



**Ontario Association of Social Workers**  
**L'Association des travailleuses et travailleurs sociaux de l'Ontario**

**SUBMISSION OF THE ONTARIO ASSOCIATION OF SOCIAL WORKERS  
TO THE FINANCIAL SERVICES COMMISSION OF ONTARIO (FSCO)**

July 14, 2008

Mr. Willie Handler  
Financial Services Commission of Ontario (FSCO)  
5160 Yonge St, PO Box 85  
Toronto ON M2N 6L9

Dear Mr. Handler:

**Re: 5-Year Review of Auto Insurance Regulations**

The Ontario Association of Social Workers (“OASW”) appreciates the opportunity to make a submission to Financial Services Commission of Ontario (FSCO) to identify issues and concerns with regard to the current automobile *Insurance Act*, and to provide suggestions to improve Ontario’s automobile insurance system.

We have chosen to focus our comments on the following key issue, which we perceive to be the most significant to our members and our clients, this being the right for social workers to certify OCF 18s within our scope of practice. We have addressed these as part of FSCO’s request to address issues related to consumer protection and recommendations to changes to the SABS process.

OASW addresses other issues in Appendix C. We welcome the opportunity to express opinions and make recommendations through an anticipated collaborative process.

OASW is the professional association representing Social Workers in Ontario. Social Workers became regulated in 2000 and only Social Workers who are members of the Ontario College of Social Workers and Social Service Workers may use the title “Social Worker” or “Registered Social Worker”. Practicing members are professional Social Workers with university degrees in social work at the doctoral, master’s and baccalaureate levels.

OASW recognizes that FSCO, in undertaking this review, must balance the interests of a number of stakeholders in identifying and resolving complicated issues related to the delivery of automobile insurance in Ontario. As one of those stakeholders, OASW is committed to working collaboratively with other service providers, FSCO and the insurance industry. We have been encouraged by the cooperative efforts made thus far in attempting to balance the needs of consumers, rehabilitation professionals and the insurance industry as government has undertaken previous reviews of the *Insurance Act*.



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OASW wishes to acknowledge that as a result of the previous review of the *Insurance Act* in 2003, government heard and supported the profession of Social Work by acting on our request to be recognized in the Statutory Accident Benefits Schedule (“SABS”) as a profession having the right to complete and sign our own Application for Approval of an Assessment or Examination (OCF-22) and to author our own Treatment Plans (OCF-18). However, the recognition of our profession was not extended at that time to include the right to certify our own Treatment Plans. A positive result of the changes to this Regulation (O. Reg. 403/96) is that our clients now have access to social work assessments without delay, and the freedom to choose their service provider. As well, Social Workers have the right to request a Social Work assessment on our clients’ behalf in order to fulfill our professional obligations. However, the oversight in not affording Social Workers the right to certify our own treatment plans under Part 5 of the OCF-18 has resulted in a significant number of instances of delayed access or no access to Social Work services by MVA clients and their families.

**It is the position of OASW that Social Workers, as members of a regulated profession under the *Social Work and Social Service Work Act, 1998*, be included in the list of health care professionals who are permitted to certify Part 5 of OCF-18 forms, confirming that the Treatment Plan is accurate, has been reviewed by the applicant, and that the goods and services being contemplated are reasonable and necessary for the treatment and rehabilitation of the applicant.**

## **BACKGROUND**

Social Workers provide valuable and varied services to persons injured in automobile accidents. The scope of Social Work practice can be described as:

*“the assessment, diagnosis, treatment and evaluation of individual, interpersonal and societal problems through the use of social work knowledge, skills, interventions and strategies, to assist individuals, dyads, families, groups organizations and communities to achieve optimum psychosocial and social functioning.”* (Ontario College of Social Workers and Social Services Workers Code of Ethics and Standards of Practice, Second Edition, 2008, p. 1)

The profession’s scope of practice allows Social Workers to provide a number of services to auto insurance claimants that may include case management, individual and family assessment and intervention, insurer examination, crisis management and intervention, future care needs and cost assessments, as well as vocational rehabilitation. Quite often, Social Workers fulfill the role of a community linkage team member, coordinating treatment plans and facilitating discharge referrals from hospitals to community and between community service providers. In providing rehabilitation services to auto insurance claimants, Social Workers practice in hospitals, private practice, and community settings.

