

## **A Health Sector Response to the Changing Workplaces Review Interim Report**

### **Submitted By:**

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**Submitted: October 14, 2016**

### **Introduction:**

As the Advisors noted in the interim report, the Changing Workplaces review (CWR) is born out of broader societal concerns around the changing nature of workplaces, which are resulting in increasing numbers of people entering precarious employment conditions. The Decent Work and Health Network (DWHN) is a group of health workers who are advocating for improvements in employment and working conditions in Ontario. We believe this will improve health and promote health equity in the province.

As health workers and members of the DWHN, we are well-aware that precarious forms of employment are rapidly increasing in Canada at 2 to 3 times the rate of standard forms of employment, which refers to permanent, full-time stable employment that provide benefits including pensions and extended health coverage)<sup>1</sup>. Furthermore, we are direct witnesses to growing health impacts that precarious work has on the health of individuals and their broader communities. As such, the Decent Work and Health Network sees the Changing Workplaces Review as an important reflection on public policy as a health promotion tool, as it has the ability to influence health and health equity. Health in All Policies (HiAP)<sup>2</sup> is a framework from Finland that has been use to examine ways that public policy can be created to have favorable impacts on population health and health equity, and we will refer back to this perspective to highlight how public policy can be strengthened when this lens is applied.

As health workers, we are able to intervene to support the health of our patients through various individual-focused care provision. Yet, there are factors shaping health outcomes that are outside of healthcare services, such as employment conditions. Consequently, we are dependent on government policies to address the macro-level issues that support our work and to influence the health and well-being of all Ontarians. From this vantage point, we have completed a review of existing health literature

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<sup>1</sup> Cranford, C., Vosko, L. and Zukewich, N (2003). Precarious Employment in the Canadian Labour Market: A Statistical Portrait. Just Labour. Vol 3Fall 2003: 6-22.; Galarneau, D. (2010) Temporary Employment in the Downturn. Perspectives. Statistics Canada. November, 2010. Catalogue no. 75-001-X; Vosko, Leah (2005). Precarious employment: towards an improved understanding of labour market insecurity. In Vosko , L (Ed) Precarious Employment. Montreal and Kingston: McGill Queens University Press,

<sup>2</sup> Leppo, K., Ollila, E., Pena, S., Wismar, M., & Cook, S. (2013). Health in all policies. *Seizing opportunities, implementing policies. Helsinki, Finland: Ministry of Social Affairs and Health.*

to support the strengthening of policy demonstrating an understanding of healthy communities' vital link to the health of all workers. The social determinants of health (SDOH) are “the conditions in which people are born, grow, live, work and age”<sup>3</sup>, and employment and working conditions are key social determinants.

One of the primary social determinants of health is income<sup>4</sup>. Unionized jobs ensure that workers have higher wages than their non-union counterparts, especially for lower-skilled workers<sup>5</sup>. A review of 16 binding contracts with employers in the Pacific Northwest<sup>6</sup> demonstrated that unions support health promotion through reducing precariousness of working conditions by raising earnings<sup>7</sup>, ensured that health insurance was paid by employers and by reducing stress by protecting workers from unfair treatment and discrimination<sup>8</sup>. Each of these improvements in working conditions are linked to the social determinants of health.

We commend the advisors of the CWR for soliciting evidence-based perspectives from our academic peers. However, we noted that there was limited evidence drawn from health literature. Given there is a broad base of evidence that demonstrates how employment is one of the key social determinants of health, we believe that social policy can only be enhanced by factoring in how precarious work impacts workers' health, as this cannot be viewed as an issue that is separate from a healthy economy. As such, we are troubled to see the issues of workers and employers being framed by the advisors as “competing interests,” and we believe that a HiAP perspective highlights that a strong economy and healthy workers do not have to be framed as adversarial goals. As ample evidence demonstrates, a strong economy does not guarantee improved, widely-dispersed health outcomes. This is clear in the abundant contexts where dramatic health disparities exist, even within economically well-developed societies<sup>9</sup>. Therefore, government interventions at the policy level play an important role in health promotion.

