

ACCIDENT BENEFITS 2021

WHAT'S NEW, WHAT'S IMPORTANT?

“Excellent... very informative and helpful for utilizing new thoughts and theories in our everyday practice.”

Tracy Romanowski, Kahler Law Firm

Program Chairs

Alexander M. Voudouris
Senior Litigator, Pace Law Firm

Sharon C. Dagan
Senior Counsel, Practice Group Leader – Accident Benefits, Van Arnhem & Associates

Date and Time

February 23, 2021
9:00 a.m. – 4:15 p.m. EST

Online Replay:
March 23, 2021

Location

ONLINE – Live, Interactive

Can't make the date?
Registration includes 120-day access to the program archive.

The essential annual event for everyone working in the AB field. Ensure that you're fully current on key recent decisions and developments, including:

- An insider's view on current practices and trends at the Licence Appeal Tribunal (LAT)
- Mental/behavioral impairment as a basis for a CAT claim
- Settling the case: the interplay between resolving AB, tort and LTD claims
- What kinds of decisions actually bind LAT adjudicators?
- The latest on discoverability in the AB context
- Navigating between reconsiderations, appeals and judicial review

Register today at:

osgoodepd.ca/accidentbenefits



Accident Benefits 2021

What's New, What's Important?

This program has established itself as the most useful annual one-day overview of recent trends and practical solutions in the accident benefits field.

Hear from an expert faculty reflecting both applicants' and respondents'/insurers' perspectives, in such areas as:

- The year's most important AB decisions for practitioners
- The expanding role of technology at the LAT
- What all AB practitioners need to know about the kinds and degrees of mental/behaviour impairment that may form the basis of a CAT claim
- Settlement issues in cases where a party is under a disability (including minors and mentally incapacitated persons)
- How the LAT thinks about the criteria for 'reasonable and necessary' medical treatment
- Discoverability in the AB context: the law's development since *Tomec*
- Navigating between reconsiderations, appeals and judicial review
- Practical tips on the calculation of income replacement benefits and the impact of recent law

The program is designed to provide realistic solutions to the issues you can expect to face regularly, in an area still undergoing significant transformation.

Who Should Attend:

- Applicants' and insurers' counsel
- Paralegals and law clerks involved in AB files
- Insurance adjusters and claims examiners

Register today at:

osgoodepd.ca/accidentbenefits

Agenda

8:45 a.m.

Login

9:00 a.m.

Chairs' Introductory Remarks

9:10 a.m.

Most Important AB-Related Cases Over the Previous 12 Months

Cara L. Boddy

Evans, Philp LLP

Michelle F. Jorge

Jewell Radimisis Jorge LLP

This popular annual session will bring you up to speed on important recent tribunal and court decisions and assess their impact on your practice.

10:00 a.m.

All Things LAT: The View From Inside

D. Stephen Jovanovic

Associate Chair, Licence Appeal Tribunal

Alexander M. Voudouris

Senior Litigator, Pace Law Firm

Accident benefits adjudication at the LAT is always evolving – hear an insider's view about current practices and trends at the tribunal as well as potential new developments that could affect your practice, including:

- Technological innovations at the LAT and virtual hearings
- What is working? What can be improved upon?
- Measures to address rising caseloads and improve efficiencies
- Internal procedures since the *Shuttleworth* decision
- How adjudicators think about reconsiderations
- Strategic implications of some key statistics

10:45 a.m.

Break

11:00 a.m.

Assessing Mental and Behavioral Impairments in the Catastrophic Impairment Case

Dr. William H. Gnam

TS Medical Centre

Kadey Schultz

SchultzFrost LLP

Assessing mental and behavioral impairments in a CAT claim can be challenging – not only because of their inherent complexity, but because of the chasm of misunderstanding that sometimes opens up between counsel and physician experts. In theory, each knows enough about the other's criteria and concerns so that misapprehensions should be minimized; in practice, barriers – obvious or subtle – still complicate their efforts to educate each other. This session will aim to dispel the confusion in key areas:

- How do medical experts conduct a proper analysis and determination of CAT impairment?
- What guidance is provided by the leading LAT decisions in this area?
- What's essential for counsel to know in such areas as:
 - Testing in Chapter 14 of the AMA Guides (6th edition) including the Brief Psychiatric Rating Scale (BPRS), Global Assessment of Functioning Scale (GAF) and Psychiatric Impairment Rating Scale (PIRS) as part of calculating 55% Whole Person Impairment (WPI)
 - The key differences between the various levels of impairment in the four spheres of functioning in the AMA Guides (4th edition)

11:50 a.m.

Lunch

12:30 p.m.

Settling the Accident Benefits Case

Joseph A. Cescon

McLeish Orlando LLP

Amanda Lennox

Laxton Glass LLP

You are close to reaching the finish line but there are important factors to ensure that a settlement protects the interests of both applicants and insurers, including:

- Negotiating and finalizing a partial versus a full and final settlement
- The interplay between resolving AB, tort

and LTD claims

- Structured settlements, including options and structure-compliant settlement documentation
- Tolling limitation periods – is it allowed?
- Does the settlement disclosure notice comply with s.9.1 of Ontario Reg. 664? If not, what are the implications?
- Representing parties under disability (including minors and mentally incapacitated persons) and obtaining required Court approval

1:15 p.m.