It is generally recognized that crucial factors in an injured person’s return to pre-accident functioning are motivation and the ability to cope with the pressures of day-to-day life while



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coping with new impairments and disabilities. Social Workers, especially when fulfilling a crisis intervention, counseling or psychotherapy role, act to assist with and ameliorate those factors, thereby expediting the return to a pre-accident level of functioning. The case management and/or discharge planning role of Social Workers also serves as an efficient way to assist these claimants in coordinating progress toward the end of treatment when rehabilitation benefits are no longer needed. This function is another that greatly benefits the auto insurance sector by helping to reduce unnecessary treatment and contributing to the return to pre-accident functioning.

Extending to Social Workers the rights and responsibilities of certifying an OCF-18 Treatment Plan within our scope of practice will bring the SABS and OCF forms into line with well-established precedents in other pieces of existing legislation. OASW wishes to respectfully point out that Social Workers are currently recognized as health care providers under many Ontario statutes.

Recently, the Ontario government's own legislation, the *Psychotherapy Act, 2007* recognized that members of the profession of Social Work have the requisite education, training, skills and regulatory oversight (the Ontario College of Social Workers and Social Service Workers) to perform the now-controlled act of psychotherapy in this province. The *Psychotherapy Act* does not distinguish between the rights and responsibilities accorded to Social Workers and those of the other professions named in the *Act*: Physicians, Psychologists, Occupational Therapists and Nurses, or the soon to be regulated new profession of Psychotherapist, all of whom are regulated under the *Regulated Health Professions Act (RHPA)*. We are therefore urging government to update the SABS and OCF language to include Social Work as a profession permitted to certify OCF-18s, thus recognizing Social Work's rights and responsibilities as a regulated profession, and in keeping with other recent legislation, namely the *Psychotherapy Act*.

Additionally, Regulation 391/97 under the *Family Law Act*, in the section dealing with what expenses a court may take into consideration in an order for support of a child, professional counseling by a Social Worker, Psychologist or Psychiatrist are all grouped together under "health-related expenses."

Similarly, in Section 13 of Regulation 552 (R.R.O. 1990) under the *Health Insurance Act*, "home care services" are defined in part as "the services provided, on a visiting basis, by a physiotherapist, occupational therapist, speech therapist, social worker or nutritionist."

In Section 1 of Regulation 104/96 under the *Health Care Consent Act, 1996*, Social Workers are included in the definition of "evaluators." This Regulation also provides that Social Workers and persons described in a number of clauses of the definition of "health practitioners" in the *Act* may act as evaluators for the purposes of determining whether a person is capable with respect to his or her admission to a care facility.



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Furthermore, in the *Workplace Safety and Insurance Act, 1997*, “health care practitioner” is defined as “a health professional, a drugless practitioner regulated under the Drugless Practitioners Act or a social worker.”

It is clearly evident that Social Workers are already recognized as health professionals in the Province of Ontario. Our profession should therefore be recognized as having the ability to certify our own Treatment Plans. There is no reason why social workers should not be accorded the same rights and responsibilities under the SABS as other health care professionals who are able to certify treatment plans within their scopes of practice. Having been recognized as able to author and certify OCF-22s, as well as author OCF-18s, Social Workers should be permitted to certify OCF-18 Treatment Plans within our scope of practice as well.

Under the present legislation, when a Social Worker wishes to submit an OCF-18 Treatment Plan, after completing the form the Social Worker must obtain the signature of a health practitioner. For the purposes of an OCF-18, “health practitioner” is defined as and limited to: Chiropractor, Dentist, Nurse Practitioner, Occupational Therapist, Optometrist, Physician, Physiotherapist, Psychologist, or Speech-Language Pathologist. The person signing Part 5 (the “health practitioner”) must certify that the Treatment Plan is accurate, has been reviewed by the applicant, and that the goods and services being contemplated are reasonable and necessary for the treatment and rehabilitation of the applicant.

