



March 18, 2021

Ms. Ann MacKenzie
FSRA Senior Manager, Policy Interpretation
Auto/Insurance Products
5160 Yonge Street, 16th Floor
Toronto, ON M2N 6L9

Dear Ms. MacKenzie,

The Coalition of Health Professional Associations in Ontario Automobile Insurance Services (the "Coalition") is pleased to have the opportunity to provide a submission to the Financial Services Regulatory Authority (FSRA) regarding the proposed *Unfair and Deceptive Acts or Practices (UDAP) Rule*.

The Coalition represents over 40,000 front line health professionals from professions involved in the assessment and treatment of Ontarians. The health professions we represent are key stakeholders in the auto insurance system and advocate for timely access to assessment and care for claimants.

The Coalition's feedback addresses each of the four targeted consultation questions.

- 1. Are there any parts of the Proposed Rule that are too general or require further detail, including for the purposes of clarity or closing possible gaps?**
 - For purposes of clarity and reading ease, the proposed definition of a UDAP (provided in *Section 2*) should list each of the cross-referenced section titles (for s. 3 to s. 10 of the proposed rule). This would provide greater clarity regarding the domains encompassed by the proposed UDAP (e.g., *Non-Compliance with Law; Unfair Discrimination; Unfair Claims Practices; Fraudulent or Abusive Conduct Related to Goods and Services Provided to a Claimant; Incentives; Misrepresentation; Prohibited Conduct in Auto Insurance Quotations, Applications or Renewals; and Affiliated Insurers*).

- 2. Are there any implementation considerations, such as transition issues or the coming into force date of the Proposed Rule, that interested parties would like to bring to FSRA's attention?**
 - The Coalition recommends that FSRA closely monitor the impact of the new outcome-based UDAP provisions in meeting its stated objectives. In addition, the Coalition recommends that as part of its implementation plan, FSRA should develop an accompanying education and communications strategy to ensure that all auto insurance stakeholders (including consumers and claimants) understand the purpose, intent, and key provisions of the new UDAP rule.

3. FSRA has drafted the Proposed Rule to ensure that the intent of existing consumer protection provisions is preserved where no substantive policy change is being proposed. FSRA has deliberately erred on the side of maintaining consumer protections even where they may be redundant given other aspects of the Proposed Rule. An example includes provisions related to non-compliance with the Statutory Accident Benefits Schedule in section 5 (Unfair Claims Practices) given the contents of section 3 (Non-Compliance with Law). Are there sections of the Proposed Rule that are redundant and can be removed without compromising consumer protection?

- The overlap between Sections 3 and 4 of the UDAP provide an adequate amount of clarification regarding the categories of outcome-based behaviors that may comprise a UDAP.

4. Are there any other issues or amendments to the Proposed Rule that FSRA should consider as it proceeds to its intended second stage of work in this area?

- In order to ensure public transparency and accountability, FSRA may consider posting UDAP noncompliance metrics via a searchable database.
- The Coalition also cautions that the second stage of UDAP rule-making – along with any future changes to the Insurance Act for the purposes of expanding the recently created “regulatory sandbox” – must not infringe on claimant’s access to care or choice of provider. Furthermore, we recommend that FSRA proactively engage health service providers to assess any initiatives proposed as part of the “regulatory sandbox” to determine the potential to impact claimant’s access to care and health outcomes.

Thank you for your attention to this matter. We look forward to ongoing consultation on the next stages of UDAP rule-making and would appreciate an opportunity to meet with you to discuss the aforementioned recommendations at your earliest convenience.

Sincerely yours,

Dr. Moez Rajwani and Ms. Dorianne Sauvé, Coalition Co-Chairs