



Financial Services
Commission
of Ontario

Service Providers
2014 Compliance Report
March 2016

Table of Contents

About FSCO..... 2

Introduction..... 2

Examination Methodology 3

Examination Statistics 3

2014 Annual Information Return 5

Findings 5

Conclusion and Next Steps 6

About FSCO

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 insurance, pension plans, mortgage brokering, credit unions and caisses populaires, co-operative corporations, loan and trust companies in Ontario, and service providers who invoice auto insurers for certain statutory accident benefits.

As an organization, FSCO is committed to being a progressive and fair regulator, working with stakeholders to support a strong financial services industry, and protecting the interests of financial services consumers and pension plan members.

FSCO applies a risk-based approach to regulation that directs resources to situations deemed to have a higher risk. The information gathered through the Annual Information Return (AIR) helps FSCO to identify, assess and monitor risk in the service provider sector. FSCO's [Regulatory Framework](#) details its risk-based approach.

Introduction

On December 1, 2014 a new regulatory regime took effect in Ontario. The regime gave FSCO the authority to licence health clinics who wish to bill auto insurers directly for certain expenses ("listed expenses") under the Statutory Accident Benefits Schedule (SABS). Known as service providers, these licensees would be required to adhere to standards of practice set out in new regulations under the Insurance Act.

All service providers, licensed and unlicensed, must invoice auto insurers through the Health Claims for Auto Insurance (HCAI) system. Service providers must request approval through HCAI for treating auto accident claimants seeking benefits under the SABS. Service providers must also invoice for approved treatment through HCAI.

By December 1, 2014, FSCO had issued over 4,300 service provider licences, and continues to receive and process new applications. Licensed service providers now make up 99 per cent of all submissions to HCAI.

In December 2014, FSCO began conducting on-site examinations of licensed service providers. The examinations helped FSCO to gain an understanding of the business entities and provided an opportunity for FSCO to educate licensees about their obligations under the law. Since the regime took effect, FSCO has conducted over 500 on-site examinations.

This report summarizes FSCO's findings and observations from the on-site reviews. It also provides an overview of the level of compliance currently observed within the sector and flags areas of non-compliance, where FSCO will be looking for improvement.

Examination Methodology

FSCO took an educational approach in its first year of regulating the service provider. In addition to conducting examinations, FSCO used an array of communication tools, such as electronic newsletters, e-blasts, speaking engagements, bulletins and videos to raise awareness and understanding of the new rules.

FSCO's objective in conducting on-site examinations of licensed service providers was to test the levels of compliance with the Insurance Act and regulations in the sector. The examinations also assessed the existence and appropriateness of service providers' systems to manage their operations and billing practices for patients claiming SABS.

FSCO's approach was designed to help service providers establish or improve policies and procedures for their day-to-day operations that would facilitate compliance with the Insurance Act and regulations.



While on-site, FSCO examiners verified the completeness and accuracy of the information provided in the licence application. This included validating the existence of the entity and that the physical space was conducive to the stated operation.

FSCO also performed walk-throughs of the service provider facilities to gain greater understanding of how assessments and treatments were performed.

Finally, FSCO evaluated the policies and procedures used by the service provider for billing practices and reviewed SABS files to ensure compliance with the Insurance Act and regulations.

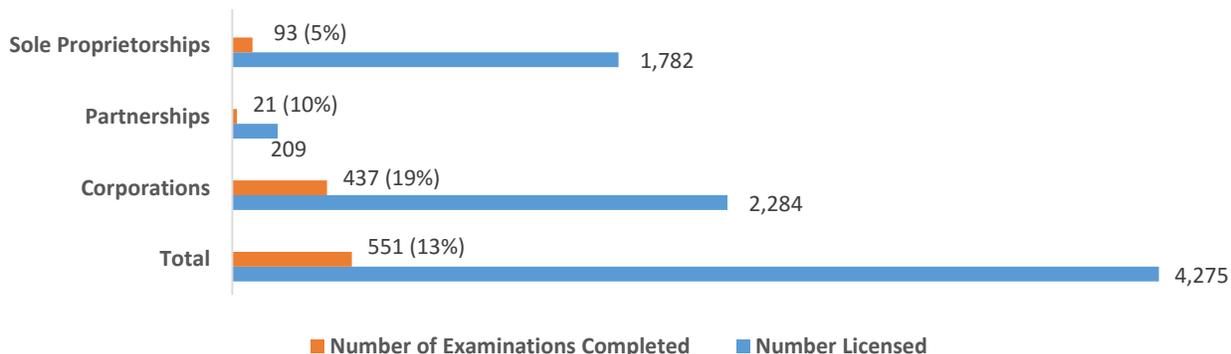
This approach allowed FSCO to set compliance expectations for the sector.

