



**Response to the Proposed Ontario Personal Support Worker
(PSW) Registry for Health Care**

**Submitted to the
Ministry of Health and Long Term Care (MOHLTC) Ontario**

by the Canadian Union of Public Employees (CUPE) Ontario

and

Ontario Council of Hospital Unions (OCHU)

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Introduction

The Canadian Union of Public Employees (CUPE) Ontario and the Ontario Council of Hospital Unions (OCHU), a CUPE bargaining council, represent approximately 65,000 health care workers among our 210,000 members which include approximately 25,000 Personal Support Workers (PSWs) and Health Care Aides (HCA). CUPE nationally represents more than 615,000 workers making it the largest union in Canada. CUPE members work throughout the public sector including health, community care, social services, municipalities, school boards and universities.

The union welcomes the opportunity to further respond to the Ministry of Health and Long Term Care (Ministry) following the June 2011 consultations held in Toronto with key stakeholders, including CUPE Ontario and OCHU¹. Our response takes into account our forty year commitment to support and enhance quality public healthcare that is part of the work of our union through advocating for a regulatory minimum standard of 3.5 hours of direct care for long term care residents, an end to the compulsory contracting out in home care that has created waiting lists of over 10,000 people, and proper funding for non-profit and public hospital care. As presented at the consultation in June 2011, the union has serious concerns about the purpose, reason and the need for a Registry of PSWs.

A PSW Registry causes “double jeopardy”. The double jeopardy principle means being disciplined twice for the same alleged infraction – once by the employer or supervisor and again by being removed from the Registry list. Double jeopardy is unfair and unneeded and causes unnecessary extra expenses. Duplicate discipline systems and processes are costly. The funding of public health care delivery needs to be a priority.

It is our contention that the proposal for a Registry is premised on the wrong conclusions, focusing solely on the workers instead of the underlying problems facing our health care system. We would argue that it is the lack of meaningful regulations and government policies such as compulsory contracting out of services that are creating the systemic problems, such as:

- Under funding of hospitals, long term care and home care;
- Inadequate accountability and transparency;
- Health and safety risks for both recipients and health care workers;
- Increasing workload;
- Low staffing levels;
- Wait lists²;
- Lack of a legislated direct care standard for long term care residents; and,
- In-attention to investment for skills development and core competencies for PSWs throughout the health care system.

¹ From here on the term “union” will be used to mean CUPE Ontario and OCHU.

² For more information, click on CUPE’s *Solutions to Health Care Waiting Lists* http://cupe.ca/wait-times/Backgrounder_Solutio

CONSULTATION QUESTIONS – PERSONAL SUPPORT WORKER REGISTRY

Purpose

On May 19, 2011, the Ministry issued a news release stating that a Registry for PSWs was going to be created that would better recognize PSWs' work and help to further meet the needs of the people they care for. The union supports efforts by the Ministry to recognize the work of PSWs. We also support policies that ensure that Ontarians whether in hospitals, their own homes or in long-term care homes receive the care they need. As stated, we believe current government policies are failing to do that. Based on our front-line hands-on experience and knowledge of the health care sector, we believe that the PSW Registry will contribute little, if anything, to broad public policy objectives to provide quality public health care.

It is unclear to the union, why the Ministry is creating a Registry after the 2006 recommendations from the *Health Professions Regulatory Advisory Council* (HPRAC) did not support this. A comprehensive and extensive review was undertaken by HPRAC and the recommendation was that PSWs should not be regulated under the *Regulated Health Professions Act (RHPA)*. The union was part of that review and we note that our submission argued against the regulation of PSWs. HPRAC also came forward with the recommendation that a Registry should not be implemented as an alternative to regulation.

HPRAC recommendations from 2006 on the issue of PSW regulation stated the following:

1. *HPRAC recommends that Personal Support Workers not be regulated under the Regulated Health Professions Act, 1991 as they do not meet the requirements for regulation.*
2. *HPRAC recommends that a Registry for Personal Support Workers not be required as an alternate to the regulation under the Regulated Health Professions Act, 1991.*

HPRAC did not recommend a PSW Registry since, among other reasons, it required legislation, a thorough examination of confidentiality issues, and that a Registry would not address issues in retirement homes or in private for-profit care that are currently unregulated. HPRAC also deemed a PSW Registry to be a high-cost item.