Furthermore, requiring the signature of an additional regulated professional on the OCF-18 frequently results in delays in service provision while the Social Worker must determine who is the most appropriate “health practitioner” to request Treatment Plan certification from on an individual file, and then obtain that signature. At times, the requirement to obtain an additional signature on the OCF-18 has been a barrier to the claimant actually receiving Social Work services, as there has been no “health practitioner” who is able to certify the Treatment Plan.

The experience of many claimants is that service is not provided or is delayed because a health practitioner is not available, not willing or unable to certify the social work OCF-18 in a timely manner. We respectfully direct your attention to the attached memo (Appendix B) from the Ontario Medical Association (OMA) Forms Committee urging OMA members to use caution in signing Part 5 of the OCF-18, as evidence of this barrier to obtaining treatment. In Appendix A, we also provide examples from Social Workers of this OMA memo being cited by family doctors who have interpreted the caution as instructing them NOT to sign OCF-18s. This barrier to obtaining treatment is particularly evident in non-catastrophic cases where there may not be any other health professionals working with a claimant, or in cases where the claimant’s family physician does not know the Social Worker who is submitting the Treatment Plan.

The precedent for the recognition of Social Work as a regulated profession in the SABS and in the language of the OCF forms was established as a consequence of the government review of the *Insurance Act* in 2003. In addition to signing OCF-22s, which allows Social Workers to determine the parameters and needs for assessment within our scope of practice, and preparing OCF-18s, under the *Insurance Act* as it stands now, Social Workers can perform Insurer Exams



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("IEs") to determine whether or not the treatment recommended on an OCF-18 Treatment Plan is reasonable and necessary. Yet, that same Social Worker cannot certify their own OCF-18 stating the same to be true. The inclusion of Social Workers in the list of regulated professionals who have the authority to certify Treatment Plans within our scope of practice will contribute to furthering goals that are known to be important to government with respect to auto insurance. Moreover, it will:

- improve access to services and reduce unacceptable delays in service provision
- confirm the entrenched right of consumers to choose their own health service providers
- reduce the costs incurred in service provision by putting an end to fees being charged by other professions to certify Part 5 of our OCF-18s, and
- enhance consumer protection by ensuring that the person who certifies a Social Work Treatment Plan is qualified to do so within their scope of practice.

## **SUMMARY**

Social Workers, like members of the professions governed by the *Regulated Health Professions Act* ("RHPA"), are regulated under provincial legislation. The *Social Work and Social Service Work Act* essentially mirrors the complaints and discipline process available under the RHPA, which serves to protect the public and which can be utilized by the automobile insurance sector in appropriate circumstances.

OASW is recommending changes to improve the Statutory Accident Benefits Schedule (SABS)". Permitting Social Workers to certify our own treatment plans will improve access to rehabilitation services by claimants.

## **PROPOSED SOLUTION**

OASW respectfully requests that Social Work be recognized in the SABS as a profession that can certify Treatment Plans within our scope of practice, with an amendment to the Regulation (O. Reg. 403/96) as follows:

*"health practitioner" in respect of a particular impairment, means a physician or,*

- (a) a chiropractor, if the impairment is one that a chiropractor is authorized by law to treat,*
- (b) a dentist, if the impairment is one that a dentist is authorized by law to treat,*
- (c) an occupational therapist, if the impairment is one that an occupational therapist is authorized by law to treat;*
- (d) an optometrist, if the impairment is one that an optometrist is authorized by law to treat;*
- (e) a psychologist, if the impairment is one that a psychologist is authorized by law to treat*



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- (f) *a physiotherapist, if the impairment is one that a physiotherapist is authorized by law to treat*
- (g) *a registered nurse with an extended certificate of registration, if the impairment is one that the nurse is authorized by law to treat*
- (h) *a speech-language pathologist, if the impairment is one that a speech-language pathologist is authorized by law to treat, or*
- (i) ***a social worker, if the impairment is one that a social worker is authorized by law to treat.***

OASW further recommends that subsection (1) be amended by adding the following:

