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ISSN 1180-5218

**Legislative Assembly  
of Ontario**

Second Session, 40<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Deuxième session, 40<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Wednesday 1 May 2013**

**Journal  
des débats  
(Hansard)**

**Mercredi 1<sup>er</sup> mai 2013**

**Standing Committee on  
General Government**

Automobile insurance review

**Comité permanent des  
affaires gouvernementales**

Examen de l'assurance-  
automobile

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Telephone 416-325-7400; fax 416-325-7430  
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation  
Salle 500, aile ouest, Édifice du Parlement  
111, rue Wellesley ouest, Queen's Park  
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Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Wednesday 1 May 2013

Mercredi 1<sup>er</sup> mai 2013

*The committee met at 1604 in room 228.*

**AUTOMOBILE INSURANCE REVIEW**

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you, everyone. Good afternoon. The Standing Committee on General Government is ready for its deputants.

**PROVINCIAL TOWING  
ASSOCIATION (ONTARIO)  
ONTARIO RECOVERY GROUP**

**The Vice-Chair (Mrs. Donna H. Cansfield):** Our first deputant is the Provincial Towing Association and the Ontario Recovery Group. Mr. Nelson, correct? I'd like you to introduce yourself first, sir, but before we do you have 10 minutes for your presentation. I'll give you sort of a one-minute-to-go. We'll start with Ms. Scott on rotation. Mr. Nelson?

**Mr. Doug Nelson:** Thank you very kindly. Thank you, ladies and gentlemen, for allowing me the opportunity to come here to speak to you this afternoon.

I'll give you a little of my history. My name is Doug Nelson. I am the executive director of the Provincial Towing Association and the Ontario Recovery Group. I'm grateful for this opportunity to be before this committee today to express our support for the full implementation of the findings of the anti-fraud task force final report.

As I am sure the members of this committee are aware, the towing industry has been recognized as a significant driver of auto insurance fraud and the financial and physical abuse of Ontario motorists. The reason is clear: There is no regulation of the Ontario towing industry today. This creates an environment that attracts fraudsters and pushes out the honest operator who wants the best for their client.

I am proud to say that the members of the Legislature have recognized this problem and presented solutions. As you may recall, MPP David Zimmer introduced—not once, but twice—legislation that would have regulated the industry. Unfortunately, these bills did not reach third reading and become law. However, all three parties voted in support of these bills.

With the findings of the anti-fraud task force and Ontario's commitment to combat rising insurance rates, now is the time to take a significant step in regulating the

towing industry, as part of the broader reforms of the anti-fraud task force recommendations. We know this cannot happen overnight, but it must happen as soon as possible. We stand ready to work with this province and all stakeholders to protect the consumer and eliminate fraud. Thank you.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, sir.

Ms. Scott.

**Ms. Laurie Scott:** Thank you very much for appearing here before us. I did follow those private members' bills that were brought in, and obviously there's recognition among all parties that there have to be some changes made.

Jeff Yurek is our PC member, and he may come in in a few minutes. He's quite familiar and has launched some insurance policy initiatives that we've put out there. He may come in and ask some more questions. I just wanted to give you that heads-up.

**Mr. Doug Nelson:** Certainly.

**Ms. Laurie Scott:** As a general question, to what extent does your organization self-police your membership and discourage the fraudulent activities that you mentioned, the poaching etc.?

**Mr. Doug Nelson:** We have absolutely no means today to regulate anybody in the industry. We receive a lot of complaints, and unfortunately we have no regulation that we can lean on to protect the consumer.

**Ms. Laurie Scott:** I'll tell you about my little incident. I had a bit of a fender-bender on—I can't remember—the Gardiner, and I had a very intimidating tow truck driver who said he was going to tow me. I said, "No. My wheel is still moving; you're not going to tow me."

**Mr. Doug Nelson:** Good for you.

**Ms. Laurie Scott:** Well, most people probably aren't that aggressive after just a fender-bender.

So I phoned my dealership, and a policeman was walking by, and I said, "Are you going to let him talk to all these people like that?" and it was very much, "Lady, I can't get involved with that." I know. He just kind of walked by.

Anyway, I won that battle. But the intimidation for other people is extreme out there. I don't have that in my local rural communities, but I do here in the GTA, in the 416.

**Mr. Doug Nelson:** We get that complaint quite often. There have to be ramifications for abuse of anybody. It

doesn't matter whether it's the public or insurance agents. They get it too. Unfortunately, we have nothing that we can do. If he had hooked up to you and taken you away and charged you a lot of money, the only recourse you have is through the Repair and Storage Liens Act.

**Ms. Laurie Scott:** It's incredible. That's just my small sample of the experience that a lot of people—

**Mr. Doug Nelson:** Intimidation is a big part of what goes on.

**Ms. Laurie Scott:** It was incredibly intimidating. I couldn't believe it. Anyway, it happened, and unfortunately, it continues to happen.

Could you tell us a little bit about why the municipal regulations of the towing industry are inadequate?

**Mr. Doug Nelson:** They're not regulations.

**Ms. Laurie Scott:** What are they? Does—

**Mr. Doug Nelson:** They're just a licence, and it floats all over the place. There are a few that are good enough to at least do background checks, but they don't all do background checks, so there can be people with criminal backgrounds in the towing industry—and I know there are, with serious criminal backgrounds.

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The municipal licensing is all over the place, and at terrible expense to the towing industry. Most of the municipalities that are licensing now are charging the company \$500 to \$600 for the company licence and \$300 to \$400 per driver, and some are even on a truck basis. The town of Richmond Hill just initiated a licensing program; I'm told the licensing fee for the company is \$5,000.

**Ms. Laurie Scott:** Oh, my gosh.

**Mr. Doug Nelson:** So I've told them, just don't buy a licence and don't tow, and I can't help but do that, because it's ridiculous. We have members in the GTA now—one member is faced with \$20,000 to \$30,000 worth of licensing at the end of this month, just to tow from one municipality to the other, because they don't recognize each other's licences. It's a serious problem, and it's done nothing to correct any of the problems. It hasn't stopped intimidation. The pricing, the bidding for a repair job—that's what they're looking for, the most expensive repair job at the scene, because a lot of these people will get 15% to 20% of the repair.

**Ms. Laurie Scott:** The anti-fraud task force recommended setting up the administrative authority to administer—are you familiar with this?

**Mr. Doug Nelson:** Very familiar with it.

**Ms. Laurie Scott:** Anyway, I'll finish the statement—to administer a province-wide licensing scheme for tow truck drivers. Are you good with their recommendations?

**Mr. Doug Nelson:** Absolutely. We have to—

**Ms. Laurie Scott:** So you've seen the recommendations.

**Mr. Doug Nelson:** —eliminate municipal licensing.

**Ms. Laurie Scott:** Yes.

**Mr. Doug Nelson:** We have to have one office with a database of all tow operators, so if we have a bad apple in Toronto, he can't go and tow in Windsor or tow in North

Bay or Haliburton or wherever. He could be eliminated from having that licence if there are some serious ramifications that would prevent him, yes.

**Ms. Laurie Scott:** I didn't compare the task force recommendations and the private members' bills, but are we covering—

**Mr. Doug Nelson:** They're very, very similar.

**Ms. Laurie Scott:** Yes. So we're covering all the recommendations that you'd like to see with that?

**Mr. Doug Nelson:** Yes.

**Ms. Laurie Scott:** Okay. I don't know—Jeff, do you have anything more? How many more minutes do we have, Chair?

**The Vice-Chair (Mrs. Donna H. Cansfield):** Five.

**Ms. Laurie Scott:** About five?

*Interjection.*

**Ms. Laurie Scott:** Do you want to save them to ask at the end of rotation? Jeff is asking—

**The Vice-Chair (Mrs. Donna H. Cansfield):** No, you just go into rotation. There's no saving.

**Ms. Laurie Scott:** Okay. I can keep going if you want.

**Mr. Jeff Yurek:** Keep going.

**Ms. Laurie Scott:** Okay. I'll keep going, then. Sorry for that slight interruption.

One question is, if we expanded the regulation for unfair or deceptive acts or practices and gave police officers the ability to ticket operators, could you crack down on the fraud that way too, if we gave police officers—

**Mr. Doug Nelson:** Under our scheme, we would like to initiate an incident management licence which would cause a sticker to be on the side of the tow vehicle, and the company would have to apply for that. When they applied for the incident management licence, they would have to declare what their pricing is and where the vehicle is going to be towed, and it would have to be within a certain area.

Several times we get complaints where a vehicle—one stands out in my mind; the lady was very upset. It happened on the 401 in Whitby, in a brand new car. She just drove it out on the 401 and she was involved in a fender-bender. A chaser got a hold of it, and he took it to Mississauga when she asked him to take it back to her dealership. It was a brand new car. She called him, and she had an awful time finding him. When she did find him, he said, "Well, it's at such-and-such body shop, and the bill's \$1,200. If you want me to tow it back, it will be another \$1,200." He happened to be just driving through, and he picked up this vehicle.

My heart bleeds for some of these people, but there's nothing we can do about it, and that's really one of the reasons why this industry needs to be regulated. We see falsified claims, we see falsified bills, and they put charges on the invoices that really don't apply, and they charge for things that don't apply. I've got a whole stack of complaints; unfortunately, we're just unable to do anything about it.

**Ms. Laurie Scott:** It's like a hostage-taking.

**Mr. Doug Nelson:** It's very disheartening to the professionals, too, because they're trying to compete with this. We had one not very long ago where a vehicle rolled over. It was a customer of one of our members, and the tow operator said, "Well, I've got the customer on the phone and they want me to tow it." That was a lie. It was somebody else on the phone. The police are having a terrible time dealing with this as well.

I've been after the police to start pressing fraud charges, and I really would like to press fraud charges with some of these people, for sure.

**Ms. Laurie Scott:** It is like a hostage-taking when you're out there.

**Mr. Doug Nelson:** Oh, it is. It's an absolute hostage-taking. I'd love to be able to revoke that licence, just tear it up and say, "You're not towing in Ontario anymore."

**Ms. Laurie Scott:** So when did—I'd say 10 years ago, probably, if my memory wasn't that bad—did it just happen over time—

**Mr. Doug Nelson:** I really hate to tell you this, but—

**Ms. Laurie Scott:** —the fraud rings?

Oh, do tell.

**Mr. Doug Nelson:** It's been developing to this for the last 40 years since I've been in the business. It was an industry that I was reluctant to even get into, but I'm from rural Ontario, from Bracebridge, and we had customers who needed towing services, and we provided those towing services for them. But because of the reputation of the industry, I've seen a lot of people get out of the business.

**Ms. Laurie Scott:** I'll just have to vouch—because I do call for tow trucks quite often in my riding of Haliburton-Kawartha Lakes-Brock—I get treated extremely well. They're very efficient. But when I changed environments, when I came down here—

**Mr. Doug Nelson:** But if you were involved in an accident and it was taken to the reporting centre, and you had a local tow operator that you trusted and had a car up there and you wanted him to tow your other car down and pick up your vehicle from the reporting centre and take it back, or come down and pick you up and take it back, he wouldn't be allowed to. He would have to hire a tow truck from Toronto to tow it out of the reporting centre. He'd have to tow it out to the line and then he'd drop it.

