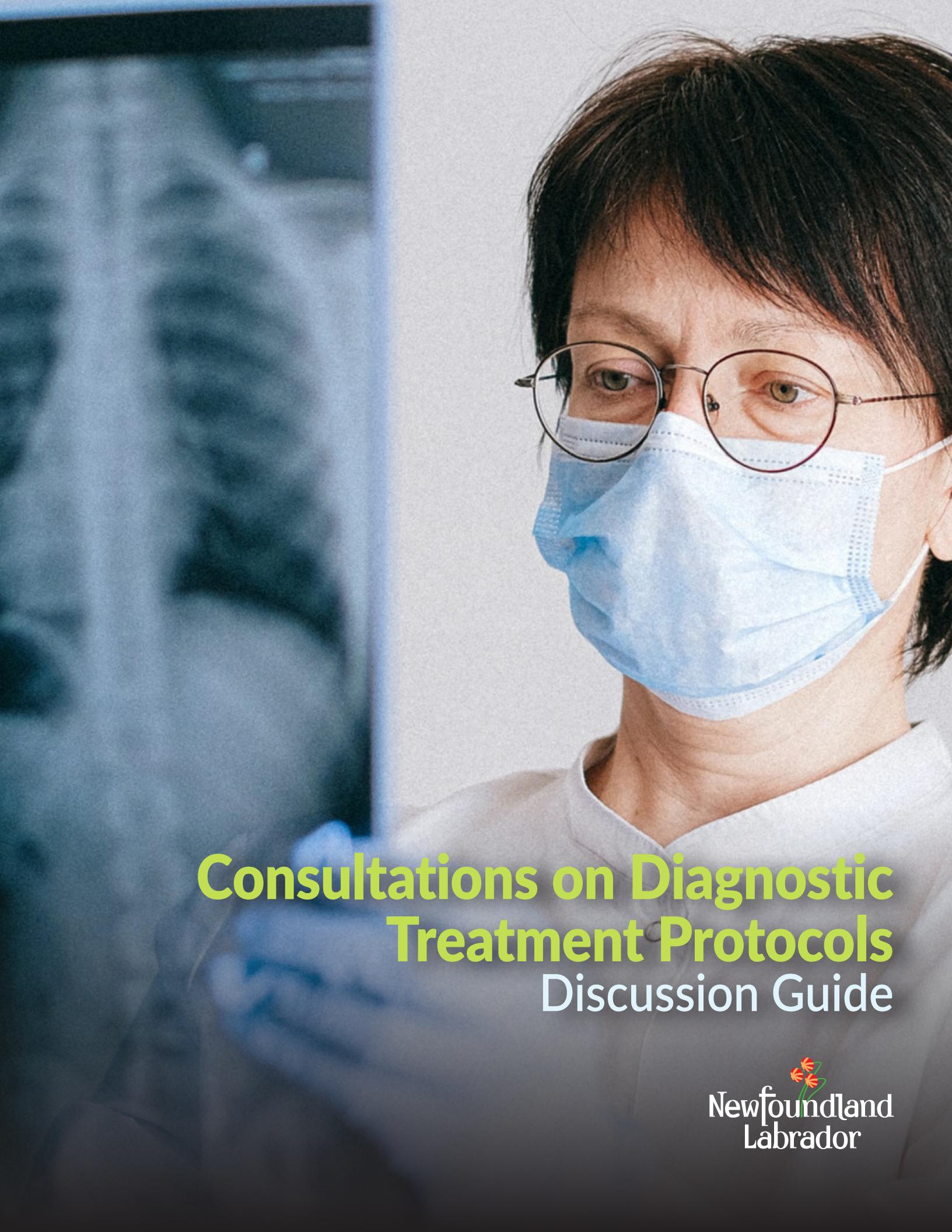

Consultations on Diagnostic Treatment Protocols

Discussion Guide

Newfoundland Labrador

Introduction

In July 2017, the Provincial Government announced the start of a comprehensive review of the automobile insurance system in Newfoundland and Labrador. As part of this review, the Public Utilities Board (PUB) conducted an independent closed claims study and public consultations seeking input on various aspects of automobile insurance product, including third party liability, accident benefits, physical damage coverage and uninsured motorist coverage. In addition, the Provincial Government conducted consultations to explore issues outside the scope of the PUB's mandate. In January 2019, the PUB submitted a report and recommendations to the Provincial Government.

The Provincial Government introduced legislative changes to the Automobile Insurance Act and the Insurance Companies Act in April 2019, many of which became effective January 2020. Some of the key changes included an increase in the deductible for bodily injury claims; introduction of treatment protocols for common injuries as the primary payer; no access to the Uninsured Automobile Fund for losses by uninsured motorists; direct compensation for property damage; requirement for insurance companies to notify the Registrar of Motor Vehicles of the cancellation or expiration of insurance policies; and changes to procedural rules for motor vehicle collision claims.

The Terms of Reference for the PUB included a review of the impact of Newfoundland and Labrador adopting minor injury diagnostic and treatment protocols such as those provided in Alberta and Nova Scotia.

The goal of diagnostic and treatment protocols is to get a person injured in a motor vehicle accident on the road to recovery as soon as possible with timely and effective evidence-based treatment specific to the injury. The benefits of these protocols for an injured person include not having to wait for approval from the insurer or for a physician referral to access treatment, not having to pay out of pocket so there are no financial barriers to access to treatment, consistency in treatment for defined injuries based on scientific evidence, and being able to choose their own treatment provider.

In the Report to Government, the PUB advised there was general support from industry stakeholders for the implementation of pre-approved, evidence-based diagnostic and treatment protocols for defined injuries, as a part of a package of reforms including a minor injury cap, mandatory accident benefits and increased coverage limits for accident benefits. The PUB further advised that implementation of minor injury diagnostic and treatment protocols in this province would be a significant change and collaboration between the insurance industry, health care professionals and government would be critical in developing protocols in this province.

