

Automobile Insurance Rate Board Annual Review for 2015

Presentation by Aviva Canada Inc.

- Sharon Ludlow, President, Aviva Insurance Company of Canada
- Karin Ots, Senior Vice-President, Regulatory & Government Relations
- Kristin Gill, Vice-President, Personal Lines Pricing & Product Development, Underwriting

Date: August 18, 2015

Outline

1. About Aviva
2. Loss Trends
3. Causes of BI Severity Increase
 - a) Minor injury Claims
 - b) Legal Representation
 - c) Psychological Injuries
 - d) Sparrowhawk and TMJ
 - e) McLean v. Parmer Decision
4. Treatment of ULAE
5. Conclusion

About Aviva

- Second largest P &C insurer in Canada.
- Sixth largest insurer in the world.
- Three million policyholders across Canada.

In Alberta – 2014

- ✓ Insured over 200,000 automobiles.
- ✓ Worked with over 200 brokers.
- ✓ Handled close to 17,000 automobile claims.
- ✓ Employ 225 staff.

Alberta Auto Insurance is Important to Aviva

Loss Trends

Aviva is concerned about Alberta auto results

- Over the past 3 years, we've seen material deterioration with COR above 100% driven by Bodily Injury (BI) claim costs.
- There is significant uncertainty underlying the BI ultimate losses used to derive selected trends.
- Intersecting calendar & accident year impacts highlight that change and uncertainty exist.
- BI claims take a long time to settle and increase uncertainty.
- BI results impacted by:
 - 2008-2009 challenge to the Minor Injury Cap;
 - 2010 Aviva change in case reserving practices;
 - 2012 *Sparrowhawk v Zapoltinsky* decision; and
 - 2015 McLean v. Parmer decision.