**Ms. Laurie Scott:** Okay. So basically, the recommendations that have come down and the private members' bills that have been presented and passed, but not in law, are able, we think, to protect the consumer and help you, in the towing industry, regulate?

**Mr. Doug Nelson:** That's what this is all about: consumer protection.

**Ms. Laurie Scott:** Okay. Good. Thank you so much for coming today.

**Mr. Doug Nelson:** You're very welcome.

**The Acting Chair (Mr. Steven Del Duca):** Thank you very much, Mr. Singh?

**Mr. Jagmeet Singh:** Thank you for taking the time to be here.

**Mr. Doug Nelson:** You're welcome.

**Mr. Jagmeet Singh:** I'm just going to go through some areas of concern, and maybe you can give me some insight into areas you think we can improve. What I have so far is that you're supportive of a province-wide licence and getting rid of the municipal pay system.

**Mr. Doug Nelson:** Municipal licensing—correct.

**Mr. Jagmeet Singh:** In terms of regulating province-wide, what are some things that you'd like to see in terms of mechanisms? One of the things you just mentioned was declaring the pricing and declaring where and how far they're going to be taking you. What are some other things that you'd like to see specifically? The task force has some broad recommendations, but not specifics.

**Mr. Doug Nelson:** One of the first things that we would have to do is set some standards. Currently in Ontario, all you need is the minimum insurance. Some of these trucks just look like regular pickup trucks, and they carry minimum insurance. When they hook on to somebody's vehicle, the vehicle they're hooked on to is not insured by the tow operator. That is a serious problem. If they lose the vehicle and it goes across the highway and is involved in a crash, it will be the consumer's insurance that will be required to be responsible for that, if they are even responsible for it. The tow operator, who may have a net zero balance in his bank account, will probably just walk away from the whole thing. So that's one thing.

Training is another. We see many people injured through lack of training. Experience to get into the industry—right now, very often we get calls into the office where somebody who just became unemployed wants to get into the industry and they call us and ask us, "What do we have to do to qualify to be a tow operator? I just bought a \$5,000 tow truck." My only answer to them is, "Do you have a driver's licence?"

"Yes."

"Do you have warm blood running through your veins?"

"Yes."

"Then you qualify."

I can't say any more, because that qualifies somebody to be a tow operator. It's unfortunate. We would definitely want to mandate proper training, proper education, ongoing education—that sort of thing.

**Mr. Jagmeet Singh:** And some standards for the vehicles?

**Mr. Doug Nelson:** Absolutely.

**Mr. Jagmeet Singh:** In all of this, one of the concerns that you raise—and I think this regulation would help in regulating the industry. Right now, in some communities and in some areas, people have a negative view of the tow truck industry.

**Mr. Doug Nelson:** We live with that every day.

**Mr. Jagmeet Singh:** And the reputation could be improved by increasing the professionalism and the standards—

**Mr. Doug Nelson:** Absolutely. That's a must today. That's one of the reasons why we have to fix this problem.

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**Mr. Jagmeet Singh:** Okay. I'm going to turn your mind now to insurance claims on the insurance side. A number of people have come and testified in the committee or given their depositions, and they've said basically that there are a lot of things that the insurance companies themselves, when they pay out a claim or when a car is brought to a body shop—they don't actually do their own part in due diligence to make sure that they're actually checking the invoices and paying things properly. Have you seen any practices where the insurance companies themselves aren't doing their job to check exactly what's going on and being vigilant about preventing any sort of wastage of funds?

**Mr. Doug Nelson:** I can't really speak for the body shops. There are some very good body shops in the province, and there are some that are—and I've heard of body shops that all they do is dismantle the vehicle and then hold the insurance company for ransom because they're going to do a big estimate on it, so they charge for the dismantling of the vehicle and they use minimum-wage labour. They're really not a body shop, but they dismantle it and say they are a body shop, and then they hold the insurance company for ransom for the amount that they want, including—and body shops are very bad for this—a huge, exorbitant bill for storage and that sort of thing. Car rentals, they try to get into car rentals and—

**Mr. Jagmeet Singh:** On the tow truck side, though, is there anything that you've seen in terms of improper practices that the insurance companies aren't doing their job to—

**Mr. Doug Nelson:** Towards the towing industry?

**Mr. Jagmeet Singh:** Right. In terms of making sure—here's an example I'll give you: Someone was talking about the body shop industry and collision repair industry, and they were indicating that the insurance companies often wouldn't check to see that the cheques were going to an actual body shop. It turned out to be that it wasn't actually a shop—or things that insurance companies can do to prevent wasting their own money.

In your industry, do you think that applies to anything that happens where maybe a truck is towed and the fee that they're charging just doesn't make sense, and an insurance company doesn't question it? Is there anything that you've seen in your experience that the insurance industry could be more vigilant themselves?

**Mr. Doug Nelson:** I think the insurance industry could be more vigilant, but the problem is, they spend a lot of time on it and there's nothing they can do. Again, they're powerless like other people. "I've got your vehicle. It's in storage, and it's going to cost you this much money. If you don't like it, leave it here for another month, because I'm going to make \$100 a day on it."

But there's one insurance company that is actively pursuing some of this, and I've asked them to lay charges of fraud against operators. One was—they charged \$40,000 for something they didn't do, and this auto insurance company is saying to me that it's difficult to prove that fraud, but they're working on it and they're

hoping that they may be able to do it. I said, "You need to do it. We need to get the police involved in this thing."

I have had meetings with the deputy commissioner and Chief Superintendent Don Bell about that specifically, that deceptive practices are fraud and there need to be charges laid. That's what we're working towards, a regulation that would really push that.

**Mr. Jagmeet Singh:** Sure. Another recommendation that came up in the anti-fraud task force—and I want to hear your input on it. It was recommended that the insurers collect information between the towing industry and any relationship between towing companies or operators, collision repair centres and health care facilities, that if there's any sort of improper activity going on, they should monitor the relationship between the three of those. Does that sound like something that you think would be a useful recommendation?

**Mr. Doug Nelson:** I think it would be useful but difficult. The reason I say that is, you've got to set up a central database. One person's opinion may not match somebody else's opinion. So I think it would be a cumbersome and expensive undertaking, but it's always possible it could happen, yes.

**Mr. Jagmeet Singh:** Okay. It has come up, and I think you might have mentioned it briefly, but people talk about—you did mention it briefly, but people talk about the fraud associated with the tow truck industry, that sometimes the bad apples out there that are doing things improperly can contribute to fraud. You talked about laying charges for people who are doing fraud. Do you have a rough estimate as an association of how much that's costing per year or any sort of ballpark figure?

**Mr. Doug Nelson:** I really don't, because it starts with the tow operator. The tow operator will arrive at a scene and quite often if there's somebody or two or three people, and they look for two or three people in a good, repairable wreck, they'll say, "You know what? I think you look like you're holding your neck a little wrong there. I think there's something wrong with you. Here's a good physiotherapist to go to, here's a lawyer to go to and here's a doctor to go to." If they get all these people, this is just the start of the chain: the 15% or 20% they get for the repair, then they get the medical clinics involved in it, they get the legal people involved in it, and going through that process, even the cost to defend yourself is a terrible cost.

**Mr. Jagmeet Singh:** Just to narrow it down, if you had to estimate just the towing side—that the tow truck operator is sending false claims, sending exorbitant claims or making bills that are just too high, you wouldn't be able to give a ballpark figure of how much that's costing?

**Mr. Doug Nelson:** It would be very hard, but obviously in the millions.

**Mr. Jagmeet Singh:** Okay, no problem, but you wouldn't be able to say accurately.

My colleague has a question for you.

**Ms. Teresa J. Armstrong:** Thank you for coming today, and—

**The Acting Chair (Mr. Steven Del Duca):** About a minute and a half left.

**Ms. Teresa J. Armstrong:** Okay, I'll make it quick—got to leave a little more time.

I want to ask you quickly—we talked about the tow truck fraud. How does the consumer become aware of that? Does the insurance company have a role to play to deliver that awareness to someone when they buy their product?

**Mr. Doug Nelson:** There really isn't a way, because the consumer doesn't understand what's going on. Many times, they're not even at the scene. Other times—

**Ms. Teresa J. Armstrong:** Right, but when you sell a policy, could they include a pamphlet about tow truck fraud and to be aware if someone comes to the scene and gives you these cards? Is that a role that could help the fraud? I don't know if that's in the anti-fraud report—

**Mr. Doug Nelson:** I don't think it would help, because if you're going to give me a pamphlet or something and I'm going to put it in my glove box—

**Ms. Teresa J. Armstrong:** You don't think—

**Mr. Doug Nelson:** —after a month, I've forgotten it's even there. Now, I get involved in an accident, I'm very emotionally upset. You don't remember these things. You're dealing with, maybe, somebody else who's hurt, or—

**Ms. Teresa J. Armstrong:** What about in the claims department, when there's a package that someone could get, and then you open up your glove box and you say, "Okay, I'm going to call the collision reporting centre. These are the steps that it takes"? Just something in there that's saying "Be aware of tow truck service," because some people—

**Mr. Doug Nelson:** There are insurance companies that put that out now—

**Ms. Teresa J. Armstrong:** Okay.

**Mr. Doug Nelson:**—and they still have issues with it, because consumers really get very mixed up.

**Ms. Teresa J. Armstrong:** Because education sometimes is—

**Mr. Doug Nelson:** Yes.

**Ms. Teresa J. Armstrong:** I know regulation is great; that's good, but education to the consumer—

**The Acting Chair (Mr. Steven Del Duca):** Thanks very much, Ms. Armstrong. We're going to move over to the government side now. Mr. Balkissoon?

**Mr. Bas Balkissoon:** Thank you, Mr. Chair, and thank you for taking the time to be here.

**Mr. Doug Nelson:** You're welcome, sir.

**Mr. Bas Balkissoon:** I sort of agree with you with regulating the industry, but can you give me a little bit more on the regulated industry, how you see it working?

**Mr. Doug Nelson:** Certainly.

**Mr. Bas Balkissoon:** In terms of the good operators, the chasers and the independents?

**Mr. Doug Nelson:** The good operators will have no problem, and they have no problem with regulation of the industry because that's what's destroying this industry. The way we see how it would happen is the regulations and the standards would be set between the government,

the stakeholders and ourselves, and we would come to an agreement on it.

We look at licensing. There would be licensing for regular tows. I don't think we need to interfere. If Jeff Yurek wants me to tow his vehicle and we make an agreement on the price, the distance and where I'm going to go, that's okay. The biggest problem is with incident management and the lack of a properly planned incident management plan. I talked about this at a North American incident management conference in 1991, and there has to be a proper plan put in place.

Right now, what we would do is initiate a towing licence. We would certify the trucks, certify the drivers, and give them a certain amount of time to get formally trained or get out of the business. They get their formal training, they are now a trained operator; they have their licence. If they want to move into incident management—and we look at incident management and unsolicited towing on the same sort of level—they would have to declare their pricing, and they would have to declare where the vehicle is going to be stored.

