

Issue

As is already well-documented, Ontarians with mental disorders lack timely access to necessary mental health services.¹ The result is personal suffering and disability at the individual and family level and far reaching costs for society and our provincial health care system.

In the publicly-funded health system, persistent regulatory and funding barriers interfere with patients' access to mental health services, including critical services provided by psychologists. Similarly, in the auto insurance sector, barriers limit patient access to psychologists for assessment and treatment of mental disorders and brain injuries. Legal requirements for physician certification of the existence of catastrophic impairment (for no-fault insurance) and tort evidentiary rules that require physician evidence, together create barriers and additional costs to Ontarians with the most severe auto accident injuries, while failing to recognize the expertise (and often relative cost-effectiveness) of psychologists in these matters.

About the Ontario Psychological Association

The Ontario Psychological Association (OPA) is a voluntary professional association that promotes the mental health and well-being of Ontarians by advancing the profession of psychology through clinical excellence, leadership, research, education and advocacy.

Background

Doctoral-level psychologists have the relevant education and training to assess and treat mental disorders and should be a critical partner in the province's strategy to address the unmet mental health needs of Ontarians. Psychologists provide evidence-based, cost-effective diagnostic and therapeutic interventions that have been shown to reduce overall health care costs.

Within the publicly-funded health system, efforts to control and reduce costs have resulted in the reduction or elimination of access to many psychological assessment and treatment services. There is a nearly exclusive reliance on physicians to address mental disorders, specifically family doctors and psychiatrists. There is next to no fee-for-service public funding for non-physicians and most family health teams do not employ psychologists. This has created a shortage of public sector providers of mental health services with associated high costs to the public health system. Restricting publicly-funded services to physicians who are not necessarily specialists in mental health may lead to an excessive reliance on medications.

No-Fault accident benefits were introduced to provide timely access to treatment and rehabilitation for those injured in auto accidents. In addition, No-Fault benefits can help to avoid the shifting of costs to the public health care system. In recent years, however, efforts to reduce insurance premiums have created significant barriers to access No-fault benefits for injured Ontarians with mental disorders. While mental disorders create significant disability, they are often "invisible" and their victims too often experience discrimination and denial of their claims. Where claims are accepted, mental disorders are usually quickly dismissed as being "minor injuries" simply because the seriousness of the injury is not

¹ Including by the Ontario Legislative Assembly's Select Committee on Mental Health and Addictions in its (2010) Report.

always visible. Accident victims with catastrophic impairments resulting from mental disorders face even greater challenges. Since 2010, accident victims have been required to have a physician certify their applications as to whether “catastrophic impairment” (for the purposes of the *Insurance Act*) exists, even though psychologists are often better placed to carry out this assessment. Prior to 2010, psychologists were able to certify catastrophic impairment; the reasons for this regulatory change are unclear. While the OPA agrees with taking action to reduce auto insurance fraud, it cannot support changes that have the result of indiscriminately limiting access for accident victims to insurance claim reimbursement for serious injuries. Similarly, since 2003 injured Ontarians have been required to adduce physician evidence in addition to any evidence provided by their psychologist in tort proceedings, which acts as an additional barrier to justice in tort proceedings.

Options

There are a number of options to increase access of Ontarians with mental disorders to psychological services within the publicly-funded health system. These include: Incorporating psychologists into family health teams; Fee-for-service models for psychological assessment and treatment; Giving psychologists the ability to admit patients to hospital when required; Expanding the scope of psychologists, including the ability to prescribe medications where appropriate.

There are a number of options to improve access to services under No-Fault benefits for accident victims with mental disorders. Some options include: Improved education regarding the nature of mental disorders, with the aim of reducing discrimination and overcoming the continued narrow focus on severity of physical injury as a proxy for mental injury; Creation and enforcement of standards for proper adjudication, including consideration of the relevant evidence-based guidelines when making decisions; Require insurer examiners to have appropriate training and expertise; Restoration of the appropriate role of psychologists to certify applications for catastrophic impairment determination and adduce evidence in tort-based legal actions.