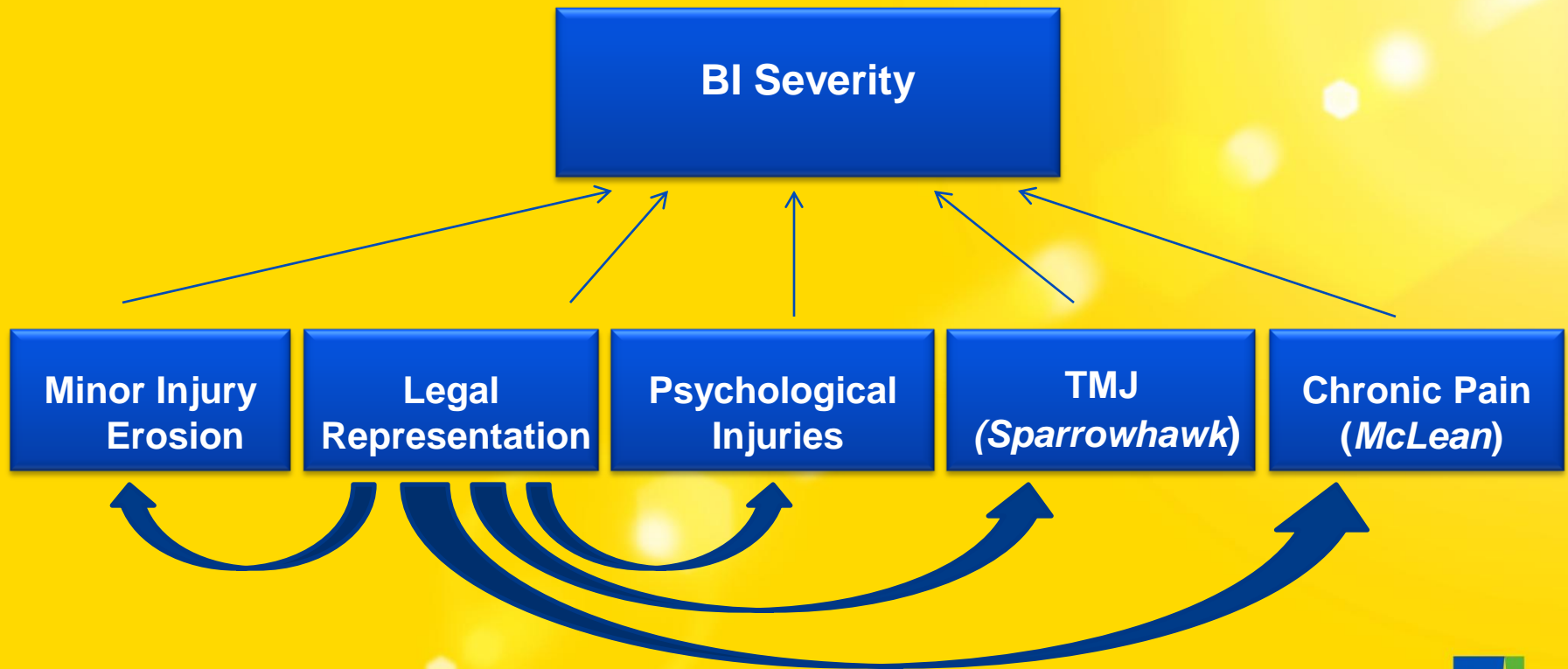
Oliver Wyman's Report

"Preliminary Review of Industry Experience as of Dec 31, 2014"

- Loss trends in this report are reasonable based on the industry data available at that point in time.
- It is possible that the selected trend underestimates the impact of the uncertainty associated with Bodily Injury (BI) claims e.g. 2015 McLean decision.

**The Trends May Not be Appropriate for All Companies due to
Different Mixes of Business**

Causes of BI Severity Increase



(A) Minor Injury Claim

- The Minor Injury (MI) definition continues to be eroded by court decisions.
- This has led to a decline in claims settled within MI cap.



Statistics

- ✓ 2005-2007 Aviva resolved 83% of claims as MI.
- ✓ Today, Aviva resolves 79% of claims as MI.
- ✓ Average severity for:
 - MI claims = \$4,600 (\$2,800 if we include claims without payment) vs.
 - Non-MI claims = \$90,000
- ✓ 1% reduction in MI settlements represents approx. \$650K in additional claims cost.
- ✓ 4% erosion in recent years is driving at least \$2.6M in additional claims costs annually.

(B) Legal Representation

- Dramatic increase in representation by plaintiff counsel.
 - 2005-2008: 4-19% of BI claimants
 - 2009: 33 % of BI claimants
 - 2010: 41% of BI claimants
 - Levelled now at 27%
- Coincided by lawyer advertising sparked by recent trial decisions.
- Average severity is 2-3 times higher on claims with legal representation.

ACCIDENT Alberta Injury Lawyers
WE HANDLE ALL ACCIDENT CLAIMS

OUR TEAM
SERVING INJURED ALBERTANS FOR OVER 22 YEARS

CHAMPIONSHIP HISTORY
James H. Brown - inducted into the Alberta Sports Hall of Fame in 2009 as a member of the 1983 Memorial Cup Champion Edmonton Oil Kings.
Trent Brown - inducted into the Edmonton Sports Hall of Fame as a member of the 1983 Oxy-Cut Champion Edmonton Eskimos.

ALL-STAR LEGAL TEAM
Over the years James Brown has hand-picked a team of experienced professionals, including several former insurance defence lawyers, dedicated to assisting seriously injured persons and their families.

A WINNING FORMULA
"The formula for winning in the legal arena is no different than for winning in the sports arena. In order to be the best, every person on the team must share a common vision and work together to reach their goal. Our team is second to none. Every member of our staff has a common goal of assisting our injured clients."
- James H. Brown

Commitment
James Brown's hockey career ended when he suffered a broken neck in a head-on collision with a drunk driver. He knows what it's like to suffer a life changing injury in a serious car accident. Brown has never forgotten this experience and is now committed to seeing that injured persons receive proper compensation for their injuries.