If there's an issue there, then it would be up to the counsel or the staff of the office to get a hold of them and say, "Well, this is acceptable; this isn't acceptable. We need to make some adjustments here." If there's an issue, there would be a database there with every towing company, every tow truck and every tow truck driver. Any complaints would be registered in their file and we'd be able to keep track of that; if it becomes a problem, it would go to the complaints tribunal, which would deal with it.

**Mr. Bas Balkissoon:** On the pricing side, I hear you, but if I could just wear my previous hat—I was at municipal council before and I worked on the licensing committee for taxi drivers and tow trucks.

**Mr. Doug Nelson:** Sure.

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**Mr. Bas Balkissoon:** Wouldn't it be better, if we were to create a provincial agency to regulate, that we also create a rate plan for the hookup and the letdown, and based on mileage or based on geographical region to geographical region, it's a set price, so the consumer knows those things ahead of time.

**Mr. Doug Nelson:** Well, I understand where you're coming from, and I would say no. The reason I say that is, if I make a commitment to you—you and I make an arrangement to tow your vehicle, okay?—you're going to know exactly what I'm going to charge you beforehand, and it's going to be reasonable. The pricing has to be qualified through your overheads and the quantities and so on.

Part of the problem that we have today is that the towing industry in Ontario has been taken over by the Americans, and it's that simple; 66% of the towing that goes on in Ontario today is managed by American roadside assistance companies, and they pay less than cost. What happens is the tow operator gets desperate, and as soon as he gets an accident where he looks at it as a cash job, he can go out there and it's inflated pricing, and I don't agree with that.

However, having said that, it has to be a quantitative issue with your own overheads, and when it comes to incident management, I would say that the council should be looking at these, and maybe another committee, be looking at every application and deciding whether this person has enough volume to sustain that as a part of his business model.

If you go into rural Ontario, rural Ontario will do probably 20% or 25% of the volume that the large companies do in the city of Toronto. The call total is a whole lot different, but yet the overhead of running the tow truck is the same.

**Mr. Bas Balkissoon:** But, like I said, we could set pricing by region, and you have a mileage charge or, you know, whatever charge for distance, a charge for hookup and a charge for letdown, and in each region that pricing chart will be different, but the consumer would know what it is.

**Mr. Doug Nelson:** Yes.

**Mr. Bas Balkissoon:** So, regardless of the tow truck operator's expenses or overheads, we would set that pricing based on knowing what the average is and make sure that the operator has got a margin of profit available to them, but at least the consumer would know ahead of time.

**Mr. Doug Nelson:** I really respect your position, but I think it would be very, very difficult, and probably destructive to the industry. As an example, in Toronto here, probably the average call is 10 kilometres, maybe five. In Thunder Bay, the average call is 200 kilometres, believe it or not, and for 200 kilometres the expenses are a whole lot different.

And in Thunder Bay, when you get there, you find different situations. An example is that the police will send them on a call for a vehicle broken down on the side of the highway, and when they get there—they go 100 or 150 kilometres out—somebody else has stopped and helped them and they're gone, and the tow operator gets no revenue whatsoever. That happens quite often. That shocked me when I went to Thunder Bay to talk to the tow operators up there. I think—and that wouldn't make me want to endorse a huge rate for Thunder Bay or anything like that, because I think that's an issue that we have to address as well.

Having said that, there are also a lot of calls where they don't get paid. We had issues in Toronto here where we had to just finally put our backs in the air and say, "Okay, we're not doing anything to clean up this highway until we know who's paying us." And the biggest part of that problem came from American companies, came from out-of-province transport trucks and that sort of thing. It was a huge issue, and thankfully we got a payment guarantee program put into place. The Ministry of Transportation has been very successful at collecting the invoices that we've paid, and we've got a lot of that straightened around.

I certainly appreciate where you're coming from, but I think it would be very, very difficult, to be fair to the consumer, the towing industry and so on.

**Mr. Bas Balkissoon:** Okay. My colleague has a question for you.

**Mr. Mike Colle:** Thank you, Mr. Nelson. So we've got 40 years of organized fraud that's basically been taking place in this province?

**Mr. Doug Nelson:** Yes, sir.

**Mr. Mike Colle:** We've got a multi-billion dollar industry where many of the front people are fraudsters, and—

**Mr. Doug Nelson:** I'm sorry?

**Mr. Mike Colle:** The front people in the industry—in other words, when you get in an accident, you're more than likely to encounter one of these fraudsters who operates a tow truck and who's connected to a fraudulent paralegal who's connected to a fraudulent massage parlour, and so the poor consumer is really at the mercy of this organized fraud. It's like organized crime, basically. It's in every part of the industry right now. How is this one small part of government going to control all this? That's what I ask you. I get comments about the police, that they're very friendly with some of these people.

**Mr. Doug Nelson:** Well, that's happened.

**Mr. Mike Colle:** That's happened more than once, too.

**Mr. Doug Nelson:** Yes, that's happened more than once.

**Mr. Mike Colle:** So the police can't handle it. MTO and the good guys in your industry are overwhelmed by these fraudsters.

**Mr. Doug Nelson:** That's right.

**Mr. Mike Colle:** And then we're going to give out pamphlets to stop this fraud? Geez. Anyways, comment on that.

**Mr. Doug Nelson:** Okay. I'm happy to. First of all, we go into the licensing. We can pull somebody's licence for fraudulent activity; there's no question about that. But part of the problem that you have in the GTA is that you do not have a plan for tow trucks and incident management. I said that back in 1991, and a lot of the states in the US have listened to my reason and even Montreal has what they call a tow control zone where a towing company can bid on a certain section of a highway. They have to post their pricing and they have to live to that and they have to take the vehicle to a separate impound, not a body shop or anything like that, and then the consumer or the insurance company—

**Mr. Mike Colle:** Doug, I know you've got great solutions and I think we need to listen to you on that. I just, because of time—

**Mr. Doug Nelson:** Yes.

**Mr. Mike Colle:** What I'm trying to get at is that I think many of my colleagues here are like the average citizen. When I've gotten into this, I just can't believe the scale and the scope of this.

**Mr. Doug Nelson:** I agree with you. It's a problem.

**Mr. Mike Colle:** How could we, in this province, for 40 years basically, tolerate this taking place? Why has this been allowed to go on for so many years where these



fraudsters have taken millions of dollars out of the pockets of everybody—the good people who work in the industry, the good insurance companies, the good body shops—

**The Acting Chair (Mr. Steven Del Duca):** Thanks very much, Mr. Colle. We're going to have to end it there. Thank you, Mr. Nelson, for being here with us today. Thank you very much for your time.

**Mr. Doug Nelson:** I'll come back for a couple of days if you want me sometime.

**The Acting Chair (Mr. Steven Del Duca):** Thank you.

#### ONTARIO CHIROPRACTIC ASSOCIATION

**The Acting Chair (Mr. Steven Del Duca):** I'd like to ask our next guests from the Ontario Chiropractic Association to please come forward. Please identify yourself for the record. You will have 10 minutes for your opening remarks once you are seated and you've identified yourselves.

**Dr. Bob Haig:** Thank you, Mr. Chair. My name is Dr. Bob Haig. I'm the executive director of the Ontario Chiropractic Association. With me is Dr. David Dos Santos, who's a member of the association and has considerable experience in the auto insurance field.

**The Acting Chair (Mr. Steven Del Duca):** Terrific. Thank you for being here today. Your 10 minutes begins now.

**Dr. Bob Haig:** Okay. First of all, thank you for this opportunity to discuss auto insurance with you. We appreciate very much being consulted and being able to express our views.

Ontario chiropractors provide care to a wide variety of motor vehicle accident patients and we recognize the importance of a rigorous regulatory process that combats fraud. As experts in musculoskeletal injuries, doctors of chiropractic are primary care practitioners with the duty and authority under the RHPA and the Chiropractic Act to diagnose. Chiropractors' practices are focused on musculoskeletal conditions, and much of this is neck-related. They're very well-trained practitioners for the management of most auto insurance soft tissue injuries, which, as we know, are the majority of claims.

There are three specific issues we would like to address as we're going through this presentation. Those issues are:

—the \$3,500 hard cap on benefits for patients defined as having minor injuries;

—second, the nature of the assessment process for determining claimant entitlement; and

—finally, the administrative burden and additional layer of regulation that's proposed on an already highly regulated health profession.

First of all, the hard cap on benefits. As we know, there's a \$3,500 hard cap on benefits for motor vehicle accident patients with minor injuries, and \$2,200 of that is included in the pre-approved MIG guideline. This was, of course, one of the key features that was put in place with the 2010 reforms.

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We're very supportive of the concept of a pre-approved set of services. We're fully supportive of the definition of the minor injury, but with our members having used this for a couple of years now, there are some issues that have come up that we would like to identify for you.

I want to say that the majority of injuries that are treated by chiropractors are the soft tissue minor injuries as defined in the legislation, and for the vast majority of those patients, the \$3,500 cap is sufficient. That's in the majority of cases. But there are some patients for whom this absolute hard cap is insufficient to cover their required treatment. Some patients have multiple injuries and diagnoses that impact their recovery time and recovery rate. There are times when what appears initially to be a relatively simple, straightforward condition turns out during the course of care to be significantly more complicated than anticipated so that recovery ends up being longer and more expensive.

I want to point out that the most recent, authoritative scientific evidence—this is from the Bone and Joint Decade 2000-2010 Task Force on Neck Pain and Its Associated Disorders—indicates fairly clearly that most people with neck pain don't fully recover, but they can expect to have recurrences, and there's a percentage of those people who are going to become chronic. So there's a normal expected recovery for most people with a minor injury, but the evidence says that's not everybody. Some of these patients go on to have more chronic problems and do not recover as quickly. Current regulations and the current MIG guideline are not flexible enough to accommodate that, and our recommendation is that it be made so.

The recommendation then is that the statutory accident benefits schedule be amended to provide for medical and rehabilitation benefits beyond the current minor injury cap of \$3,500 when that is in fact required for the care of those patients. We believe that these individuals have purchased insurance and they have a right to expect access to the care that they need as a result of an accident.

**Dr. David Dos Santos:** There are times when a dispute arises between a claimant and an insurer on the nature and the extent of an injury, and the benefits to which the claimant is entitled, including whether or not the patient's injuries are considered minor injuries.

The statutory accident benefits schedule requires that an insurer who declines to approve a treatment plan must provide medical reasons for doing so. Despite this requirement, chiropractors in Ontario continue to identify circumstances where a patient's claim is denied, but no medical reason is provided. It appears that, in some cases, denials are made by claims adjudication staff without any medical or health care expertise or input at all. This was clearly not the intent of the legislation.

Further, in those cases where a third party assessment is completed, it is rarely completed by a peer—that is, another chiropractor.

Past iterations of the SABS have determined patient entitlement in different ways. In the 1980s, entitlement

was at the discretion of the insurer's medical adviser. This was clearly inappropriate and the legislation swung towards putting much greater reliance on the opinion of the treating practitioner. This was also problematic, and from there, it shifted to a system of neutral assessors.

The 2010 iteration, under which we now operate, puts the decision back in the hands of the insurer-appointed medical professional. The pendulum has swung too far back.

Past regulations have supported peer evaluation to assess the reasonableness of treatment plans. When a question of whether or not a chiropractic treatment plan was reasonable for a particular patient, the insurer would ask a qualified, independent, third party chiropractor.