If the Ministry is concerned about the level and quality of care for Ontarians, whether recipients of home care, or who reside in long term care homes or hospitals, it should not focus on unnecessary and costly structures such as a Registry but instead provide adequate funding to ensure the level of care and staffing is maintained to meet the needs of patients.

Funding should not be increased, however, to envelopes from which profit can be taken in the absence of a complete opening of the books. High profit levels for private for-profit long term care, private for-profit home care providers and for-profit hospital contract companies, reduce resources that should be available for front line care. Funding increases to for-profit health care providers have not been

accompanied by enhancements in levels of service. The Ministry needs to impose an accountability mechanism on operators that can be enforced by other stakeholders. As well there needs to be greater transparency so that the public can become informed what the current situation is in relation to care levels and care needs and how funding resources are being allocated.

At the consultation meeting in June, it was also suggested that a PSW Registry in Ontario could be utilized to track the PSW workforce for training and labour force planning purposes. The major challenge of ensuring we have a sufficient supply of trained and competent PSWs to meet the care needs of the people of this province is not the absence of a Registry but rather government policies which clearly undermine the terms and conditions of employment, create excessive workloads for existing staff which act as a deterrent for individuals considering entering the field.

Recruitment and retention can be improved through more competitive wages and working conditions. Currently, compensation for the PSW health care occupation is one of the lowest health care compensations in Ontario. Underfunding of health care organizations and a lack of effective accountability and transparency - and the resulting inadequate staffing levels, heavier workloads - and privatization, have caused horrendous working conditions. These problems also act as a deterrent for individuals considering entering the field as a career choice.

The current demographic of the PSW workforce show that the work force is predominantly women and in urban centres where the majority of work is undertaken, also predominantly racialized women. It is concerning for the union that a workforce with this demographic continues to face poor working conditions and now through a potential Registry may have to bear this additional burden.

Any proposed PSW Registry list must be without fees. PSWs cannot afford extra fees. As mentioned above, PSW compensation is often small. Any extra burden for PSWs would have serious negative consequences affecting both PSW recruitment and retention, not to mention morale.

The matter of minimum required core competencies was raised by the Ministry at the June consultation and it was advised that this work was still in process. A PSW Registry may be positive if it helps create more certified courses that allow PSWs to graduate with a PSW certificate. In 2006, HPRAC made the link between standard core competencies and any possible Registry:

A prerequisite to launching a certification Registry would be to establish uniform minimum entry-to-practice standards for PSWs. This would need to address the treatment of equivalent credentials and competencies in order to avoid the exclusion of a significant part of the current workforce. There was little discussion or agreement on who should accredit and or implement this process.

The role of employment/labour relations law should be a part of a certified PSW course curriculum. In education programs for other health care occupations, such as Registered Nurse education, there have been educational components in this area. Learning about the laws setting out workplace rights and

responsibilities including the obligation to act as “patient advocates” and the restrictions on the right of employers to interfere with these rights, is an important part of PSW education. The union is eager to be an integral part of this training program.

We suggest the focus and priority for the government should not be a Registry but to ensure that there is regulatory standardization of the core curriculum and standards for PSW certificate programs. The union also has serious concerns about the increasing role of for-profit, private vocational colleges and remains committed to strengthening and advocating for properly funding our public education system at both the secondary and post-secondary level. Any effort in the direction of certification or accreditation of the educational programs for PSWs should focus on the public education system with public non-profit delivery. Finally current employees in the sector need financial incentives in terms of tuition and book costs as well as paid time, to upgrade their formal qualifications. Many current employees have the motivation but lack the financial wherewithal to take the time to do this on their own.

ACCESS TO INFORMATION

Proposed Registry Privacy

Based on the information provided to us currently, there are potentially serious issues around the privacy rights of PSWs and this of the utmost importance to the union. In British Columbia (BC), only employers can check the PSW Registry. It seems that an Ontario Registry may be open to public viewing which would undermine privacy rights of individuals. The only information BC employers can see is if a PSW is included on the list (or Registry). The Registry is *not* a reference-checking system for employers in BC. After an individual PSW is added to the list, their contact information is destroyed. Consequently we are perturbed that while Ontario Privacy’s Commissioner has been asked to comment on issues of privacy relating to the Registry the fact that this report will not be made public is extremely disconcerting. The union will be in contact with the Privacy Commissioner to ensure the privacy rights of PSWs are protected.

