



Financial Services  
Commission  
of Ontario

# Health Service Providers 2015 Annual Information Return Results Summary Report

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### Executive summary

The Financial Services Commission of Ontario (FSCO) is a regulatory agency established by the *Financial Services Commission of Ontario Act, 1997* and accountable to the Minister of Finance. FSCO oversees the insurance sector, pension plans, mortgage brokering, credit unions and caisses populaires, co-operative corporations, loan and trust companies in Ontario, and health service providers (service providers) that invoice auto insurers for statutory accident benefits claims.

The 2015 Annual Information Return (AIR) Report represents data for 4,046 licensed service providers, which is an increase of 21 per cent over those reported in the 2014 AIR Report. The questionnaire collected information about the business practices and internal controls they had in place during the 2015 calendar year. All service providers holding a licence as of December 31, 2015 were required to submit the AIR by March 31, 2016.

The AIR furthers FSCO's ability to identify, assess and monitor risk in the service provider sector. This is of particular importance, given that FSCO's 2015/16 on-site examinations found only a 15 per cent full compliance rate amongst service providers. FSCO considers this rate to be unacceptable; by comparison, the other regulated sectors overseen by FSCO generally maintain compliance levels of over 90 per cent.

The AIR also helps determine the sector's annual regulatory fees, and the development and delivery of FSCO's on-site examination program. When an on-site examination is conducted, FSCO expects findings to be consistent with the information reported in the AIR, and that the service provider will be able to demonstrate the statements made.

For service providers, the completion of the AIR also acts as a refresher of compliance requirements.

### Key findings

The most common areas of non-compliance identified in the AIR were:

- policies and procedures not established;
- patient identification not verified for every [claimant](#);
- Health Claims for Auto Insurance (HCAI) roster not kept up to date; and
- Ontario claims forms (OCFs) signed by the claimant prior to being completed, or submitted without a claimant signature.

### Regulatory action

As of October 31, 2016, more than 30 service providers had failed to file the AIR, resulting in action to revoke their licences. Although 99 per cent of licensed service providers have submitted the AIR, more than 300 filed late. Service providers who filed late were notified of the contravention; late filing is noted on file, and FSCO considers repeat contraventions when reviewing non-compliance.

In the future, FSCO will take regulatory action for service providers who file late. Completion of the AIR and payment of the annual regulatory fee is mandatory under [Ontario Regulation 90/14](#), section 21. Late submission of the AIR may result in an administrative monetary penalty and the service provider may be

subject to suspension or revocation of its licence.

To date, FSCO has taken an educational approach for this newly-regulated sector. FSCO's approach to late filing will be more rigorous for the 2016 AIR, which is due by March 31, 2017. **Service providers can expect a licence suspension and/or other regulatory action in the event of late submission of the 2016 AIR.**

**Non-compliance increases FSCO's regulatory costs and directly impacts the regulatory fees paid by service providers.**

### Detailed findings

This report provides a detailed look at the findings from the 2015 AIR. Additional profile information for the sector is provided in Appendix 1.

**In a number of areas, the 2015 AIR results indicated non-compliance with regulatory requirements.** The issues identified in the AIR responses were consistent with on-site examination findings.

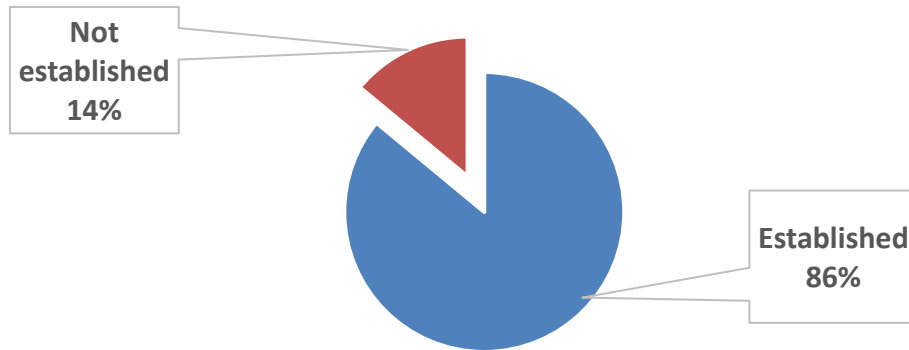
#### 1. Policies and procedures

*“A licensed service provider shall establish and implement policies and procedures that are appropriate to the nature and volume of the service provider’s business related to statutory accident benefits.”*

Section 17 of [Ontario Regulation 90/14](#) requires policies and procedures that are designed to *avoid the submission of misleading information* to an insurer and to *prevent the business from facilitating such activities by others*.