As such, we hope our submission helps support a strong case for the Advisors and policy makers to ensure that policies developed through the CWR also reflect the current evidence base of health literature alongside evidence from other fields of study. We have focused on a few key sections of the

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<sup>3</sup> Commission on the Social Determinants of Health (2008). Closing the gap in a generation: health equity through action on the social determinants of health. Final Report of the Commission on Social Determinants of Health..

<sup>4</sup> Braveman P. (2011) The social determinants of health: coming of age. 32(1): 381–398.

<sup>5</sup> Hagedorn, J., Paras, C. A., Greenwich, H., & Hagopian, A. (2016). The role of labor unions in creating working conditions that promote public health. *American journal of public health*, 106(6), 989-995.

<sup>6</sup> Baron SL. (2014) Promoting integrated approaches to reducing health inequities among low-income workers: applying a social ecological framework. 57(5):539-556.

<sup>7</sup> Kondo N, Sembajwe G, Kawachi I, van Dam RM, Subramanian SV, Yamagata Z. (2009) Income inequality, mortality, and self rated health: meta-analysis of multilevel studies

<sup>8</sup> Duncan GJ, Daly MC, McDonough P, Williams DR. (2002) Optimal indicators of socioeconomic status for health research 2002;92(7):1151–1157.

<sup>9</sup> Lee, A., Chua, H. W., Chan, M., Leung, P. W., Wong, J. W., & Chuh, A. A. (2015). Health Disparity Still Exists in an Economically Well-Developed Society in Asia. *PLoS one*, 10(6), e0130424.

Employment Standards Act (ESA) to highlight the most current research in our field and to offer policy perspectives that prioritize healthy communities while simultaneously supporting a robust economy. We would encourage advisors to consider a deeper examination of timely health literature to ensure that all Ontarians benefit from the Employment Standards Act (ESA) and the Labour Relations Act (LRA) that promote healthy economies and healthy communities.

### 5.3.2. Scheduling

#### BACKGROUND

As noted by the Advisors in the Interim Report, the ESA in Ontario lacks robust provisions for regulating scheduling of work by employers. Except for the ‘three hour rule,’ (to be compensated at minimum wage), the ESA does not have any provisions on the rights of workers to have advance notice of shift schedules, last minute changes to existing schedules, and guaranteed number of work hours.

As acknowledged by Advisors, scheduling uncertainty and irregular work hours are key dimensions and contributors to precarious employment. Data from Canada<sup>10</sup> and US<sup>11</sup> show that compared to workers in stable jobs, workers facing job insecurity (i.e. part-time, temporary workers) and low-wage workers are more likely to be subject to irregular, erratic and unpredictable work schedule/hours. Analysis of Ontario labor market data by Canadian Centre for Policy Alternative found that 42% of low-wage workers in Ontario are subject to fluctuating hours from week to week. Almost one in three workers earning more than \$15 also faced variable hours.<sup>12</sup> Research by the Poverty and Employment Precarity in Southern Ontario (PEPSO) group in Greater Toronto and Hamilton region found that, compared to those in stable employment, workers with precarious and less secure jobs are over four times more likely to report that their work schedule often changes unexpectedly.<sup>13</sup> Nearly half of the workers in precarious employment report that they often do not know their work schedule in advance (at least one week in advance half the time or less).<sup>14</sup>

There is a growing body of evidence that reveals how the lack of predictable and stable work schedules can result in damaging socio-economic and health impacts on workers and their families. A Canadian study with 376 workers in full-time employment found that, compared to other employees, workers in non-fixed day shifts and weekend work reported experiencing “significantly higher emotional exhaustion and health problems.”<sup>15</sup> Another study from Belgium conducted with 480 patients at a

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<sup>10</sup> Poverty and Precarious Employment in Southern Ontario (PEPSO) group. The Precarity Penalty. Impact of precarious employment on individuals, household and community – and what to do about it. 2014. <http://www.unitedwaytyr.com/document.doc?id=307>

<sup>11</sup> Economic Policy Institute. Irregular Work Scheduling and its Consequences. EPI Briefing Paper # 394. 2015. <http://www.epi.org/publication/irregular-work-scheduling-and-its-consequences/>

<sup>12</sup> Block, Sheila. A Higher Standard: The case for holding low-wage employers in Ontario to a higher standard, Canadian Centre for Policy Alternatives, 2015. Online: [https://www.policyalternatives.ca/sites/default/files/uploads/publications/Ontario%20Office/2015/06/Higher\\_Standard.pdf](https://www.policyalternatives.ca/sites/default/files/uploads/publications/Ontario%20Office/2015/06/Higher_Standard.pdf)

<sup>13</sup> PEPSO group, 2014. See note 1.