The protocols are intended to apply to accident victims who have suffered a sprain, strain or whiplash-associated disorder injury. Targeted consultations with the insurance industry and various healthcare professionals, which each play a role in the victim's recovery, is important to help inform the development of these protocols. By participating in this process, your expertise and insight will assist in the development of evidence-based protocols that will achieve the objective of helping insured individuals with timely recovery from automobile-related injuries.

Diagnostic and treatment protocol regulations already exist in Alberta and Nova Scotia and, as communicated during consultations on the review of the automobile insurance system, Newfoundland and Labrador would not need to start from scratch. It is the opinion of the Provincial Government that the best approach draws on the lessons learned in other jurisdictions, while still considering factors that may be unique to Newfoundland and Labrador.

The approach of these targeted consultations is to focus on developing protocols and process that will:

- Ensure that individuals with sprain, strain and whiplash-associated injuries do not have to wait for approval from their insurance company or get a physician referral before treatment begins;
- Facilitate practitioners use the best available evidence to guide diagnosis and treatment;
- Provide an effective process for treating persons with Diagnostic Treatment Protocols Regulations (DTPR) injuries while, at the same time, provide a second opinion for individuals who are not recovering as expected;
- Individuals will not have to pay out of pocket so there are no financial barriers to access treatment; and
- Consistency in treatment for defined injuries based on scientific evidence and being able to choose their own treatment provider.

Your feedback on the questions provided in this document will assist in the achievement of these objectives. Compliance with the current public health emergency prevents the usual face-to-face consultation process. To facilitate this consultation process, written submissions will be accepted. We appreciate you taking the time to participate in this consultation and look forward to receiving your written submissions.

A copy of the Nova Scotia Diagnostic and Treatment Protocols Regulations are included in Annex A and the organization of this consultation guideline is aligned with the layout of those regulations. As these are the most current established protocols (2013), along with reflective of another Atlantic Canada province, these regulations will be informative in the development of protocol regulations for Newfoundland and Labrador.

Protocol Definitions

The protocols allow accident victims who have suffered sprain, strain or whiplash injuries to be diagnosed and to have access to treatments in accordance with established medical best practices. Following an accident, victims can attend a health care practitioner for diagnosis and to be treated a set number of times based on their injury. The accident victim can access these treatments without pre-approval from their insurer. Health care practitioners would be the leaders of the protocol system and would be empowered to authorize treatments, make referrals without pre-approval from the insurer, and to bill the insurer directly. This is consistent with the Nova Scotia Regulations **(Automobile Accident Diagnostic and Treatment Protocols Regulations).**

The protocols are not mandatory for accident victims, but merely provide an additional option. If accident victims wish to seek a treatment that falls outside of those provided by the protocols, they are free to pursue that treatment.

The health care practitioner will be required to complete a treatment plan, which sets out the course of treatment for the patient, including referrals to an adjunct therapist, as necessary to treat or rehabilitate the injury. An adjunct therapist will also be permitted to bill the insurer directly.

The health care practitioner may request an assessment from an Injury Management Consultant (IMC), who may recommend that treatment under the protocols continue or, if appropriate, continue outside of the protocols. If this is the case, the claimant can then rely on their normal Section B benefits.

Those providing diagnosis and treatment under the protocols are required to do so in accordance with the principles of evidence informed practice; medical practice emphasizing research and data-based decisions to determine what works best for a patient.

The Nova Scotia Regulations include a number of definitions including key definitions discussed in this section. The consultation questions in this section, on which your feedback is requested, relates to the definitions in those regulations. The definitions are listed in Section 2 of the Nova Scotia Regulations), as provided in Annex A.

Consultation Questions:

1.1 The proposed definition of adjunct therapist includes the following occupations. Please indicate by a checkmark your agreement with inclusion as an adjunct therapist.

- ☐ massage therapists
- ☐ acupuncturists
- ☐ occupational therapist
- ☐ other as designated by the Superintendent of Insurance

1.2 Please identify any other occupations that you recommend for inclusion in the definition of an adjunct therapist.

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1.3 Evidence informed practice refers to medical practice emphasizing research and data-based decisions to determine what works best for a patient. This is considered an appropriate standard to apply to those authorized to provide diagnoses and treatment under the protocols.

- ☐ Strongly Agree
- ☐ Agree
- ☐ Unsure
- ☐ Disagree
- ☐ Strongly Disagree

If you disagree or strongly disagree, please elaborate on your position.

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1.4 The proposed definition of a health care practitioner includes the following occupations. Please indicate by checkmark your agreement with inclusion as a healthcare practitioner.

- ☐ physician
- ☐ chiropractor
- ☐ physiotherapist.

Please identify any other occupations that you recommend for inclusion in the definition of a healthcare practitioner.

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1.5 Please provide comments on any other definition included in the proposed protocols.

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Diagnostic Treatment of Strains and Sprains

The Nova Scotia regulations set out the process for diagnosis of strains and sprains. This process is facilitated through a health care practitioner using evidence informed practice with reference to the International Classification of Diseases and includes:

- taking a history of the patient;
- examining the patient;
- making any ancillary investigations considered necessary; and
- Identifying:
    - For strains, the muscle or muscle groups injured;
    - For sprains, the tendons or ligaments, or both, that are involved and the specific anatomical site of the injury.

Nova Scotia uses Orthopedic Physical Assessment by David J. Magee as the resource for diagnosis criteria. This book provides rationales for various aspects of assessment and covers every joint of the body, as well as specific topics including principles of assessment, gait, posture, the head and face, the amputee, primary care, and emergency sports assessment. Newfoundland and Labrador will utilize the diagnosis table similarly to Section 10 of the Nova Scotia Regulations, subject to appropriate copyright approvals, and as long as there is not a more effective resource identified for this purpose.

The protocols will also provide direction on the treatment of strains and sprains, as are reflected in Section 11 of the Nova Scotia Regulations. The consultation questions in this section, on which your feedback is requested, are developed to gauge opinion on mirroring the diagnosis process and treatments identified in the Nova Scotia Regulations.