We would strongly recommend that this principle be reinstated. Reinstating a process that utilizes the peer-to-peer assessor model will ensure a level of clinical rigour and fairness for claimants such that they can receive the care they need but not more than they need.

A second issue with respect to assessments and assessors is that there are no standards for the quality of the assessments or the qualifications of the assessors. There should be. Claimants should be entitled to expert assessments by a trained and qualified assessor.

We therefore recommend that the statutory accident benefits schedule be amended to include the principle of peer assessment to determine the reasonableness and the necessity of a treatment plan and that criteria and qualifications for assessors and the quality of assessments be established in consultation with experts from the professions involved.

**Dr. Bob Haig:** The third issue then is dealing with fraud. Obviously we're very supportive of the government's efforts to reduce fraud in the system and the recommendations of the anti-fraud task force.

Again, our members have identified a number of challenges that exist with the anti-fraud regulations that have been in place for the last couple of years, and I just want to highlight those. There are really two categories. There's the statutory declarations and then there's the licensing of clinics and practitioners.

Section 46.2 of the SABS, which sets out the provider's obligation to provide information, is being abused. There are requests from insurers that are often unnecessarily complex and demanding, both in terms of the quantity and the type of information they require providers to submit. These requests often give rise to privacy concerns by practitioners not sure whether they can legally share the information that insurers are requesting. Obviously, members are small business people and there's concern that the amount of time and effort and the burden that's put on them is impacting their ability to deliver care.

I just want to give you one example here. An OCA member forwarded this to us just last week actually, and it was a statutory declaration that he was asked to complete by an insurer and sign. It was 18 pages long, there were 76 questions on this, and as an example of the level of unnecessary detail, they asked him to detail any

equipment used, provide the serial number and the model number of any equipment used, the last inspection date on the equipment and when it was purchased. This is obviously significantly more information than is required in something like that, and it very, very seriously bogs down the process for the patient. It's our view that rigorous anti-fraud regulation is important, but there needs to be a balance between these efforts and fair access to reasonable and necessary care.

The final point has to do with the licensing of clinic and practitioners. The task force made recommendations on this, and the Minister of Finance yesterday announced the government's intention to give FSCO the authority to license and oversee health clinics and practitioners who invoice auto insurers. This is an important principle. We're in support of the principle, but there is a very significant difference between an individual regulated health profession and rehabilitation clinics that are not owned or operated by regulated health professions.

**The Acting Chair (Mr. Steven Del Duca):** One minute left.

**Dr. Bob Haig:** One minute? All right. I'll get there.

A regulated health profession's entire practice, including their business practices, are regulated by their regulatory college under the RHPA, so that is already there. The proposal for licensing has the potential to be very burdensome. That potential burden can be minimized if in fact there is a tiered approach to licensing.

The original recommendation from Handler and Associates was that there be some kind of a tiered process. We're very strongly supportive of that and would want to make sure that there was not double regulation essentially on regulated health professions.

Given the time, I'm going to quit.

The recommendations are set out there in that green box. Actually, in 10 seconds, I will do this. The recommendations: that requirements to provide information be reasonable and not an unnecessary burden; that regulated health professionals should have a streamlined licensing process because they are already regulated; and that for non-regulated health-profession-owned clinics, a more detailed licensing process is required.

**The Acting Chair (Mr. Steven Del Duca):** Terrific. Thanks very much.

The first round of questioning will go to the NDP caucus: Mr. Singh.

**Mr. Jagmeet Singh:** You touched on this in the first portion of your deputation—first of all, thank you for attending and thank you for giving your feedback. There has been recently a decision, the Scarlett decision, which I think touches on what you were talking about, that there's a hard cap now called the MIG, the minor injuries guideline; it's \$3,500, and for most people that's fine. For many people, that's good enough, but there are cases where it's not good enough.

The Scarlett decision was an arbitration decision and in that, essentially, if a particular individual can show reason why, in their particular circumstances, that amount is not sufficient to cover them and to cover their

care, they are able, through this arbitration process, to be deemed not to fit within the MIG category.

What are your thoughts on that idea of allowing, in certain cases, in particular circumstances, given some evidence, that certain individuals should not fall within the minor injuries guideline?

**Dr. Bob Haig:** David will have something to add to this, I expect, but in principle, that is what we're suggesting. That may have been the case in that arbitration decision. The day that that came down, I was with a group of insurers who said, "That's not going to last for long. That won't stand; we're going to fight it."

The point is that the legislation is not clear that that is permitted, and we believe very strongly that it should be.

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**Mr. Jagmeet Singh:** Okay. My understanding is that—do you want to add to that?

**Dr. David Dos Santos:** Do you want me to comment further?

**Mr. Jagmeet Singh:** Yes, sure.

**Dr. David Dos Santos:** Just to follow up on that, part of the problem is that the current regulations don't allow for a process for the person to access additional benefits. There's no requirement for an independent assessment. Like I mentioned many times, the decision is being done arbitrarily, it seems, by an unqualified claims adjudicator. The only option the claimant really has is to apply for mediation arbitration, which is a very lengthy process; and if they need medical goods and services, they need it now. They don't need physiotherapy in two years; they need it—

**Mr. Jagmeet Singh:** And in fact, to build on that, medically, I guess—or there's evidence to suggest this or scientific data to support the idea that more care up front is more likely to result in a better prognosis or a quicker recovery if you receive that care right after your injury as opposed to having to wait for a number of years. That could actually negatively impact your ability to recover. Is that your understanding as well?

**Dr. Bob Haig:** Early access to appropriate care absolutely has an impact, but it's also true that it has to be the right kind of care and it needs to be geared to the injury.

**Mr. Jagmeet Singh:** So if I summarize your position in terms of the \$3,500 cap, for a good number of people that might be enough, that might be okay, but there needs to be a mechanism so that people who need more don't have to wait years and years to get through adjudication to be determined that, yes, you do deserve more. There needs to be a mechanism that that person can apply and be able to get more.

Secondly, the decisions to put people in different categories should be based on assessments by expert assessors, not by the claims adjustor, who just arbitrarily decides, "This person is going to go in that category."

**Dr. Bob Haig:** Correct.

With respect to assessments, there are really two issues: What's the extent of the injury, and is the proposed treatment appropriate? When it's a question of "Is the proposed treatment appropriate," if it's a treatment

being proposed by a physiotherapist, it should probably be a physiotherapist who's evaluating whether that's appropriate care, and the same with chiropractors. That's the concept of the peer-to-peer assessment.

**Mr. Jagmeet Singh:** The peer-to-peer assessment. Okay. Well, let's talk about assessments, then, now that we've moved to that area. As it stands now, we've gone through a number of different systems. One of the systems that we went through was the DAC system. We've gone through different ways of assessing someone's injuries and what the appropriate way to do it is. There have been some pros and cons to various systems.

Now we're in a position where the Ontario accident victims are legislated to attend something called—I'm sure you're well aware—the independent medical examination, and in that case, the claimant really has no choice in terms of who they go to for their assessor. They might have had a family doctor, or they might know a chiropractor who they have respect for, but they don't have any decision-making in that; they can't choose the person.

What's your opinion of that system, the way it is right now? Do you think it works, and is there a better way to do it?

**Dr. Bob Haig:** The system right now we don't think works, because it is the assessor that is assigned by the insurer. As David said, there was a time back in the day when it moved from that to essentially putting too much weight on the providers: If the provider said you needed it, you needed it. That was going too far the other way, quite frankly.

The DAC system was intended to be neutral, and it was neutral, but it was costly.

**Mr. Jagmeet Singh:** It was costly; that's right.

**Dr. Bob Haig:** So the concept of an independent, neutral assessor is what we believe needs to be there.

**Mr. Jagmeet Singh:** Right, and what that looks like is going to take some figuring out.

**Dr. Bob Haig:** Yes, and the principle—honestly, I have not thought this through carefully, but if there was a provincial roster that was run by FSCO, for example, but it was not the decision of the insurer which assessor you saw, that would inherently be more fair.

**Mr. Jagmeet Singh:** That's an interesting idea. Thank you for that suggestion.

One other idea I wanted to ask you about: I'm going to turn your mind to the "catastrophic" definition. You've looked at that and you're familiar with that?

**Dr. David Dos Santos:** Yes. I'm familiar with that, yes.

**Mr. Jagmeet Singh:** Okay. So, one of the areas that they're trying to—first of all, I personally think it doesn't need to be touched. It's been developed over some time and it's in a good condition now. I think that trying to narrow the definition—it's already a small percentage of people that are covered, and I think that's absolutely the wrong way to go. I personally think it's not the right way to go, but there could be some modifications.

One of the things that has been suggested, which I think makes sense—as opposed to redefining the actual

catastrophic definition, standardizing the techniques used to measure the issue is, I think, a better approach. I want to hear your opinion on that, and maybe you can clarify what I've said and put it in better terms. Do you know what I'm asking?

**Dr. David Dos Santos:** Yes. That gets to the whole issue of assessor qualifications, because there are no standards that are laid out in the regulations for assessor qualifications. This is especially important with catastrophic cases. We put on a course where we train physicians in catastrophic impairment reading, the AMA fourth edition guideline, but there are very few physicians in the province that are certified in that. Absolutely, if there was some sort of higher level of assessor quality control, you would get more high-quality assessments.

**Mr. Jagmeet Singh:** Perfect. Specifically, though, what about the idea of standardizing not the definition or changing the definition, but having a standardized methodology—the methods, the steps that you take to assess somebody, that being better defined as opposed to looking at the definition itself. That different approach—do you follow my suggestion? What do you think about that?

**Dr. David Dos Santos:** Well, the methodology is incorporated into the training. When somebody goes through their training, the methodology is laid out, for example, in the AMA guides.

**Mr. Jagmeet Singh:** And do you agree that that would be a superior way to deal with this problem, as opposed to looking at the definition alone?

**Dr. Bob Haig:** A standardized methodology of arriving at the—

**Mr. Jagmeet Singh:** The conclusion.

**Dr. Bob Haig:** I think that that does make sense.

**Mr. Jagmeet Singh:** Okay. And what's your feeling on the proposed changes? There has been a committee that met and they came up with some proposals. Do you have any response to their proposals? If you don't, that's okay.

**Dr. David Dos Santos:** I think, in principle, it's good to look at what people are doing out there. The concern, I guess, is that, again, some of the proposed changes may result in a non-standardized assessment process. At least with the current impairment rating—

**The Acting Chair (Mr. Steven Del Duca):** One minute left.

**Dr. David Dos Santos:** At least with the current AMA guides, there's a very clear process that assessors are supposed to follow.

**Mr. Jagmeet Singh:** Quickly—just a couple of seconds left—are there any problems with the anti-fraud task force recommendations—any of them that you have a problem with that you haven't been able to say?

**Dr. Bob Haig:** No, not at all. We made the point about the licensing, which is included in there, but in principle, absolutely no concerns at all.

**Mr. Jagmeet Singh:** Besides the concerns that you laid out in your deputation.

**Dr. Bob Haig:** Yes, that's right. They're implementation as much as principles.

**Mr. Jagmeet Singh:** Okay. I think that's pretty much all our time.

**The Acting Chair (Mr. Steven Del Duca):** Thanks very much, Mr. Singh. Now over to the government side: 10 minutes for Mr. Balkissoon.

