



## Canadian Society of Medical Evaluators Ontario Automobile Anti-Fraud Task Force Steering Committee July 2012 Status Update

The Canadian Society of Medical Evaluators welcomes the opportunity to provide feedback to the July 2012 Ontario Automobile Anti-Fraud Task Force Steering Committee Status Update.

### *Licensing and regulation of health clinics*

In the July 2012 report, the Steering Committee indicated being “... convinced that a licensing and regulation regime for health clinics treating auto insurance claimants is appropriate and necessary.” To this end, the consulting firm of Willie Handler and Associates was retained and prepared the July 30, 2012 Interim Report on a Regulatory Model for Healthcare and Assessment Facilities in Ontario. Perhaps, the Steering Committee could shed some light as to why FSCO chose not implement an “Accreditation” process earlier when FSCO had Regulatory Colleges involved in the process through the “Accreditation Committee” for at least two years.

We support that the regulatory regime recommended for health clinics should also apply to other commercial enterprises and health care providers that do independent medical assessments (IMEs) for both insurers and claimants. CSME is also in broad agreement with the four objectives that a licensing/regulatory regime should achieve: transparency; accountability; verification; and sanctions. In our view, operational problems previously encountered under the FSCO “Designated Assessment Centres”, a regulated Model for Assessment Facilities experiment, must be addressed by ensuring that:

- Independent Medical Evaluators for **both** claimants and insurance companies are trained, competent and accountable for both accident benefits and tort purpose.
- Limit the MIG designation and fitness to work determination for the first 3 months to a FSCO Roster of medical specialists specifically trained and monitored to fulfill this function (e.g. SAAQ model).
- Ensure that future FSCO Guidelines addressing causation, disability duration and catastrophic impairment determination are followed by FSCO Arbitrators.
- Define what constitute Reasonable and Necessary treatment interventions using comparative effectiveness research and available clinical practice guidelines. In our view, what are appropriate, reasonable and necessary treatment interventions is the greatest source of opportunistic fraud and its seriousness cannot be stressed enough. Hopefully, FSCO Guidelines will be followed by FSCO arbitrators whose decisions are frequently perceived as failing to apply medical and scientific valid analysis of what constitutes appropriate, reasonable and necessary treatment interventions.
- Create within FSCO a Medical and Rehabilitation Services branch to assist in the development of effective controls and policy.

### *Business Practice and Managed Care: Necessary Anti-Fraud Components*

It is CSME's submission that while looking at the business practice of providers of IMEs services is desirable, it will not impact significantly the sometimes poor quality of services provided or deter opportunistic fraud related to needless disability and ineffective treatments. Automobile insurance costs will be negatively impacted unless measures are put in place to control the plethora of medically unnecessary and ineffective services, the delay in the provision of rehabilitation benefits, and the duplication of services. Implementation of proper effective medical controls will assist to prevent of abuse, overutilization and fraudulent rehabilitation practices.

### ***Tort Side Cost Shift***

We are already witnessing a major shift of the cost to the tort side where none of the FSCO controls will apply. There are no restrictions as to the cost of IMEs or who do them under Tort. The expansion of Life Care Plans prepared in cases of relatively minor injuries and issues such as housekeeping is already being noted as serious exposures by some large insurers. This shifting of costs to the tort side was predictable and needs to be addressed as a fertile ground for major opportunistic fraud.

### ***Managed Care and Opportunistic Fraud***

In the Status Report, the Steering Committee wrote: *“Although we believe that standards of competency and accountability are good things, the broad questions of qualifications, standards and competencies of independent medical assessors are beyond the scope of our mandate and we do not feel competent to make recommendations in this regard.”* While we can appreciate the limitations imposed by the scope of the mandate, we must emphasize that the regulation of business practices will do little to prevent overutilization of services and opportunistic fraud (particularly on the tort side).

It is our opinion that both FSCO as a regulator and the Regulatory Colleges have failed the public by failing to address the plethora of medically unnecessary and ineffective services and assessments. We urge the Steering Committee to examine OHIP, WSIB and La SAAQ systems for ways to prevent fraud by limiting the scope of services or delisting those ineffective services. Training, certification and maintenance of competence of medical experts must include utilization management and recognition of fraud indicators.

We remain at the disposal of the Anti-Fraud Task Force Steering Committee for future consultation in the important fight against health care overutilization and fraudulent activities in the Ontario.

Sincerely,

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