

**Agenda Item 4(c)(ii)  
November 17/20 EOC Meeting**

**From:** Weir, David (FCNB) <david.weir@fcnb.ca>

**Sent:** November-06-20 1:45 PM

**To:** Brendan Wycks <brendan.wycks@cafii.com>; Keith Martin <Keith.Martin@cafii.com>

**Subject:** RE: CAFII Response Submission On FCNB Informal Consultation On Proposed Changes To Life and Accident & Sickness Parts of New Brunswick Insurance Act

Hi Brendan and Keith,

Thank you very much for your feedback. I am working through CAFII's comments and making necessary changes to our recommendations. I may have a few follow up questions for you. I am also exploring what we are able to do with respect to sharing draft legislation.

I am hoping to get some information from CAFII on another issue. Section 182 deals with insurance money payable to a minor.

**182(1)** Where an insurer admits liability for insurance money payable to a minor and there is no person capable of giving, and authorized to give a discharge therefor, who is willing to do so, the insurer may, at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable, pay the money, less the applicable costs mentioned in subsection (2), into court to the credit of the minor.

**182(2)** The insurer may retain out of the insurance money, for costs incurred upon payment into court under subsection (1), the sum of ten dollars where the amount does not exceed one thousand dollars, and the sum of fifteen dollars in other cases; and payment of the remainder of the money into court discharges the insurer.

**182(3)** No order is necessary for payment into court under subsection (1), but a clerk of The Court of Queen's Bench of New Brunswick shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth, and residence of the minor, and upon such payment being made the insurer shall forthwith notify the Minister of Finance and Treasury Board and deliver to him a copy of the affidavit.

There is a similar provision for an accident and sickness insurance contract at s. 215.

Other Canadian jurisdictions have similar provisions, but provide that the insurance money is payable to the Public Trustee rather than to the courts. For example, section 198 of the Manitoba *Insurance Act* reads:

**198(1)** If an insurer admits liability for insurance money payable to a minor and there is no person capable of giving and authorized to give a valid discharge for the insurance money who is willing to do so, the insurer may, at any time after 30 days after the date of the event on which

the insurance money becomes payable, pay the money to the Public Guardian and Trustee for the benefit of the minor and notify the Public Guardian and Trustee of the name, date of birth and residential address of the minor.

198(2) A payment made by an insurer under subsection (1) discharges the insurer to the extent of the amount paid.

We would like to amend our provisions to provide for payment of the money to the Public Trustee. We have had some preliminary discussion with the Office of the Public Trustee. We would like to get some more information on how it is currently working in NB and how it works in other jurisdictions. We have the following questions:

- How many cases would involve minors who did not have someone who could give the discharge to the insurer. In other words, how many times in a given year (average) are insurers making payments into court under sections 182 and 215? How many cases are there in the other Atlantic Provinces?
- What is the process that insurers follow under the two different systems, in particular what efforts do insurer's make to have things resolved without having to rely on a payment into court or to the public trustee? There is a concern that insurers may just send the money to the public trustee without making an effort to have the money paid to the guardian or trustee of the child (if that makes sense).
- How are the costs incurred by the public trustees for these services covered?

I was also reaching out to CLHIA with the same questions, but you two may wish to coordinate so that you are not duplicating your efforts.

Thank you as always for your assistance.

**David Weir**

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