**Mr. Bas Balkissoon:** Thank you for coming; good to see you again. Tell me, have you had complaints from your registered professionals who are working in some clinics and aware of fraud taking place?

*Interjections.*

**Dr. Bob Haig:** I'm sorry, I missed part of the question. Are we aware—

**Mr. Bas Balkissoon:** Yes, have any of your registered chiropractors been in touch with—

*Interjections.*

**The Acting Chair (Mr. Steven Del Duca):** Could we have some order, please?

**Mr. Bas Balkissoon:** —yourselves because they're working in a clinic where they may suspect there is fraud?

**Dr. Bob Haig:** When we hear from members about this most is when they have left a facility because they were uncomfortable with the way that it was operating and are concerned that their name or licence number is continuing to be used to submit claims. That's generally when we hear from members.

**Mr. Bas Balkissoon:** Have you taken any action beyond just getting the complaint?

**Dr. Bob Haig:** We have. We've provided our members with a sort of to-do list under those circumstances in order to protect them from that, things like making sure that you don't give an electronic signature, making sure that you sign every document yourself, making sure that you read every document you sign, making sure you don't sign anything for services that you have not completed.

**1700**

When members report that they're concerned about their identity being stolen and used, we advise them to contact the Insurance Bureau of Canada and the regulatory college, the College of Chiropractors of Ontario, to advise that they are no longer affiliated with that clinic.

**Mr. Bas Balkissoon:** Are you aware of how many of those complaints have gone to the insurance bureau?

**Dr. Bob Haig:** I don't, because just because we advise members to do that doesn't mean that they do it. But I've probably had that conversation with a dozen members over the last three or four years.

**Mr. Bas Balkissoon:** Okay. I couldn't quite hear you because of the traffic noise out here. You did say how you see the peer assessment working—because the current one that you have, you think that the person who is doing the assessment is working for the insurance industry. You had a model that you said—can you repeat it, because I couldn't hear it?

**Dr. Bob Haig:** Oh, I'm sorry. In fact, I was musing, but I was suggesting that the concept of an insurer-

appointed assessor is an inherent problem, and that if there was a mechanism for assuring a third party independent assessor, that would be a peer assessment when it was required. But I suggested that such a system might be organized and run by FSCO or some body, other than the individual insurers deciding who the assessor should be in an individual case.

**Mr. Bas Balkissoon:** But you see FSCO choosing that assessor out of your membership. Is that what it would be?

**Dr. Bob Haig:** Sorry; not just out of our membership, no. One of the issues is that there need to be clear qualifications for people who do those assessments. That would have to be very, very clear. Those don't exist. We would love to be part of a process that establishes what they are, but, quite frankly, it shouldn't be us any more than it should be an insurer.

**Mr. Bas Balkissoon:** How do you see the injured person getting to this third party? What would be the process to get that second assessment?

**Dr. Bob Haig:** If an insurer requires an assessment, then, rather than just setting up the appointment with their appointed medical practitioner, they could request FSCO or some other third party to do that. This is just a concept, but it would be one way to not have it the way that it is; there are probably others.

**Mr. Bas Balkissoon:** I think we've heard from the Ontario Trial Lawyers Association, and their complaint was that there's a time break between treatment. I'm trying to get to this because, if you want to address the time break, when would the third party be brought in—at the front end; the middle? How do we do this, if we were to put that in rules?

**Dr. David Dos Santos:** It comes down to fairness for the claimant. Where there's an issue, where there's a dispute regarding—at key points in the process, if they're in the MIG or they're not in the MIG, or where there are disputed medical goods and services—I think if you focus it on the key points where there may be a dispute—

**Dr. Bob Haig:** One of the major benefits of the MIG and, before that, the pre-approved framework was that the patients could access care essentially immediately for that pre-approved bundle of services. Any mechanism needs to not interrupt that.

**Mr. Bas Balkissoon:** What percentage of your accident victims who have come to your members would have required that additional coverage? Do you have an idea?

**Dr. Bob Haig:** I don't have a number, and I—

**Mr. Bas Balkissoon:** Because what I'm trying to figure out is, if you know the percentage, can their injury be assessed at the very first or second treatment to realize that it would require beyond—

**Dr. Bob Haig:** The problem is that sometimes you don't know. There are some times that you can't tell at the initial assessment. If you have a group of 1,000 people with a WAD II, there are some of them who are not going to recover within what's considered the usual time frame. But you can't always pick out who they are.

**Dr. David Dos Santos:** Sometimes, with further investigation, things come up as far as the impairments. I have a patient now with a shoulder issue related to a car accident. It was diagnosed as a strain, and he has a tear in the labrum—the cartilage. So these things evolve sometimes over time, and sometimes right away. It's hard—in most cases, the majority of patients with soft-tissue injuries fall within the minor injury.

**Mr. Bas Balkissoon:** I'll go back on the point that you said that you're encouraging your members that they should sign individually rather than an electronic signature. Do you think that that should be standardized? Maybe electronic signatures should be banned.

**Dr. Bob Haig:** Where it's an issue is in the large rehab businesses where people are employees and they're plugged into a business model that is run by a non-health professional. I would think that with anyone who practices as an individual practitioner, it wouldn't be an issue at all.

Obviously, there has to be a balance between—you want to protect against fraud, but you also want to make sure that there's a smooth administrative process to not slow down the process. Quite frankly, I don't know enough about the different sectors of the rehab clinic market to know. We know that there are some that have relatively poor reputations, that members talk about and advise each other not to go anywhere near, and there are others that have very, very good reputations. I don't know whether something like that would be effective and whether or not it might actually jeopardize the smooth operation of some clinics where it's not necessary. I can't give you a better answer than that.

**Mr. Bas Balkissoon:** Okay. Thank you, Mr. Chair.

**The Acting Chair (Mr. Steven Del Duca):** Thank you very much, Mr. Balkissoon. We're going to now turn to Mr. Yurek for his 10 minutes.

**Mr. Jeff Yurek:** Thank you, Chair. Thanks, guys, for coming out. It's great to hear from another aspect of the insurance industry, the health care providers.

The government announced yesterday that part of their changes to auto insurance was the fact—you mentioned about the health clinics being regulated, a whole new avenue for FSCO to handle. I think they're pretty overburdened as it is. You mentioned about the professional colleges; I'm a member of a professional college, so I kind of get how they operate.

My thoughts, or the PCs' thoughts—we put out a plan of action about four weeks ago. One of them was to, instead of creating a whole new bureaucracy and regulations for the industry, perhaps have the current health care professional bodies regulate the health care clinics, in essence by mandating them to have, at any clinic, a registered health care professional be the designated manager or the manager in charge of making sure there's no fraud going on. Their licence is on the line to make sure that everything is above board.

I think that would save a heck of a lot of money in the system in building this bureaucracy, but it also would provide a stable safety base for the industry. What are your thoughts on something like that?

**Dr. Bob Haig:** Well, I think that the regulatory colleges are actually very capable. They have standardized, effective processes for looking at investigating things. I actually don't know—and this is not a criticism; I just don't know—whether or not a designated manager who's responsible, that's an RHPA—how that would work in the business model.

The other option would just be to simply say anyone who bills an auto insurer for health care services can only be a regulated health professional. There are things like that in other provinces—I think Alberta is like that—so that would be another way of doing that and ensuring that the regulatory colleges had the clear responsibility to regulate the whole operation.

**Mr. Jeff Yurek:** Yes, I got that idea. I'm a pharmacist, and that's how the pharmacy system works; you have a designated manager. This allows Walmart to have a pharmacy and Shoppers to have pharmacies. Your grocery stores have pharmacies. I mean, I heard Canadian Tire is getting ready to have pharmacies. This allows it, but we have a safety level in knowing that the College of Pharmacists knows that there's a designated manager in there, and they're following the rules of the law and their licence is on the line.

I think with respect to just having a health care professional only, that will cause a schism in this industry, because those companies that are still in business are going to have to have a grandfather clause and that would cause—but that's a good point. I like that.

1710

Now, the other role I think that FSCO should take up, which is part of your idea, is of the peer-to-peer assessment. I think that's a perfect role for FSCO: to have that list of health care providers so that if there is a problem with the insurance company saying, "We don't agree with your assessment. We want another assessment," that allows the claimant to go to FSCO and say, "Give me a list of health care providers that I can choose to go through."

Can you give your thoughts on if that would be a great way to handle that idea of peer-to-peer?

**Dr. Bob Haig:** The DAC system essentially was FSCO-mandated. It got very complex and expensive for insurers and we would need to make sure that that did not happen again with—

**Mr. Jeff Yurek:** Sure.

**Dr. Bob Haig:** I really think the key is to find a way to keep it relatively simple and relatively quick so that people's care is not delayed by this.

**Mr. Jeff Yurek:** Instead of having the big centres, we'd just have the individual chiropractor, say, in North Bay, who wants to be on the list, and if they qualify, they're in.

**Dr. Bob Haig:** Correct. And it has to be the case that an opinion expressed on a chiropractor's treatment plan by another chiropractor is not as likely to be challenged as if it's by someone from a different profession. We think that the peer-to-peer assessments will actually reduce the number of disputes that go on to mediation.

**Mr. Jeff Yurek:** And the mediation is, what, a 414-day wait now before you hear anything?

**Dr. Bob Haig:** I don't know the details, but I do know that it's not the way you want to go to try to get things resolved.

**Mr. Jeff Yurek:** You mentioned about injuries, the guidelines are inflexible. I agree with that. What's a time frame that you would put at for an average so that we cover 80% or 90% of the injuries out there that would ensure that we can say, "You're guaranteed coverage for X months, weeks"? Can you put a figure on that?

**Dr. Bob Haig:** That would be in the range—and David will correct me if I'm wrong here—of six weeks.

**Mr. Jeff Yurek:** Six weeks?

**Dr. Bob Haig:** Yes.

**Dr. David Dos Santos:** The current minor injury guideline, I think, allows for 12 weeks, but the recovery process can go on for quite a while. If you're looking at expanding the MIG like we're recommending, obviously there has to be financial means there so that a provider can keep providing treatment, but there's also the time frame we're talking about. Probably six months would be sort of the recovery curve. At that point, if the person is not getting better there may be something else going on, and it should be investigated further. But you have to allow for the majority of patients, 80% or whatever it is, to—

**Mr. Jeff Yurek:** It's kind of like 100%.

**Dr. Bob Haig:** That's the challenge, right, that if you design it for 80% then there's 20% who are not properly protected. The number of weeks or months or dollars is probably not as important as the mechanism in order to make sure that people can get what they need.

**Mr. Jeff Yurek:** Okay. Thank you.

The anti-fraud task force talked about giving FSCO the ability to audit billing practices at the clinics. Do you think that's a good measure to take or do you think that'll be too much of a burden on the clinics?

**Dr. Bob Haig:** I suppose it depends on the mechanism and the implementation. The devil's always in the details. The College of Chiropractors, for example, has a peer review process where a chiropractor goes in—one of their assessors goes in—and they look at the entire practice including billing, so we know it certainly can be done.