Consultation Questions:

2.1 Please provide comments on the process set out in the Nova Scotia Regulations for the diagnosis of strains and sprains and the proposed adoption by Newfoundland and Labrador.

2.2 Please provide comments on the process set out in the Nova Scotia Regulations for the treatment of strains and sprains and the proposed adoption by Newfoundland and Labrador.

2.3 Orthopedic Physical Assessment by David J. Magee will be the main resource for diagnosing strains and sprains.

- ☐ Strongly Agree
- ☐ Agree
- ☐ Unsure
- ☐ Disagree
- ☐ Strongly Disagree

If you disagree or strongly disagree, please elaborate on your position.

2.4 Please provide any other comments related to the proposed protocols related to the diagnostic treatment of strains and sprains.

Diagnostic Treatment of Whiplash Injuries

The processes and classification system used in the Nova Scotia Regulations are based on the Scientific Monograph of the Quebec Task Force on Whiplash Associated Disorders (Quebec Task Force), which was a task force sponsored by a public insurer in Canada. This is a standard resource for whiplash-related injuries and has proven effective for use in the other jurisdictions.

As with the strain and sprain injuries, a health care practitioner must use evidence-informed practice in diagnosing a whiplash injury and must diagnose by:

- taking a history of the patient;
- examining the patient;
- making any ancillary investigations considered necessary; and
- identifying the anatomical sites.

In addition to providing direction on the diagnosis of whiplash I and whiplash II injuries, the intention is for the protocols to include direction on their treatment for whiplash I or II injury as is outlined in the Nova Scotia Regulations. Throughout the treatment, a health care practitioner would be authorized to approve the necessary diagnostic imaging, laboratory testing, specialized testing, necessary medication (except narcotics) and any necessary supplies, in accordance with guidelines that may be published by the Superintendent.

Consultation Questions:

3.1. Please provide comments on the process set out in the Nova Scotia Regulations for the diagnosis of whiplash injuries and the proposed adoption by Newfoundland and Labrador.

3.2. Please provide comments on the process set out in the Nova Scotia Regulations for the treatment of whiplash injuries and the proposed adoption by Newfoundland and Labrador.

3.3. The Scientific Monograph of the Quebec Task Force on Whiplash Associated Disorders should be the main resource.

- ☐ Strongly Agree
- ☐ Agree
- ☐ Unsure
- ☐ Disagree
- ☐ Strongly Disagree

If you disagree or strongly disagree, please elaborate on your position.

3.4. Please provide any other comments related to the proposed protocols related to the diagnostic treatment of whiplash injuries.

Treatment Plans

A Treatment Plan, in a form as prescribed by the Superintendent, will be required to be completed by the health care practitioner that will provide the majority of care shortly after the health care practitioner first assesses the patient. The Treatment Plan will outline the treatment going forward, including functional goals/outcomes, expected number of medical visits, and any referrals being made. The completed plan must be provided to the insurer, patient, and all practitioners providing treatment, including any adjunct therapists.

Under the protocols, accident victims will be pre-approved for a set number of treatment visits. This includes an initial appointment for diagnosis and then an additional number of subsequent visits based on the diagnosed injury type and level. The proposed limits will align with those in the Nova Scotia regulations:

- Combined total of 10 visits to a physiotherapist, chiropractor or adjunct therapist for a 1st or 2nd degree strain or sprain or for a whiplash I injury.
- Combined total of 21 visits to a physiotherapist, chiropractor or adjunct therapist for a 3rd degree strain or sprain or for a whiplash II injury.
- A patient suffering from more than one injury would be entitled to either 10 visits or 21 visits based on the combination of injuries.
- If the multiple injuries they suffer are 1st or 2nd degree strains or sprains or a whiplash I injury, they would be entitled to 10 visits.
- If any of the injuries they suffer are a 3rd degree strain or sprain or a whiplash II injury, they would be entitled to the 21 visits.

A patient or health care practitioner can make a claim by completing the claim form within 10 business days from the date of the accident. The Nova Scotia regulations indicate that if that time-frame is not reasonable, the form should be completed as soon as practicable. After receiving the claim form, the insurer must send the applicant a decision notice within five (5) business days. The insurer can only refuse the claim if:

- the person injured does not meet the definition of “patient” under the Regulation;
- the insurer is not liable because of exclusions in the Standard Automobile Policy;
- there is no existing contract between the insurer and the person injured; or
- the injury did not arise from the use of an automobile.

If an insurer does not respond to the applicant, the insurer is deemed to have approved the claim. An insurer may later refuse an approved claim by sending notice to all parties, but may only refuse for the reasons previously mentioned. The insurer must pay any claim for treatment that is authorized under the protocols within 30 days of receiving the claim, as long as all required invoices, receipts, forms and patient verifications are provided.

The health care practitioner who developed the Treatment Plan must prepare a concluding report and must send to the insurer after treatment is complete. As part of a precaution against fraud, the health care practitioner must send the final invoice they sent to the insurer to the patient as well.

Consultation Questions: Strongly Agree, Agree, Unsure, Disagree, Strongly Disagree

4.1. What is your opinion on the proposed Treatment Plan process?

- ☐ Strongly Agree
- ☐ Agree
- ☐ Unsure
- ☐ Disagree
- ☐ Strongly Disagree

If you disagree or strongly disagree, please elaborate on your position.

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4.2. What is your opinion on the proposed number of medical visits as indicated above?

- ☐ Strongly Agree
- ☐ Agree
- ☐ Unsure
- ☐ Disagree
- ☐ Strongly Disagree

If you disagree or strongly disagree, please elaborate on your position.

4.3. What is your opinion on the proposed timeframes for completing the forms and for approval and denial of claims by insurers as indicated above?

- ☐ Strongly Agree
- ☐ Agree
- ☐ Unsure
- ☐ Disagree
- ☐ Strongly Disagree

If you disagree or strongly disagree, please elaborate on your position.

