



Insurance (Vehicle) Act
MINOR INJURY REGULATION
B.C. Reg. 234/2018

Deposited November 9, 2018 and effective April 1, 2019
Last amended August 31, 2020 by B.C. Reg. 209/2020

Consolidated Regulations of British Columbia

This is an unofficial consolidation.

B.C. Reg. 234/2018 (O.C. 595/2018), deposited November 9, 2018 and effective April 1, 2019, is made under the *Insurance (Vehicle) Act*, R.S.B.C. 1996, c. 231, ss. 45 (2), 45.1, 104 and 105.

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

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Insurance (Vehicle) Act

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PART 1 – DEFINITIONS

Definitions

1 (1) In this regulation:

“**Act**” means the *Insurance (Vehicle) Act*;

“**activities of daily living**” means the following activities:

- (a) preparing own meals;
- (b) managing personal finances;
- (c) shopping for personal needs;
- (d) using public or personal transportation;
- (e) performing housework to maintain a place of residence in acceptable sanitary condition;
- (f) performing personal hygiene and self-care;
- (g) managing personal medication;

“**college**” means the College of Physicians and Surgeons of British Columbia continued under the *Health Professions Act*;

“**current for clinical practice**” means that a physician has practised medicine, excluding research, teaching and administrative work, within the scope of the physician’s certified training and experience for at least 24 weeks in the last 3 years;

“**evidence-informed practice**” means the current best practice for making decisions about the care of a patient, integrating individual clinical expertise with the best available clinical evidence from systematic research;

“**incapacity**”, in relation to a claimant, means a mental or physical incapacity that

- (a) is not resolved within 16 weeks after the date the incapacity arises, and
- (b) is the primary cause of a substantial inability of the claimant to perform
 - (i) essential tasks of the claimant’s regular employment, occupation or profession, despite reasonable efforts to accommodate the claimant’s incapacity and the claimant’s reasonable efforts to use the accommodation to allow the claimant to continue the claimant’s employment, occupation or profession,
 - (ii) the essential tasks of the claimant’s training or education in a program or course that the claimant was enrolled in or had been accepted for enrolment in at the time of the accident, despite reasonable efforts to accommodate the claimant’s incapacity and the claimant’s reasonable efforts to use the accommodation to allow the claimant to continue the claimant’s training or education, or

(iii) the claimant's activities of daily living;

“ministry” means the ministry of the minister responsible for the administration of the Act;

“physician” has the same meaning as in the Insurance (Vehicle) Regulation;

“register” means the registered care advisor register established under section 9 [registered care advisor register];

“registered care advisor” means a registered care advisor registered on the register;

“TMJ disorder” means an injury that involves or surrounds the temporomandibular joint;

“WAD injury” means a whiplash associated disorder other than one that exhibits one or both of the following:

(a) decreased or absent deep tendon reflexes, deep tendon weakness or sensory deficits, or other demonstrable and clinically relevant neurological symptoms;

(b) a fracture to or dislocation of the spine.

(2) For the purposes of the definition of “diagnostic and treatment protocol” in section 101 (1) [definitions and interpretation] of the Act, the protocols established in the Schedule to this regulation are prescribed.

(3) For the purposes of the definition of “minor injury” in section 101 (1) of the Act and this regulation:

“pain syndrome” means a syndrome, disorder or other clinical condition associated with pain, including pain that is not resolved within 3 months;

“psychological or psychiatric condition” means a clinical condition that

(a) is of a psychological or psychiatric nature, and

(b) does not result in an incapacity;

“sprain” means an injury to one or more ligaments unless all the fibres of at least one of the injured ligaments are torn;

“strain” means an injury to one or more muscles unless all the fibres of at least one of the injured muscles are torn.

Prescribed injury for definition of “minor injury”

2 The following injuries are prescribed injuries for the purposes of paragraph (b) (iv) of the definition of “minor injury” in section 101 (1) of the Act:

(a) a concussion that does not result in an incapacity;

(b) a TMJ disorder;

(c) a WAD injury.

Prescribed criteria for definition of “serious impairment”

- 3** For the purposes of paragraph (b) of the definition of “serious impairment” in section 101 (1) of the Act, the claimant’s physical or mental impairment must meet the following prescribed criteria:
- (a) the impairment results in a substantial inability of the claimant to perform
 - (i) the essential tasks of the claimant’s regular employment, occupation or profession, despite reasonable efforts to accommodate the claimant’s impairment and the claimant’s reasonable efforts to use the accommodation to allow the claimant to continue the claimant’s employment, occupation or profession,
 - (ii) the essential tasks of the claimant’s training or education in a program or course that the claimant was enrolled in or had been accepted for enrolment in at the time of the accident, despite reasonable efforts to accommodate the claimant’s impairment and the claimant’s reasonable efforts to use the accommodation to allow the claimant to continue the claimant’s training or education, or
 - (iii) the claimant’s activities of daily living;
 - (b) the impairment is primarily caused by the accident and is ongoing since the accident;
 - (c) the impairment is not expected to improve substantially.

