

# A BRAVE NEW WORLD

# Back to School

*with*



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MCLEISH ORLANDO

OATLEY VIGMOND

THOMSON ROGERS

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PERSONAL INJURY LAWYERS

*and*

Toronto **abi** Network

(All proceeds will be donated to Toronto ABI Network)

Four Seasons Hotel | September 10, 2015



A BRAVE NEW WORLD  
September 10, 2015

# Back to School

## THE COMING CHANGES TO ONTARIO AUTO LEGISLATION: ACCIDENT BENEFITS & TORT

Presented by:

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# CHANGES ARE HERE

- Tort changes are already here
- Accident benefit changes effective June 1, 2016
  - Ontario Regulation 251/15 released August 27, 2015



# REVIEW OF CHANGES:

Reduced Accident Benefits & Some New Rules

Narrowed CAT Definition

Increased Tort Deductible

The LAT (Licence Appeal Tribunal)

The Newish "Incurred"

Tort PJI (Prejudgment Interest)

Accident Benefit Dispute Interest Rate

MIG (Minor Injury Guideline) Overhaul



# Reduced ABs (as of June 1, 2016)

- Non-CAT total limits - new reduced total of \$65,000 (down from previously reduced \$86,000 total)
- Non-Earner benefits to be limited to 2 years only (with 4 week waiting period, rather than 6 month)
- CAT Total Limits – now reduced total of \$1,000,000 (down from \$2,000,000 total)

## IMPACT:

- **Horrible for seriously injured**
- **Prioritizing use and cutting corners**
- **Increased magnitude of tort claims**



# New AB Rules (as of June 1, 2016)

- Freedom 65:
  - \$65,000 can be used for med/rehab or AC (no longer a \$50,000 med/rehab max and a \$36,000 AC max)
  - still a \$3,000 per month AC cap (now for 5 years)
- Non-CAT Duration—5 years (not 10 years) or until age 28 for minors

## IMPACT:

- **Avoid 'incurred' & use \$ for med/rehab**
- **Advance attendant care claims in tort (along with housekeeping)**





# New AB Rules (as of June 1, 2016)

- For other goods and services (see: med s.15(1)(h) and rehab s.16(2)(1)):
  - Must be goods/services the ‘insurer agrees are essential’ (i.e. insurer can veto any creative requests outside enumerated provisions)

**IMPACT:**

- **Fit requests within a listed category**



# Narrowed CAT Definition

- Introduction of new tests
- No more GCS test
- For accidents on or after June 1, 2016



**IMPACT:**

- **CAT benefit access delays**
- **Confusion and uncertainty**



# Increased Tort Deductible

- As of August 1, 2015 (...retrospective debate)
- Indexed for inflation
- New deductible of:
  - \$36,450
  - \$18,270 (for FLA claims)
- New ‘vanishing’ deductible limit of:
  - \$121,799
  - \$60,899 (for FLA claims)

**IMPACT:**

**Reduced compensation**



# LAT (Licence Appeal Tribunal)

- To replace FSCO
- No more right to sue over AB disputes
- Process overview:
  - Paper review
  - Expedited hearings
  - Full in person hearings
- Implementation as of April 1, 2016 (?)

**IMPACT:**

**Disorganization and confusion**



# The Newish “Incurred”

- As of February 1, 2014
- Dollar for dollar ‘economic’ loss requirement

**IMPACT:**

**Outsource attendant care**



# Tort PJI (Prejudgment Interest)

- As of January 1, 2015
- New lower PJI rate
- Insurers attempted retrospective application

**IMPACT:**

**Tort settlement delays**



# Accident Benefit Dispute Interest Rate

- As of January 1, 2015
- Reduced dispute interest rate

**IMPACT:**

**Prolonged AB disputes**



# MIG Overhaul

- Replace MIG with CTI (Common Traffic Impairment)
- Mild Brain Injury to be included (?)



**IMPACT:**

- **Increased dispute over classification**
- **Increased reliance on key providers**



# CONCLUSIONS:

Extensive Changes Are Here

Reduced CAT Limit Problems/Stress

Narrowed CAT Definition Confusion

MIG Expansion Controversy

Collaboration and Coordination Even More Crucial

Monitor PIA Law for More Info on Changes





# THANK YOU

Please feel free to call or email with questions.

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