Examination Statistics

In one year (December 1, 2014 to November 30, 2015) FSCO completed 551 on-site examinations of service providers, representing about 13 per cent coverage of the total population.

Chart 1 below illustrates the number of on-site examinations by entity-type and as a proportion of the total number of licensed service providers in Ontario.

Chart 1 - On-site examinations by entity type and as proportion of licensee population

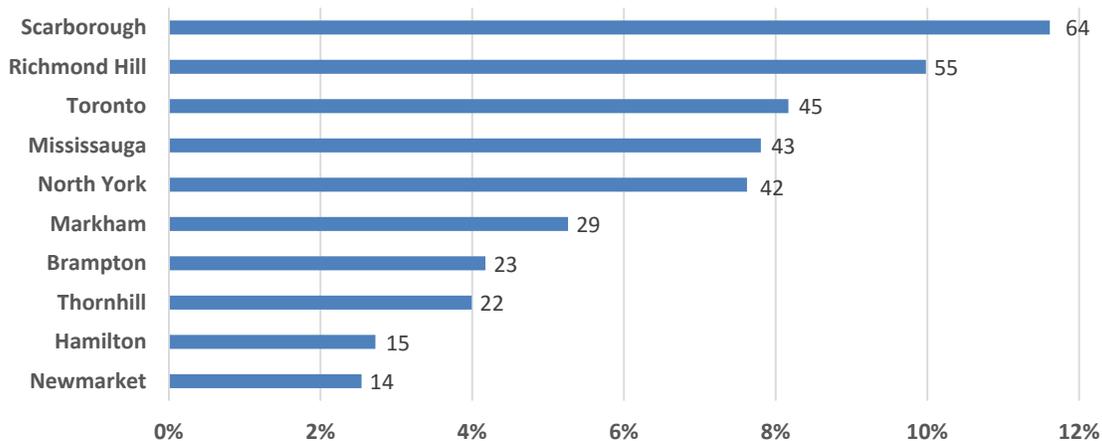


Geographical Breakdown

Licensing and AIR data indicate that about 78 per cent of all SABS claimants in Ontario were treated and/or assessed by licensed service providers in the Greater Toronto Area (GTA). For this reason, much of FSCO’s initial examinations targeted entities located in the GTA.

Chart 2 shows the number of on-site examinations of GTA service providers as a percentage of total examinations conducted.

Chart 2 - Percentage of geographical coverage and number of licensees examined (top 10 locations)



2014 Annual Information Return

Service providers must file an AIR annually in order to maintain their licences. The AIR collects information about a service provider’s business that FSCO aggregates and uses in its risk assessment and supervision of the sector.

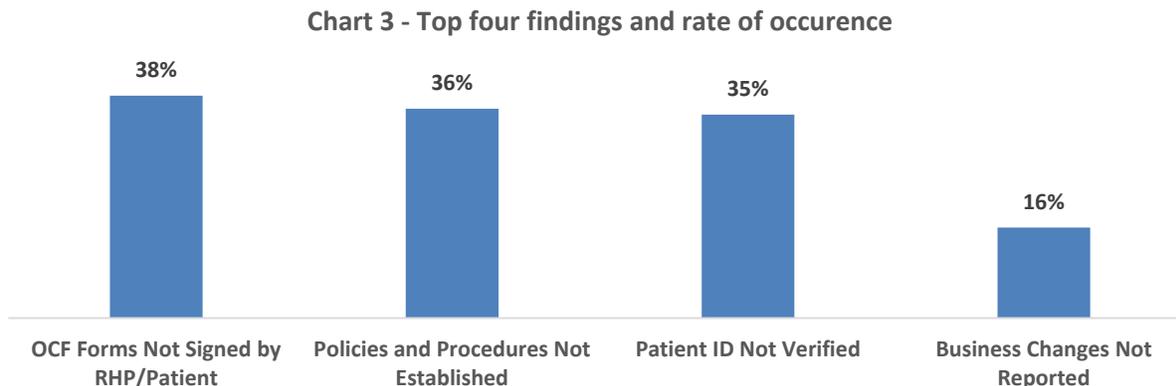
FSCO distributed the 2014 AIR, the first for the sector, in early 2015 for completion and filing by March 31, 2015. The 2014 AIR requested information about the business practices and internal controls in place during the 2014 calendar year (January to December). There was a very high rate of compliance with 99.7 per cent of all licenced service providers filing the AIR.

