



**Ontario Home Care Submission**

**Standing Committee on the Legislative Assembly**

**Bill 139, Employment Standards Amendment Act**

**(Temporary Help Agencies), 2009**

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**March 25, 2009**

## Introduction

The Board of the Ontario Home Care Association (OHCA) is supportive of amendments to the *Employment Standards Act, 2000* which are designed to further the government's overarching objective to promote and protect employment rights and to correct any specific situations in the temporary help agency sector where workers are not treated fairly.

However, home care providers are not 'temporary help agencies' that supply and assign employees to a 'host' employer. There are identifiable differences between the structure of the temporary help agency and the home care provider specifically related to labour practices and policies. This difference is due, in large part, to the type of work with which home care workers are entrusted and the needs of the vulnerable client population served.

Home care providers are negatively affected by some of the proposed amendments within Bill 139, *Employment Standards Amendment Act (Temporary Help Agencies) 2008*. In the context of health care and in particular, home care which is a unique and growing place of work, it is vital to address ways to support the workforce and ensure success in human resource recruitment and retention. Members of the Ontario Home Care Association wish to maintain current employment practices that are beneficial to both the home care worker and the client in order to ensure that a growing number of Ontarians are able to stay independent and functional in their own homes.

## Ontario Home Care Structure

- The Government of Ontario is committed to transforming the broader health system from one that is episodic, acute and institutionally oriented to one that addresses the longer-term management of chronic conditions for people of all ages within a home-based environment. Research shows that people of all ages want to receive care at home for as long as possible. Home and community care is acknowledged to be vital to the transformation of Ontario's health care system.
- Publicly funded home care is intended to supplement the care provided by family. Publicly funded home care services in Ontario are coordinated by Community Care Access Centres (CCACs).
- Privately funded home care, purchased independently by families and individuals, assists with growing pressures to balance work, raise children and care for loved ones who might require more care than the current publicly funded system supports.
- More and more Ontarians are choosing to purchase home care services privately as a supplement to the publicly funded home care system. There has been a corresponding increase in the number of private/corporate insurance plans to respond to this trend.
- OHCA members provide homecare services under contracts with all three levels of government, Community Care Access Centres, insurances companies, institutions, corporations and private individuals. OHCA members have a range of different types of corporate tax status

### **Ontario Home Care Delivery**

- The goals of the client drive the work of the home care provider and can include health promotion and teaching, curative intervention, end-of-life care, informal caregiver support, provision of service to support, independence and optimize functioning, and social adaptation and integration.
- The home care provider delivers care in the home through the work of regulated health professionals (e.g. nursing, therapy) and also supports clients with personal care (bathing, toileting, feeding) and home supports (e.g. light housekeeping, transportation, companionship and meal preparation).
- Home care recipients, particularly the elderly, often require regular and consistent care in the morning hours (rising) and in the evening hours (retiring). There is a corresponding need for home care employers to ensure that there is a high number of staff available to manage this fluctuation in client care needs.
- All home care services enhance quality of life, are cost-effective, and prevent unnecessary hospitalization, emergency department admissions and premature institutionalization, thereby serving the broader goals of the Ontario health care system.
- All home care providers in Ontario, regardless of type funding source, bridge the gap between the various settings of health and social care, including acute care hospitals, emergency rooms, supportive living, long term care facilities, hospices, and the physician's office. These close linkages meet the client's needs in an individualized and comprehensive manner, and go well beyond physical and mental health care to engage social supports as well.

### **Ontario Home Care Workforce**

- Human resource strategies that work well for the institutionally-based acute and long-term care sectors do not readily translate to home and community care which is highly mobile, decentralized and supervised remotely.
- There are unique aspects to providing care as a 'guest' in someone's private home which requires careful management to maintain a satisfied, safe and productive staff. This consideration is critical and fundamental to creating strategies designed to attract and retain adequate health human resources.
- In order to deliver the most responsive home care, flexible staffing models are required to ensure that staff are available to respond to fluctuations in volume assignment, (particularly in the morning and evening hours) as required by the client population.
- There are additional identifiable differences in the approach and practices of home health care providers with staff because of the type of work with which they are entrusted and the needs of the vulnerable client population that they serve.

