

## NO FAULT INSURANCE & YOU



On May 1, 2021, British Columbians will lose important rights as the NDP Government's new "No Fault" auto insurance scheme is implemented. Injured British Columbians will face significant new challenges if involved in an auto accident.

This complex new policy is built upon over 200 pages of technical regulations which will be virtually impossible for the public – especially those involved in an accident and focused on their health/recovery – to navigate. And the government's No Fault model removes access to an independent judge or jury to make an impartial judgment on these complicated injury cases. Hiring a lawyer will rarely be possible.

### No Fault in Action: Case Study

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*Consider the example of a 13-year-old child with a traumatic brain injury and a spinal cord injury that has left her a paraplegic.  
Where to begin?*

## FOR PERMANENT IMPAIRMENT



Until No Fault, an impartial judge would consider the pain and suffering faced by an injured person, compare that information to other similar cases and injuries, and award damages (money) to ensure that person is compensated. The maximum amount paid for pain and suffering is around \$390,000. Under the new No Fault law, an injury victim will only be entitled to compensation if their injuries are considered by ICBC – not an independent judge – to be a "permanent impairment." The maximum is reduced to \$264,430 and is payable only if ICBC determines the injuries to be "catastrophic."

"Catastrophic" injuries are defined in a very complex manner under new No Fault regulation. Being paralyzed is not enough. Paralysis will only be deemed "catastrophic" if it is quadriplegia or paraplegia, classified as Grade A or B on an impairment scale, and reaches ICBC's permanent impairment rating of 65%. For a child with a brain injury, their injury would only qualify as "catastrophic" if their brain functions are impacted by more than 50%. Despite these injuries being life-altering and requiring expensive lifelong support at any level of severity, the child's family may not qualify for "catastrophic" injury compensation. Again, the ICBC adjuster gets to decide if this child's injury is "catastrophic".

ICBC will use the government's own mathematical formula to add together the percentages of brain injury and paralysis to determine how many dollars a victim may receive.



## FOR CAREER & WAGE LOSS

**What if this child will never be able to pursue a career or paid employment due to lifelong injuries?**

The new No Fault regulations gives an ICBC adjuster the authority to choose what future employment the child may have had, if they had not been injured, and determine how much support they should receive.

In this example, if the adjuster determines that the 13-year-old would only have gone on to a modest career in the absence of the accident, the wage loss benefits will reflect that. Even where it is clear that the victim would have been a high earning individual -- a physician, for example -- their losses will be limited to the available ICBC insurance benefits.

Under No Fault, their individual rights are stripped away. The victim will not have the right or opportunity to show what their future would have held. For those most seriously injured British Columbians who are unable to work, they will be dependent upon ICBC wage loss benefits for the rest of their life and those benefits will be inadequate for many.



## FOR MEDICAL BENEFITS



The injured child will have access to pre-authorized treatments – a fixed number of physiotherapy, kinesiology, and chiropractic sessions, for example. Beyond those pre-approved sessions, the individual must satisfy their adjuster that the recommended treatment is necessary to facilitate their recovery. It will be up to ICBC whether they agree to pay for treatment, even if it is medically-recommended. If the family of this injured child needs a modified vehicle to transport them around, ICBC "may pay" for the adaptation of a motor vehicle, just as they "may pay" if home renovations are needed for enhancements like wheelchair-friendly washroom access. Language is important. Any time ICBC "may pay" for an item, rather than "must pay", the insured remains at ICBC's mercy.

## TAKE ACTION



Visit our website at [notonofault.com](https://notonofault.com) to get in touch with us and share your concerns about No Fault insurance.

You can also reach out to your local Member of the Legislative Assembly (MLA) as a constituent to tell them about how this policy will harm injured people in your community and give almost total control to ICBC.