4.4. What is your opinion on the proposed possible grounds for refusing a claim as indicated above?

- ☐ Strongly Agree
- ☐ Agree
- ☐ Unsure
- ☐ Disagree
- ☐ Strongly Disagree

If you disagree or strongly disagree, please elaborate on your position.

4.5. Please provide any other comments on the proposal related to treatment plans or completion and submission of claims or anything else in this section.

Injury Management Consultants

Injury Management Consultants (IMC) are an important additional resource for diagnosis/ treatment. These are individuals who the patient can be referred to when a diagnosis is uncertain, or the injury is not resolving in the expected manner.

A qualifying IMC must be a practicing and licensed physician, chiropractor, occupational therapist or physiotherapist, be knowledgeable about the biopsychosocial model and about assessing acute and chronic pain, be experienced in rehabilitation and disability management, and use evidence informed practices. It is proposed that the process used in Nova Scotia for an IMC to qualify be applied. This would be the completion of a form supplied by the IMC's licensing body and includes declarations from the applicant that they meet the various statutory requirements.

A referral to an IMC would occur when the health care practitioner is uncertain about which protocols should apply to the patient's injury or requires another opinion, either because the injury is not resolving in the expected manner or the diagnosis is different from another health care practitioner's. Additionally, an IMC could be used if the patient is unable to perform the essential tasks of their employment, profession, training or education, even after reasonable accommodation measures have been taken.

Once a referral is made, an IMC would complete an assessment on the patient that would include advice about the diagnosis or treatment or a recommendation for a multi-disciplinary assessment of the injury. Visiting the IMC would be paid for under the protocols and would not count toward the previously discussed total visit limits.

Requirements to be registered as an IMC would be set by the Superintendent and would be similar to those in the Nova Scotia Regulations.

Consultation Questions:

5.1. Injury Management Consultants are an important additional resource to include in the diagnosis/treatment protocols.

- ☐ Strongly Agree
- ☐ Agree
- ☐ Unsure
- ☐ Disagree
- ☐ Strongly Disagree

If you disagree or strongly disagree, please elaborate on your position.

5.2. Please indicate by checkmark, your agreement with the inclusion of the following occupations as a qualifying IMC.

- ☐ Licensed Physician
- ☐ Chiropractor
- ☐ Occupational Therapist
- ☐ Physiotherapist

5.3. Please identify any other occupations you recommend to include as an IMC.

5.4. Please provide any other comments you may have in relation to the protocols related to Injury Management Consultants.

Annex A
Nova Scotia Regulations
Automobile Accident Diagnostic and Treatment Protocols Regulations
made under subsection 5(3) and Section 159 of the
Insurance Act
R.S.N.S. 1989, c. 231
O.I.C. 2013-21 (January 22, 2013, effective April 1, 2013), N.S. Reg. 20/2013

Citation

1 These regulations may be cited as the *Automobile Accident Diagnostic and Treatment Protocols Regulations*.

Definitions for the Act and regulations

2 (1) In these regulations,

"Act" means the *Insurance Act*;

"adjunct therapist" means any of the following:

(i) a massage therapist,

(ii) an acupuncturist,

(iii) an occupational therapist as defined in the *Occupational Therapists Act;*

"chiropractor" means a chiropractor as defined in the *Chiropractic Act*;

"evidence-informed practice" means the conscientious, explicit and judicious use of current best practice in making decisions about the care of a patient, that integrates individual clinical expertise with the best available external clinical evidence from systematic research while recognizing patient preference and individual patient considerations in the determination of treatment;

"health care practitioner" means any of the following who is licensed to practice their profession in the Province:

(i) a physician,

(ii) a chiropractor, or

(iii) a physiotherapist;

"history", means, in respect of patient's injury, all of the following:

(i) how the injury occurred,

(ii) the current symptoms the patient is experiencing,

(iii) anything the health care practitioner considers relevant from the patient's past, including physical, physiological, emotional, cognitive and social history,

(iv) how the patient's physical functions have been affected by the injury;

"IMC register" means the register of injury management consultants maintained under Section 24;

"injury management consultant" means a health care practitioner who is entered on the IMC register in accordance with Section 25;

"International Classification of Diseases" means the most recent version of the latest revision of the *International Statistical Classification of Diseases and Related Health Problems*, Canada, published by the Canadian Institute of Health Information based on the *International Statistical Classification of Diseases and Related Health Problems* published by the World Health Organization;

"patient" means an insured as defined in Section 104 of the Act;

"physiotherapist" means a physiotherapist as defined in the *Physiotherapy Act*;

"prescribed claim form" means a form approved by the Superintendent for the purpose of these regulations, and includes forms for assessments, treatment plans and concluding reports;

"protocols" means the diagnostic and treatment protocols established by these regulations for a sprain, strain or whiplash injury caused by an accident;

"spine" means the column of bone, known as the vertebral column, that surrounds and protects the spinal cord, and includes all of the following categorizations of the column according to the level of the body: cervical spine (neck), thoracic spine (upper and middle back) and lumbar or lumbosacral spine (lower back);

"sprain" means an injury to one or more tendons, to one or more ligaments, or to both tendons and ligaments;

"Section B benefits" means the benefits required under Section 140 of the Act as set out in Schedule 2 to the *Automobile Insurance Contract Mandatory Conditions Regulations* made under the Act;

"strain" means an injury to one or more muscles;

"treatment plan" means a treatment plan described in Section 18;

"whiplash-associated disorder injury" means a whiplash-associated disorder other than one that exhibits one or all of the following:

(i) neurological signs that are objective, demonstrable, definable and clinically relevant,

(ii) a fracture to the spine or dislocation of the spine;

"whiplash injury" means a whiplash-associated disorder injury;

(2) For the purpose of clause 159(1)(ka) of the Act and these regulations, "assessment" includes diagnosis.

Application of regulations

3 **(1)** These regulations apply to the examination, assessment and treatment or rehabilitation of strains, sprains and whiplash injuries suffered by an insured as a result of an accident in respect of which Section B benefits are payable.

