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## Filing & Other Regulatory Requirements for Paralegals (SABS Representatives)

### Questions & Answers

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#### **1. What is a filing?**

A filing is a declaration by the SABS representative confirming that he or she has met all of the requirements of the regulations and is in compliance with the Code of Conduct issued by the Superintendent. It also provides the Financial Services Commission of Ontario (FSCO) with personal identification information, business information and details of a SABS representative's errors & omission (e & o) liability insurance. It is not an application for a licence or registration.

#### **2. Who has to file?**

Anyone who acts as an adviser, consultant, or representative on behalf of a person concerning a claim for statutory accident benefits must file with FSCO, effective November 1, 2003. These representatives may use different titles, but are often referred to as "paralegals" or "SABS representatives." The latter term is used for clarity to denote individuals who are not lawyers and who provide representation in SABS claims.

#### **3. I am a SABS representative but I don't attend dispute resolution proceedings at FSCO, do I still have to file?**

Yes. The requirements apply to all SABS representatives whether or not they attend dispute resolution proceedings at FSCO. SABS representatives who appear in Small Claims Court or private arbitration, or who help claimants fill out forms, negotiate settlements with adjusters and insurers and provide advice about entitlement to statutory accident benefits, are all required to file.

#### **4. I am currently licensed with FSCO as an adjuster and I act for SABS claimants. Am I subject to the filing and other requirements?**

Yes. However, adjusters who only provide adjuster services on behalf of insurance companies are exempt from all the requirements.

**5. Are there any other regulatory requirements, besides filing a declaration, that apply to SABS representatives?**

Yes. The regulations require SABS representatives to carry e & o liability insurance coverage of \$1,000,000 in respect of any one occurrence; and refrain from acting for any individual who they know, or ought reasonably to know, has a catastrophic impairment as defined in the SABS (O. Regulation 664 amended by O. Reg 275/03).

The regulations also amend the definition of “unfair or deceptive acts or practices” to prohibit the following conduct by SABS representatives:

- charging fees under a contingency fee arrangement;
- paying or accepting referral fees;
- committing an act or omission inconsistent with the Code of Conduct issued by the Superintendent; and
- failing to disclose any conflict of interest, as defined in the regulation, to the claimant and the insurer (O. Reg. 7/00 amended by O. Reg. 278/03).

**6. Who is exempt from the requirements?**

Lawyers acting in the usual course of the practice of law, and insurer representatives, are exempt from these requirements. Lawyers’ employees are also exempt, provided they act only under the direct supervision of a lawyer who is retained, or whose law firm is retained, by the claimant.

Persons who provide representation without compensation (such as a friend or family member who assists a claimant in an informal and unpaid manner) are also exempt from these requirements. However, a person is considered to be providing representation for “compensation” if he or she receives, directly or indirectly, a financial benefit in connection with the claimant’s representation. Individuals who are paid service providers who combine the provision of health care or other services with claimant representation, must comply with these requirements.

**7. When is filing of the declaration required?**

All SABS representatives must file a declaration form with FSCO before November 1, 2003. SABS representatives may commence filing with FSCO on September 2, 2003. SABS representatives are encouraged to file early to ensure their filing is received and processed by FSCO prior to November 1, 2003. Anyone who becomes a SABS representative after November 1, 2003, will need to file before engaging in the activities of a SABS representative.

**8. What information is required in the declaration filed with FSCO?**

The required information in the declaration includes basic personal identification information (name, home address and contact information); business information (business name, business address, and contact information); details of e & o liability insurance (information on the broker or agent, insurance company, and policy), confirmation of compliance and signature. The filing requirement applies to individuals, not to businesses. However, any business or organization under which the person operates must be identified.

**9. Is there a filing fee?**

No.

**10. Why does a SABS representative have to file and make a declaration with FSCO?**

In order to comply with the amendments to the *Insurance Act* introduced under the *Keeping the Promise for a Strong Economy Act (Budget Measures), 2002 (Bill 198)*, SABS representatives are required to file with FSCO.

**11. How do I file the declaration?**

The convenient and secure on-line declaration can be quickly completed and submitted through FSCO's website at [www.fSCO.gov.on.ca](http://www.fSCO.gov.on.ca). Simply go to the *Paralegals / SABS Representatives* page of FSCO's website, which is accessed through the *Insurance* or *Consumers* sections of the site.

**You must have an e-mail address to file electronically. FSCO will use this e-mail address to confirm that your filing has been processed, and to notify you when your renewal date is approaching.**

**12. How often does a SABS representative have to file with FSCO?**

A SABS representative must re-file on or before the renewal date of his or her e & o liability insurance policy, and any time the filed information changes (e.g. change to personal or business information, change to e & o liability insurance, or ceasing to act as a SABS representative).