Recommendations

- Implement health care funding changes to increase the options available to Ontarians with mental disorders to access services of psychologists.
- Implement regulatory changes necessary to allow psychologists with necessary competencies to prescribe medications to treat mental disorders and admit patients to hospital when required.
- While addressing cost pressures under auto insurance, do not discriminate against those with mental disorders.
- Continue to acknowledge that mental disorders are not “minor injuries”.
- Do not make changes to the catastrophic impairment criteria that would require an even higher level of impairment for those with impairments due to mental and behavioral disorder than for those with impairments due to physical disorders.
- Implement changes to reflect expertise and competence of psychologists by allowing them to certify catastrophic impairment applications due to mental disorders.
- Implement changes so that a psychologist can be relied upon as a sole expert to adduce evidence about impairments due to mental disorders in respect of tort thresholds.

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Appendix

Use of the expertise and clinical skills of psychologists to meet the needs of Ontarians under Health and Auto

The Ontario Psychological Association (OPA) position

The OPA is a voluntary professional association that promotes the mental health and well-being of Ontarians by advancing the profession of psychology through clinical excellence, leadership, research, education and advocacy.

Within Health services, removal of the current regulatory and funding barriers that interfere with the ability of psychologists to fully contribute, is critical to achieving this goal.

Under Auto Insurance it is critical that efforts to achieve cost savings not further harm vulnerable accident victims with mental disorders. In addition, Ontarians must be able to rely on psychologists' expertise in diagnosis of mental disorders and quantification of impairments to complete Catastrophic impairment applications and function as a sole expert to provide evidence in Tort actions.

Mental disorders are not “minor”, self-limiting conditions, they cause significant disability and social cost

The higher level of disability due to mental and behavioural disorders, is documented in Disability and Treatment of Specific Mental and Physical Disorders, Ormel, Petukhova, Von Korff, and Kessler, *Global Perspectives on Mental – Physical Comorbidity in the WHO World Mental Health Surveys*, edited by Michael R. Von Korff, et. al., Cambridge University Press, 2009.

Disability ratings for mental disorders were generally higher than for physical disorders. Of the 100 possible pairwise disorder-specific mental—physical comparisons (Table 18.4), mean ratings were higher for the mental disorder in 91 comparisons in developed and 91 in developing countries.

Disproportionate under-treatment of mental and behavioural disorders

This is documented in Disability and Treatment of Specific Mental and Physical Disorders, Ormel, Petukhova, Von Korff, and Kessler, *Global Perspectives on Mental – Physical Comorbidity in the WHO World Mental Health Surveys*, edited by Michael R. Von Korff, et. al, Cambridge University Press, 2009.

Given this greater disability of mental than physical disorders, it is disturbing to find that only a minority of even severe cases of mental disorder receive treatment and that treatment was substantially more common among comparably severe physical disorders.

The Publicly funded Health and other services context

Under-treatment of mental disorders in Ontario in publically funded health and other services

The 2010 report of the all-party Select Committee on mental health and addictions found unacceptable gaps and delays in services for Ontarians with mental disorders.

In general, Ontarians wait too long for treatment. In sum, the Select Committee heard so many stories of distress that we unanimously agreed that we must do better. (Underline added)

While there was unanimous agreement that we *must do better*, for too many Ontarians the situation has not improved and even worsened. Publically funded services have been cut and unfounded regulatory restrictions continue to inappropriately limit the scope of services that psychologists can provide. We continue to have unacceptable gaps and delays in access to services. Ontarians with mental disorders, including brain injuries continue to face more challenges in accessing services than those with physical disorders. Psychologists have the scientific expertise and clinical skills necessary to address these problems and the OPA is eager to work with government to implement solutions.

Financial and regulatory barriers preclude access to services of psychologists to address these needs

In spite of the recommendations of the Select Committee, there is a current shortage of publically funded services available for Ontarians with mental disorders and brain injuries. In large part this is due to a nearly exclusive reliance in the publically funded health care systems on physicians to address these disorders, specifically family doctors and psychiatrists. This has created a shortage of providers with associated high fees. In addition, restricting funded services to physicians also leads to an excessive reliance on medications, rather than effective behaviourally based psychological treatment approaches. This restriction to physicians is contrary to the fact that doctoral level psychologists have the most relevant education and training to assess and treat these conditions. Psychologists provide evidence-based, cost effective diagnostic and therapeutic interventions that have been shown to reduce overall health care costs.

