></td>
<td>$305</td>
<td>$40</td>
<td>$61</td>
<td>$49</td>
<td>$51</td>
<td>$31</td>
</tr>
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</table>

### Collision (all deductibles)

<p>| | | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>2009</td>
<td>$152</td>
<td>$238</td>
<td>$150</td>
<td>$171</td>
<td>$168</td>
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</tr>
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<td>2010</td>
<td>$150</td>
<td>$211</td>
<td>$137</td>
<td>$156</td>
<td>$163</td>
<td>$128</td>
</tr>
<tr>
<td>2011</td>
<td>$156</td>
<td>$227</td>
<td>$141</td>
<td>$163</td>
<td>$174</td>
<td>$141</td>
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<td>2012</td>
<td>$150</td>
<td>$233</td>
<td>$129</td>
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<td>$189</td>
<td>$118</td>
</tr>
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<td>2013</td>
<td>$165</td>
<td>$263</td>
<td>$141</td>
<td>$136</td>
<td>$202</td>
<td>$135</td>
</tr>
<tr>
<td><strong>2009-2013</strong></td>
<td>$154</td>
<td>$235</td>
<td>$140</td>
<td>$156</td>
<td>$180</td>
<td>$132</td>
</tr>
<tr>
<td><strong>2011-2013</strong></td>
<td>$157</td>
<td>$241</td>
<td>$137</td>
<td>$151</td>
<td>$189</td>
<td>$131</td>
</tr>
</tbody>
</table>

### Comprehensive (all deductibles)

<p>| | | | | | | |</p>
<table>
<thead>
<tr>
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<th></th>
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</thead>
<tbody>
<tr>
<td>2009</td>
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<td>$78</td>
<td>$85</td>
<td>$57</td>
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<tr>
<td>2011</td>
<td>$64</td>
<td>$110</td>
<td>$89</td>
<td>$85</td>
<td>$82</td>
<td>$63</td>
</tr>
<tr>
<td>2012</td>
<td>$62</td>
<td>$175</td>
<td>$84</td>
<td>$80</td>
<td>$90</td>
<td>$60</td>
</tr>
<tr>
<td>2013</td>
<td>$61</td>
<td>$165</td>
<td>$85</td>
<td>$87</td>
<td>$92</td>
<td>$60</td>
</tr>
</tbody>
</table>

---

42 Alberta third party liability includes uninsured coverage.
## Average Premium Cost Per Private Passenger Vehicle ($) by Major Coverage

**Ontario and Other Provinces with Privately-Delivered Auto Insurance 2009 to 2013 (accident year)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Ontario</th>
<th>Alberta</th>
<th>New Brunswick</th>
<th>Nova Scotia</th>
<th>Newfoundland &amp; Labrador</th>
<th>Prince Edward Island</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-2013</td>
<td>$61</td>
<td>$155</td>
<td>$85</td>
<td>$82</td>
<td>$85</td>
<td>$60</td>
</tr>
<tr>
<td>2011-2013</td>
<td>$62</td>
<td>$151</td>
<td>$86</td>
<td>$84</td>
<td>$88</td>
<td>$61</td>
</tr>
</tbody>
</table>

*may include coverages not listed separately.

### Total*

<table>
<thead>
<tr>
<th>Year</th>
<th>Ontario</th>
<th>Alberta</th>
<th>New Brunswick</th>
<th>Nova Scotia</th>
<th>Newfoundland &amp; Labrador</th>
<th>Prince Edward Island</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>$1,344</td>
<td>$1,080</td>
<td>$808</td>
<td>$804</td>
<td>$955</td>
<td>$753</td>
</tr>
<tr>
<td>2010</td>
<td>$1,434</td>
<td>$1,089</td>
<td>$813</td>
<td>$807</td>
<td>$989</td>
<td>$757</td>
</tr>
<tr>
<td>2011</td>
<td>$1,509</td>
<td>$1,073</td>
<td>$820</td>
<td>$801</td>
<td>$1,006</td>
<td>$760</td>
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<tr>
<td>2012</td>
<td>$1,543</td>
<td>$1,078</td>
<td>$806</td>
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<td>$744</td>
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<td>$788</td>
<td>$775</td>
<td>$1,033</td>
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<tr>
<td>2009-2013</td>
<td>$1,476</td>
<td>$1,084</td>
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<td>$794</td>
<td>$1,001</td>
<td>$752</td>
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<tr>
<td>2011-2013</td>
<td>$1,533</td>
<td>$1,084</td>
<td>$804</td>
<td>$787</td>
<td>$1,018</td>
<td>$750</td>
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</table>

