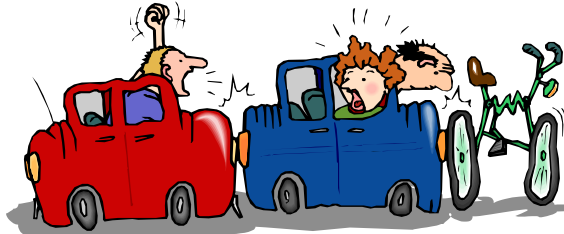


# Bill 198 and the New SABS

Thomson, Rogers presents:  
*"Adapting to the Changes in the Acute Care Setting"*



*Hamilton Health Science Centre March 21, 2003*

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# Bill 198 History

## Sept 16 2002: First Set of Proposed Changes

- Introduced concept of the "Guidelines" for less serious injury
- Right to sue for healthcare expenses in tort
- Removal of section 24 assessment entitlement
- Severe restriction on ABI CAT entitlement
- Sept 24/02 Thomson, Rogers Conference at TRI with MPP Sampson
- Healthcare professionals & lawyers critique of proposals results in changes



# Bill 198 History

Fall 2002 - Initial Consultation Process with MPPs  
Oct 30 2002 - Bill 198

- Right to sue for health care expenses
- Much left to regulations
- Much left to Guidelines
- Significant changes to treatment plans, DACs, Assessments & Assessment Plans
- PAF/Non-PAF system introduced for modest injuries



# Bill 198 History

December 9, 2002

- Third and Final reading of Bill 198
- Not yet in force
- Likely in force before election



February 21, 2003

- New draft regulations and SABS released
- Many concerns and criticisms



## **Key Concern – Delay of Treatment**

- Delayed assessment
- Delayed treatment
- Penalty for late notice: Delay of treatment
- More complex procedure, forms = delay
- Increased Length of Stay
- Increased burden on C.C.A.C.

## ***Role of Personal Injury Lawyer***

- to get notice to insurer in time
- to get accident benefit application to insurer
- to get assessments completed in hospital
- to obtain appropriate case management
- to take care of expense forms so family can focus on accident victim
- to facilitate completion, submission and insurers agreement to treatment plan before discharge

## The Tort Claim

- Who is the at-fault driver?
- Does it have to be a car?  
ATV, Snowmobile, Jet Skis, Boats, Motorcycle
- What can I sue for?  
lost income, pain and suffering, housekeeping, home maintenance
- Are there any restrictions on my right to sue?  
Under Bill 59
  - no med/rehab/care unless CAT
  - no pain and suffering unless serious and permanent

## The Tort Claim

### *How this changes under Bill 198*

- No deductible for pain and suffering awards over \$100,000.
- No deductible for Family claims over \$50,000
- Can sue for excess medical / rehab / care costs if injury is serious and permanent
- 80% of net for past lost income
- No change for housekeeping and home maintenance

## Bill 198 SABS

### *Further delays of treatment for the seriously injured:*

- Need permission to assess needs
- Notice must be provided earlier and if not, treatment delayed
- Forms are longer, more complicated
- Definition of Catastrophic may be improved for children but treatment implementation process still delayed.



## Bill 198 SABS

### *New Pre Approved Framework (PAF) Guidelines for modest injuries*

- Affects Whiplash Associated Disorder (WAD 1 and 2)
- No DACs, Assessments, Insurer Exams
- Limits on treatment:
  - WAD 1 – 4 weeks < \$1200
  - WAD 2 - 6 weeks ?
- DACs to get out of PAF if insurer disputes



## Bill 198 SABS

### *Treatment Plan Changes*

- Treatment Plan is now six (6) pages not three (3), with increased requirements
- Treatment Plans for multi-disciplinary centers can only be submitted once every thirty (30) days for first six (6) months and once every sixty (60) days thereafter
- Benefits are not payable until a application "completed" to the insurer's satisfaction

## Bill 198 SABS

### *Treatment Plan Changes*

- If a victim doesn't give notice of accident within seven (7) days then initial treatment, income benefits, attendant care, visitor expenses and-or funeral benefits are delayed by up to forty-five (45) days from the date of submission of the relevant form to date of the insurers approval or denial
- If insurers fail to approve or deny treatment within fourteen (14) days the only sanction is that they will be obliged to pay for treatment between day 14 and the day they give notice denying treatment

# Bill 198 SABS

## *Treatment Plan Changes*

### Conclusions Regarding Delays caused by Bill draft S.A.B.S

- Without early and appropriate representation, seriously injured victims could reasonably see the time frame between recommendation by discharge planner for treatment and date of receipt of recommended treatment more than double under Bill 198 as compared to the time frame under Bill 59

# Bill 198 SABS

## *Request for Assessment Plan Form OCF- 22*

- Replaces Section 24
- must request insurer consent to assessments for seriously injured persons
- If insurer denies assessment request, DAC will be involved. Process could add delay of twenty-seven (27) days to obtain approval for assessments

## Bill 198 SABS

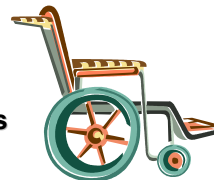
### *Request for Assessment Plan Form OCF - 22 ( cont'd )*

- Section 24 assessments are abolished. All assessments will need to be pre-approved with the sole exception that for those with minor injuries ( WAD I or WAD II), 3 assessments X \$180.00 each maximum by different assessors will be paid by the insurers. There are other limited exceptions

## Bill 198 SABS

### *Catastrophic Definition*

- Loss of use or amputation of both legs ( No real change )
- Children CAT testing measures expanded
- Insurer must determine CAT status in 2 yrs
- Optional benefits: care increased to \$6,000
- Includes case management





## Other Proposed Changes to SABS

### *Key Regulations increasing delay in treatment:*

- s. 24 (1.3) – Before assessing patient to prepare a treatment plan, practitioner must submit a Request for Assessment Plan (form OCF 22)
- s. 32 (1) – Proposal to reduce time period for notifying insurer to 7 days (from 30 days) Penalty in s. 38 (18) & 39 (3) that insurer is given within 45 days to respond to application where no notice is given.
- s. 33 (1.1) – Any person submitting an application for benefit's shall submit to an examination under oath, if requested by the insurer.

## Other Proposed Changes to SABS

### *Pursuing Payment - Outstanding Treatment expenses:*

- Treatment provider will no longer be able to take an assignment from the accident victim for the right to mediate or arbitrate and sue in relation to unpaid treatment expenses; therefore,
- More than ever before it will be crucial for treatment providers to work closely with experienced personal injury counsel to ensure payment of assessment and treatment expenses

## **Summary – Role of PI Lawyer in acute care**

- 1. Provide written benefit information**
- 2. Provide consultation at no expense**
- 3. Complete forms at no expense**
- 4. Ensure compliance with 7 day and other time limits so treatment is not delayed**

## **Summary – Role of PI Lawyer in acute care**

- 5. Enhance timeliness of insurer approval of and implementing treatment**
- 6. Prevent delay which increases length of stay and saddles CCAC with burden where insurer has not approved intervention at time of discharge**

## Bill 198

*Timing for Commencement:*

**Before anticipated April election**



## Thank You

For actual draft regulations and forms:

[www.thomsonrogers.com](http://www.thomsonrogers.com)

- Click on "What's New" button

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