

PUBLIC UTILITIES BOARD AUTOMOBILE INSURANCE REVIEW BACKGROUND

PUBLIC UTILITIES BOARD – WHO WE ARE AND WHAT WE DO

The Public Utilities Board is an independent, quasi-judicial regulatory agency which has responsibility for the supervision of underwriting guidelines and rates charged by automobile insurers in the province. The Board is also responsible for regulating electric utilities, petroleum products pricing, as well as limited regulation of the motor carrier industry including the trans-island bus service and ambulance operations.

The Board derives its mandate and authority to regulate aspects of the automobile insurance industry from provincial statutes and legislation, primarily the *Public Utilities Act*, the *Automobile Insurance Act* and the *Insurance Companies Act*. The *Public Utilities Act* constitutes the Board and provides authority for the Board in discharging its mandate. The *Automobile Insurance Act* sets out the Board's responsibilities with respect to regulation of automobile insurance rates in the province. The *Insurance Companies Act* sets out the Board's role with respect to the regulation of underwriting guidelines, risk classification systems, grounds for refusing to issue, decline or terminate insurance coverage, and also regulation of Facility Association's rates.

THE BOARD'S ROLE IN AUTOMOBILE INSURANCE REGULATION

The Board is responsible for the supervision of rates charged by automobile insurers for the various automobile insurance coverages. All automobile insurance companies writing business in the province may only use rates that have been filed with and/or approved by the Board.

Applications proposing new rates or increases in rates previously filed with the Board are subject to a thorough review by the Board to determine if the proposed rates are too high. The Board must assess the grounds of a rate increase on the basis of the company's projected loss experience, expense and investment income for its automobile insurance business in the province, as well as other elements considered appropriate by the Board. Such applications must be actuarially justified by the company and are subject to a detailed review by an independent actuarial consultant, with the review findings reported to the Board. A determination on the application is then made by the Board.

Applications proposing decreases in rates previously filed with the Board are accepted on a file and use basis and take effect 30 days after the application has been received by the Board or at a later date as set out in the application. There is no requirement that applications for rate decreases be actuarially justified, nor are they subject to a review by an independent actuarial consultant.

The Board undertakes audits of insurance companies to ensure that rates charged to consumers are in accordance with the rates approved by the Board. The Board is also responsible for the control and oversight of underwriting guidelines and risk classification systems used by insurers in deciding whether or not to write a particular auto insurance policy and, if so, at what rates. The Board may prohibit certain underwriting practices of an insurer which, in the Board's opinion, are unjust or unfairly discriminatory.

MARKET OVERVIEW

Based on the 2015 Report of the Superintendent of Insurance, the latest information available, there were 49 automobile insurers operating in Newfoundland and Labrador reporting positive direct premiums written of \$417,884,000. Approximately 95% of the automobile insurance premiums in the province are being written by 16 insurers. When common ownership among companies is considered there are 4 companies writing approximately 84% of the automobile insurance business.

2005 AUTOMOBILE INSURANCE REVIEW

The last comprehensive review of automobile insurance in the province was completed in 2005. In March 2004, at the request of Government, the Board completed a report on potential cost savings arising from various automobile insurance product changes. This report utilized available data collected in a closed claims study undertaken in the late 1990s by the Insurance Bureau of Canada.

Following review of the Board's report Government passed Bill 30 setting out a series of automobile insurance reforms, including: i) a \$2,500 deductible on claims for pain and suffering; ii) mandatory reductions in insurance rates; and iii) a one-year freeze in insurance premiums effective March 17, 2004. Government also announced that the Board would be asked to update available data in a new closed claims study.

The Terms of Reference for the 2005 automobile insurance review were issued in October 2004 and directed the Board to examine the impact of using caps or deductibles to limit monetary awards on pain and suffering, the elimination of age, gender and marital status as rating factors, and other cost saving measures. The Board's report outlining the results of actuarial and consultant studies, public and industry feedback and the Board's findings was submitted to Government on March 31, 2005.

Government announced additional reforms effective August 1, 2005, including: i) a mandated 5% reduction in premiums unless otherwise actuarially justified; ii) a new rate setting process based on individual company filings; iii) the introduction of a new Class of Use system incorporating years driving experience as a rating factor; and iv) the elimination of age, sex and marital status as rating factors.

2017 AUTOMOBILE INSURANCE REVIEW

On July 4, 2017 Government announced the start of another comprehensive review of the automobile insurance system in the province. The Terms of Reference for the review were issued August 9, 2017 providing specific instructions for two phases of work to be completed by the Board. The full Terms of Reference can be found on the Board's website at: <http://www.pub.nl.ca/insurance/2017AutoInsReview/index.htm>

Phase I will consist of an independent closed claims study of private passenger automobiles to better understand the factors contributing to rising automobile insurance claims costs in the province. A separate analysis of taxi closed claims will also be conducted to explore the causes of poor claims experience, including details regarding the underlying causes of loss and high claims costs incurred.

During Phase II the Board will review of all sections of the private passenger automobile insurance product and explore options and opportunities to improve the product and contain costs. This will include a review of mandatory versus optional coverages and coverage limits, as well as product reforms and enhancements that have proven beneficial in other Canadian jurisdictions. The review will seek public feedback to ensure that all consumers and industry groups have equal opportunity to present their opinions and comments on automobile insurance to the Board.

At the end of the review process, the Board will submit a report and recommendations to Government, as per the Terms of Reference.

REVIEW PROCESS

The Board has been directed to review and report on a number of technical and complex issues requiring the procurement of expert consultants and collaboration with industry stakeholders. Substantial data collection and examination is required prior to the release of the Board's final report which will present the results of various independent studies, as well as the results of the Board's own research and analysis. The Board is committed to meet its obligations in a timely manner while respecting the fundamental principles of accessibility, openness, transparency and cost effectiveness.

The Board is currently proceeding with Phase I of the automobile insurance review. The Board's actuarial consultants, Oliver Wyman Limited, have been engaged to conduct the private passenger automobiles closed claim study and examine the impact on rates of various caps and deductibles on pain and suffering compensation for injuries defined as minor. It is expected that reports on these items will be filed with the Board during the second quarter of 2018.

The Board has contacted Facility Association in relation to the taxi closed claims audit and is in the process of retaining a consultant to help assist the Board with this piece of the review.

Work is also underway on certain aspects of Phase II. Data collection and analysis for the jurisdictional scan and product review is ongoing, and a review of the financial profitability of the automobile insurance industry will commence in the fall of 2017. Oliver Wyman Limited will be completing the profitability study and will also be assisting the Board with any other areas requiring actuarial analysis. The Board will provide further updates regarding the status of the various work plan items as they become available.

The automobile insurance review will be a consultative process. The Board expects to begin formal public consultations following the completion of Phase I work. Details regarding the consultation process will be announced at that time.

HOW CAN YOU PROVIDE FEEDBACK NOW?

Individuals and industry groups wishing to begin sharing feedback are encouraged to participate in the follow ways:

- **Website:** Individuals may complete an online form at www.pub.nl.ca
- **Email:** Individuals may email their comments to the Board at insurancereview@pub.nl.ca
- **Telephone:** Individuals may leave a voice message on the Board's toll free line at 1-866-782-0006
- **Mail:** Individuals may send in their comments via mail:
Public Utilities Board
Automobile Insurance Review
P.O. Box 21040
St. John's, NL
A1A 5B2
- **Fax:** Individuals may fax their comments to (709) 726-9604

Dated: September 13, 2017