### Third Party Liability

<table>
<thead>
<tr>
<th>Year</th>
<th>Ontario</th>
<th>Alberta</th>
<th>New Brunswick</th>
<th>Nova Scotia</th>
<th>Newfoundland &amp; Labrador</th>
<th>Prince Edward Island</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
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<td>$551</td>
<td>$407</td>
<td>$419</td>
<td>$612</td>
<td>$363</td>
</tr>
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<td>$536</td>
<td>$402</td>
<td>$413</td>
<td>$628</td>
<td>$362</td>
</tr>
<tr>
<td>2011</td>
<td>$651</td>
<td>$508</td>
<td>$401</td>
<td>$396</td>
<td>$634</td>
<td>$359</td>
</tr>
<tr>
<td>2012</td>
<td>$678</td>
<td>$504</td>
<td>$392</td>
<td>$378</td>
<td>$629</td>
<td>$352</td>
</tr>
<tr>
<td>2013</td>
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<td>$386</td>
<td>$369</td>
<td>$631</td>
<td>$349</td>
</tr>
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<td>$523</td>
<td>$397</td>
<td>$395</td>
<td>$627</td>
<td>$357</td>
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<tr>
<td>2011-2013</td>
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<td>$510</td>
<td>$393</td>
<td>$381</td>
<td>$632</td>
<td>$353</td>
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</table>

### Accident Benefits

<table>
<thead>
<tr>
<th>Year</th>
<th>Ontario</th>
<th>Alberta</th>
<th>New Brunswick</th>
<th>Nova Scotia</th>
<th>Newfoundland &amp; Labrador</th>
<th>Prince Edward Island</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>$415</td>
<td>$55</td>
<td>$144</td>
<td>$79</td>
<td>$72</td>
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</tr>
<tr>
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<td>$505</td>
<td>$54</td>
<td>$135</td>
<td>$76</td>
<td>$72</td>
<td>$63</td>
</tr>
<tr>
<td>2011</td>
<td>$541</td>
<td>$52</td>
<td>$126</td>
<td>$73</td>
<td>$73</td>
<td>$61</td>
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<tr>
<td>2012</td>
<td>$558</td>
<td>$52</td>
<td>$117</td>
<td>$66</td>
<td>$73</td>
<td>$60</td>
</tr>
<tr>
<td>2013</td>
<td>$544</td>
<td>$54</td>
<td>$108</td>
<td>$63</td>
<td>$74</td>
<td>$59</td>
</tr>
<tr>
<td>2009-2013</td>
<td>$514</td>
<td>$53</td>
<td>$126</td>
<td>$71</td>
<td>$73</td>
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<td>2011-2013</td>
<td>$548</td>
<td>$53</td>
<td>$117</td>
<td>$67</td>
<td>$74</td>
<td>$60</td>
</tr>
</tbody>
</table>

### Collision (all deductibles)

<table>
<thead>
<tr>
<th>Year</th>
<th>Ontario</th>
<th>Alberta</th>
<th>New Brunswick</th>
<th>Nova Scotia</th>
<th>Newfoundland &amp; Labrador</th>
<th>Prince Edward Island</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>$254</td>
<td>$393</td>
<td>$185</td>
<td>$243</td>
<td>$229</td>
<td>$300</td>
</tr>
<tr>
<td>2010</td>
<td>$237</td>
<td>$412</td>
<td>$197</td>
<td>$255</td>
<td>$241</td>
<td>$306</td>
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<tr>
<td>2011</td>
<td>$225</td>
<td>$423</td>
<td>$205</td>
<td>$268</td>
<td>$247</td>
<td>$309</td>
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</table>
### Average Premium Cost Per Private Passenger Vehicle ($) by Major Coverage
Ontario and Other Provinces with Privately-Delivered Auto Insurance 2009 to 2013 (accident year)

<table>
<thead>
<tr>
<th></th>
<th>Ontario</th>
<th>Alberta</th>
<th>New Brunswick</th>
<th>Nova Scotia</th>
<th>Newfoundland and Labrador</th>
<th>Prince Edward Island</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$216</td>
<td>$426</td>
<td>$207</td>
<td>$277</td>
<td>$248</td>
<td>$297</td>
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<tr>
<td>2013</td>
<td>$214</td>
<td>$427</td>
<td>$201</td>
<td>$278</td>
<td>$250</td>
<td>$298</td>
</tr>
<tr>
<td>2009-2013</td>
<td>$229</td>
<td>$416</td>
<td>$199</td>
<td>$265</td>
<td>$243</td>
<td>$302</td>
</tr>
<tr>
<td>2011-2013</td>
<td>$218</td>
<td>$425</td>
<td>$204</td>
<td>$274</td>
<td>$248</td>
<td>$301</td>
</tr>
</tbody>
</table>