To do it specifically for auto insurance: There's a vast difference between an audit process that is a periodic, random thing and a process that is going to require two days of a practitioner's time every year. Again, the challenge is to make sure that whatever is put in place is straightforward enough that it has the effect of deterring purposeful fraud without impacting the ability of people to care. I mean, the reality is that the administrative cost of anything that people are required to do is eventually going to be borne by the consumers—eventually. That may be the patients and the insurers or it may be the taxpayers, depending on how it works. In principle, we want to keep the amount of administration and red tape to a minimum but still ensure that you've got mechanisms in place to identify and deal with purposeful fraud.

**Dr. David Dos Santos:** The other point—

**The Acting Chair (Mr. Steven Del Duca):** One minute left.

**Dr. David Dos Santos:** Yes. The other point I just want to add is the majority of health care providers are in solo practice or very small practices. They're not working in these big centres, so we've got to be careful we don't burden them with unnecessary—

**Mr. Jeff Yurek:** Sure; it's fair and reasonable.

**Dr. Bob Haig:** Yes.

**Mr. Jeff Yurek:** One quick—I got 40 seconds. With the government's announcement of 15% cuts in the rates—they seem to use the number of \$1.5 billion there to save, which is essentially ending fraud to zero by the end of the year, which is going to be a tough row to do. Last time they legislated cuts, benefits were cut. Do you have a concern that possibly benefits to the accident victims are going to be hampered by this decrease?

**Dr. Bob Haig:** Well, obviously I don't know the details of what might be put in place in order to achieve that 15%, but there's not much room to cut benefits. The MIG and the \$3,500 limit actually had a very, very significant impact on the amount of benefits available to people. I don't think that there's much room to cut benefits.

**The Acting Chair (Mr. Steven Del Duca):** Thank you very much. We appreciate that. Thanks for being with us here today.

#### ASSOCIATED CANADIAN CAR RENTAL OPERATORS

**The Acting Chair (Mr. Steven Del Duca):** I'd like to call our last guests to come forward, from the Associated Canadian Car Rental Operators. Please identify yourself and then you'll have 10 minutes for your opening remarks.

**Mr. Michael Dearden:** Good afternoon, Mr. Chairman and members of the committee. My name is Michael Dearden. I'm here today on behalf of ACCRO, the Associated Canadian Car Rental Operators.

I want to begin by thanking the committee for inviting us to meet with you. ACCRO represents the vehicle daily-rental industry in Canada. Our membership includes all of the major car-rental firms in Canada as well as many smaller family-owned firms. ACCRO has 168 Ontario-based members that currently operate approximately 60,000 vehicles in the province, more than half of which are in the GTA.

The Truck Renting and Leasing Association of America, TRALA, also supports the remarks I am delivering today.

For the last 20 years, ACCRO has had a close working relationship with the government of Ontario. We've had many meetings over the years with elected and unelected officials, discussing a wide range of issues of concern to the vehicle-rental industry. We want to stress that we've had a very positive and constructive relationship with Ontario. We appreciate the opportunity to continue in that vein here today.

Over the years, auto insurance issues have been a primary concern of our members. Auto insurance premiums represent a significant cost of our business. All rental vehicles in Ontario are fully insured by the operators. Auto insurance premiums are our largest business cost over which we do not have full control, so we pay close attention to any legislation or regulation that impacts auto insurance. When renters have their own personal auto insurance, claims costs are borne by their own insurer.

Most recently, ACCRO appeared before the anti-fraud task force and shared the experience and suggestions of our industry as it relates to auto insurance fraud. We are on record as supporting the work, findings and recommendations of the task force. I know that Fred Gorbet, chair of the task force, has already appeared before you. We've reviewed his testimony and want to confirm our strong support for his remarks.

What follows are the five concerns we have raised in our appearance at the anti-fraud task force.

(1) In a survey we conducted about the claims experience of our members, we found concern with respect to suspicious, non-threshold injury claims made under our firms' policies arising from low-velocity collisions where damage is minor or non-existent. This is a problem concentrated largely in the GTA, a finding supported by the anti-fraud task force and commented on by Mr. Gorbet in his appearance before you.

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(2) The ability to share claims information for the purposes of fraud investigation or to manage risk at our rental counters does not exist due to current privacy legislation. While we all respect the need for the protection of personal information, we do not believe the intent of privacy protection legislation was to provide a shield behind which fraudulent activity could be conducted. We would also request that claims information from commercial policies be incorporated in the province-wide claims database, as it currently is not.

(3) The reforms of September 1, 2010, including the \$3,500 cap on minor injury treatment, are having a positive effect on our industry's claims frequency and cost.

(4) We recommend the establishment of a dedicated auto insurance fraud investigation unit through the Office of the Attorney General. Our industry's experience in jurisdictions that have introduced a similar investigations unit is that the claims rates and amounts decline.

(5) We agree with the task force that there is a gap in regulation with respect to tow truck drivers. ACCRO has worked with and been a strong supporter of MPP David Zimmer in regard to his private member's bill. ACCRO believes that the towing and storage industry in Ontario needs tightened oversight. Self-regulation will not, in our opinion, achieve the improvements required in this industry.

Thank you very much for the opportunity to speak to you today.

**The Acting Chair (Mr. Steven Del Duca):** Thank you very much for those opening remarks. We are going

to begin with the government side, Mr. Balkissoon, for 10 minutes.

**Mr. Bas Balkissoon:** Thank you very much, Mr. Chair. Let me hear you very clearly. You're saying that your members, which is the rental business—their claims are not included in the insurance company's database today?

**Mr. Michael Dearden:** They're not included when considering some of the work that the task force did. Commercial auto claims and commercial policies are not considered in the same way that personal auto claims are. We were shocked to find out that a lot of the information is simply not shared inside the insurance industry or with the government in the same way that would give you a true picture of the costs of insurance fraud.

**Mr. Bas Balkissoon:** So in reality, it's probably larger than we know.

**Mr. Michael Dearden:** That's right.

**Mr. Bas Balkissoon:** Okay. Your industry has the same problem with the towing industry as a private car owner.

**Mr. Michael Dearden:** Yes. Perhaps we could even say it's worse, because that's our livelihood that just got towed off down the road, and if our customer happens to be a tourist from Germany who got in an unfortunate accident on the 401, his priority is not where that car went and to what lot; his priority is to take care of his family and his luggage, and finding a hotel and what he is going to do now. Our car disappears off into some lot somewhere where the cost for an overnight stay is generally more than it will cost that German tourist to stay in a hotel, and we may never find that car for days. That's deliberate because they just keep ringing up the bill.

**Mr. Bas Balkissoon:** Clearly, I understand.

**The Acting Chair (Mr. Steven Del Duca):** Mr. Colle?

**Mr. Mike Colle:** So they basically take these cars hostage, right?

**Mr. Michael Dearden:** Right.

**Mr. Mike Colle:** And then they ask for you to pay up.

**Mr. Michael Dearden:** Right.

**Mr. Mike Colle:** What kind of extortion money do they ask for? How much?

**Mr. Michael Dearden:** I think we've all heard stories. There's hundreds of dollars for tows. There are fees for everything. There's a fee to put it on the hook. There's a fee to take it off the hook. They take it wherever they want. You have to pay an outrageous fee to get it out of storage. If it goes to a body shop, they start tearing it apart right away, and there are charges associated with that.

I made the point—and we have examples of it—where a car is sitting in a gravel lot in the back of some body shop, and the fee to have it sit there for a week is more than it costs to put a family of four up in a good hotel. It's absolutely insane.

**Mr. Mike Colle:** They even start working on the car once they get it too?

**Mr. Michael Dearden:** Well, some of them will start to tear it apart so you can't move it easily or so you can't really see what the damage was.

**Mr. Mike Colle:** Have you ever tried going to the police when this happens?

**Mr. Michael Dearden:** Yes, we've talked with the police about it. The police do not have a responsibility for telling us where our cars go or for controlling the towing industry, it would appear. That's why we believe—as loath as we are, maybe, to have more regulation in the world—that there is a need, given the activity of that industry, to regulate it, and not through self-regulation.

**Mr. Mike Colle:** Yes. So basically you have no one to turn to when this type of fraud occurs, right? There's nobody to turn to.

**Mr. Michael Dearden:** No.

**Mr. Mike Colle:** And how long do you think this has been going on in Ontario, this type of Wild West carjacking, basically?

**Mr. Michael Dearden:** I think it has been going on for quite a while, but as I think I suggested in our statement, it's very much impacted by the opportunity for fraud. The greater the opportunity, based on the greater benefits that are available under insurance programs, the greater it's going to be abused.

**Mr. Mike Colle:** So basically, there's a lot of opportunity for fraud right now, the way the system is.

**Mr. Michael Dearden:** Absolutely.

**Mr. Mike Colle:** It's a free-for-all for fraud artists.

**Mr. Michael Dearden:** Yes. Changes that are going to be made and proposed are all well and great, but we should all realize that this industry of organized fraud has invested a sizeable amount of time and money into this scheme, and they're not going to go away because we change the rules.

**Mr. Mike Colle:** Yes, because we're talking about, basically, a multi-hundred-million-dollar industry—if not a billion-dollar industry—that operates in Ontario unabated free-for-all. They know they can get away with it. You're saying to be very careful; that self-regulation ain't going to do it.

**Mr. Michael Dearden:** Not in the towing industry.

**Mr. Mike Colle:** No. You need something pretty comprehensive and pretty tough.

The question I always have is: Does this exist—I've never really had a good comparison—anywhere else in the world, or in North America, this type of systemic fraud that occurs with cars? You've got national companies, international companies. Is this thing tolerated anywhere else to this extent?

**Mr. Michael Dearden:** There are other examples, in jurisdictions such as New Jersey. They had a particular problem with it. They introduced a special investigation unit and were able to make substantial progress in cleaning it up. But it comes back to: Basically, if there is money available through the insurance system, be it in the form of benefits or payouts or whatever, people will find a way to try to take advantage of it.



**Mr. Mike Colle:** And that's the other thing you make very, very clear: that you just can't do it with FSCO; you need a dedicated police enforcement unit; you need a dedicated—

**Mr. Michael Dearden:** Prosecution.

**Mr. Mike Colle:** Yes, a prosecution unit. This is serious stuff.

**Mr. Michael Dearden:** Yes.

**Mr. Mike Colle:** And it ain't going to happen without money.

**Mr. Michael Dearden:** No.

**Mr. Mike Colle:** So, in order to pay for this serious policing and the regulation of these fraud artists, how do we get the money?

**Mr. Michael Dearden:** Good question. It's a challenge, and there are a lot of numbers that are kicked around about how much fraud currently is in the system. Unfortunately, you can't just take that money and shift it over to the good guys, but at some point, I suppose the price you pay in society for having laws and enforcing the laws is that there's a cost to society of doing it.

If we can see a drop in insurance—and I believe that when Mr. Gorbet was here, he talked about a discrepancy of approximately \$700 in an auto policy in Toronto and \$300 in policies across the province of Ontario that they couldn't quite account for; he was sort of implying it was probably fraud, but he didn't want to say that. If you can find those savings and turn those into something like enforcement, that would be a great help.

**Mr. Mike Colle:** Yes, and that's the key: You have to find those dollars and hopefully get it out of the fraud contingency line that is never clear. That might be one way of paying for this very serious investment the government is going to have to make, because the industry itself ain't going to do it and hasn't been able to do it.