*“social worker” means a member of the Ontario College of Social Workers and Social Service Workers who holds a certificate of registration for social work under the **Social Work and Social Service Work Act, 1998.***

and further, an amendment to **O. Reg. 546/05, ss. 14 (3), 32** to read:

- (j) *a statement by a health practitioner **or by a social worker** approving the treatment plan referred to in clause (a) and stating that he or she is of the opinion,*
  - (i) *that the expenses contemplated by the treatment plan are reasonable and necessary for the insured person’s treatment or rehabilitation, and*
  - (ii) *that the impairment sustained by the insured person does not come within a Pre-approved Framework Guideline. O. Reg. 281/03, s. 16 (2).*

OASW further recommends that Part 5 of the OCF-18 state the following:

*Part 5*  
*Signature of Health Practitioner or **Social Worker***  
*Plan Certification*

It is respectfully recommended that Social Workers be recognized as “members of a health profession” in the SABS for the purpose of certifying an OCF-18 within the profession’s scope of practice, as defined by the Ontario College of Social Workers and Social Service Workers. This recognition is important to remove barriers and prevent delays in treatment currently experienced by claimants seeking Social Work rehabilitation services and treatment. Additionally, it is important because:

- Social Workers play a vital role in the provision of health care in Ontario, including providing of services to victims of automobile accidents.
- Social Workers are recognized as health professionals in numerous other pieces of provincial legislation.
- Social Workers are regulated under legislation that, from the perspective of public protection, is similar to the *RHPA*.



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- It removes apparent contradictions or conflicts within the *Automobile Insurance Act*, and between the *Act* and other existing legislation.
- It recognizes that it is inappropriate for non-Social Workers to determine when an assessment, treatment goals and/or interventions of a Social Worker are reasonable and appropriate.

All of which is respectfully submitted, this 14<sup>th</sup> day of July 2008.

*Joan MacKenzie Davies*

Ms. Joan MacKenzie Davies  
Executive Director  
Ontario Association of Social Workers



## **APPENDIX A**

The following are summaries of recent examples provided by social workers of delays and barriers to treatment caused by Social Workers not being able to certify OCF-18 Treatment Plans. It should be noted that the majority of these examples are regularly occurring situations, rather than exceptional.

**Example A:** A non-catastrophic claimant is referred to a Social Worker for psychotherapy to treat post-traumatic stress disorder subsequent to the MVA. There are no other treating professionals on the file. The claimant drops the OCF-18 off at the family physician's office, along with a copy of the Social Worker's curriculum vitae and a cover letter introducing himself and requesting the doctor fax the signed treatment plan back to the Social Worker. After repeated phone calls from the claimant and the Social Worker, the family physician finally faxes the signed OCF-18 to the Social Worker. Elapsed time: 6 weeks. The OCF-18 is submitted to the insurer, who takes the full 10 working days to authorize treatment. Total elapsed time since assessment: two months.

**Example B:** A non-catastrophic claimant with a mild-to-moderate acquired brain injury as a result of the MVA is referred for adjustment to disability counseling at the recommendation of the treating occupational therapist who is a consultant at a private rehabilitation clinic. The occupational therapist will not sign the OCF-18 because her agency will not permit her to, citing that the Social Worker is not a consultant to that agency and thus they do not want her to be "liable" for the treatment plan. The claimant does not have a family physician. Eventually a doctor who follows the claimant at the hospital's outpatient brain injury clinic signs the OCF-18. Elapsed time: 4 weeks. Because of claimant's brain injury, he has a very difficult time understanding or problem-solving this situation, and becomes extremely distressed, exacerbating his symptoms. The Social Worker ends up spending several hours trying to find a solution. The Social Worker could not bill for these hours, as they were not approved as part of the OCF-22.

**Example C:** The Social Worker has an initial 12-session Treatment Plan signed by family physician. With two sessions remaining on the Treatment Plan, the Social Worker sends a second plan to continue treatment to the same family physician to sign. The doctor takes 4 weeks to sign and return the Treatment Plan to the Social Worker, and the insurer takes a further two weeks, causing a disruption of treatment, which lasts several weeks in total.

