



Response to Cap on Pain and Suffering Awards
for Minor Injuries discussion paper

February 9, 2010



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Office of the Superintendent of Insurance
ATTN: Mr. Douglas H. Murphy
PO Box 2271
4th floor Provincial Finance Building
1723 Hollis Street
Halifax, NS B3J 3C8

Dear Mr. Murphy:

Please find enclosed a response from the Insurance Brokers Association of Nova Scotia (IBANS) on the Cap on Pain and Suffering Awards for Minor Injuries discussion paper.

We have attempted to keep our response brief and address only the questions asked from an Insurance Brokers perspective. As you are aware the issues surrounding the minor injury Cap, and Section B are interrelated and it can be difficult to discuss one, without discussing the other.

IBANS looks forward to the broader discussion surrounding the automobile insurance product later this year.

If you have any questions please do not hesitate to contact me.

Sincerely,



Karen Slaunwhite, BA, BPR, MEd., CAIB (Hon)
IBANS Executive Director

Enclosures



The Insurance Brokers Association of Nova Scotia (IBANS)

Established in 1949, IBANS (Insurance Brokers Association of Nova Scotia) is a not-for-profit trade association representing the interests of its over 1,100 member brokers throughout Nova Scotia. Operated by a board of directors drawn from its membership, IBANS acts as the voice of independent insurance brokers in the province. IBANS is a member of the Insurance Brokers Association of Canada (IBAC), a national trade organization that brings together 11 provincial associations of Property and Casualty (P&C) insurance brokers in Canada.

Mission: *“to advocate on behalf of our broker members; to strengthen the relationship with our stakeholders and to promote the advantages of the independent broker network.”*

The Core Objectives of IBANS are:

1. To enable member brokers to approach stakeholders in an organized fashion with common concerns about insurance issues in Nova Scotia.
2. To be a resource to government and industry partners.
3. To address the common concerns of the brokerage community.

IBANS represents:

- 1,100 insurance brokers.
- 178 locations.
- Owned by 64 independent business owners.
- Located in virtually every community across Nova Scotia.
- Member brokers offer four distinct advantages to consumers: choice, service, professionalism, and claims advocacy throughout the claims process.

An insurance brokerage in Nova Scotia employs an average of 19 individuals. They are small to medium sized businesses in communities all across the province. Membership in IBANS is voluntary and currently represents 76 % of all eligible P&C insurance brokers in Nova Scotia.



Discussion Questions

1. Should there be limitations placed on pain and suffering awards?

The minor injury cap came into effect in 2003. Since that time Nova Scotia consumers have enjoyed almost seven years of rate stability. And in fact a large segment of the population has seen their premiums go down, and stay down.

Anecdotally, and based on our Board of Directors own experience, it was felt there has been very little negative feedback from consumers. As a result IBANS has polled our members to determine what type of feedback has been received from our clients with respect to the cap.

With over half of our members responding, 96% of responses indicated there has been no negative feedback from their customers in relation to minor injury cap.

It is clear to IBANS that the minor injury cap has not been an issue for the vast majority of consumers, even consumers who have had the misfortune to be involved in an automobile collision.

While an argument can be made that any automobile insurance system has its faults, the current system in Nova Scotia has resulted in a satisfied consumer, a competitive marketplace and rate stability that has been continuous since 2003.

IBANS maintains that limits on pain and suffering awards are warranted and those limits have kept automobile insurance premiums affordable for Nova Scotians.

2. If so, what alternatives should be considered regarding the existing cap on pain and suffering awards that are fair to victims of automobile accidents and maintain affordable insurance premiums?

Without any changes to the cap in seven years, either in definition or in the actual dollar amount, it would be reasonable to suggest that some form of indexing clause be introduced.

IBANS is not qualified to determine what form this should take, or how much the indexing should be, but clearly \$2,500 in 2010 is not the same as \$2,500 in 2003. The current cap is not currently indexed and we feel a strong argument could be made that this be considered.

We understand a further review of the auto insurance product is planned for later this year. Rather than considering just the minor injury cap now, it would seem to IBANS that the larger review process should consider both the minor injury cap, Section B benefits, and address other important issues such as road safety, insurance fraud, and uninsured drivers.

The ultimate goal of our product is to help those injured in an automobile collision become healthy again; achieving that outcome should take priority.



3. Should alternatives to the existing cap on pain and suffering awards be applied retroactively?

Since 2003 Automobile Insurance premiums and underwriting rules have been regulated by the Insurance Review Board, and now the Utility and Review Board (UARB). Rates were used, and claims were settled based on rules approved by the regulatory body at the time.

Given that the premiums for this period cannot, and should not, be adjusted to reflect a retroactive change in benefits, to retroactively change the benefits now would be something that IBANS could not support.

