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THE ANNOTATED INSURANCE ACT OF ONTARIO

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This comprehensive four-volume service provides the entire *Insurance Act* of Ontario, with amendments, exhaustive case annotations, Schedules and Regulations as well as a wide range of annotated Related Statutes and Regulations. Other features include cross-referencing to legislation in other provinces, expert and informative commentaries, and bibliographies for selected key sections.

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HIGHLIGHTS

This release features the addition of recent Licence Appeal Tribunal decisions in Appendix C15.

Licence Appeal Tribunal Decisions *including*:

In *O'Connor v. Aviva Insurance Company of Canada*, Rhea-Racquel O'Connor, the applicant, was involved in an automobile accident on October 26, 2018, and sought benefits pursuant to the *Statutory Accident Benefits Schedule - Effective September 1, 2010 (including amendments effective June 1, 2016)* (the "Schedule"). The applicant was denied benefits by the respondent, Aviva Insurance Company of Canada, and applied to the Licence Appeal Tribunal - Automobile Accident Benefits Service (the "Tribunal") for resolution of the dispute. The Tribunal determined that the applicant's injuries were predominantly minor and subject to treatment within the \$3,500.00 funding limit of the MIG. Pursuant to s. 40(8) of the *Schedule*, the applicant is entitled to the benefits under the MIG that were already incurred up to the remaining amount of the MIG limit, plus interest in accordance with s. 51 of the *Schedule*.

In *Goncalves v. Wawanesa Insurance*, Alexandrinha Goncalves (the "applicant") was injured in an automobile accident on July 13, 2018, and sought benefits pursuant to the *Statutory Accident Benefits Schedule - Effective September 1, 2010 (including amendments effective June 1, 2016)* (the "Schedule"). She applied to the Licence Appeal Tribunal — Automobile Accident Benefits Service ("Tribunal") after her claims for benefits were denied by Wawanesa Insurance (the "respondent"). The respondent denied the benefits in dispute on the basis of its determination that the applicant's accident-related impairments fit the definition of "minor injury" prescribed by s. 3(1) of the *Schedule*, and therefore are subject to treatment within the Minor Injury Guideline (the "MIG"). The applicant submits that her injuries fall outside of the MIG because of her pre-existing medical conditions of sciatic pain and edema. If the applicant's position is correct, then it must be addressed whether the chiropractic services in dispute are reasonable and necessary pursuant to the *Schedule*. If the respondent's position is correct, then the applicant is subject to a \$3,500.00 limit on medical and rehabilitation benefits prescribed by s. 18(1) of the *Schedule*, and not entitled to interest. The Tribunal found that the applicant has not demonstrated that her accident-related impairments warrant removal from the MIG, and that the applicant does not have a pre-existing condition that would prevent recovery under the MIG.

In *Haddy v. Certas Home and Auto Insurance Company*, Krista Haddy, the applicant, was involved in an automobile accident on May 25, 2002, and sought benefits pursuant to the *Statutory Accident Benefits Schedule - Accidents on or after November 1, 1996* (the "Schedule") and transitional provisions outlined in s. 38 and s. 44 of the *Statutory Accident Benefits Schedule - Effective September 1, 2010 (including amendments effective June 1, 2016)*. The applicant was denied benefits by the respondent, Certas Home and Auto Insurance Company, and applied to the Licence Appeal Tribunal—Automobile Accident Benefits Service (the "Tribunal") for resolution of the dispute. The respondent designated the applicant catastrophically impaired as a result of the automobile accident. The applicant is not entitled to \$39,377.30 for fertility expenses incurred with

One Fertility as the applicant has not demonstrated on the balance of probabilities that the need for fertility treatments was causally related to the accident. The respondent is not liable to pay an award under Regulation 664. No interest is payable pursuant to s. 51 of the *Schedule*.