Recommendations for greater utilization of psychologists to improve the health of Ontarians

We note that creating new funding mechanisms and allowing for more appropriate scope of practice is consistent with current direction of the Ministry of Health as described in the 2014 budget:

Expanding the scope of practice for a number of health care providers, such as allowing pharmacists to give flu shots and authorizing registered nurses and registered practical nurses to dispense drugs in certain circumstances. AND Expanding the scope of practice for pharmacists to give flu shots, prescribe smoking cessation medications and show patients how to use asthma inhalers or inject insulin, which will help reduce potential future health care costs by preventing more serious and costly illnesses;

There is a need to incorporate psychologists into family health teams to ensure that psychological aspects of health can be addressed in a timely, effective manner, resulting in better health outcomes.

Similarly, creating funding mechanisms for patient access to assessment and treatment by psychologists will address service gaps to improve the health and reduce the disability of the patient, as well as reduce the risk of more entrenched mental illness with associated greater health care utilization and higher costs. For some patients with most severe disorders, psychologists' ability to admit their patient to hospital is also critical.

It has already been acknowledged that there are health professions, in addition to physicians, with expertise in specific areas regarding prescription medications. Psychologists' expertise in determining medications to address mental disorders must be acknowledged in regulation so that they can prescribe appropriate medications, when required, for the care of Ontarians.

The Auto Insurance Context

Achieving cost control without further harming the most vulnerable accident victims

The Ontario Psychological Association Auto Insurance Task Force has advocated for fair access to adequate benefits for accident victims with psychological disorders including brain injuries since 1989. We are very aware of the need for affordable auto insurance when considering provision of services to accident victims. However, there is a need to be mindful and ensure that the cost control measures do not create additional, excessive/unfair barriers to access to services for the most vulnerable accident victims with complex conditions due to psychological disorders and brain injuries. These “invisible” injuries, mental disorders and brain injuries, can be as persistently debilitating as traumatic amputation or paralysis.

Current barriers to access for Ontario accident victims with mental disorders

Too often, as is seen in other health sectors, as described above, patients with mental disorders and brain injuries face lack of awareness of their needs, stigma, and lack of funding for treatment and rehabilitation. Delays and denials of timely treatment and rehabilitation needed to reduce impairments and restore function harm the individual patient and their family. These delays also shift costs to the already overburdened and underserved public health and social systems, reported by the Select Committee and result in lost productivity.

Role of Psychology

Psychologists (including neuropsychologists) are the health professionals with the highest level of expertise in diagnosing and treating accident victims with mental and behavioural disorders including cognitive impairments. In fact, communication of diagnosis of a mental disorder is a controlled act limited to physicians and psychologists.

Key Points

Provision of evidenced based psychological services contributes to affordable auto insurance

We are mindful of the public need for affordable auto insurance. Evidence-based psychological services are cost effective. In fact, research shows that the cost is offset by reducing the need for other services. In addition psychological treatment reduces the load on physicians as well as other OHIP and publically funded services. Psychological treatment also restores function, reducing disability costs for the individual and society. The OPA has published evidence-based assessment and treatment guidelines.

Mental and behavioural disorders and brain injuries are never “Minor Injuries”

Mental and behavioural disorders are not determined by the severity of the physical injury. They are a source of significant, often persistent disability and require adequate, timely treatment. These contrast with “psycho-social issues” (as referenced in the Minor Injury Guideline, MIG) which are transient, do not limit function, and may present as part of a “minor” physical injury. Current data from the HCAI claims costs data-base is consistent with ongoing documentation that only a very small proportion of accident victims have incurred diagnosed mental and behavioural disorders.

Psychological disorders and brain injuries can have “catastrophic” consequences for the individual

For determination of catastrophic impairment it is critical to acknowledge that mental and behavioural disorders may “significantly impede useful functioning”, which is the criterion for catastrophic impairment determination. All individuals who have sustained injuries/disorders that result in impairments of “catastrophic” severity require access to the highest level of funding regardless of whether the disorder is bodily, mental and behavioural, or a combination of these. It would be discriminatory to make changes to the catastrophic impairment criteria that would require an even higher level of impairment for those with impairments due to mental and behavioral disorder than for those with impairments due to physical disorders.