PART 2 – RULES IN RELATION TO MINOR INJURIES

Burden of proof

- 4** In civil proceedings relating to an injury, the burden of proof that the injury is not a minor injury is on the party making the allegation that it is not a minor injury.

Multiple injuries

- 5** If a claimant sustains more than one injury as a result of an accident,
- (a) each injury must be diagnosed separately as to whether the injury is or is not a minor injury,
 - (b) if there are one or more minor injuries and one or more non-minor injuries, the total amount of damages assessed for non-pecuniary loss for all the injuries is the sum of
 - (i) the amount of damages assessed for non-pecuniary loss for the minor injuries, and
 - (ii) the amount of damages assessed for non-pecuniary loss for the non-minor injuries, and
 - (c) the maximum amount of damages for non-pecuniary loss recoverable by the claimant for all the minor injuries in total must not exceed the minor injury limit.

Limit on damages for non-pecuniary loss

- 6 (1) In this section:
- “**British Columbia consumer price index**” means the annual average All-items Consumer Price Index for British Columbia, as published by Statistics Canada under the authority of the *Statistics Act* (Canada);
- “**fiscal year**” means the period beginning on April 1 in one year and ending on March 31 in the next year;
- “**minor injury limit**” means,
- (a) for the fiscal year beginning on April 1, 2019, \$5 500, and
 - (b) for the fiscal year beginning on April 1, 2020, and for each fiscal year after that, the amount calculated under subsection (2).
- (2) For the fiscal year beginning on April 1, 2020, and for each fiscal year after that, the minor injury limit must be determined annually by multiplying
- (a) the minor injury amount for the immediately preceding fiscal year, and
 - (b) the sum of
 - (i) 1, and
 - (ii) the annual percentage change in the British Columbia consumer price index, as determined under subsection (4) and rounded to the nearest 1/10 of a percentage point.
- (3) Despite subsection (2), if the annual percentage change as determined under subsection (4) is a negative number, the annual percentage change is rounded up to zero.
- (4) The annual percentage change referred to in subsection (2) (b) (ii) must be calculated using the following formula:

$$APC = \frac{CPI1 - CPI2}{CPI2}$$

where

- APC = the annual percentage change in the British Columbia consumer price index;
- CPI1 = the sum of the 12 individual monthly British Columbia consumer price indexes for the consecutive 12 month period ending on December 31 of the fiscal year immediately preceding the fiscal year for which the fee limit is being determined;
- CPI2 = the sum of the 12 individual monthly British Columbia consumer price indexes for the consecutive 12 month period immediately preceding the 12 month period referred to in the description of CPI1.

- (5) The minor injury limit determined under subsection (2) must be rounded to the nearest dollar and an amount ending in .50 must be rounded up to the next dollar.
- (6) For the fiscal year beginning on April 1, 2020, and for each fiscal year after that, the corporation must publish
 - (a) the following information that applies to the fiscal year:
 - (i) the minor injury limit;
 - (ii) the calculations made under subsections (2) and (3) that result in the minor injury limit, and
 - (b) the information referred to in paragraph (a)
 - (i) before the end of the fiscal year that immediately precedes the fiscal year referred to in paragraph (a), and
 - (ii) by posting the information on a publicly accessible website maintained by or on behalf of the corporation.

PART 3 – REGISTERED CARE ADVISORS

Registered care advisors

- 7** (1) For the purposes of referrals under Part 7 [*Minor Injuries*] of the Act, registered care advisors are a prescribed class of persons.
- (2) The following are the prescribed requirements and qualifications for registered care advisors:
 - (a) a registered care advisor must be a physician who is a registrant in good standing with the college and registered in one of the full classes of registration with the college;
 - (b) a registered care advisor must be current for clinical practice;
 - (c) a registered care advisor must provide to the college a declaration in accordance with section 8;
 - (d) a registered care advisor must be registered in the registered care advisor register.

[am. B.C. Reg. 209/2020, s. 7.]

Declaration of registered care advisor

- 8** (1) In order for a physician to be registered in the register, the physician must provide the college with a declaration
 - (a) of the physician's intent to be a registered care advisor,
 - (b) that the physician is current for clinical practice,
 - (c) of what the physician's specialty is, if applicable,
 - (d) that the physician is knowledgeable in evidence-informed practice with specific competencies in the assessment and treatment of
 - (i) musculoskeletal injuries,

- (ii) acute and chronic pain, or
 - (iii) mental health issues and other psychosocial issues, and
 - (e) of what the physician's business address and business telephone number are that the physician wants to have included in the register.
- (2) After the initial declaration is provided under subsection (1), a physician must provide the college with an annual declaration
 - (a) of the physician's intent to continue to be a registered care advisor, and
 - (b) of the matters described in subsection (1) (b) to (e).
- (3) The college may provide to the ministry the following:
 - (a) the information in a declaration provided by a physician to the college under subsection (1) or (2);
 - (b) confirmation whether or not the physician is a registrant in good standing with the college and registered in one of the full classes of registration with the college;
 - (b.1) the class of licence of the physician;
 - (c) notice if a physician is no longer a registrant in good standing with the college, if applicable.