Two Strategic Minefields: Stare Decisis at the LAT and Navigating Between Reconsiderations, Appeals and JRs

Laura Emmett

Strigberger Brown Armstrong LLP

Trevor R. Guy

Counsel, Legal Services Unit, Tribunals Ontario, Ministry of the Attorney General (Ontario)

- What decisions constitute precedents that bind LAT adjudicators (including FSCO, LAT hearings, reconsiderations and court decisions)?
- How has the tribunal interpreted and applied precedent to its decisions
- After the LAT hearing: key differences in practice and procedure between reconsiderations, appeals and judicial reviews
 - When is each appropriate and available?
 - Significance of the distinction between interim and final orders
 - The current standard of review

2:00 p.m.

Break

2:15 p.m.

Quick Hits: Essential Insights In Areas You Need To Know About

Calculating Income Replacement Benefits For Self-Employed Individuals

Steven A. Glowinsky

Glowinsky Law

- Key criteria for calculating IRBs for a self-employed individual under the SABS
- What financial documentation is essential for this process and what to focus on when interpreting accounting reports
- Recent caselaw impacting on the calculation
- Can we anticipate legislative change in this area?

Limitations Since *Tomec*

Shalini Thomas

Strigberger Brown Armstrong LLP

- How has the case law on discoverability in the AB context evolved since the Court of Appeal decision in *Tomec*?
- Does an adjudicator still have discretion to extend the limitation period under section 7 of the *LAT Act*?
- Can one benefit be governed by two limitation periods?

Medical Treatment: Determining Goals and What Is or Isn't Reasonable and Necessary

Jason L. Hepburn

Van Arnhem & Associates

- What are the case law trends?
- What criteria and evidence does the LAT consider in determining whether treatment is reasonable and necessary and whether treatment goals and outcomes are being met?

3:15 p.m.

Ethical and Professional Issues in Accident Benefits Cases

Sharon C. Dagan (Moderator)

Senior Counsel, Practice Group Leader – Accident Benefits, Van Arnhem & Associates

Meghan M. Hull Jacquin

Howie, Sacks and Henry LLP

Heather L. Kawaguchi

Kawaguchi Krajden LLP

Christopher Schnarr

Thomas Gold Pettingill LLP

An expert panel will examine realistic fact situations, addressing professional challenges you will sooner or later face in your AB practice. The emphasis will be on considerations that should guide lawyers and paralegals in meeting their professional obligations, while advocating effectively for clients.

4:15 p.m.

Program ends

“Excellent quality of speakers... excellent topics all around.”

Greg Specht, Kawaguchi Krajden LLP

Chairs

Alexander M. Voudouris
Senior Litigator, Pace Law Firm

Sharon C. Dagan
Senior Counsel, Practice Group Leader – Accident Benefits,
Van Arnhem & Associates

Faculty

Cara L. Boddy
Evans, Philp LLP

Joseph A. Cescon
McLeish Orlando LLP

Laura Emmett
Strigberger Brown Armstrong LLP

Steven A. Glowinsky
Glowinsky Law

Dr. William H. Gnam
TS Medical Centre

Trevor R. Guy
Counsel, Legal Services Unit,
Tribunals Ontario, Ministry of the
Attorney General (Ontario)

Jason L. Hepburn
Van Arnhem & Associates

Meghan M. Hull Jacquin
Howie, Sacks and Henry LLP

Michelle F. Jorge
Jewell Radimisis Jorge LLP

D. Stephen Jovanovic
Associate Chair,
Licence Appeal Tribunal

Heather L. Kawaguchi
Kawaguchi Kraiden LLP

Amanda Lennox
Laxton Glass LLP

Christopher Schnarr
Thomas Gold Pettingill LLP

Kadey Schultz
SchultzFrost LLP

Shalini Thomas
Strigberger Brown Armstrong LLP

Registration Details

Fee per Delegate
\$695 plus HST

Fees include online attendance, electronic program materials, and 120-day online access to program archive. Group discounts and financial assistance are available. Visit www.osgoodepd.ca/group-discounts for details.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.




Eligible CPD Hours – LSO (ON): 6h 25m CPD (5h 25m Substantive; 1h Professionalism)

This program is approved for LAWPRO Risk Management Credit.

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca.

*“Even with topics that are familiar,
I learn something new.”*

Rose Bilash, Shillingtons LLP

 osgoodepd.ca **Osgoode Professional Development**
 **416.597.9724** **1 Dundas Street West, Suite 2600**
 **@OsgoodePD** **Toronto, ON Canada M5G 1Z3**



Accident Benefits 2021 What's New, What's Important?

Register today at:

osgoodepd.ca/accidentbenefits