(2) These regulations apply only if

(a) a patient wishes to be diagnosed and treated in accordance with the protocols; and

(b) a health care practitioner chooses to diagnose and treat the patient's sprain, strain or whiplash injury in accordance with the protocols.

(3) Except as provided in subsection (4) or as necessary to process a claim under Sections 28 to 36 for treatment already provided, these regulations do not apply to an injury, and no treatment is authorized under these regulations, if 90 days have passed from the date of the accident in which the patient was injured.

(4) If a health care practitioner refers a patient to an injury management consultant under Section 23 within 90 days from the date of the accident, any examinations, further assessment, multi-disciplinary assessment or reports referred to in that Section may be completed under these regulations after the 90 days.

Scope of health care practitioner's practice

4 Nothing in these regulations permits a health care practitioner to do anything that is outside the scope of their practice as determined by their governing body and legislation.

No independent medical examination

5 An insurer does not have the right to overrule a health care practitioner's diagnosis under these regulations and cannot introduce an independent medical examination during treatment under these regulations.

Interpretative bulletins and information circulars

6 The Superintendent may issue interpretative bulletins and information circulars about any matter the Superintendent considers appropriate under these regulations, including any of the following:

(a) describing the roles and general expectations of persons affected by or who have an interest in the implementation, application, administration and operation of these regulations;

(b) respecting the implementation, application, administration and operation of these regulations.

Review of regulations

7 These regulations must be reviewed

(a) as part of the mandatory 7-year review of automobile insurance provided for in Section 159BA of the Act; or

(b) sooner or more often than as required by clause (a), at the discretion of the Superintendent, and the Superintendent must deliver the result of the review to the Minister.

Prescribed fees

8 **(1)** The Superintendent may prescribe the fees and disbursements or the maximum fees and disbursements to be paid for any service, activity or function authorized under these regulations, including any of the following:

(a) diagnostic imaging;

(b) laboratory testing;

(c) specialized testing;

(d) supplies;

(e) treatment plans;

(f) visits;

(g) therapies;

(h) assessments;

(i) reports and other prescribed claim forms.

(2) The fees and disbursements or maximum fees and disbursements prescribed under subsection (1) must be published in the Royal Gazette, Part I.

Diagnosis and Treatment Protocol for Strains and Sprains

Protocol established for strains and sprains

9 Sections 10 to 12 are established as the protocol for diagnosing and treating strains and sprains.

Developing diagnosis for strains and sprains

10 (1) Using evidence-informed practice and referring to the International Classification of Diseases, a health care practitioner must use the following process to diagnose a strain or sprain:

(a) take a history of the patient;

(b) examine the patient;

(c) make any ancillary investigation considered necessary;

(d) identify

(i) for strains, the muscle or muscle groups injured, and

(ii) for sprains, the tendons or ligaments, or both, that are involved and the specific anatomical site of the injury.

(2) A health care practitioner must use the diagnostic criteria set out in the following table to determine the degree of severity of a strain (as extracted from *Orthopaedic Physical Assessment* by David J. Magee, (5th), (2008), at page 29, and reproduced with permission from the publisher Elsevier Inc.):

	1st Degree Strain	**2nd Degree Strain**	**3rd Degree Strain**
Definition of the degree of strain	few fibres of muscles torn	about half of muscle fibres torn	all muscle fibres torn (rupture)p
Mechanism of injury	Overstretch overload	overstretch overload crushing	overstretch overload
Onset	Acute	acute	Acute
Weakness	Minor	moderate to major (reflex inhibition)	moderate to major
Disability	Minor	moderate	Major

Muscle spasm	Minor	moderate to major	Moderate
Swelling	Minor	moderate to major	moderate to major
Loss of function	Minor	moderate to major	major (reflex inhibition)
Pain on isometric contraction	minor	moderate to major	no to minor
Pain on stretch	Yes	yes	not if it is the only tissued injured; however, often with 3rd degree injuries other structures will suffer 1st or 2nd degree injuries and be painful
Joint play	Normal	normal	Normal
Palpable defect	No	no	yes (if early)
Crepitus	No	no	No
Range of motion	Decreased	decreased	may increase or decrease depending on swelling

(3) A health care practitioner must use diagnostic criteria set out in the following table to determine the degree of severity of a sprain (as extracted from *Orthopaedic Physical Assessment* by David J. Magee, (5th), (2008), at page 29, reproduced with permission from the publisher Elsevier Inc.):

	1st Degree Sprain	**2nd Degree Sprain**	**3rd Degree Sprain**
Definition of the degree of sprain	few fibres of ligament torn	about half of ligament torn	all fibres of ligament torn
Mechanism of injury	overload overstretch	overload overstretch	overload overstretch
Onset	acute	acute	Acute

Weakness	minor	minor to moderate	minor to moderate
Disability	minor	moderate	moderate to major
Muscle spasm	minor	minor	Minor
Swelling	minor	moderate	moderate to major
Pain on isometric contraction	no	no	No
Pain on stretch	yes	yes	not if it is the only tissued injured; however, often with 3rd degree injuries other structures will suffer 1st or 2nd degree injuries and be painful
Joint play	normal	normal	normal to excessive
Palpable defect	no	no	yes (if early)
Crepitus	no	no	No
Range of motion	decreased	decreased	may increase or decrease depending on swelling. dislocation or subluxation possible

Treatment protocol for strains and sprains

11 (1) During treatment under these regulations, a health care practitioner must treat a strain or a sprain by doing all of the following:

(a) educating the patient about the following matters:

(i) the desirability of an early return to 1 or more of the following, as they apply to the patient:

(A) their employment, occupation or profession,

(B) their training or education in a program or course,

(C) their usual daily activities,

(ii) an estimate of the probable length of time that symptoms will last, the estimated time for recovery and the length of the treatment process;