Policies and procedures set out the service provider’s business practice standards, promoting consistency and compliant practices. Development and periodic review of procedures provides an opportunity for the business to ensure all practices meet the requirements of the laws, regulations and guidelines. Communication of policies and procedures to all staff and providers involved in Statutory Accident Benefits Schedule (SABS) billings also helps the business to avoid facilitating non-compliant practices.

Chart 1 - Policies and procedures



Fourteen per cent of service providers reported they did not have policies and procedures in place. **The inability to demonstrate policies and procedures during an on-site examination by FSCO would result in a finding of non-compliance.**

## 2. Verification of claimant identity

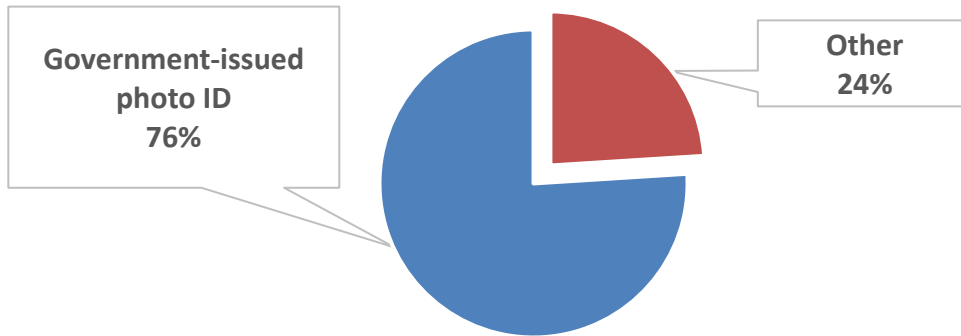
*“A licensed service provider shall take all reasonable steps to verify the identity of each individual...”*

A duty to verify the identity of SABS claimants is established under section 5 of [Ontario Regulation 90/14](#). The service provider must verify that goods and services are being provided to the person who was involved in the motor vehicle accident.

**While virtually all service providers completing the 2015 AIR reported that they verify claimant ID, in many cases the specific practices reported would result in a finding of non-compliance.**

In some cases, the documents used to verify ID were not adequate. **Chart 2** shows that although more than three quarters of service providers reported reviewing government-issued photo ID such as a driver’s licence or health card, *over 900 service providers reported practices that would not satisfy requirements*. For example, while documents such as the police accident report, insurance documents, or an extended health care benefit card are relevant for accident benefits claims, they would not, on their own, be sufficient to establish the identity of the claimant.

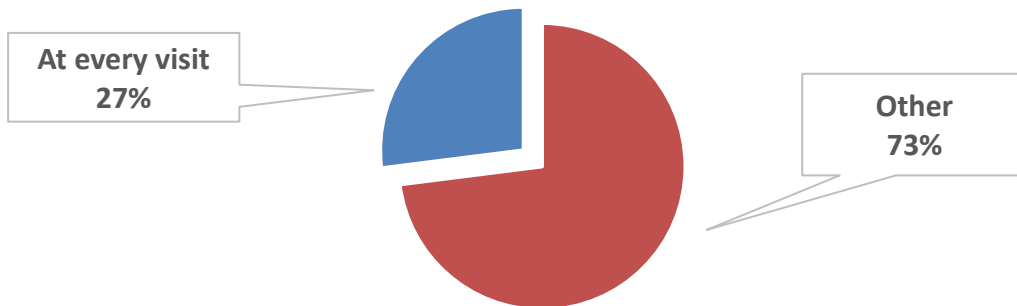
Chart 2 - Type of ID



It should be noted that even though a high level of compliance for ID verification was reported, service providers need to be able to support this. If FSCO does an on-site examination, the service provider is responsible for *demonstrating* that the process was followed (e.g., through a checkbox on intake and visit forms confirming that ID was verified).

**FSCO expects service providers to have procedures in place to verify claimant ID, and be able to demonstrate that the process was followed, in order to avoid a finding of non-compliance.**

Chart 3 - How often does the business verify SABS claimant ID?



Of those service providers who provided goods or services to SABS claimants in 2015, *only 27 per cent indicated that ID is verified at each visit.*

A significant number of service providers noted in their 2015 AIR comments that since the implementation of licensing, they have gained an understanding of this requirement and have changed policies and procedures accordingly – for example by verifying identity through government-issued photo ID.

While there may be circumstances such as distinct injuries from a catastrophic claim where claimant identity is evident, the responsibility lies with the service provider to comply with the law.