The last, final question is: Why is it so prevalent in the GTA? Why is it always happening here, this systemic fraud?

**Mr. Michael Dearden:** I think that it has been suggested that there are certain groups of individuals who see this as an opportunity and put a greater effort into creating the fraud. Perhaps there are either enough of those individuals or they feel that they can blend in enough or that there are enough other people in this area who will work with them all through the chain of fraud that they do it in the GTA, opposed to, if they lived in Woodstock, Ontario, they might feel that they were too exposed and known in the community; therefore, they won't do it.

**Mr. Mike Colle:** So they can slip in and be part of the already organized fraud gangs that exist and not be really, you know—not sticking out anyways; they can blend in and get to work right away staging accidents, holding cars hostage and holding the German tourist hostage and the poor driver who doesn't know what hit him or her. This goes on, again, everywhere, every day throughout the GTA, and there's nobody really there putting a stop to it.

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**Mr. Michael Dearden:** Not so far.

**Mr. Mike Colle:** Yes. Thank you very much.

**The Acting Chair (Mr. Steven Del Duca):** Thank you, Mr. Colle. Now we're going to turn to Mr. Yurek for their 10 minutes.

**Mr. Jeff Yurek:** Thanks for coming in. I appreciated your comments. I just wanted to pick up where you were talking about commercial auto insurance. It's something that's rarely talked about here. Just to clarify, you're saying the costs that the insurance companies put out that they pay out—commercial is not included in their costs?

**Mr. Michael Dearden:** No, no, it's included in their costs. but it's not necessarily shared with the government, and the agency whose name slips my mind right now, the acronym—

**Mr. Jeff Yurek:** GISA?

**Mr. Michael Dearden:** Yes, GISA, thank you.

**Mr. Jeff Yurek:** So it's not shared with GISA?

**Mr. Michael Dearden:** It's not shared in the same way. The information that, for example, the task force on anti-fraud vetted did not include all of the claims information from commercial fleets in the province of Ontario, which is quite substantial.

**Mr. Jeff Yurek:** And ACCRO, if I can call it that, they negotiate on behalf of their group for auto insurance? Is that—

**Mr. Michael Dearden:** They do provide, for their smaller members, a group policy similar to many associations, yes.

**Mr. Jeff Yurek:** Do you find it difficult in this province to get commercial fleet coverage for your members?

**Mr. Michael Dearden:** Yes. Generally there's one company in the province that will underwrite it.

**Mr. Jeff Yurek:** One?

**Mr. Michael Dearden:** One.

**Mr. Jeff Yurek:** Why would only one company offer that?

**Mr. Michael Dearden:** It's a bit of a unique product, so not a lot of large companies want to be involved in it. It's a fairly complicated product. We rent our vehicles to people who—we don't have a tremendous amount of information on their background and their history, so it's not as easy as doing a risk profile on Mike Dearden by my insurance company and determining what rates they should charge. It's a complex piece of business.

**Mr. Jeff Yurek:** So the risk is high.

**Mr. Michael Dearden:** Well, it's harder to measure.

**Mr. Jeff Yurek:** Harder to measure. I just make that comment because we now have companies—taxi drivers in Hamilton—who are unable to get coverage. The insurance industry doesn't want to take the risk for the cost involved.

You cover Canada. Outside of Ontario and looking at provinces that do offer not-public insurance, do you have the same difficulties finding coverage for your members? Is it the same?

**Mr. Michael Dearden:** We actually do it all out of Ontario because we're headquartered here, so we use one company in Ontario that provides the insurance nationwide.

**Mr. Jeff Yurek:** So it covers Canada? Okay.

Back to the crown attorney's office, the investigation unit, we fully agree with that on this side. We've been pushing for it for a number of years. You talked about New Jersey. Do you have any other areas where this has worked in the past?

**Mr. Michael Dearden:** I can't remember off the top of my head. New Jersey was one that certainly jumped to mind. We've asked our members from their US operations to provide us with information and we have some of that available we can provide to you.

**Mr. Jeff Yurek:** And you're talking about who would pay for this crime unit. You think it should be a cost-sharing between the government and the insurance agency, or should it just be a role of the government?

**Mr. Michael Dearden:** Well, you're getting into a complex thing here. Whenever you do any crime investigation, it generally falls to the government to be the responsible one to lead on that. Hopes are that this is not a process that goes on forever. Our experience has been that once these investigations units are up and they have a couple of successful cases, it tends to drive out the fraud to a significant level.

**Mr. Jeff Yurek:** Sure. So it might be just a short-term investment in order to long-term gain for ratepayers in the province.

**Mr. Michael Dearden:** But again, it's the opportunity that is afforded by the insurance benefits. The higher those benefits are, the greater the opportunity for fraud. It's that simple.

**Mr. Jeff Yurek:** Do you have any questions?

*Interjection.*

**Mr. Jeff Yurek:** No? I'm good. Thank you.

**The Acting Chair (Mr. Steven Del Duca):** Thanks very much, Mr. Yurek. I understand that you had asked for some documentation or something to be provided to the committee in the course of your questioning?

**Mr. Bas Balkissoon:** From New Jersey.

**Mr. Mike Colle:** The New Jersey solution.

**The Acting Chair (Mr. Steven Del Duca):** The New Jersey solution, so—

**Mr. Jeff Yurek:** Sure.

**The Acting Chair (Mr. Steven Del Duca):** If we can get that information—it's being requested to the committee Clerk—that would be fantastic.

Now I will turn it over to the NDP caucus: Mr. Singh for 10 minutes, please.

**Mr. Jagmeet Singh:** Thank you. Thank you very much for attending today. It's a pleasure to have you here.

I'm going to start with a question that's just kind of a question I've always been curious of. Maybe you can give me some input on it. People talk about, when they rent a car, if they rent it on their credit card and they use a gold card or a platinum card that's got extra coverage

on it, that that covers their car entirely in terms of insurance. From someone involved in the industry, is that true? Is that false? What's the situation on that?

**Mr. Michael Dearden:** If an individual has their own personal insurance that covers them as a driver, then that insurance would cover them when they rent a vehicle. I rented a van last week to move one of my kids back from school, and I paid no insurance on it because my own personal auto insurance covered it. I used a credit card, but it was my own policy.

**Mr. Jagmeet Singh:** Now, what about the separate coverage that you get on a credit card? If it's a gold card, they indicate that they will cover you specifically because you're renting it on a gold or a platinum or one of those cards that have extended services. What is that?

**Mr. Michael Dearden:** Well, it is a system of insurance offered by the insurance company. It may not always correspond with the jurisdiction that you're in, so there is some complexity sometimes in making the two meet. But it does offer a level of insurance, yes.

**Mr. Jagmeet Singh:** Okay. Now, in your capacity, can you explain your position and your role in terms of Canada and advocacy for car rental agencies?

**Mr. Michael Dearden:** ACCRO is—actually, it's a for-profit organization, similar to the CFIB. So it is not a not-for-profit association like others you may meet. But we do represent the interests of the industry across Canada. I do nearly all of the government relations and public affairs work for it. We do training for our members. We assist our members with insurance and a range of other benefits that a typical association would offer their members.

**Mr. Jagmeet Singh:** So you're a for-profit organization, and you represent car rental operators; for example, Avis, Budget—all of the big names.

**Mr. Michael Dearden:** Correct.

**Mr. Jagmeet Singh:** Are there any ones that you don't represent?

**Mr. Michael Dearden:** We represent all the majors. I'm sure that there are some small independents that we do not. In Ontario, we represent 168 individual car rental firms, the vast majority of which are small. They have two or three locations and 10 or 20 cars.

**Mr. Jagmeet Singh:** Okay. And your area of expertise is you represent the interests of car rental companies, I guess?

**Mr. Michael Dearden:** Yes.

**Mr. Jagmeet Singh:** The concerns raised by car rental organizations, companies—what are their major concerns? What are the top two, I guess, major concerns that they have?

**Mr. Michael Dearden:** Well, a major concern is the cost of insurance. That's a huge concern for our members. I mentioned in my remarks that it's an uncontrollable cost in the sense that we control our costs around the vehicles we buy and use, and we control our costs with our staff. Our third-largest cost is insurance.

**Mr. Jagmeet Singh:** And you would fall underneath commercial insurance?

**Mr. Michael Dearden:** Correct.

**Mr. Jagmeet Singh:** We talked about some of the problems, and one of the problems you indicated in your deputation today was that there is a very small pool of insurers that provide coverage. You indicated there's only one. Is that—

**Mr. Michael Dearden:** Correct.

**Mr. Jagmeet Singh:** There's no one else that provides insurance coverage?

**Mr. Michael Dearden:** No, not through ACCRO. Some of the large companies have arranged their own reinsurance agreements and arrangements. Some of those are international, which, of course, is not available to a small operator in Scarborough.

**Mr. Jagmeet Singh:** So a small operator in Scarborough—can they go on their own and try to obtain the insurance through any company they want?

**Mr. Michael Dearden:** Sure. They can.

**Mr. Jagmeet Singh:** Are they able to?

**Mr. Michael Dearden:** Almost inevitably no.

**Mr. Jagmeet Singh:** Okay. So they can only, practically speaking, go through ACCRO.

**Mr. Michael Dearden:** That's correct.

**Mr. Jagmeet Singh:** And ACCRO only has one service provider?

**Mr. Michael Dearden:** That's correct.

**Mr. Jagmeet Singh:** What's the name of that provider?

**Mr. Michael Dearden:** I think right now it's Dominion.

**Mr. Jagmeet Singh:** Dominion. Okay, interesting. Have you made inquiries as to why there's only the one?

**Mr. Michael Dearden:** There's generally only one company that's interested in bidding on the business.

**Mr. Jagmeet Singh:** Now, your concern, primarily— if we're talking about reducing the cost of auto insurance commercially, that's something, obviously, that you'd be interested in?

**Mr. Michael Dearden:** Absolutely.

**Mr. Jagmeet Singh:** Has Dominion anecdotally indicated to you why their rates are so high and what they can do to bring the rates down?

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**Mr. Michael Dearden:** They've justified it. They have to justify their rates to FSCO in the same way that they do for underwriting a personal policy, so they're based on their assessment of the risk. We understand that. They're based on the assessment and the cost of what they have to pay out, and those costs are largely dictated by legislation and regulation, so it all flows back to that.

One of the things that we really feel there is a much greater need for is the sharing of good information among all those in the insurance industry. We appreciate that there are privacy concerns. We appreciate that there are competitive concerns between insurers. But we think that through FSCO and the arms of the government responsible for the collecting and understanding of insurance and claims information, there should be better cross-sharing so that we can better deal with fraud and

fight it, and the insurance industry and the government can better understand it.

**Mr. Jagmeet Singh:** In your capacity as someone with ACCRO, do you have any rough figures, based on some evidence, in terms of fraud costs that are in the system?

**Mr. Michael Dearden:** We've noticed a substantial dip. When the government moved to introduce a new cap of \$3,500, we noticed a substantial dip in the number of claims and the size of claims.