[am. B.C. Reg. 60/2019, App. 3, s. 1.]

Registered care advisor register

- 9** (1) The ministry must
- (a) establish the register, and
 - (b) include the information described in subsection (2) for each physician who
 - (i) is a registrant in good standing with the college and registered in one of the full classes of registration, and
 - (ii) provided to the college a declaration in accordance with section 8 (1) or (2).
- (2) For the purposes of subsection (1) (b), the following information must be included in the register:
- (a) the name of the registered care advisor;
 - (b) the class of licence of the registered care advisor, and the registered care advisor's specialty, if applicable;
 - (c) the business address and business phone number of the registered care advisor that the registered care advisor wants to have included in the register.
- (3) The ministry must remove a person from the register if
- (a) the ministry receives a notice from the college under section 8 (4) (c) that the person is no longer a registrant in good standing with the college, or

- (b) the person makes a written request to the ministry to be removed from the register.
- (4) The corporation must publish the register on a publicly accessible website maintained by or on behalf of the corporation.
- (5) For the purposes of the corporation publishing the register under subsection (4), the ministry must provide to the corporation the information to be published and the information the ministry receives from the college under section 8 (2).

[am. B.C. Reg. 60/2019, App. 3, s. 2.]

Referral to registered care advisor

- 10** (1) A physician whose patient may have suffered a minor injury in an accident must consider, no later than 90 days after the date of the accident that caused the injury, referring the patient to a registered care advisor if one or more of the following circumstances apply:
- (a) the physician is unable to make a clear diagnosis;
 - (b) the patient is not recovering from the injury as expected by the physician;
 - (c) there are factors complicating the patient's recovery from the injury.
- (2) If, after a referral under subsection (1),
- (a) a registered care advisor assesses the patient and provides a report to the physician, and
 - (b) one or more of the circumstances set out in subsection (1) (a), (b) and (c) continue to apply,
- the physician may, within the first 9 months following the accident, refer the patient to the same or to a different registered care advisor.

Assessment and report by registered care advisor

- 11** If a registered care advisor accepts a referral under section 10, the registered care advisor must
- (a) assess the patient's injury within 15 days after the date of the referral,
 - (b) consult with the referring physician as necessary,
 - (c) make a written report that provides advice to the referring physician about the diagnosis or treatment of the patient's injury, and
 - (d) provide the report to the referring physician within 10 days after the date the registered care advisor assesses the patient's injury.

Restrictions on role of registered care advisor

- 12** A registered care advisor who accepts a referral under section 10 must not
- (a) be the referring physician, or
 - (b) deliver the treatment to the patient as recommended in the registered care advisor's report.

SCHEDULE**DIAGNOSTIC AND TREATMENT PROTOCOLS****Definitions**

- 1** In this Schedule, “**patient**” means a claimant as defined in section 101 (1) of the Act.

Evidence-informed practice

- 2** A health care practitioner must use evidence-informed practice when
- (a) establishing a diagnosis of an injury of a patient under this protocol, and
 - (b) providing treatment, or making a referral for treatment, for an injury of a patient under this protocol.

Developing diagnoses for injuries

- 3** (1) If applicable, a health care practitioner must establish a diagnosis for a patient of the following:
- (a) an abrasion
 - (b) a concussion;
 - (c) a contusion;
 - (d) a laceration;
 - (e) a pain syndrome;
 - (f) a sprain;
 - (g) a strain;
 - (h) a TMJ disorder;
 - (i) a WAD injury.
- (2) When diagnosing a sprain, strain or WAD injury, a health care practitioner must determine the severity of the injury.

**Developing diagnoses for pain syndromes
and for psychological or psychiatric conditions**

- 4** If applicable, a health care practitioner must establish a diagnosis for a patient of a psychological or psychiatric condition by using the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

Treatment protocols

- 5** (1) When treating a patient with an injury listed in section 3 or 4, a health care practitioner must educate the patient with respect to, at a minimum, the following matters:
- (a) if applicable, the desirability of an early return
 - (i) to the activities the patient could perform before the injury, and

- (ii) to the patient's employment, occupation or profession or the patient's training or education in a program or course;
 - (b) an estimate of the probable length of time that symptoms will last;
 - (c) the usual course of recovery;
 - (d) the probable factors that are responsible for the symptoms the patient may be experiencing;
 - (e) appropriate self-management and pain management strategies.
- (2) When treating a pain syndrome and a psychological or psychiatric condition, a health care practitioner must identify comorbid conditions, if applicable.