**Service providers should be aware that the duty to verify identity, established under section 5 of [Ontario Regulation 90/14](#), creates accountability for the business.** Practices such as verifying ID only at the initial visit, not requiring government-issued photo ID, or relying on other providers may also expose the service provider to enforcement action in the event of a fraudulent claim.

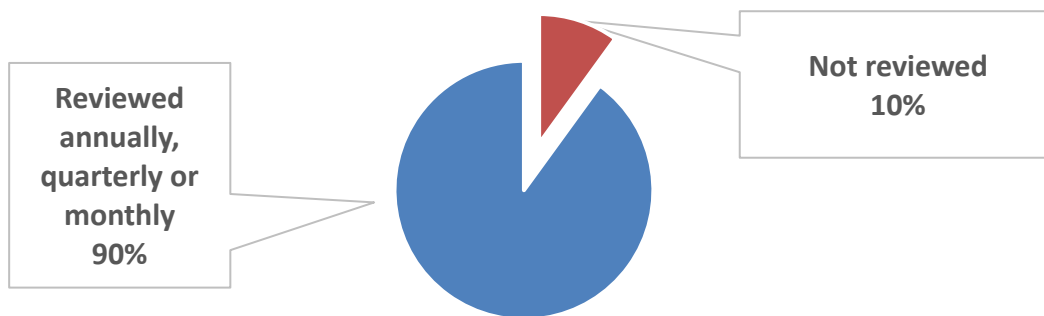
### 3. Health Claims for Auto Insurance (HCAI) roster

HCAI is an electronic system developed by Ontario auto insurers, working closely with FSCO, the Ontario Ministry of Finance, various medical rehabilitation provider associations and other stakeholders, for transmitting OCFs between insurers and health care facilities in Ontario.

Service providers must maintain an up-to-date list in the HCAI system of those health professionals who provide services for the facility. This is commonly known as the HCAI “roster”. When a health professional ceases to provide services for the business, the facility is required to update their HCAI account with an “end date” for that provider. This ensures that no further OCF treatment forms or invoices will be submitted under the former provider’s credentials.<sup>1</sup>

While the vast majority of service providers reported conducting a regular review of the HCAI roster, as seen in **Chart 4**, over 400 service providers (10 per cent) reported that the HCAI roster was **not** reviewed.

**Chart 4 - Review of rostered health professional list in HCAI**



Keeping the HCAI roster up-to-date is important to prevent fraud through the misuse of the credentials of health care providers. **Service providers are responsible for implementing policies and procedures to ensure their provider list remains current in HCAI, in order to avoid facilitating the submission of misleading information.**

<sup>1</sup> Other than those with dates of service prior to the end date.

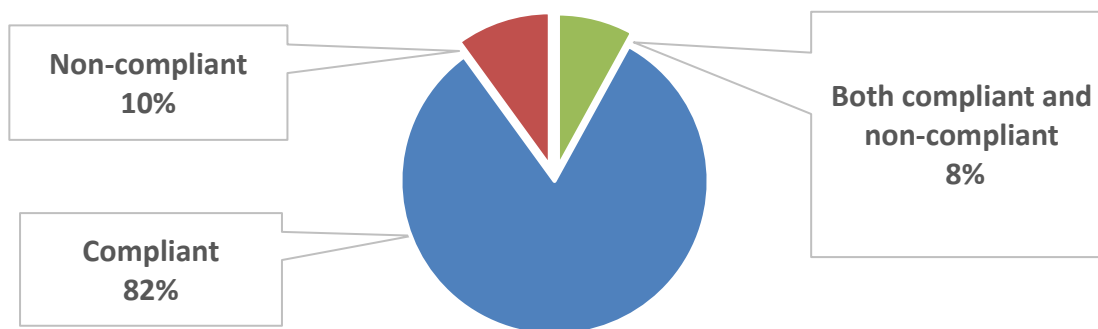
#### 4. OCF-18 and OCF-23 forms completion – Claimant’s signature

Under section 17 (3) of [Ontario Regulation 90/14](#), service provider policies and procedures must be designed:

*“...to avoid the preparation or submission to an insurer of false, misleading or deceptive forms, plans, invoices, documents and other information...” and “to prevent the service provider from facilitating, directly or indirectly, the activities mentioned...”*

The *only* compliant practice for the submission of the OCF-18 and OCF-23 is to complete the form, obtain the client signature, and then submit the form. Where the service provider requires additional time to complete a form, it can be signed by the claimant on a subsequent visit, and only submitted once completed and signed.

