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## Cap feedback sought

Deadline is Feb. 15 for written views on awards for minor accident injuries

By DAVID JACKSON Provincial Reporter

Nova Scotians have a month to formally tell the Dexter government what they think about the \$2,500 cap on pain and suffering awards for minor injuries in auto accidents.

The province released a [nine-page discussion paper](#) on the issue Friday and is asking for written comments by Feb. 15.

The paper asks whether there should be limits on pain and suffering awards, and if so, what alternatives would be fair to accident victims and still keep premiums affordable.

The government also wants to know whether a change to the current system should be retroactive.

The NDP has opposed the cap since a Tory minority government, with support from the Liberals, legislated it in October 2003. It was seen as a key reform to reduce premiums by 20 per cent.

Premier Darrell Dexter said during the election campaign last spring that the cap would be replaced with a deductible. The deductible amount would be subtracted from whatever financial award was made. For example, if the deductible were \$10,000, then a person awarded \$15,000 by the court or in a settlement would pocket \$5,000.

The idea is that the deductible would discourage people with questionable claims from pursuing compensation. There's no legislated limit on pain and suffering awards for injuries not deemed to be minor.

Mr. Dexter said in December that the deductible system is just one option for changing the status quo.

Finance Minister Graham Steele, the minister responsible for the Insurance Act, has said a couple of other options are changing the definition of a minor injury and raising the \$2,500 limit.

The discussion paper says many factors may have contributed to lower premiums since 2003, and "the precise impact of the cap, if any, is difficult to determine."

Bill Adams, a spokesman for the Insurance Bureau of Canada, said Friday there is a direct correlation between premiums and the number of claims, and the cap has reduced the number of claims.

He also pointed to court cases here and in Alberta that noted that caps on awards reduced premiums.

The idea of making a change retroactive should send a shiver through insurers, Mr. Adams said. The claims that would come forward would create significant costs, and that would send premiums up, he said.

Bedford lawyer Barry Mason, who challenged the cap on constitutional grounds but lost, applauded the NDP's review.

"The cap that was brought in in 2003 was clearly unfair to Nova Scotia consumers and Nova Scotia accident victims," he said.

Mr. Mason said the financial information he saw from the insurance industry during the court challenge showed that insurers are making big profits and could afford to pay claims without raising premiums if the cap was removed.

And they could do it even if the cap was erased back to 2003, he said.

Mr. Mason said a retroactive date would be fair.

"Why would someone injured in an accident in 2004 have lesser rights than someone in an accident in 2010?" he said.

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