- The unique and differentiating characteristics of home care providers include:
  - On-going intensive relationship with employees over time to manage assignments
  - Responsibility for an ongoing process of assessing and managing health and safety issues for staff in the home (e.g. work hazards such as ensuring adequacy of lighting, clearing ice and snow on walkways, smoking, dealing with animals)
  - Specialized recruitment process geared to suitability, aptitude and competency specific to the needs of frail and vulnerable clients in the home
  - Provision of specialized training and educational programs geared to supporting clients in the home
  - Provision of detailed information to each employee prior to delivery of home care services
  - On-going supervision and involvement of the employer in the work of the staff and on-going facilitation/collaboration with family caregivers and other formal caregivers (e.g. appointments with physicians, hospital discharge arrangements, medication pick-up)

### **Changes Required to Proposed Legislation**

The initial recognition of home care services provided through the CCACs as separate from temporary help agencies within the Bill are welcomed from a policy perspective. OHCA believes publicly funded and private services should be treated the same under Bill 139. In order to ensure the continued flexible and responsive provision of home care in Ontario, whether publicly or privately funded or both, the OHCA believes that **one** of the **two** suggested changes to section 74.2 should be considered.

**Recommendation 1.** The OHCA recommends that the government change section 74.2 to:

**This Part does not apply in relation to an employee assigned by his/her employer to an individual person to provide professional services, personal support services or homemaking services as defined in the *Long-Term Care Act, 1994*.**

**OR ALTERNATIVELY**

**Recommendation 2.** The OHCA recommends that the government change section 74.2 to:

This Part does not apply in relation to an individual who is an assignment employee assigned to provide professional service, personal support services or homemaking services

as defined in the Long-Term Care Act, 1994 if the assignment is made under a contract between,

- a) The individual and a community care access corporation within the meaning of the Community Care Access Corporations Act, 2001;
- b) An employer of the individual and a community care access corporation within the meaning of the Community Care Access Corporations Act, 2001; or
- c) **An employer of the assignment employee and an individual person, for the provision of professional services, personal support services or homemaking services as defined in the *Long Term Care Act, 1994*.**

## 1. Regulation Change - Termination and severance

The Ministry of Labour has indicated that with the passage of Bill 139, the government intends to revoke the Elect to Work exemptions related to Termination and Severance.

As with the revocation of Public Holidays, there will be significant additional costs to be borne by the MOHLTC and private funders in order to address the proposed termination and severance provisions.

Due to the

- changing mix of clients,
- need for flexibility in staffing to meet client needs,
- the importance of the provider-client relationship in community care,
- fluctuations in volume assignment,
- variable durations of service to be provided and a restricted labour market,

the OHCA believes that the continuation of these exemptions is necessary.

Because of the unique nature of home care, termination and severance obligations could be triggered if an employee experiences reduced hours.

The OHCA recommends that prior to proceeding with the proposed Regulation change to termination and severance, the government undertake a full review of the potential ramifications and the full extent of the costs.

In the event that the government determines that the costs to the economy are acceptable, OHCA recommends that all elect-to-work employees be considered as having a start date for these provisions effective upon the passage of the bill. This will allow all home care providers the time to adjust financially to this new obligation.



### **About the Ontario Home Care Association**

The Ontario Home Care Association (OHCA) engages in advocacy efforts directed at ensuring that the general public and the politicians understand the role and value of the home and community care system.

OHCA members provide homecare services under contracts with all three levels of government, Community Care Access Centres, insurances companies, institutions, corporations and y private individuals. OHCA members are accredited through Accreditation Canada and/ or the International Standards Association (ISO). Association members must adhere to a set of Association standards and complete a Quality Template, the results of which are aggregated and form the basis of an annual Balanced Scorecard Report to the public available on the OHCA website.

Standards regarding quality human resource practices and policies are considered part of the obligation of the OHCA member. Please visit the Association website at [www.homecareontario.ca](http://www.homecareontario.ca) for a complete overview of the services provided to support members in their quality endeavours.

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