

November 29, 2024

Financial Services Regulatory Authority of Ontario
25 Sheppard Avenue West, Suite 100
Toronto, Ontario M2N 6S6

RE: Consultation on Auto Reforms

We are a small business, family owned and operated, with 15 full and part time physiotherapists who help us deliver complex neurodevelopmental rehabilitation to severely injured MVA victims. These include victims suffering traumatic brain injuries, spinal cord damage, amputation, and other critical life changing losses to their independence and autonomy. As the vast majority of clients needing our care have limited mobility, we travel to their homes for treatment. While other clinics offer neurophysiotherapy treatment, and some clinics offer homecare, as far as we are aware we are the only business in Ontario focused exclusively on neurophysiotherapy rehabilitation at home. Our physiotherapists have non-standard training, decades of combined experience in complex rehab working at hospitals, and certifications providing them knowledge and skills over and above standard physiotherapists. In short, the rehabilitation we provide is what the most severely injured MVA victims must receive to have the best chance of recovery.

We are very active in Ontario's neurorehabilitation ecosystem, and know that there are only a handful of other groups in Ontario that have the same expertise and capacity. There are vanishingly few private options for severely injured MVA victims in Ontario as not just any physiotherapist has the training and experience to address neurological and complex rehabilitation. Two of the three instructors in **Canada** for Neuro-Developmental Treatment (NDT) training and certification of physiotherapists are currently on our roster. Our clients regularly break through rehabilitation plateaus and regain pieces of their lives that were previously thought lost forever. These clients fall through the cracks, having previously seen generic physiotherapists who are not trained or experienced in the complex rehabilitation needs of neurological impairments. I hope the FSRA is able to extract from the statements above that access to care will be affected for hundreds of future MVA victims, and importantly the victims most severely affected and in need.

FSRA has made no effort that we are aware of to quantify trends in quality of care within the MVA system. Admittedly this is difficult to do, but having made no such effort that we are aware of, FSRA still insists that access to care is unaffected as justification to continue inaction on critical issues faced by HSPs. This inaction is leading to a race-to-the-bottom in quality of care in the MVA system. Apparently, this decline is not captured by FSRA's current metrics.



The issues that need to be addressed to reverse the trend of decreasing access and quality of care in the MVA system are below:

1) 2014 Professional Services Guideline - FSRA through inaction and stonewalling HSPs concerns has effectively frozen rates paid to HSPs for 10 years. The Ontario Physiotherapy Association conducted a survey of members in 2023 to understand current market rates, and published a 2024 physiotherapy fee guideline¹. Based on this survey and published results, market rates for Physiotherapy are now 40% higher than PSG catastrophic rates and 70% higher than PSG non-catastrophic rates, note these are rates for standard Physiotherapy and not NDT-certified Physiotherapists. These rates critically undermine our ability to retain talent, and with overwhelming demand for our services from private clients, there is no justification to continue in the MVA system. Worse still, insurer denials and partial denials of treatment plans further undercut compensation forcing practitioners to complete legally mandated tasks such as client documentation without compensation. FSRA will likely respond to this point saying the PSG does not prevent insurers from paying rates higher than the PSG, but this tone-deaf response ignores the reality that convincing an insurer to pay above PSG rates is an incredibly time and energy consuming task, one that must be repeated for every new client, and is simply not practical.

2) Imbalance of power - Insurers and particularly adjusters have complete and unilateral control over duration and frequency of treatment, despite these being decisions that should be made by licensed healthcare professionals. Physiotherapists are a licensed health care professional granted protected scope of practice by the Physiotherapy Act of Ontario. In Ontario they require 4 years of undergraduate schooling followed by two years to complete a Physiotherapy Masters degree. The niche neurological experience and certifications our Physiotherapists take additional years. Physiotherapists are governed by the College of Physiotherapists of Ontario, and are accountable to rules, standards and ethics under threat of loss of license. For comparison, an insurance adjuster requires a high school education. There is a monumentally vast difference in qualifications between the adjuster responsible for reviewing/approving treatment plans, and the licensed professionals that recommend them. Yet somehow in the MVA system, adjusters have come to have the total and complete power to cancel or alter treatment recommended by licensed professionals based on nothing more than their personal opinion. This is completely backwards, and something FSRA has refused to even acknowledge as a problem. IEs are rarely used, as adjusters know they can often achieve the same outcome by simply denying or partially denying a plan, knowing HSPs have no practical recourse other than begging them to change their mind. Surely FSRA will point to the LAT process for such denials, however this process takes up to two years and requires levels of energy and unpaid time that small businesses like us can not support. This makes this process effectively inaccessible for us, and if FSRA does not see a concerningly high number of LAT disputes from HSPs, perhaps it is time to make a serious attempt at understanding why. The number of LAT-worthy denials we've encountered from adjusters would lead to more LAT disputes than we could possibly ever support. Over the 7 years we've participated in the MVA

¹ Ontario Physiotherapy Association - 2024 Physiotherapy Fee Guideline:
<https://opa.on.ca/wp-content/uploads/2024/10/OPA-Fee-Guideline-2024.pdf>



system we've exhausted our patience for fighting adjusters that have no respect for rehabilitation outcomes and opinions of highly qualified licensed medical professionals.

The FSRA has not made any serious effort we are aware of to engage HSP feedback on the actual issues that matter to them. Our feedback directly to FSRA in the past has received no response. Our submission to the 2023 Public consultation on Priorities was similarly dismissed without interest or follow-up by FSRA. The FSRA's comments during the recent Auto Reforms Review Webinar did not inspire confidence that FSRA has heard HSP concerns; it also ended 20 minutes early with questions unanswered.

FSRA and insurers, intentionally or not, have robbed HSPs like us of our autonomy and undermined our ability to deliver the standard of care we believe is necessary. Private demand for neurological rehabilitation services continues to exceed our capacity, and notably these are clients willing to pay market rates 40% higher than CAT rates.

If we do not see immediate and meaningful action taken by the FSRA for auto-reform in the coming months we will look towards transitioning out of the MVA system completely.

Sincerely,

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