(b) managing inflammation and pain

(i) by the protected use of ice,

(ii) by elevating the injured area,

(iii) by compression, and

(iv) for a sprain, by using reasonable and necessary equipment to protect the sprained joint during the acute phase of recovery;

(c) teaching the patient about maintaining flexibility, balance, strength and the functions of the injured area;

(d) giving advice about self-care;

(e) preparing patient for a return to the following, as they apply to the patient:

(i) their employment, occupation or profession,

(ii) their training or education in a program or course,

(iii) their usual daily activities;

(f) discussing the disadvantage of depending on health care providers and passive modalities of care for extended periods of time;

(g) prescribing medication, if appropriate, including analgesics for the sole purpose of short-term treatment of the injury, such as non-~~opoid~~[opioid] analgesics, non-steroidal anti-inflammatory drugs or muscle relaxants, but treatment under these regulations does not include prescribing narcotics;

(h) subject to subsection (3), providing treatment that is appropriate and that the health care practitioner considers necessary to treat or rehabilitate the injury;

(i) referring the patient for any adjunct therapy that

(i) the health care practitioner considers necessary to treat or rehabilitate the injury, and

(ii) is linked to the continued clinical improvement of the patient.

(2) During treatment under these regulations for a 3rd degree strain or sprain, in addition to the treatment under subsection (1), definitive care of specific muscles, muscle groups, tendons or ligaments at specific anatomical sites, should be completed, including all of the following, as required:

(a) immobilization;

(b) strengthening exercises;

(c) surgery;

(d) if surgery is required, post-operative rehabilitation therapy.

(3) During treatment under these regulations, a health care practitioner must not treat a 1st or 2nd degree sprain or strain to a peripheral joint by a brief, fast thrust to move the joints beyond the normal range in the anatomical range of motion.

Diagnostic and treatment authorization for strains and sprains

12 (1) A health care practitioner is authorized to provide or approve any of the following in treating a 1st degree, 2nd degree or 3rd degree strain or sprain in accordance with Section 11:

(a) necessary diagnostic imaging, laboratory testing and specialized testing;

(b) necessary medication, as determined by the health care practitioner, except that narcotics are not authorized for reimbursement under these regulations;

(c) necessary supplies, in accordance with any guidelines that may be published by the Superintendent, to assist in the treatment or rehabilitation of the injury.

(2) The maximum number of treatment visits authorized under these regulations for treatment of strains and sprains is as set out in Section 19.

Diagnostic and Treatment Protocol for Whiplash Injuries

Protocol established for whiplash injuries

13 Sections 14 to 17 are established as the protocol for diagnosing and treating whiplash I and II injuries.

Developing the diagnosis for whiplash injuries

14 Using evidence-informed practice, a health care practitioner must use the following process to diagnose a whiplash injury:

(a) take a history of the patient;

(b) examine the patient;

(c) make any ancillary investigation considered necessary;

(d) identify the anatomical sites.

Diagnostic criteria for whiplash I and whiplash II injuries

15 (1) A health care practitioner must use all of the following criteria to diagnose a whiplash I injury:

(a) complaints of spinal pain, stiffness or tenderness;

(b) no demonstrable, definable and clinically relevant physical signs of injury;

(c) no objective, demonstrable, definable and clinically relevant neurological signs of injury;

(d) no fractures to or dislocation of the spine.

(2) A health care practitioner must use all of the following criteria to diagnose a whiplash II injury:

(a) complaints of spinal pain, stiffness or tenderness;

(b) demonstrable, definable and clinically relevant physical signs of injury including

(i) musculoskeletal signs of decreased range of motion of the spine, and

(ii) point tenderness of spinal structures affected by the injury;

(c) no objective, demonstrable, definable and clinically relevant neurological signs of injury;

(d) no fracture to or dislocation of the spine.

(3) An investigation to determine a whiplash II injury and to rule out a more severe injury may include any of the following:

(a) for cervical spine injuries, radiographic series in accordance with *The Canadian C-Spine Rule for Radiography in Alter and Stable Trauma Patients*, published in *The Journal of the American Medical Association*, October 17, 2001–Volume 286, No. 15;

(b) for thoracic, lumbar and lumbosacral spine injuries, radiographic series that are appropriate to the region of the spine that is injured, if the patient has 1 or more of the following characteristics:

(i) an indication of bone injury,

(ii) an indication of significant degenerative changes or instability,

(iii) an indication of polyarthritis,

(iv) an indication of osteoporosis,

(v) a history of cancer.

(5) The use of magnetic resonance imaging or computerized tomography is authorized only if 1 of the following conditions is met:

(a) a diagnosis cannot be determined from 3 plain view films;

(b) there are objective neurological or clinical findings.

Treatment protocol for whiplash I and whiplash II injuries

16 During treatment under these regulations, a health care practitioner must treat a whiplash I or whiplash II injury by doing all of the following:

(a) educating the patient about the following matters:

(i) the desirability of an early return to the following, as they apply to the patient:

(A) their employment, occupation or profession,

(B) their training or education in a program or course,

(C) their usual daily activities,

(ii) an estimate of the probable length of time that symptoms will last, the estimated time for recovery and the length of the treatment process,

(iii) that there is likely no serious currently detectable underlying cause of the pain,

(iv) the importance of postural and body mechanics control,

(v) that the use of a soft collar is not advisable,

(vi) the probable factors responsible for other symptoms the patient may be experiencing that are temporary in nature and that are not reflective of tissue damage, including

(A) disturbance of balance,

(B) disturbance or loss of hearing,

(C) limb pain or numbness,

(D) cognitive dysfunction, and

(E) jaw pain;

(b) giving advice about self-care;

(c) preparing the patient for return to the following, as they apply to the patient:

(i) their employment, occupation or profession,

(ii) their training or education in a program or course,

(iii) their usual daily activities;

(d) discussing the disadvantage of depending on health care providers and passive modalities of care for extended periods of time;

(e) prescribing medication, if appropriate, including analgesics for the sole purpose of short-term treatment of spinal injury, such as non-~~opoid~~[opioid] analgesics, non-steroidal anti-inflammatory drugs or muscle relaxants, but treatment under these regulations does not include prescribing narcotics;

(f) recommending

(i) pain management, as required,

(ii) exercise,

(iii) using heat and ice;

~~(h)~~[(g)] providing treatment that is appropriate and that the health care practitioner considers necessary to treat or rehabilitate the injury;

(h) referring the patient for any adjunct therapy that

(i) the health care practitioner considers necessary to treat or rehabilitate the injury, and

(ii) is linked to the continued clinical improvement of the patient.