**Chart 5 - Claimant signatures on OCF-18 and OCT-23 forms**



As shown in **Chart 5** above, **82 per cent of service providers reported compliant standard practices**. The remaining service providers reported practices that include one or more of the following:

- Completing and submitting the form, with **no signature obtained**.
- Submitting the form with **signature obtained later**.
- **Obtaining the client signature**, followed by completing and submitting the form.

**All of these practices are non-compliant.**

**Permitting a SABS claimant to sign a blank or incomplete OCF form is defined as an unfair or deceptive act or practice in [Ontario Regulation 7/00](#) section 3 (2) 7:**

*“Requiring, requesting or permitting a person who claims statutory accident benefits or who otherwise claims payment under a contract of insurance to sign, before it has been completed in full, a claims form*



*or other document that is required to be in a form approved by the Superintendent or any form or document that is specified in a Guideline applicable for the purposes of the [Statutory Accident Benefits Schedule – Effective September 1, 2010.](#)*

## 5. Security and integrity of records

Section 14 of [Ontario Regulation 90/14](#) sets out responsibility for the security of a service provider's records:

*“A licensed service provider shall take all reasonable steps to ensure its paper and electronic records are secure and cannot be falsified.”*

For service providers, security of records supports the prevention of fraud and the protection of consumers' personal information. **In the 2015 AIR, virtually all service providers reported that their records were stored in a secure location.**

Service providers should be aware that **in light of the growing risk of cyber security breaches, FSCO considers compliance with section 14 of [Ontario Regulation 90/14](#) to include the implementation of cyber security procedures** and practices in accordance with applicable legislation, appropriate to the nature, size and complexity of the business, and that are reviewed regularly to ensure they remain relevant and effective.

For additional information about FSCO expectations and best practice resources, please refer to [FSCO's message](#) regarding the importance of cyber security.

### Next steps

Overall, in the 2015 AIR, the majority of service providers reported having practices and procedures in place that satisfy most regulatory requirements. There is evidence of improved understanding of the purpose of the regulation, and the need for oversight to ensure compliant billing and business practices and protect the reputation of the service provider sector. **However, as noted in the report, there are still some areas where changes are required to improve compliance.**

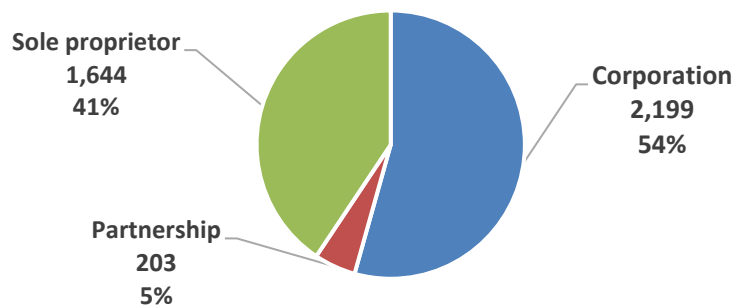
While the level of compliance reported in the AIR is encouraging, it is important to remember that when conducting on-site reviews, FSCO will be looking for evidence to validate practices reported in the AIR. Service providers must be able to *demonstrate* compliance. To date, the results fall short of this expectation - in FSCO's 2015/16 on-site examinations, only 15 per cent of service providers have been found to be fully compliant. To avoid findings of non-compliance, service providers should obtain guidance from the *Insurance Act* and regulations, the applicable Superintendent Guidelines, and FSCO's newsletters and bulletins.

## Appendix 1: Service provider sector information

### 1. Business structure of licensed service providers

The proportion of service providers by business structure was as shown in Chart I below. For 2015, corporations increased by two per cent as a percentage of the total, sole proprietorships decreased by two per cent, and partnerships were unchanged.

**Chart I - Licensed service providers by business structure  
Number and percentage of total**



Note: Partnership figures include both general and limited partnership business structures.

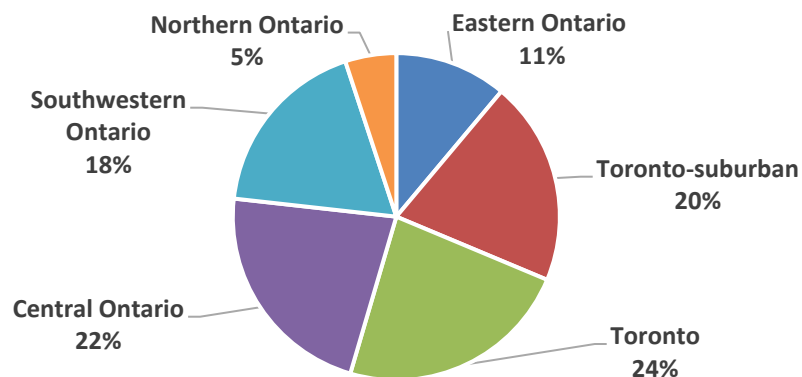
### 2. Region

Similar to the 2014 AIR data, over half of service providers licensed by FSCO were located outside of the Greater Toronto Area.<sup>2</sup> The proportion of licensed service providers by region has been stable – virtually unchanged from 2014. The geographic distribution of service providers was as illustrated in Chart II.