FSCO combined the information from the 2014 AIR filings with data from licence applications to identify areas of higher risk. FSCO adjusted regulatory efforts accordingly for the rest of the 2015. As well, FSCO will expand its geographical focus into other regions of the province, to ensure that efforts are allocated in accordance with a risk based approach.

FSCO followed up with service providers that did not file the 2014 AIR and has undertaken the necessary regulatory action, such as applying administrative monetary penalties, or suspending or revoking licences.

Findings

FSCO found that only 83 of the 551 (15 per cent) service providers examined were in full compliance with the Insurance Act and regulations. The top four areas of non-compliance and the respective rate of occurrence across the sector are illustrated in Chart 3 below.



Proportionately, the examinations revealed that higher rates of non-compliance occurred within Sole Proprietor and Partnership entity types. The table below shows the breakdown of the top three findings among entity types provides.

Top Three Findings	Rate of Occurrence by Entity Type		
	Corporations	Partnerships	Sole Proprietorships
OCF Forms Not Signed by RHP/Patient	25%	16%	32%
Policies and Procedures Not Established	28%	32%	35%
Patient ID Not Verified	27%	53%	37%

On average, service provider corporations were not in compliance with at least one section of the Insurance Act, whereas partnerships and sole proprietors tended towards non-compliance with two or more sections of the regulations.

In addition to the top four findings, FSCO found that eight per cent of the examined service providers had outdated rosters of Regulated Health Professionals (RHPs). Clinics and practitioners need to ensure that only current authorized RHPs are active on a provider roster and that those who are no longer employed have been end-dated on HCAI. Protecting credentials is the responsibility of both the service provider and the RHP.

Insurers

The on-site examinations also afforded FSCO a more fulsome view of auto insurer practices and potential non-compliance on their part. During the examinations, FSCO took special note of concerns raised by service providers and sought to analyse and validate them through the course of routine file reviews.

From the data, it was apparent that service providers were raising certain types of issues more frequently than others, for example:

- Late payment of the OCF 21 on the part of the insurer. These include payments on invoices for pre-approved treatment.
- Inconsistent request for a statutory declaration under subsections 46.2(1) and 46.2(2) of the regulation. Also, requests often come without explanation or follow up. It is unclear as to the purpose of multiple requests of the same practitioner within a claim.

FSCO will continue to collect and track service provider feedback about insurers and will use the information to plan future insurer examinations.

Conclusion and Next Steps

To date, FSCO has completed over 500 examinations of licenced service providers representing more than 13 per cent coverage of the total population.

Overall, the findings reveal a significantly high rate of non-compliance with one or more of the regulatory requirements under the Insurance Act. The four most frequent contraventions were:

- OCF forms not signed off by the Regulated Health Care Provider and/or the patient.
- No written or established policies and procedures in place for the service provider's billing and business practices.
- Patient ID not verified by the service provider.
- Business changes not communicated to FSCO in a timely matter.

It should be noted that although any of these four findings could normally result in enforcement action, such as administrative monetary penalties levied against a licensee, FSCO's primary focus in the early months of regulation was on education.

However, going forward, the objective of FSCO's examinations will change. No longer focussing on education and guidance, FSCO's aim will be to verify compliance and, where there is evidence of non-compliance and where warranted, take enforcement action. Such enforcement could include licence suspension, revocation and/or administrative monetary penalties.

FSCO expects that licensed service providers understand and comply with the standards of practice prescribed in Regulation 90/14 under the Insurance Act. FSCO encourages licenced service providers to visit the service provider pages on FSCO's website, www.fSCO.gov.on.ca, to learn more about their legal obligations under the law.

As well, FSCO encourages service providers to access and make use of the information and tools available to them through their various associations. Both the Ontario Chiropractic Association and the Ontario Rehabilitation Association make tools available to their members that can help them prepare for FSCO service provider examinations.