

March 9th, 2020

RE: BC Wrongful Death Law Reform Society's Position on No-Fault

To Whom it May Concern,

For your consideration, not only are we an advocacy organization promoting legislative reform to grant access to justice for the families of the wrongfully killed, but we're also an organization seeking to prevent unnecessary wrongful deaths in the first place. We offer for your careful consideration how a no-fault insurance system will impact British Columbians. We believe that no-fault will not only make our roads less safe, but will create an underclass plantation of victim welfare recipients, who will never have the ability to be made financially whole again. We also believe this will expand the size and scope of bureaucracy, making the individual even further powerless and subordinate to the administrative state via ICBC. Further limitations to meaningful access to justice in a court of law for victims, and when wrongfully killed, victims' families, represents a major step backwards in civil liberties for the citizens of BC.

The recent history of ICBC is especially important in analyzing no-fault. In 1996, the NDP stated that there was no other choice than to adopt the no-fault system. In 1998, the government introduced the Graduated Licensing Program. It was a big part of the reason the projected \$2.4 billion debt that the NDP predicted over 5 years became an accumulated profit of \$600 million - with a 5-year rate freeze. When the Liberals were elected in 2001, ICBC was going into deficit territory again because it had turned into a politically based bureaucracy. The Liberal government brought in Nick Geer from the private sector and with his savvy ICBC was restructured to turn a \$389 million profit in 2004 when he left.

Taking the lessons learned from the past in implementing say for example, the Graduated Licensing Program (GLP), this drastically reduced motor vehicle accidents, deaths, and subsequent claims, which put ICBC into surplus revenues by the hundreds of millions. This was a win-win for the citizens and the province.

In 2015, Canada became a United Nations Road Safety Collaboration Partner and the federal government released the Canadian Road Safety Strategy. In 2016, BC Health Minister Terry Lake got on board with the help of the Provincial Health Officer who's report on the problem was delivered that year and Physicians in BC were behind it 100%.

Implementing this type of strategy is the same philosophical approach as the Graduated Licensing Program - reducing MVAs, deaths, and claims - and also shoring up ICBC financially.

The tort system works because it brings the social cost of bad driving to the public arena by the rise in auto insurance premiums. Tort has a general rather than specific deterrence effect. No-fault doesn't have the deterrent effect because the administrative state just controls costs by reducing benefits, rather than dealing with the root cause.

The United Kingdom reduced its MVA severity/fatality rate to about half what British Columbia's is following a comprehensive road safety strategy akin to that proposed to Victoria by the Provincial Health Officer in 2016.

Further, one might argue that it is against the financial interest of Personal Injury lawyers to push a reduction in collision rates, so they cannot be scapegoated for this sort of common-sense approach. The public will understand this. No-fault is ideologically driven, and is a major step backwards for the citizens of the province.

We implore legislators at this time to withdraw support for no-fault legislation and focus on a Provincial Road Safety Strategy that will make our roads safer and simultaneously reduce costs. We implore our legislators to make decisions based on data, evidence, and best practices that have been proven to work in times past and in other jurisdictions. We believe that this truly is the best option in creating a win-win for both the citizens of BC and the provincial government.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael-James Pennie". The signature is fluid and cursive, with a prominent initial "M".

Michael-James Pennie
President, BC Wrongful Death Law Reform Society