ALBERTA'S LARGEST INJURY SETTLEMENTS

FREE CONSULTATION SERIOUSLY INJURED? APPOINTMENTS AVAILABLE ANYWHERE IN ALBERTA WE'LL COME TO YOU. **NO FEES**

www.jameshbrown.ca
(780) 428-4282
2400 SUN LIFE PLACE, 10523-99 ST. SERVING SERIOUSLY INJURED

Serious Injury Law
IT'S THE ONLY LAW WE DO

OUR EXPERIENCE WORKS FOR YOU

Free Consultation
451-9191
24 hours
No fee until you collect.

Injured-Confused We'll Help
Call Us Or Visit Our Website

Over 20,000 injured clients helped in 29 years.

Our team of 40 Lawyers and support staff who are committed to assisting liability claimants, accident injured persons and their families.

No fee is payable until you get paid!
Auto, Public Accidents, Criminal Injuries

Braithwaite Boyle

Edmonton Red Deer Calgary
www.AccidentInjuryLawyer.com

SERIOUS INJURY
KNOW YOUR RIGHTS BEFORE YOU SETTLE

- Free Initial Consultation
- No Legal Fees Until Recovery
- Experienced In Recovering For Pain & Suffering, Lost Income & Expenses From:

MOTOR VEHICLE COLLISIONS
ALL OTHER ACCIDENTS & FATALITIES

www.blainlegal.com
BLAIN LEGAL
30 YEARS EXPERIENCE

587 316-8638
Ample Free Parking

Southview Centre
2877 - 17th Avenue S.E.
Corner of 17th Avenue & 28th Street

(C) Psychological Injuries

- Aviva has seen an increase in the frequency of claims of psychological sequelae arising from soft tissue injuries.
- Psychological sequelae = #1 reason why claims are removed from MI.
- Psychological claims are removed from Minor Injury, even if the impact of psychological harm is minor.

2014 Aviva Claims Study

- ✓ Prior to 2012, psychological sequelae present in 13% of closed claims.
- ✓ After 2012: psychological sequelae increased to 23% of claims.

(D) Sparrowhawk and TMJ

- Increase in TMJ claims started with the release of the Sparrowhawk decision in 2012.
- Aviva now sees 50% of claims with allegations of TMJ injury.
- Only 2.5% increase in the claims we compensate the plaintiff for TMJ.

Statistics

- ✓ Increase from 5% to 7.5% of TMJ claims.
- ✓ Adding approx \$1.2M/year in claims costs.

(E) *McLean v. Parmer* Decision

McLean v Parmer decision released on Feb 23, 2015

- Plaintiff lawyers argue: any plaintiff who has suffered from soft tissue injury symptoms for 6 months or more may be considered to have chronic pain and the claim must therefore be removed from MI.
- Aviva's position: Plaintiff's bar interpretation of McLean is incorrect in the law.
- This decision will drive up on costs to defend and creates more uncertainty.

Highlight Points on Bodily Injury (BI) Severity

- BI Severity is driven by a number of factors – legal representation has a multiplier effect.
- Aviva aggressively defends BI cases, and continues to invest in their in-house legal department in Alberta.
- Government action is required to fix Minor Injury definition – it should include TMJ, minor psychological sequelae and other sequelae.



**Without Government Action, BI Costs will Continue to Rise
and so will Premiums.**

Treatment of Unallocated Loss Adjustment Expense (ULAE)

- It is reasonable for the provision of ULAE to be included in the data underlying the trend analysis.
- This will help to avoid any bias that may be caused by individual insurers changing the categorization of claim costs from ALAE to ULAE or vice versa.

Conclusion

- BI costs are increasing.
- There is considerable uncertainty in the BI line.
- Oliver Wyman may be underestimating the extent of the uncertainty in light of the McLean decision.
- Government action is needed to amend the Minor Injury definition. In the absence of a fix, BI claim costs will continue to erode.
- It is also reasonable for ULAE to be included in the data underlying the trend analysis.
- Aviva is committed to working collaboratively with the AIRB, Alberta regulator and Government to ensure that auto insurance remains affordable and accessible for our customers.

Thank you