Diagnostic and treatment authorization for whiplash I and whiplash II injuries

17 (1) A health care practitioner is authorized to provide or approve any of the following in treating a whiplash I or whiplash II injury in accordance with Section 16:

(a) necessary diagnostic imaging, laboratory testing and specialized testing;

(b) necessary medication to manage inflammation or pain, or both, except that narcotics are not authorized for reimbursement under these regulations;

(c) necessary supplies, as determined by the Superintendent, to assist in treating or rehabilitating the injury.

(2) The maximum number of treatment visits authorized under the protocol for diagnosing and treating whiplash I and II injuries is as set out in Section 19.

Treatment Plans, Limits and Referrals

Treatment plans

18 (1) A treatment plan describing the treatments that will be provided under the protocols must be prepared on a prescribed claim form.

(2) An insurer is not required to approve claims or provide payment for more than 1 treatment plan per patient per accident.

(3) A patient's treatment plan must be completed by the health care practitioner who intends to provide the majority of treatment or who will be actively co-ordinating the care and treatment visits of the patient.

(4) A health care practitioner must provide copies of a patient's treatment plan to all of the following:

(a) the patient's insurer;

(b) all practitioners providing treatment for the patient;

(c) the patient.

(5) A health care practitioner who refers a patient to another health care practitioner for treatment in accordance with Section 22 must notify the other practitioner whether they have completed a treatment plan for the patient.

(6) Before treating a patient under the protocols, a health care practitioner must ask the patient if any other practitioner has been contacted about the patient's injury and, if others have been contacted, must

(a) document any actions taken by the other practitioners; and

(b) contact the patient's insurer to ensure no other treatment plan has been submitted or is anticipated.

Maximum number of visits authorized for treatment under protocols

19 (1) One visit to a health care practitioner for assessment of the injury or injuries is authorized for treatment of

(a) a single injury diagnosed and treated under the protocols; or

(b) 2 or more injuries from a single accident diagnosed and treated under the protocols.

(2) In addition to the assessment visit under subsection (1), the maximum number of visits authorized for treatment of an injury under these regulations is as set out in the following table:

Injury Diagnosed	Total Number of Visits Authorized
1st or 2nd degree strain or sprain	combined total of **10** visits to a physiotherapist, chiropractor or adjunct therapist
3rd degree strain or sprain	combined total of **21** visits to a physiotherapist, chiropractor or adjunct therapist
whiplash I injury	combined total of **10** visits to a physiotherapist, chiropractor or adjunct therapist
whiplash II injury	combined total of **21** visits to a physiotherapist, chiropractor or adjunct therapist

(3) Despite the number of visits authorized under subsection (2), for patients with 2 or more injuries from a single accident diagnosed and treated under the protocols, the following are the total number of visits authorized for treatment of the injuries under these regulations in addition to the assessment visit under subsection (1):

	Multiple Injuries Diagnosed	Total Number of Visits Authorized
A	2 or more of: • 1st degree strain • 2nd degree strain • 1st degree sprain • 2nd degree sprain • whiplash I injury	combined total of **10** visits to a physiotherapist, chiropractor or adjunct therapist
B	1 or more of the injuries in row A plus 1 or more of: • 3rd degree strain • 3rd degree sprain • whiplash II injury	combined total of **21** visits to a physiotherapist, chiropractor or adjunct therapist
C	2 or more of: • 3rd degree sprain • 3rd degree strain • whiplash II injury	combined total of **21** visits to a physiotherapist, chiropractor or adjunct therapist

Assessment for injury to which regulations do not apply

20 Despite Section 3, if after an assessment a physiotherapist or a chiropractor diagnoses an injury as one to which these regulations do not apply, the assessment may be claimed under these regulations.

Referrals to other health care practitioners

21 A health care practitioner may refer a patient to another health care practitioner or to an adjunct therapist in accordance with the protocols, and any visits to the referred health care practitioner or adjunct therapist are authorized in accordance with the limitations set out in Section 19.

Applying to insurer for approval of additional Section B services or supplies

22 Nothing in these regulations prevents or limits a patient or a health care practitioner from applying to an insurer for approval of additional treatments by a health care practitioner or adjunct therapist outside the limits specified by these regulations in accordance with the Act and the Section B benefits.

Referral to injury management consultant

23 (1) A health care practitioner may refer a patient for 1 visit to an injury management consultant of the health care practitioner's choice in any of the following circumstances:

(a) the health care practitioner is uncertain about an injury to which the protocols apply or the diagnosis or treatment of the injury;

(b) the health care practitioner requires another opinion or report because they believe that the injury is not

(i) resolving appropriately, or

(ii) resolving within the time expected;

(c) the health care practitioner believes the patient exhibits limitation of a physical or cognitive function that results in the patient's inability to perform any of the following:

(i) the essential tasks of their regular employment, occupation or profession despite reasonable efforts to accommodate their injury and the patient's reasonable efforts to use the accommodation to allow them to continue their employment, occupation or profession,

(ii) the essential tasks of their training or education in a program or course that they were enrolled in, or had been accepted for enrolment in at the time of the accident, despite reasonable efforts to accommodate their injury and the patient's reasonable efforts to use the accommodation to allow them to continue their training or education,

(iii) their usual daily activities;

(d) the health care practitioner has a difference of opinion about the diagnosis or treatment of the injury with another health care practitioner that cannot be resolved.