**Mr. Jagmeet Singh:** The number of claims in what sense?

**Mr. Michael Dearden:** The number of claims submitted.

**Mr. Jagmeet Singh:** Submitted to your organization?

**Mr. Michael Dearden:** Through us. That's correct.

**Mr. Jagmeet Singh:** So you've noticed a significant reduction in claims.

**Mr. Michael Dearden:** That's right. It almost strikes you as, it wasn't worth making the claim anymore.

**Mr. Jagmeet Singh:** Right. That's been the evidence that's out there, that the claims costs have dropped dramatically. In fact, people have said that this is the most historically significant reduction in claims costs in the province of Ontario, period.

**Mr. Michael Dearden:** I'm sorry, I don't have enough of a history perspective, but certainly we've noticed it.

**Mr. Jagmeet Singh:** Okay. Are you aware of any practices that occur, specifically in your area of expertise within ACCRO, that contribute to higher costs in the system?

**Mr. Michael Dearden:** I've mentioned in my comments that we have a great concern about the number of bodily injury claims that arise out of accidents involving rental vehicles where there is little or no damage to the rental vehicle. The scenario is that two different people rent two different cars and they load them up with eight people, and they run into each other in a parking lot. They return the rental cars and they all claim whiplash and sore backs, and start into the process of going through therapy and—

**Mr. Jagmeet Singh:** So that's the situation where there are two rental cars involved?

**Mr. Michael Dearden:** Sure. Sometimes it is.

**Mr. Jagmeet Singh:** Do you have any sort of evidence or statistics or numbers based on that, or are these just anecdotal things that you've come across?

**Mr. Michael Dearden:** Anecdotal information we have, yes.

**Mr. Jagmeet Singh:** Okay. So again, that's not something you can support in terms of a trend or in terms of hard numbers; it's just something that you've experienced.

In terms of insurance companies themselves perhaps not monitoring how long someone is renting a car or a claim being submitted that doesn't make sense—are you aware of any of those circumstances, anecdotally?

**Mr. Michael Dearden:** No, I'm not. If I understand the question, no, I'm not.

**Mr. Jagmeet Singh:** Okay. On the rental side, is there anything that can be done that would prevent extra costs in the system?

**Mr. Michael Dearden:** I think the thing that would help us the most would be if we were aware of or had some information on potential renters who had been involved in fraudulent activity in the past. We simply don't have that information when someone walks in the door. While another insurance company can look at someone's record and understand what kind of a risk they represent, when they walk in our door, as long as they have a driver's licence—

**The Acting Chair (Mr. Steven Del Duca):** One minute left.

**Mr. Michael Dearden:**—which is right, then we have no idea.

**Mr. Jagmeet Singh:** That would indirectly impact your actual costs as a company. You're saying that this would have a trickle-down effect, that if you can control your costs on your end you might see a benefit down the road by the insurance companies recognizing that there's a reduction in cost and passing that on to you.

**Mr. Michael Dearden:** Right. It's a reduction system. We have a great concern that if you correct the problem of fraud under personal auto insurance, it will simply migrate to commercial auto insurance and use that, because they're not going to give up, given the investment they've put into building these huge organized-crime organizations. They'll go wherever they can.

**Mr. Jagmeet Singh:** Okay. And you haven't seen any trickle-down effect so far for the commercial auto insurance rates. They haven't gone down, have they?

**Mr. Michael Dearden:** They've improved a bit, yes.

**Mr. Jagmeet Singh:** Since when?

**Mr. Michael Dearden:** Since 2010.

**Mr. Jagmeet Singh:** And how much have they improved by, industry-wide?

**Mr. Michael Dearden:** I can't remember off the top of my head, but it's noticeable. It's certainly above 10%.

**Mr. Jagmeet Singh:** Reduction in rates?

**Mr. Michael Dearden:** Yes.

**Mr. Jagmeet Singh:** And you know that personally they've gone up by 5%?

**Mr. Michael Dearden:** Yes.

**The Acting Chair (Mr. Steven Del Duca):** Thank you very much. We've come to the end of the 10 minutes. Thank you, Mr. Dearden, for being with us here this afternoon. Much appreciated.

**Mr. Michael Dearden:** Thank you.

#### COMMITTEE BUSINESS

**The Acting Chair (Mr. Steven Del Duca):** I understand that we have a bit of housekeeping to take care of. This is my first time trying this, so I hope everyone goes easy on me.

I believe that prior to today, the subcommittee had a chance to have a discussion about inviting an additional guest, GISA, to come in on Monday. The majority decided that we would do that. I also understand that there might be an interest in bringing some other witnesses to come forward.

I think part of the logistical problem or challenge is that there's one spot left on Monday so, of course, it's up to the committee to decide if we want to invite additional witnesses beyond GISA, but I gather that if we do, that might mean scheduling going on to Wednesday.

**Mr. Jeff Yurek:** Chair, if I can?

**The Acting Chair (Mr. Steven Del Duca):** Yes, Mr. Yurek?

**Mr. Jeff Yurek:** I would like to bring a member from OSFI. If we're going to have GISA at the table, OSFI is what the—

**Mr. Mike Colle:** It only makes sense—

**Mr. Jeff Yurek:** Well, you know, they use GISA's records, so I thought that would make a good balance to this committee.

**Mr. Bas Balkissoon:** Sounds good.

**The Acting Chair (Mr. Steven Del Duca):** So would that mean, then, that people are open to extending on to Wednesday and going into another time slot on Wednesday?

**Mr. Jagmeet Singh:** Yes.

**Mr. Jeff Yurek:** We're here until June 7, so—

**Mr. Bas Balkissoon:** But we should have the two of them on the same day.

**The Acting Chair (Mr. Steven Del Duca):** Both on Wednesday?

**Interjection:** If we could, that would be—

**Mr. Jagmeet Singh:** If we do two—sorry, let's keep it in order. Who's first?

**The Acting Chair (Mr. Steven Del Duca):** Mr. Singh, go ahead.

**Mr. Jeff Yurek:** I'm a Y, so I'm always last.

**Mr. Jagmeet Singh:** No, I just wanted you to finish your point. I didn't want to cut you off.

I think we could address a couple of things. One, if we're going to open up Wednesday, first of all, let's make sure that we all agree. I think we should open up Wednesday. So we have Monday, and let's open up Wednesday so that we can get both people in. If we get OSFI and GISA in both, that's fine. But if we're opening up Wednesday, let's actually open it up to some more, and we can hear some more deputations. There are other folks that I know are very interested in giving their deputations and their input on the industry. So let's do that, then.

Can we all agree on those two points to begin: that we want to hear from both GISA and OSFI, and let's open up Wednesday to hear more deputations?

**The Acting Chair (Mr. Steven Del Duca):** I understand from the Clerk that if we open it up to Wednesday and we have OSFI and GISA here, that will leave two additional spots open. So if the committee is inclined to—

**Mr. Bas Balkissoon:** Who do we have on Monday?

**The Acting Chair (Mr. Steven Del Duca):** Well, if the desire is to have both GISA and OSFI on Wednesday, on the same day, then we would have no one on Monday.

**The Clerk Pro Tem (Mr. Trevor Day):** We have a full line except for one spot.

**The Acting Chair (Mr. Steven Del Duca):** Sorry, a full line except for one spot. I misunderstood.

**Mr. Bas Balkissoon:** This is Mr. Colle's request on Monday?

**Mr. Mike Colle:** No, Rocky is very, very uneasy about coming, so he's not going to come.

**The Acting Chair (Mr. Steven Del Duca):** So if I understand it, we'd have one open spot on Monday and two open spots on Wednesday.

**The Clerk Pro Tem (Mr. Trevor Day):** One open spot on Wednesday.

**The Acting Chair (Mr. Steven Del Duca):** Sorry, one open spot on Wednesday.

**Mr. Jagmeet Singh:** Two spots? Okay, so we'll try to fill those spots, then.

**Mr. Mike Colle:** Yes, we get some real people, GISA and OSFI and get some real human beings—

**The Acting Chair (Mr. Steven Del Duca):** Okay, so it's advertised to whoever calls in. So we're good with that?

**Interjections:** Yes.

**The Acting Chair (Mr. Steven Del Duca):** Okay. Mr. Singh?

**Mr. Jagmeet Singh:** Particularly, my concern is that with OSFI and GISA, I'm going to have a lot of questions. So I'm going to ask the committee to consider this: Let's reduce their time for their presentation, because, really, we're trying to find the facts. We want to have certain information that we're concerned with. Can we reduce the presentation to five minutes?

**Mr. Mike Colle:** Oh, you can't shut GISA down. If we bring them here—

**Mr. Jagmeet Singh:** We're not going to shut them down. What we're doing is we're going to ask them questions that—

**Mr. Mike Colle:** Let GISA speak.

**Mr. Jagmeet Singh:** Mr. Colle, do you want to speak first or would you like me to speak first?

**Mr. Mike Colle:** No, with GISA, if we bring them here, let's—

**Mr. Jagmeet Singh:** So my suggestion to the committee, if the committee is interested, is that instead of allowing either OSFI or GISA to have 10 minutes to present, to reduce that to five minutes and give us 15

minutes to ask questions so that we can ask the questions that we want; we can get the information that we're concerned with.

**Mr. Mike Colle:** I'll give up my time to GISA. Let them go on all day—

**Mr. Bas Balkissoon:** What were the rules we had for FSCO?

**The Clerk Pro Tem (Mr. Trevor Day):** The same as everybody—it was 10 minutes and then 10, 10 and 10 for questioning.

**Mr. Bas Balkissoon:** So, then, I guess we should stick with it.

**Mr. Jagmeet Singh:** My issue is that I always feel, particularly with witnesses—

**Mr. Mike Colle:** I'll give you my time to speak.

**Mr. Jagmeet Singh:** I appreciate that.

**Mr. Mike Colle:** No problem.

**Mr. Jagmeet Singh:** Particularly with people that have a lot of information to give, we run out of time. So I think that if we reduce their presentation and ask more questions—if everyone is okay with that?

**The Acting Chair (Mr. Steven Del Duca):** I'm going to throw it out to the committee to decide whether—

**Mr. Bas Balkissoon:** Chair, why don't we schedule Wednesday, the two groups, leave the 10 minutes as it is and don't add anybody else, and give everybody the extra five minutes for questions?

**The Acting Chair (Mr. Steven Del Duca):** It's up to the committee.

**Mr. Mike Colle:** Let the member be with GISA all afternoon, for all I care.

**The Acting Chair (Mr. Steven Del Duca):** Mr. Singh.

**Mr. Jagmeet Singh:** So the suggestion would be to have two slots. That's more time to ask some questions.

**The Acting Chair (Mr. Steven Del Duca):** That would give you more time.

**Mr. Jagmeet Singh:** Yes. That sounds good.

**The Acting Chair (Mr. Steven Del Duca):** Everybody is agreeable to that?

**The Clerk Pro Tem (Mr. Trevor Day):** Just so I'm clear, what we're going to do is—we still have a spot on Monday if someone calls in. We're opening it up to Wednesday and we're going to split the Wednesday time pretty much in two: 10 minutes for their presentation, but the additional time will be used up in questioning. Okay?

**Interjection:** Yes.

**The Acting Chair (Mr. Steven Del Duca):** Thanks very much. Meeting adjourned.

*The committee adjourned at 1750.*





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