MAINTENANCE and ELIGIBILITY

Governance of a Proposed PSW Registry

If a PSW Registry is created, a committee comprised of PSW unions should monitor the Registry and the Registry process. In BC, the Registry is housed within a non-profit entity supervised by the Ministry of Health. The union affiliate in BC called the Hospital Employees Union (HEU) sits on one of the Registry Advisory Boards.

Proposed Registry Inclusion

If being included on a PSW Registry entitles a PSW to work for a publicly funded or regulated health care organization, any PSW Registry must include “grandparenting”. Grandparenting means that experienced health care workers working as PSWs and who may not have certificates to prove their qualifications, be allowed to join the Registry.

If a PSW Registry list is created, PSWs should have at least a one (1) year window to apply for “grandparenting” into a Registry. In BC, the Employer sent in the names of the PSWs, and individual PSWs checked that their name was on the Registry list by a certain date regardless of whether they had any certificates. As long as you were currently working, or had ever worked as a Health Care Aide (HCA) or PSW, you could be added to the list. There is a toll-free 1-800 number, mailing address, and web site in order to check to see if your name is on the Registry list. A “receipt” is issued to all eligible and interested health care workers once they are placed on the Registry list.

There should be consideration made about other health care workers who contribute to the health care team and their inclusion in any proposed PSW Registry list. Those individuals who have previously worked in health care but who are not currently working, should also be considered in any proposed PSW Registry list if they so choose.

If a voluntary PSW health care Registry is to be created, similar to the social worker Registry list in Ontario, only health care workers who want to use the title or are classified as “Personal Support Workers” by employers should be included. Health care workers who use alternate titles, need not join the list, if they so choose.

Proposed Registry Exclusion

If a proposed PSW health care Registry is created, the Registry exclusion process must be transparent, fair and follow due process. The negotiated grievance arbitration process already established in collective agreements needs to be examined as an appropriate Registry list exclusion tool.

In BC, only abuse allegations (physical, emotional, financial, sexual, neglect and deprivation of food or fluids as a form of punishment) can trigger a Registry investigation. The unions are involved in creating a list of fair investigators in BC.

In BC, the Registry process introduces intermediary steps, such as education rather than termination, whereby the accused member may enter into an anger management course or work in non-direct care, similar to the process currently in place for doctors and registered nurses.

In BC, the Registry will **not** keep a record of abuse allegations:

- if they do not result in a termination, or
- where a special investigator, or arbitrator, determines that the accused individual should not be removed temporarily or permanently from the Registry.

The union should not bear the cost of any investigation. Processes for non-unionized PSWs should also be fair and follow due process.

In Summary

While the union supports the objectives of ensuring Ontarians receive the care they need, it is our contention that the proposal for a PSW Health care Registry is premised on the wrong conclusions, focusing solely on the workers instead of the underlying health care sector problems.

Again we want to stress that the government policies around regulation, levels of care and the instability of the workforce need to be addressed before the government gives any consideration to a Registry. In review, these include the following:

- Under funding of hospitals, long term care and home care;
- Inadequate accountability and transparency;
- Health and safety risks for both recipients and health care workers;
- Increasing workload;
- Low staffing levels;
- Wait lists;
- Lack of a legislated direct care standard for long term care residents; and,
- In-attention to investment for skills development and core competencies for PSWs throughout the health care system.

We urge the Ministry to take the bold step of re-allocating the resources and energy directed towards the creation of a Registry to, instead, addressing the longstanding problems that are the underlying causes of the serious challenges undermining the quality of care in all facets of the health care system. A PSW Registry is not the “fix” that is needed.

If the government does moves towards a Registry, however, the union strongly urges the government to consider the following:

- the PSW Registry should remain a list of names with strict privacy rules supported by Ontario’s Privacy Commissioner;
- the union be involved in governance;
- the list involves grandparenting;
- the list involves a fair exclusion process;
- the list be free for PSWs to join;
- the list be non-mandatory; and that
- a province-wide certified PSW educational program be created which will include information on workplace rights and responsibilities and which involves Unions as contributors.

Finally the union is eager to discuss with the Government:

- Effective ways to ensure Ontarians get the public health care that they require;
- Appropriate and effective financial incentives for current employees in this sector to upgrade their qualifications and;
- Standardized training and education measures that need to be developed to ensure that PSW work is an attractive career choice. Educational changes also require the province to address the issues of wages and working conditions of a predominately female work sector to ensure that there is an adequate supply of workers to provide this care.

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CUPE Research

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