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<sup>2</sup> See Appendix 3 for region detail.

Chart II - Percentage of licensed service providers by region



### 3. Claimants treated or assessed by licensed service providers

As a group, licensed service providers reported conducting assessments or providing treatment to over 170,000 claimants in 2015.<sup>3</sup>

The claimant numbers reported by the sector are an indicator of the scale of SABS business for each service provider in 2015. The data is also used in the calculation of the annual regulatory fee.

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<sup>3</sup> As a claimant may be assessed or treated by multiple service providers during their recovery, there is no direct correlation between the number of claimants reported by all service providers and the overall number of claimants receiving services.

## Appendix 2: Key terms

### Claimant /Auto insurance claimant

For the purposes of this report, a claimant or auto insurance claimant refers to an individual on whose behalf a licensed service provider receives payment from an auto insurer for specified goods or services under the Statutory Accident Benefits Schedule, or SABS, in respect of a single auto accident.

### Health Claims for Auto Insurance

The Health Claims for Auto Insurance (HCAI) system automates the exchange of standardized health claim information between health care providers and insurance companies in Ontario.

### Listed expenses

Listed expenses are assessments, examinations, reports, forms, plans, goods and services that need to be billed through the HCAI system using an Auto Insurance Standard Invoice, as set out in [Ontario Regulation 89/14 Service Providers – Listed Expenses](#).

### Regulated health professional

Ontario Regulation 34/10 Statutory Accident Benefits Schedule, describes a regulated health professional as a member of a regulated health profession where the profession is governed by:

- a college as defined in the *Regulated Health Professions Act, 1991*, or
- the Ontario College of Social Workers and Social Service Workers under the *Social Work and Social Service Work Act, 1998*.

While FSCO regulates the billing and business practices of service providers, regulatory colleges continue to be responsible for maintaining the clinical practice standards of the regulated health professionals who provide care and services on behalf of licensed service providers.

### Statutory Accident Benefits Schedule

The standard auto insurance policy in Ontario provides certain benefits to persons injured in an auto accident regardless of who is at fault. These benefits are defined by a regulation under the *Insurance Act* and commonly known as the Statutory Accident Benefits Schedule or SABS.

**Appendix 3: Regions**

Region	Postal code prefix
Eastern Ontario	K
Toronto	M
Suburban Toronto	L1S, L1T, L1V, L1W, L1X, L1Y, L1Z, L3P, L3R, L3S, L3T, L4A, L4B, L4C, L4E, L4H, L4J, L4K, L4L, L4S, L4T, L4V, L4W, L4X, L4Y, L4Z, L5A, L5B, L5C, L5E, L5G, L5H, L5J, L5K, L5L, L5M, L5N, L5P, L5R, L5S, L5T, L5V, L5W, L6A, L6B, L6C, L6E, L6G, L6P, L6R, L6S, L6T, L6V, L6W, L6X, L6Y, L6Z, L7A, L7K, L9Z
Southwestern Ontario	N
Central Ontario	L0A, L0B, L0C, L0E, L0G, L0H, L0J, L0K, L0L, L0M, L0N, L0P, L0R, L0S, L0W, L1A, L1B, L1C, L1E, L1G, L1H, L1J, L1K, L1L, L1M, L1N, L1P, L1R, L2A, L2E, L2G, L2H, L2J, L2M, L2N, L2P, L2R, L2S, L2T, L2V, L2W, L3B, L3C, L3K, L3M, L3V, L3X, L3Y, L3Z, L4G, L4M, L4N, L4P, L4R, L6H, L6J, L6K, L6L, L6M, L7B, L7C, L7E, L7G, L7J, L7L, L7M, L7N, L7P, L7R, L7S, L7T, L8E, L8G, L8H, L8J, L8K, L8L, L8M, L8N, L8P, L8R, L8S, L8T, L8V, L8W, L9A, L9B, L9C, L9G, L9H, L9J, L9K, L9L, L9M, L9N, L9P, L9R, L9S, L9T, L9V, L9W, L9Y
Northern Ontario	P