**13. What if a SABS representative fails to file a declaration with FSCO by November 1, 2003?**

A SABS representative who fails to file or fails to update the filing as required, is in violation of the *Insurance Act* and is not entitled to act as a SABS representative. He or she may also be subject to prosecution and administrative action taken by the Superintendent. After November 1, 2003, FSCO will not accept an application in any dispute resolution proceeding from a SABS representative who has not filed. Nor will FSCO allow a SABS representative to participate in existing proceedings after the deadline, if he or she has not filed.

**14. What does FSCO do with the declaration?**

A searchable list of SABS representatives who have filed with FSCO will be posted in the *Paralegals / SABS Representatives* page of FSCO's website at [www.fSCO.gov.on.ca](http://www.fSCO.gov.on.ca). Only the SABS representative's name, business name, and city in which he/she does business will be posted; no personal information will be posted. This list will ensure that claimants and insurance industry participants can verify that a SABS representative has filed with FSCO. It does not mean, however, that FSCO has endorsed the services or qualifications of the persons whose names are on the list.

**15. How soon after I have filed with FSCO can I act as a SABS representative?**

As soon as your name appears on the list, you may begin providing services as a SABS representative. On-line filing of a declaration through FSCO's website for the initial filing should ensure your name and business name will be listed the following business day. Renewals or changes to the declaration will be updated automatically with no delays.

**16. Why is a SABS Representative's information posted on FSCO's website?**

This ensures that stakeholders, such as claimants, insurers, adjusters, service providers and dispute resolution staff, can easily verify that a SABS representative has filed.

FSCO is not endorsing SABS representatives, vouching for their qualifications or advocating their use. However, the website will allow the public to confirm that a SABS representative has filed with FSCO. Only the SABS representative's name, business name and the city in which he or she does business will be indicated; no personal information will be posted.

**17. Once a SABS representative has filed, does FSCO issue a licence or registration certificate?**

No. FSCO is not licensing or registering SABS representatives.

**18. Can a SABS representative tell people that he or she is licensed or endorsed by FSCO?**

No. A SABS representative may not indicate in any way that he or she is licensed or that his or her services or qualifications as a SABS representative are endorsed by FSCO. After filing a declaration with FSCO, the SABS representative may tell people that he or she has filed and is legally permitted to advise and represent persons claiming statutory accident benefits, as long as his or her name appears on FSCO's web listing.

**19. If someone's name is on the list, does that mean they've been screened by or are approved by FSCO?**

No, it only indicates that they have filed a declaration with FSCO.

**20. How does a SABS representative make changes to his/her filing information, and how does he or she renew?**

He or she can go to the *Paralegals / SABS Representatives* page of FSCO's website at [www.fSCO.gov.on.ca](http://www.fSCO.gov.on.ca), which can be accessed through the *Insurance* or *Consumers* sections of the site, to make changes to the filed information, or to renew.

**21. Can I use the on-line filing system to notify FSCO of a name change?**

No, not at this time. Any SABS representative submitting a request for a name change must submit a written request to FSCO and provide the legal proof coinciding with his/her request. The FSCO website list for SABS representatives will be updated accordingly.

## **22. What is the Code of Conduct? How do I obtain a copy?**

The *Code of Conduct for Statutory Accident Benefit Representatives* (Code), issued by the Superintendent, sets out the standards of conduct expected of SABS representatives. The Code also includes requirements set out in legislation and regulation so as to be a comprehensive document.

The Code is made under authority of the *Insurance Act* (Act) and subsection 4(1) of Ontario Regulation 7/00, as amended. The effective date is November 1, 2003. The Code governs the conduct of all SABS representatives, whether or not they appear in dispute resolution proceedings at FSCO.

A link to the Code is posted on the *Paralegals / SABS Representatives* page of FSCO's website at [www.fSCO.gov.on.ca](http://www.fSCO.gov.on.ca). The Code will also be published in *The Ontario Gazette*. A copy may also be obtained by contacting FSCO. See contact information at the end of the document.

## **23. Where can a SABS representative get errors and omissions insurance?**

Effective November 1, 2003, all SABS representatives must have e & o liability insurance coverage. This insurance may be available to some SABS representatives through membership in one of the paralegal associations. If not, he or she will need to obtain insurance directly. Please contact your insurance broker or agent directly for more information or ask them to contact ENCON Group Inc., which currently arranges this coverage.

A SABS representative must obtain and continue to maintain e & o liability insurance coverage in an amount that is not less than \$1,000,000 in respect of any one occurrence, with an overall policy aggregate limit of at least \$1,000,000 per person. The deductible must not exceed \$5,000 in respect of any one occurrence.