**Example D:** The Social Worker's involvement with a client came to a halt after the assessment because the family physician declined to sign the Treatment Plan as a result of OMA advising caution (see attached letter from the OMA). The claimant's lawyer attempted to obtain the services of a Psychologist for the client, but could not find one who would do home visits. To date (one year later) the claimant is not receiving treatment.



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**Example E:** The claimant did not have a family physician or other regulated treatment providers. She attempted to have the OCF-18 signed at a walk-in clinic without success. The insurer refused to accept the Treatment Plan uncertified, and treatment was never commenced.

**Example F:** A doctor refers his patient to a Social Worker for post-MVA psychotherapy. When the Social Worker sends OCF-18 to doctor for signature, she has no response. After numerous unanswered phone messages, the doctor replies by mail that he has been advised by the OMA not to sign treatment plans (see attached letter from the OMA). By now it has been 6 weeks since the referral, and the client has received no treatment. The Social Worker has to explain all this to the claimant, and re-writes the treatment plan to be signed by the physiotherapist (hopefully). The Social Worker has begun seeing the client because she did not feel that the delay in treatment was ethical. She realizes that she may not get paid for the treatment she has provided, and has already spent several unpaid hours on the file trying to obtain the required signature. This is the fourth case like this in 12 months for this Social Worker, who provides services in a small community in northern Ontario.

**Example G:** The Social Worker is referred a catastrophic spinal cord injury case by the claimant's case manager. The claimant is in a chronic care facility, and is requesting counseling services, and does not wish to work with the facility's Psychologist. The chronic care facility will not allow their occupational therapist or physiotherapist to sign the Social Worker's treatment plan, due to concerns about "accountability," and all requests to the facility's staff physician go unanswered. After a delay of several weeks, the insurer agrees to accept the case manager's signature on the OCF-18 (the case manager is an RN, not a Nurse Practitioner).

**Example H:** The Social Worker is referred a claimant with a catastrophic brain injury. The case manager is an RN, so she cannot sign the treatment plan. The rest of the rehabilitation team is not in place yet, so there is no one else to sign the plan. The case manager sends the Social Worker's treatment plan to the physiatrist providing outpatient follow-up, who signs the treatment plan after three weeks, and sends a bill for \$150 to the Social Worker. The Social Worker forwards the doctor's bill to the insurer, who pays the additional \$150.

**Example I:** The Social Worker's OCF-22 is approved by the insurer. When it comes time to submit the OCF-18, the only other regulated professional seeing the claimant is a physiotherapist, who will not sign the Social Worker's treatment plan because it is for services outside her scope of practice and she feels she is not qualified to certify the services as reasonable and necessary. There is no family doctor. The insurer will not accept the treatment plan without a signature in Part 5.

**Example J:** An Occupational Therapist (OT) signed Part 5 of the OCF-18 certifying that the treatment plan proposed by the Social Worker was accurate. As in the previous example, this occurred because the insurer will not accept the treatment plan without a signature in Part 5 and Social Workers cannot sign Part 5. The treatment plan was then sent to an I.E. and the insurer asked that the I.E. be an OT. Despite the fact that the treatment plan was outside the scope of practice of the I.E., the examiner did not contact the Social Worker for more information.



## APPENDIX B

From: <https://www.oma.org/pcomm/OMR/oct/03autoinsurance.htm>

### **OMA Forms Committee urges caution when completing auto insurance treatment plan Form OCF 18/59**

by Arthur Ameis, MD, FRCPC  
Flora Aronshtam, OMA Health Policy Department

Under recently amended Ontario auto insurance regulations, all insurance-funded treatment for injuries sustained in a car accident must be approved in advance by the auto insurer. Without prior approval, the auto insurer is not obligated to pay a provider for any treatment goods or services, even if already provided to the patient. To obtain approval, a treatment plan (the "plan") must be submitted to the auto insurer, using Form OCF 18/59.

Part 5 of this form requires the signature of a health-care provider. In the event the plan is not developed by a health-care provider, the attending physician may be asked for this signature. In some cases, an allied health-care provider who develops a plan and wishes to increase the likelihood of insurer approval, may ask a physician to sign Part 5.

