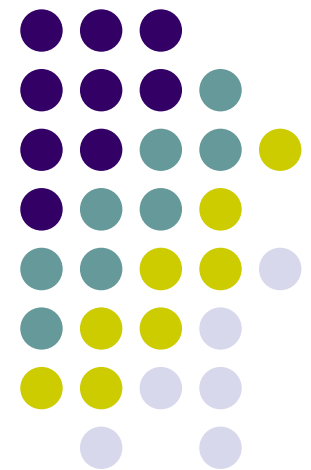
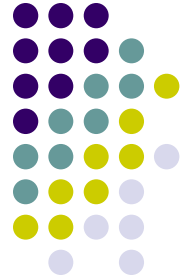


Interim Report on a Regulatory Model for Healthcare and Assessment Facilities in Ontario

Willie Handler and Associates
July 30, 2012



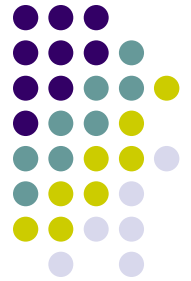
Deliverables



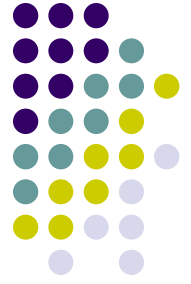
An oversight model for healthcare and assessment facilities that provides for:

- Transparency in ownership, assessment costs and conflicts of interest
- Accountability for facilities, owners and practitioners
- Verification of market conduct and business practices by a regulator
- Sanctions for fraudulent behaviour

Features of a Proposed Regulatory Model



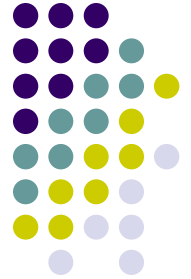
- Barriers for healthcare/assessment facilities that wish to practice in the Ontario auto insurance system based on a “fit and proper” test.
- Sanction participants for fraudulent acts including denying the ability to operate in the Ontario auto insurance sector.
- Evolve HCAI into a regulatory tool to support market conduct regulation and a mechanism to sanction fraudulent behaviour.
- Designate a “regulator” with appropriate powers to oversee the market conduct of healthcare/assessment facilities and coordinate with the health regulatory colleges on issues dealing with professional misconduct.



Who Would Be Covered

- Multi-disciplinary treatment facilities
- Regulated health professions who are sole practitioners
- Assessment facilities supporting insurers and claimants
- Unregulated providers who provide specialized medical and rehabilitation services to claimants (vocational rehabilitation, case management, home modifications)

Types of Licences



Facility Licence

- for facilities and health professionals that have billed more than \$200,000 in past year (based on HCAI data) or if business is less than a year old, have billed more than \$50,000 in past three months
- majority would be multi-disciplinary treatment and assessment facilities but might include sole practitioners who work predominantly in the auto insurance sector

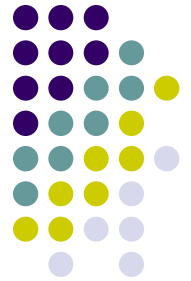
Restricted Licence

- unregulated practitioners (fall outside RHPA and SWSSWA) and facilities without a director who is a regulated health professional irrespective of billing volume
- licence would come with restriction i.e., would be limited to providing vocational rehabilitation, case management, home and vehicle modifications/devices

General Licence

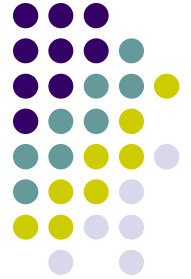
- for facilities and health professionals that do not predominantly work in the auto insurance sector and have not billed \$200,000 or more in past year or \$50,000 in past three months (again based on HCAI data)
- also any healthcare and assessment facility that has been accredited by Accreditation Canada (AC) or Commission on Accreditation of Rehabilitation Facilities (CARF)
- Licences would not be transferable and would be issued for a one-year term

Breakdown of Facilities by Billing Volume



No. of Facilities	May HCAI Billings	Annualized Billings
3,509	None	None
823	Up to \$1,000	Up to \$12,000
971	\$1,000 to \$2,500	\$12,000 to \$30,000
692	\$2,500 to \$5,000	\$30,000 to \$60,000
568	\$5,000 to \$10,000	\$60,000 to \$120,000
501	\$10,000 to \$25,000	\$120,000 to \$300,000
150	\$25,000 to \$50,000	\$300,000 to \$600,000
77	\$50,000 to \$100,000	\$600,000 to \$1,200,000
37	\$100,000 to \$250,000	\$1,200,000 to \$3,00,0000
22	\$250,000 to \$500,000	\$3,000,000 to \$6,000,000
10	\$500,000 to \$1,000,000	\$6,000,000 to \$12,000,000
2	Over \$1,000,000	Over \$12,000,000