Information with respect to the policy must be provided to FSCO when making and filing the declaration. In addition, if requested by FSCO, a SABS representative must provide a copy of the insurance certificate or policy.

## **24. What kind of security features are in place in the on-line system for making and filing the declaration?**

No special computer or software is required, just Internet access. The system is available 24 hours a day, seven days a week. It can be accessed through the *Paralegals / SABS Representatives* page of FSCO's website at [www.fSCO.gov.on.ca](http://www.fSCO.gov.on.ca), through the *Insurance* or *Consumers* sections of the site.

The confidentiality and security of the information provided on-line via the secure server is paramount to FSCO. Extensive security features have been incorporated into the system. The system protects your information and privacy by Secure Sockets Layer or SSL which allows data flowing between two computers on the Internet to be encrypted. It is used on the Web whenever a high degree of security is required.

**25. Does a SABS representative require a password or PIN number to use the on-line e-filing service?**

Yes. For security reasons each user is assigned a PIN number (5 digit number) by FSCO. It acts as a password into the system and should be stored in a safe place for future use. The PIN number will automatically be e-mailed after the initial filing is processed and the SABS representative's name is listed on the FSCO web site.

**26. What if I forget my PIN?**

As part of the initial filing process you will be asked to submit a question to which only you can provide the answer. Should you forget your PIN in the future, the system will pose this question back to you. A successful answer will allow you to retrieve your PIN. Both the question and the answer should be clear and precise.

**27. When will the system ask for my PIN?**

On subsequent attempts to use the system it will prompt you to enter your FSCO PIN. Simply type it into the appropriate field and click "Continue".

**28. Is there someone a SABS representative can contact if he or she has questions about the on-line e-filing system or any other issues related to the legal requirements for paralegals ?**

Yes. Please contact FSCO at 416-250-7250 or 1-800-668-0128, or by e-mail at [paralegalinfo@fSCO.gov.on.ca](mailto:paralegalinfo@fSCO.gov.on.ca).

**29. If a SABS representative doesn't have a computer, how does he or she file electronically?**

Go to any public library to access the Internet. The North York branch of the Toronto Public Library is accessible from the building complex where FSCO's offices are located.

Another alternative is to use the public access computer on the 14<sup>th</sup> Floor at FSCO's offices, located at 5160 Yonge Street.

**You must have an e-mail address to file electronically. FSCO will use this e-mail address to confirm that your filing has been processed, and to notify you when your renewal date is approaching.**

If you are unable to file electronically please contact FSCO at 416-250-7250 or 1-800-668-0128, or by e-mail at [paralegalinfo@fSCO.gov.on.ca](mailto:paralegalinfo@fSCO.gov.on.ca).

**30. Can a SABS representative come to FSCO to file the declaration in person?**

Yes. There will be a convenient FSCO Resource Computer located in the reception area on the 14<sup>th</sup> Floor at 5160 Yonge Street. On this computer, SABS representatives may obtain free access to FSCO's website, including the easy-to-use on-line e-filing service for SABS representatives. FSCO will review all filing information that is submitted to ensure it is complete, before an individual may act as a SABS representative; please note that you will not be able to file the information and act as a SABS representative on the same day.

**31. Is the electronic information provided in this filing governed by requirements under the *Insurance Act*?**

Yes. Providing false, misleading or incomplete information is an offence under the *Insurance Act*, and doing so may be sufficient grounds to reject the filing, or result in a prosecution. The offence is punishable on conviction by a maximum fine of \$100,000 for a first conviction and a maximum fine of \$200,000 for any subsequent conviction.

**32. Will the information submitted be accessible to others under *Freedom of Information and Protection of Privacy* Legislation?**

The *Freedom of Information and Protection of Privacy Act (FOIPOP)* governs what information is considered personal and what information can be released in an access request. The personal information gathered on-line on this website is collected under the authority of the *Insurance Act*. Any personal information that is provided will only be used by FSCO to ensure the requirements of the Act are met. Your information will not be disclosed to anyone else, except as may be authorized by law.



**33. Who do I contact if I have a complaint concerning a SABS representative?**

Effective November 1, 2003, if you have a complaint concerning a SABS representative please contact the Office of the Insurance Ombudsman at 416-250-7250 or 1-800-668-0128, or by e-mail at [paralegalinfo@fsco.gov.on.ca](mailto:paralegalinfo@fsco.gov.on.ca).

**34. If I require additional information, who can I call?**

If you have questions about the requirements, new regulatory changes or the Code of Conduct and how it applies to you, please contact FSCO at 416-250-7250 or 1-800-668-0128, or by e-mail at [paralegalinfo@fsco.gov.on.ca](mailto:paralegalinfo@fsco.gov.on.ca).