(2) On a visit referred under subsection (1), an injury management consultant may complete an assessment and prepare a report that must include 1 of the following:

(a) advice about the diagnosis or treatment of the patient;

(b) a recommendation for a multi-disciplinary assessment of the injury, or an aspect of the injury, and the health care practitioners who should be included in that assessment.

(3) The visit and the costs and expenses related to an assessment and report by an injury management consultant under subsection (2) may be claimed under these regulations, and the visit does not count toward the total limits on visits in Section 19.

(4) Other than the visit, assessment and report described in this Section, no further visit to or assessment or report by an injury management consultant in respect of the same injury is authorized under these regulations.

Injury Management Consultants Register

Register maintained by Superintendent

24 (1) The Superintendent must maintain and administer a register of injury management consultants.

(2) The Superintendent must ensure that the IMC register is published in a form and manner that makes the register accessible to the public.

Eligibility requirements for injury management consultants

25 (1) A health care practitioner is an injury management consultant under these regulations if the Superintendent is notified by the following body that the person meets the requirements set out in subsection (2), and the ~~Superintended~~[Superintendent] enters the person's name in the IMC register:

(a) for a physician, by the College of Physicians and Surgeons of Nova Scotia;

(b) for a chiropractor, by the Nova Scotia College of Chiropractors;

(c) for a physiotherapist, by the Nova Scotia College of Physiotherapists.

(2) A person is eligible to be an injury management consultant if the person meets any qualifications established by the Superintendent and approved by the relevant colleges, including all of the following qualifications:

(a) they are an active practising member of their profession;

(b) they are knowledgeable about the biopsychosocial model;

(c) they are knowledgeable about assessing acute and chronic pain;

(d) they are experienced in rehabilitation and disability management;

(e) they use evidence-informed practices in their practice.

Ceasing to be an injury management consultant

26 A person ceases to be an injury management consultant when all of the following conditions are met:

(a) the college for the person's profession notifies the Superintendent that the person's name is to be removed from the IMC register;

(b) the Superintendent removes the person's name from the IMC register.

Claims and Payment of Claims

Definitions for Sections 27 to 36

27 In this Section and Sections 28 to 36,

"applicant" means a patient or health care practitioner who sends a completed prescribed claim form to the insurer in accordance with Section 29;

"business day" means any day other than a Saturday, Sunday or a holiday as defined in the *Interpretation Act*.

Priority of Sections 27 to 36

28 Sections 27 to 36 prevail in respect of any inconsistency or conflict between these provisions and the required Section B benefits.

Sending claim to insurer

29 (1) A patient or health care practitioner may not make a claim under these regulations until the patient has completed the applicable prescribed claim form for their injury.

(2) The completed prescribed claim form under subsection (1) must be sent to the insurer no later than

(a) 10 business days after the date of the accident; or

(b) if the deadline in clause (a) is not reasonable, as soon as practicable.

Decision by insurer

30 (1) No later than 5 business days after receiving a completed prescribed claim form, an insurer must send the applicant a decision notice that

(a) approves the claim; or

(b) refuses the claim, including the reasons for refusing the claim.

(2) A claim may be refused by an insurer for the following reasons only:

(a) the person who was injured does not meet the definition of "patient";

(b) the insurer is not liable to pay as a result of an exclusion set out in *Subsection 3 - Special Provisions, Definitions and Exclusions of this Section* of the Section B benefits;

(c) there is no existing contract that applies to the person who was injured;

(d) the injury was not caused by an accident arising out the use or operation of an automobile.

(3) If an insurer indicates to a health care practitioner that no other treatment plans have been submitted or are anticipated in respect of a patient, the insurer must not refuse any prescribed claim forms submitted by the health care practitioner in respect of the treatment plan for that patient.

If insurer does not respond to applicant

31 If an insurer does not send a decision notice back to the applicant in accordance with Section 30, then the insurer is deemed to have approved the claim.

Denial of liability after approval or deemed approval

32 (1) An insurer who approves a claim, or is deemed to have approved a claim, may later refuse the claim by sending a notice in writing to all of the following, including the reasons why the claim is denied:

(a) the patient;

(b) each person that the patient is authorized to visit or is authorized to provide services or supplies to the patient.

(2) An insurer may refuse a claim under subsection (1) for the reasons set out in subsection 30(2) only.

(3) A notice under this Section takes effect on the date it is received by the person to whom it is sent and, on and after the date the patient receives the notice, the insurer is not liable to pay any future claims under these regulations relating to the patient's injuries.

Making and paying claims

33 (1) Any treatment that is authorized under these regulations may be the subject of a claim under subsection (2).

(2) No later than 30 days after receiving it, an insurer must pay any claim for treatment that is authorized under these regulations and that meets all of the following conditions:

(a) it includes all related invoices and, if submitted by a patient, receipts for the supplies and services claimed together with satisfactory evidence that the treatment is authorized by these regulations;

(b) if submitted by a health care practitioner, injury management consultant or adjunct therapist, it is verified by the patient treated.

Sending notices

34 Any notice required or permitted to be sent under Sections 28 to 36 may be sent by any of the following methods:

(a) delivered personally;

(b) mailed;

(c) faxed;

(d) transmitted by e-mail, if both parties agree to this method of sending and receiving notices.

Multiple claims

35 For greater certainty, a person who has a claim under these regulations and a claim for other benefits as set out in *Subsection 3 - Special Provisions, Definitions and Exclusions of this Section* of the Section B benefits, must comply with these regulations and the Section B benefits, according to the claim or claims made.

Concluding report and final invoice

36 (1) The health care practitioner who completed the majority of treatments for a patient must prepare a concluding report on a prescribed claim form and send it to the insurer after treatment under these regulations is completed.

(2) A health care practitioner must send the patient a copy of the final invoice they sent to the insurer, together with a standard letter that includes the following statements:

"We have billed your insurer the amounts shown on the attached invoice for the goods and services listed. Please check the invoice and report any errors to us and to your insurer."

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