Estimated Number of Licences by Type



Facility Licences

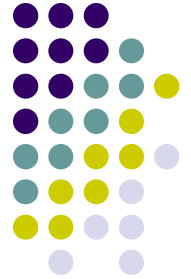
- 474 facilities billing over \$200,000 annually based on May 2012 invoices

Restricted Licences

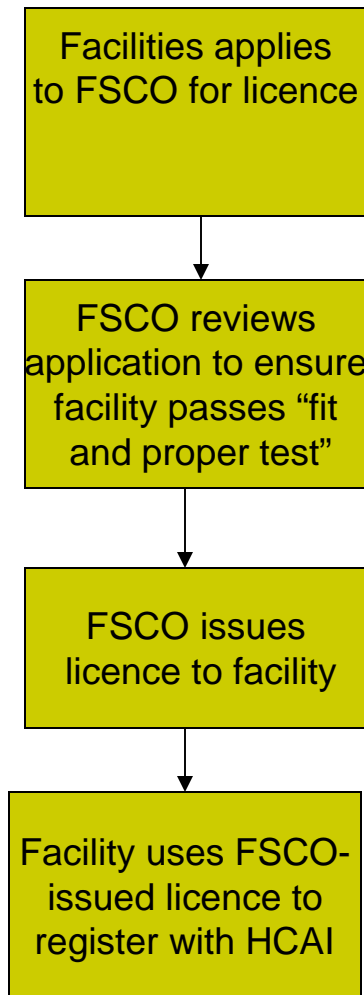
- The number of facilities that would apply is unknown however 10% of providers registered on HCAI are unregulated
- Covers expenses for services that currently are not part of HCAI