**Comprehensive (all deductibles)**

<table>
<thead>
<tr>
<th></th>
<th>Ontario</th>
<th>Alberta</th>
<th>New Brunswick</th>
<th>Nova Scotia</th>
<th>Newfoundland and Labrador</th>
<th>Prince Edward Island</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>$107</td>
<td>$156</td>
<td>$102</td>
<td>$122</td>
<td>$107</td>
<td>$138</td>
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<tr>
<td>2010</td>
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<td>$173</td>
<td>$114</td>
<td>$127</td>
<td>$110</td>
<td>$141</td>
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<tr>
<td>2011</td>
<td>$95</td>
<td>$183</td>
<td>$126</td>
<td>$135</td>
<td>$114</td>
<td>$147</td>
</tr>
<tr>
<td>2012</td>
<td>$91</td>
<td>$190</td>
<td>$130</td>
<td>$140</td>
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<td>$145</td>
</tr>
<tr>
<td>2013</td>
<td>$90</td>
<td>$197</td>
<td>$130</td>
<td>$137</td>
<td>$129</td>
<td>$147</td>
</tr>
<tr>
<td>2009-2013</td>
<td>$96</td>
<td>$180</td>
<td>$121</td>
<td>$133</td>
<td>$117</td>
<td>$144</td>
</tr>
<tr>
<td>2011-2013</td>
<td>$92</td>
<td>$190</td>
<td>$129</td>
<td>$138</td>
<td>$121</td>
<td>$147</td>
</tr>
</tbody>
</table>

*may include coverages not listed separately.

### Key Tort Characteristics in Canadian provinces with privately-delivered auto insurance

<table>
<thead>
<tr>
<th>Province</th>
<th>Third Party Liability (minimum legislated requirement)</th>
<th>Tort Restrictions</th>
</tr>
</thead>
</table>
| Ontario          | $200,000                                               | **Economic Loss**  
• Right to sue for economic loss in excess of accident benefits  

**Excess Health Care Expenses**  
• Right to sue for health care expenses in excess of accident benefits received, subject to verbal threshold of: permanent and serious disfigurement or permanent serious impairment of an important physical, mental or psychological function

**Pain and Suffering**  
• Right to sue subject to a verbal threshold & monetary deductible:  
  • permanent and serious disfigurement or permanent serious impairment of an important physical, mental or psychological function, and  
  • monetary deductible of $30k on general awards of $100,000 or less but does not apply to awards over $100,000  
  • in the case of death, Family Law Act claims subject to a $15,000 deductible but does not apply to awards over $50,000  
• Optional benefit that reduces deductible |
| Alberta          | $200,000                                               | **Economic Loss**  
• Right to sue for economic loss in excess of accident benefits  

**Pain and Suffering**  
• $4,777 award cap on pain & suffering for minor injuries as defined as sprain, strain or WAD I or II |
| Newfoundland     | $200,000                                               | **Economic Loss**  
• Right to sue for economic loss in excess of accident benefits  

**Pain and Suffering**  
• $2,500 deductible for pain & suffering for a minor injury |
| Labrador         | $200,000                                               | **Economic Loss**  
• Right to sue for economic loss in excess of accident benefits  

**Pain and Suffering**  
• $8,213 award cap on pain & suffering for minor injury |
<table>
<thead>
<tr>
<th>Province</th>
<th>Third Party Liability (minimum legislated requirement)</th>
<th>Tort Restrictions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>injuries – indexed annually to CPI</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Access to tort remains for people who suffer permanent serious disfigurement or physical impairment</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>$200,000</td>
<td><strong>Economic Loss</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Right to sue for economic loss in excess of accident benefits</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Pain and Suffering</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• $7,500 award cap on pain &amp; suffering for minor injuries – indexed annually to CPI</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Access to tort remains for people who suffer permanent serious disfigurement or physical impairment</td>
</tr>
<tr>
<td>Prince Edward Island</td>
<td>$200,000</td>
<td><strong>Economic Loss</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Right to sue for economic loss in excess of accident benefits</td>
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<tr>
<td></td>
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<td><strong>Pain and Suffering</strong></td>
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