Psychologists have the highest level and most relevant expertise to diagnose and rate these disorders

Therefore, it makes no sense that they were excluded (2010 SABS) from confirming catastrophic impairments due to mental and behavioural disorders after 14 years carrying out this professional responsibility. Requiring a physician to adduce evidence (Insurance Act 2003, Definition of Permanent and Serious Impairment) regarding serious and permanent mental and psychological impairment also adds unnecessary costs to the system, and may interfere with settlement. The reasons for these changes are unclear.

We support initiatives to further reduce accident benefit costs, and address fraud and waste

However, these initiatives must be targeted and minimize risk of further harm to accident victims with mental and behavioural disorders who are already vulnerable to under-identification and under-treatment. The soon to be implemented health facility licensing will provide an additional tool. This will help to address business practices of both health care and IE facilities. We support the need to look at other sectors such as the towing industry from a similar perspective. Together with other stakeholders we are working to further develop the HCAI system to provide timely, relevant and accessible data regarding costs of the system, increasing transparency to all. Standardized and detailed reporting to accident victims regarding expenditures will bring greater accountability.

Recommendations regarding auto insurance

The scientific evidence indicates that investment in psychological treatment and rehabilitation is sound investment in Ontario's citizens. As a science based discipline, we have a great deal to contribute to society, but our patients face stigma, misunderstanding, and historically mental and behavioural disorders have been underfunded in the public sector. The scientific literature demonstrates the greater burden of disability produced by mental and behavioural disorders in comparison with physical disorders and we see the consequences of this everywhere in society. Auto insurance no-fault accident benefits have provided opportunity to some injured citizens for timely access to psychological services and they have benefited from this investment in reducing their mental disorders and rehabilitating them to satisfying roles in their family, community and workplace. Our public health system has identified the need to treat and rehabilitate individuals with mental disorders but does not have sufficient resources to do so. Under auto insurance we must continue to invest in the lives of those with mental disorders and brain injuries, and barriers to access to services must be removed.

Continuing barriers to timely access to rehabilitation for accident victims with impairments and functional limitations due to mental and behavioural disorders are seen in:

1. Failure to follow evidence based Guidelines by professionals and insurers;
2. Insurers' failure to communicate with their insureds and their health professionals;
3. Insurers' failure to take responsibility for adjudicating files including: delays in treatment plan reviews; failure to refer proposed treatment plans to appropriate IEs when such is clearly indicated; and failure to determine if the IE has correctly applied the SABS test;
4. Inappropriate denial of assessment and treatment of crash victims with mental disorders, including denial based on the severity of the physical injury and assertion that the Minor Injury cap applies;
5. Crash victims with serious mental disorders were denied the right in 2010 to have a psychologist confirm catastrophic impairment due to mental disorders when this professional responsibility was removed from psychologists. Psychologists, the health professionals with the greatest expertise in

diagnosis of mental disorders and measurement of function, can only utilize their expertise for those who require an analysis of catastrophic impairment when working in conjunction with a physician who must certify the application.

6. Crash victims with permanent and serious impairments were required in 2003 to have a physician adduce evidence regarding a “serious and permanent impairment”. This interferes with the accident victim’s ability to utilize psychologists, the most appropriate experts to diagnose their disorder and rate describe their impairments.

These barriers must be addressed.

Conclusion

We encourage government to consider the role of accident benefits as an investment in the rehabilitation of Ontario citizens. We appreciate and support initiatives to reduce fraud and waste and control costs. However, there is a need to be mindful and ensure that the cost control measures do not create excessive/unfair barriers to access to services for the most vulnerable accident victims, those with mental disorders. This is especially relevant in view of the pressures from the insurance industry to expand the minor injury definition to include mental disorders and to reduce consideration of the effects of impairments due to mental disorders in Catastrophic Impairment determination. In addition to being the right thing to do, the evidence supports that providing timely, appropriate assessment/treatment and rehabilitation to individuals with mental and behavioural disorders is cost effective.