General Licences

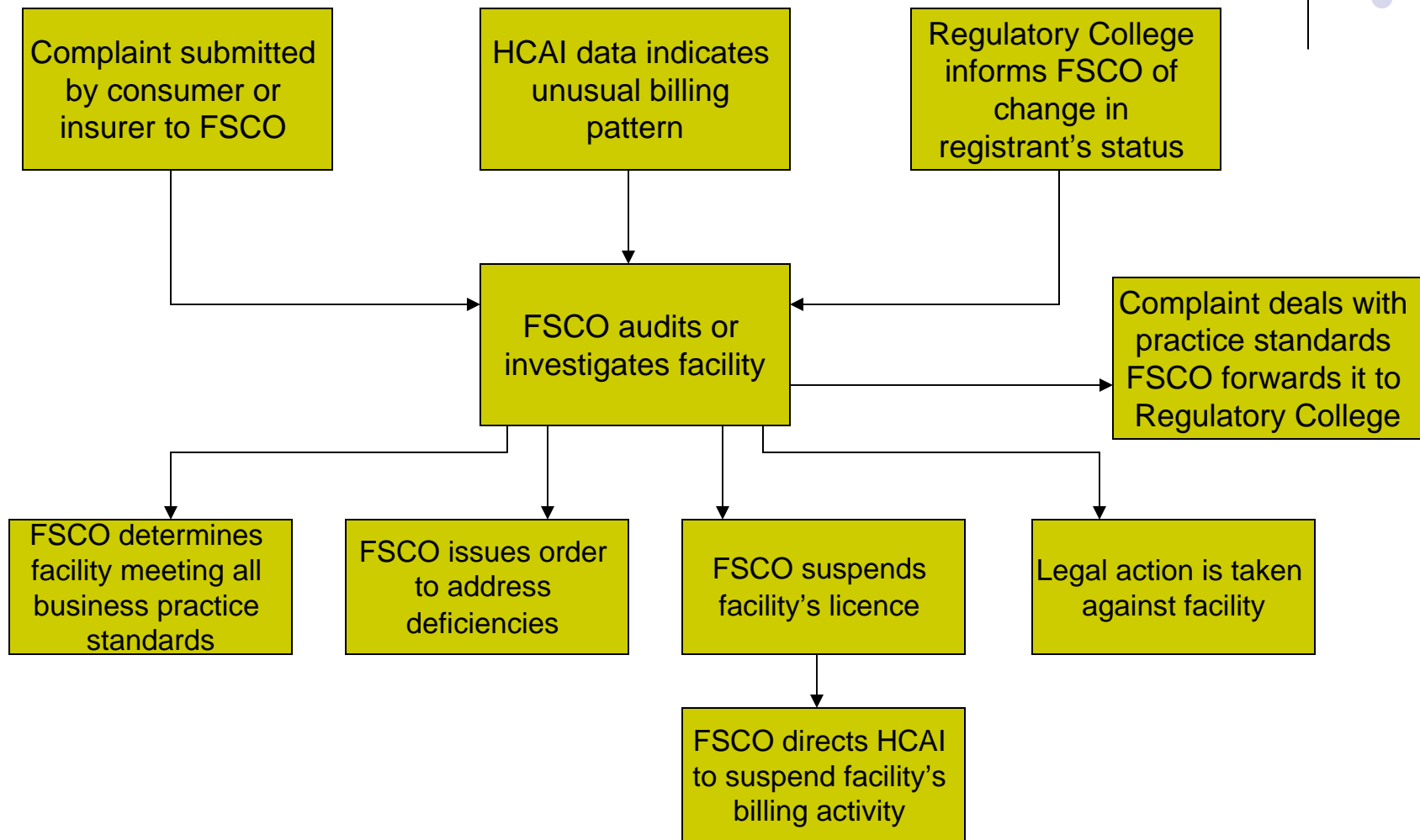
- Estimated at 3,853 facilities



Licensing Function



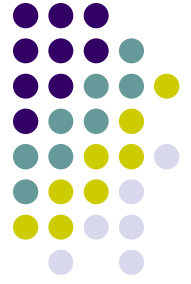
Market Conduct Functions



Responsibilities of FSCO



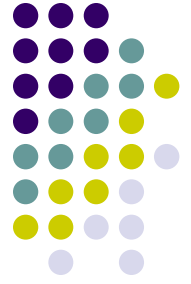
- Review license applications and verify information as required
- Review annual information returns
- Investigate complaints regarding improper business practices of licensees
- Conduct risk based audits of licensees
- Issue orders to licensees regarding deficient business practices (HCAI terms and conditions, Superintendent directives/guidelines)
- Suspend licenses of facilities and/or individuals for fraudulent practices or for ongoing deficient business practices
- Pass on to the appropriate authority when suspected criminal activity is uncovered
- Inform HCAI and Regulatory Colleges of facilities and health professionals that have been sanctioned
- Inform the public of enforcement action



Responsibilities of HCAI

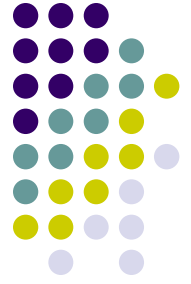
- Ensure that all applicants are licensed to bill auto insurers
- Suspend HCAI billing privileges of facilities on the recommendation of FSCO
- Suspend HCAI billing privileges of facilities that do not complete quarterly attestations regarding accuracy and appropriateness of bills submitted through HCAI
- Develop standardized reports that would inform FSCO of unusual billing patterns of facilities

Responsibilities of Regulatory Colleges



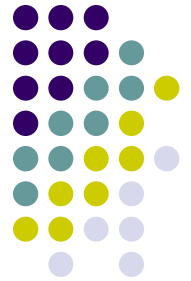
- Responsible for maintaining clinic practice standards for registrants
- Inform FSCO of changes in the status of registrants
- Review registration status following submission of a report by FSCO where a college registrant has been subject to sanctions by FSCO
- Require college registrants to advise college that they or the facility they work in are being investigated by FSCO during college license renewal process

Responsibilities of Licensed Facilities



- Maintain business practice standards set out by FSCO (HCAI terms and conditions, Superintendent's directives/guidelines)
- Keep FSCO informed in writing of a change in Clinical Director within 15 day or any change in licence application information within 15 days
- Cooperate with compliance audits or investigations of the facility by FSCO investigator, law enforcement officer or any other person authorized by FSCO to enforce compliance
- Complete quarterly HCAI billing attestations regarding accuracy and appropriateness of bills submitted through HCAI

Required Legislative and Regulatory Authority



Insurance Act

- Likely require a new Part dealing with the licensing of facilities similar to Part XIV that deals with agents, brokers and adjusters
- Act would require amending to cover facilities covered by the new Part under existing provisions including
 - duty to provide information under sections 30 and 31
 - unfair or deceptive acts or practices under Part XVII
- Examinations and enforcement under Part XIX
- New provisions authorizing the sharing of information with Regulatory Colleges
- Regulation making authority dealing with:
 - qualifications for licensing
 - business standards for facilities

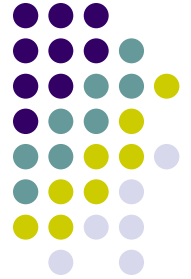
Required Legislative and Regulatory Authority



