



February 9, 2020

College of Physicians and Surgeons of Ontario

Re: *Consultation on 'Third Party Reports' and 'Medical Expert: Reports and Testimony' Policies*

On behalf of the Canadian life and health insurance industry, I would like to thank you for the opportunity to provide input into the following policies: **Third Party Reports** and **Medical Expert: Reports and Testimony**, from the private disability plan perspective. Our response follows the questions as contained within the on-line survey and that are applicable to the insurance industry

The Canadian Life and Health Insurance Association (CLHIA) is a voluntary trade association with member companies that account for 99 per cent of Canada's life and health insurance business. In 2018, the life and health insurance industry provided nearly five million Ontarians with private disability insurance coverage and made payments of about \$3.2 billion.

5. Insurers require information from attending physicians in order to determine the extent of the condition or disability. Insurers then use the information provided to determine whether the plan member meets the definition of disability contained in the contract with the plan sponsor. In addition, insurers may require a plan member to have an Independent Medical Exam (IME) with a physician that has a high level of clinical knowledge and expertise on the plan member's condition.

6. With respect to comprehensiveness of reports, our experience is that this can vary significantly from physician to physician. Unfortunately, reports that are not comprehensive require follow-ups and addendums from the physician, causing delays in the adjudication of the claim and, ultimately, delays to starting disability income replacement payments as well as treatment and other early intervention supports that ultimately assist the plan member to return to work.

14. With respect to having an expert report 'ghost-written', there may be standard elements of a report that could be ghost-written, including confirmation of background and expertise or outlining the documents reviewed prior to writing the report. However, insurers expect that the report be drafted by the physician who completed the assessment. This lowers the risk of potential misunderstandings and inaccuracies within the report.

In the event that the physician needs to appear at a trial, we would expect the physician to be able to speak to the material within the report whether written by themselves or a ghost-writer.

Canadian Life and Health Insurance Association  
79 Wellington St. West, Suite 2300  
P.O. Box 99, TD South Tower  
Toronto, Ontario M5K 1G8  
416-777-2221 www.clhia.ca

Association canadienne des compagnies d'assurances de personnes  
79, rue Wellington Ouest, bureau 2300  
CP 99, TD South Tower  
Toronto (Ontario) M5K 1G8  
416-777-2221 www.accap.ca

15. There are a number of considerations on the question of whether a physician providing an IME should be a practicing physician (undertaking direct patient care). Insurers generally agree that IME physicians should maintain a practice.

With regard to the question on retaining and developing expertise when not providing direct care, physicians can still keep their skills sharp through research, teaching and other non-clinical ways. That said, insurers seek IME physicians who can complete an assessment objectively. Physicians whose sole professional role is providing IMEs may not be seen as credible as those providing clinical care, teaching or conducting research.

16. We strongly agree that the current policy requiring physicians to communicate the nature of the role they will play in the third party process (e.g. not a treating role but providing information/opinions for a third party process) is an important policy and should not be changed. This policy brings transparency and is aligned with the concept of 'fair treatment'.

17. It is the industry's experience that reports are typically received two to three weeks after request, which is a reasonable timeframe. Ideally we'd like the current policy, which references 60 days absent legislation on any other timeframe to be changed to a maximum timeframe of 30 days. Delays in receiving reports impact upon a plan member's ability to access disability income as well as treatment and other early intervention supports that ultimately assist the plan member to return to work. Frequently, the insurer will state the report deadline to which the provider must agree.

19. Overall, we would agree that the policy is clear, easy to understand and is comprehensive. The policies do create some basic guidance and structure around expectations before, during and after the writing of a report. This type of standard guidance is very important from our perspective.

The insurance industry does have some suggestions for additions to the policy (Answer 20) that would address some additional issues important to third party reports.

20. The CLHIA recommends the following changes/additions to the current policy:

- The College could develop a 'template' medical report that would improve the quality of completed reports. For instance, standardizing the order of sections (background, expertise, list of documents reviewed, etc) from report to report so that physicians do not submit incomplete information.
- It would be valuable to have some further expectations around the level of detail, otherwise the information becomes unusable to the insurer, which can mean incurring further costs for more information or being left to manage a claim report containing minimal information. In most cases the insurer may be hesitant to request another IME as this gives the impression the insurer is looking for a response that is favorable to the insurer to move the claim a certain direction.
- The policy should require the documentation of patient consent.
- The policy should require documentation of the report deadline agreed-to by insurer and provider.
- The policy should require that footnotes be included within the original report rather than having to scroll to the end, by displaying the footnote fully when hovering over the number.
- The policy should dissuade physicians from commenting outside their area of expertise.

Instead, they could include it as 'patient reported'. An example would be commenting on patient's mood in a physiatry report.

- The College should examine and possibly find ways to address the cost of assessments as they can vary significantly and do not appear to necessarily differ based on expertise or quality.
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22. We have no further suggestions for the ***Medical Experts: Reports and Testimony*** policy. The policy is clear, comprehensive and addresses all of the important issues.

Thank you for the opportunity to provide comments. We look forward to the further development of policy in this area and would be pleased to discuss any of the issues raised in this submission in more detail at your convenience.