The OMA Committee on Physician Forms wishes to caution all physicians that by signing a treatment plan, the physician assumes responsibility for the plan's contents and outcome. Although the plan's preparation, and the treatments given, may be undertaken entirely by other providers, the signing physician may be held accountable, and subject to criminal or civil charges and/or referral for disciplinary review by the College of Physicians and Surgeons of Ontario.

Relevant circumstances may include any shortcoming in the plan regarding full disclosure of conflicts of interest; provision of information that could reasonably be interpreted as inaccurate, incomplete, false or misleading. Through signature, the physician assumes responsibility for the accuracy and completeness of all information in the form; for the good standing and competence of providers specified (particularly including unregulated providers); the necessity and reasonableness of proposed treatments; adverse or inadequate outcomes; and the reasonableness of the cost of each of the plan's goods and services.

The signing physician's responsibility is not offset by disclaimers/ qualifying statements accompanying the signature, or subsequent denial of understanding the plan's contents.

The Forms Committee strongly recommends that when approached by patients or allied health-care providers, physicians must thoroughly review and confirm the accuracy, completeness and appropriateness of the contents of the entire form, prior to signing Part 5, including:

- The injuries to be treated by the plan were caused by the accident in question.
- Part 3 is accurate with respect to whether there is other insurance coverage.
- Part 4 — Conflict-of-Interest Rules — have been explored and do not apply.
- Parts 7-9 — Past and Present Medical Information — is accurate and complete.
- Part 10 — Treatment Goals and Outcome Measures — are reasonable.
- Part 11 — Proposed Health Providers — are appropriate, competent, and in good standing.
- Part 12 — Goods and Services — including type, frequency, duration, and sequence, are necessary and reasonable, being efficacious and safe.
- Part 12 — Costs for Goods and Services — are reasonable, individually and in total cost.
- The treatment plan has been reviewed with the patient, who understands the contents and goals, and consents to participate.

Members who require additional information are encouraged to contact:

OMA Committee on Physician Forms  
c/o Ontario Medical Association  
525 University Avenue, Suite 300, Toronto, Ontario M5G 2K7 Attn: Flora Aronshtam  
Tel. 1-800-268-7215 or (416) 599-2580, ext. 2985 E-mail: [flora\\_aronstam@oma.org](mailto:flora_aronstam@oma.org)



## **APPENDIX C**

OASW welcomes the opportunity to comment on the following areas in addition to areas outlined in the body of our submission. Moreover, we look forward to working collaboratively with the Financial Services Commission of Ontario (FSCO) as suggestions and recommendations are considered by all interested parties throughout the 5-year review process:

### **AFFORDABILITY & AVAILABILITY**

1. The suggestion by some insurers that there would be a decrease in premiums if consumers elect to receive goods and services by the insurer's preferred providers.

The OASW strongly supports the right of clients and their families to choose who will assess and provide them with treatment. This needs to remain as a right for all consumers. OASW strongly opposes any changes to this product that would lead to a preferred provider system of service delivery.

### **CONSUMER PROTECTION**

1. OASW respectfully requests that Social Work be recognized in the SABS as a profession that can certify Treatment Plans within our scope of practice, with an amendment to the Regulation (O. Reg. 403/96) thus protecting consumers from:

- a. receiving unnecessary services;
- b. incurring additional costs to their claim; and
- c. experiencing unnecessary delays in access or no access to social work services.

### **STATUTORY ACCIDENT BENEFITS SCHEDULE**

1. Significant delays in accessing assessments arise when some insurers unnecessarily require signatures on OCF-22s. When health care professionals feel compelled to provide a signature, this also adds costs to the insurer.

OASW recommends that FSCO formally notify insurers that a signature is not required.

### **COLLATERAL BENEFITS**

The OASW recognizes that this remains one of the most unsatisfactory and frustrating administrative issues for both claimants and practitioners.

OASW recommends that consultations be held with stakeholders regarding methods of simplifying or amending the process of identifying and collecting collateral benefits that does not place an increased burden on consumers or delay access to treatment.