Regulations

- New regulations dealing with licensing requirements and business practice standards
- Amend section 49 of SABS indicating a benefit is not payable unless invoice submitted by a facility that is licensed by the Superintendent
- Authority for Superintendent to issue guidelines to support licensing process

Application Process



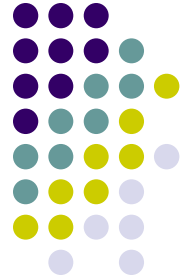
- Facility and Restricted Licences would be a paper process
- General Licence would be an electronic filing process
- FSCO-issued licence is non-transferrable and cannot be assigned; any ownership change requires a new application and licence
- As part of the application process, a facility must agree to a set of business practice standards developed by FSCO; a failure to meet those standards can lead to suspension or revocation of a licence
- Licences are valid for one year and can be renewed by submitting an acceptable Annual Information Return

Annual Information Returns



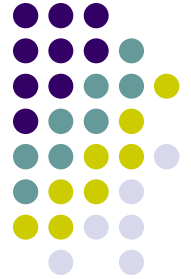
- An electronic filing process that would update the information on file at FSCO
- Each type of licence would have a different Annual Information Return based on the information provided on the licence application
- The Annual Information Return would also have an attestation regarding the accuracy of the information provided

Business Practice Standards



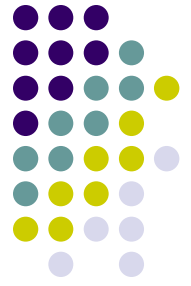
- No owner, operator, director or practitioner may have a felony conviction (going back 5 years)
- Facility is independent of all insurance companies, claims adjusting companies, personal injury lawyers and paralegal operating in the auto insurance sector
- Clinical Director of a facility with a Facility Licence must be regulated health professional
- Clinical Director must be on-site for a minimum of 50% of the facility's operating hours
- Clinical Director must be a signatory to operating bank account and all liability insurance policies
- If the facility conducting third party medical exams, all practitioners conducting exams must have at least five years of applicable clinical experience and attest that they working within their scope of practice

Business Practice Standards



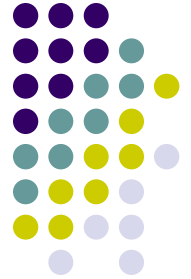
- Facility will not accept, solicit, demand or pay a referral fee in respect of a person claiming benefits under the SABS
- Facility will not intentionally submit to insurers duplicate treatment and assessment requests for the same claimant or duplicate invoices
- Facility will not intentionally invoice for goods and services that have not been provided to a claimant or that have not been approved by the insurer
- Facility will cooperate with an insurer's request to verify an invoice
- Facility will only bill once for each OCF-18 or no more frequently than once every 30 days
- Facility will file all fees with FSCO and will not invoice for amounts that unreasonably exceed amounts charged by others for similar goods and services
- Facility will comply with all applicable Canadian laws and regulations, Superintendent's Guidelines and HCAI Terms and Conditions

Grounds for Licence Denial, Suspension or Revocation



- An application that contains false or missing information
- Failure to meet the business standards established by FSCO
- Failure to allow for inspection of facility for compliance by FSCO investigator, law enforcement officer or any other person authorized by FSCO to enforce compliance
- The conviction of any owner, manager or *clinician* for fraud related to the operation of the facility
- The facility is owned or operated by any person, or has a contractual or employment relationship with a person whose licence with a regulatory college has been suspended or revoked
- The employment or continued employment of any person convicted of or pled guilty to felony crime of fraud in any jurisdiction
- Failure of facility to notify FSCO in writing of a change in Clinical Director within 15 day
- Failure of facility to notify FSCO of any change in licence application information within 15 days

FSCO Resource Requirements



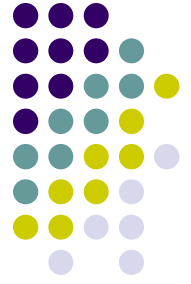
Primary Licensing Functions

- Policy/program/standards development
- Registration and Licensing
- IT (web-based license application)
- Monitoring and Compliance
- Investigation and Enforcement (incl. prosecution)
- Appeals and Adjudication

FTEs

- Transition (Years 1-2) 30-35 staff
- Ongoing 20-25 staff

Transition



- Licensing should be a staged process so that FSCO is not overwhelmed by applications; the high volume facilities making up the early stages
- Stage 1 (3 months) - Facility Licence applications accepted from facilities with annual billings exceeding \$400,000
- Stage 2 (3 months) - Facility Licence applications accepted from facilities with annual billings under \$400,000
- Stage 3 (3 months) – Restricted Licence applications accepted
- Stage 4 (6 months) – General Licence applications accepted