<sup>14</sup> PEPSO group, 2014. See note 1.

<sup>15</sup> Jamal, M. Burnout, stress and health of employees on non-standard work schedules: A study of Canadian workers. *Stress and Health*, 2004, 20(3):113 – 119.

healthcare setting, found that, compared to patients who reported having stable employment, those working irregular, frequently changing hours and compressed working weeks had up to 40 percent more health complaints, and also reported more mental health and sleeping problems.<sup>16</sup> Analysis of General Social Survey data from U.S found that workers who got one week or less notice of their schedules were more likely to have low self-rated health than workers who got more advance notice.<sup>17</sup> On-call and 'temp agency' workers appear to be most at risk. A systematic review found that on-call work led to mental health problems, job stress, sleep disturbances and higher concerns about personal safety.<sup>18</sup> Another study from Sweden with 778 on-call workers (seeking jobs through temp agencies) found that conditions of unpredictable schedule and work hours led to many financial constraints (e.g., unable to make ends meet or get loans) which in turn resulted in mental health impacts as well as physical health impacts such as "stomach, back, and neck complaints, more headaches, and greater tiredness and listlessness."<sup>19</sup>

Many studies examining scheduling uncertainty point to damaging impacts on work-life balance. For example, several studies focused on hotel workers in Australia have shown that low predictability and control over work hours, particularly among casual workers, resulted in high work-life conflict<sup>20</sup> and low work-life balance.<sup>21</sup> Research in the US among retail workers also found that unpredictable schedules lead to work-family conflict and undermines non-work everyday activities.<sup>22</sup> Evidence show that work-life imbalance and conflict in turn led to a number of health impacts including mental health disruption,<sup>23</sup> stress,<sup>24</sup> sleep disturbance, fatigue and low adherence to healthy exercise and dietary regimes.<sup>25</sup> In combination with other dimensions of precarious employment conditions, work schedule unpredictability can elevate and compound risk factors in the long run to cause serious chronic health impacts including heart diseases, diabetes and cancers.<sup>26</sup>

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<sup>16</sup> Martens, M, Nijhuis, F, Van Boxtell, M, Nottnerus, J. Flexible work schedules and mental and physical health. A study of a working population with non-traditional working hours. *Journal of Organizational Behavior*. 1999, 20, 35-46.

<sup>17</sup> Human Impact Partners and Center for Popular Democracy. Scheduling your Health Away: How unpredictable work hours affects health and well-being. Executive Summary. 2016. [http://www.humanimpact.org/wp-content/uploads/SeattleHealth-Executive-Summary\\_rev1.pdf](http://www.humanimpact.org/wp-content/uploads/SeattleHealth-Executive-Summary_rev1.pdf)

<sup>18</sup> Nicol, A, Botteril, J. On-call work and health: a review. *Environ Health*. 2004; 3: 15.

<sup>19</sup> Aronsson, G., Dallner, M, Lindh, T, Göransson, S. Flexible Pay but Fixed Expenses: personal financial strain among on-call workers. *International Journal of Health Services*, 2005, 35 (3): 499–528.

<sup>20</sup> McNamara, M, Bohle, P, Quinlan, M. Precarious employment, working hours, work-life conflict and health in hotel work. *Appl Ergon*. 2011 Jan;42(2):225-32

<sup>21</sup> Bohle P, Quinlan M, Kennedy D, Williamson A. Working hours, work-life conflict and health in precarious and "permanent" employment. *Rev Saude Publica*. 2004, 38 (Supplement):19-25

<sup>22</sup> Henly, J, Lambert, S. Schedule Flexibility and Unpredictability in Retail: Implications for Employee Work-Life Outcomes. Working Paper of the University of Chicago Work Scheduling Study. July 2010.

<sup>23</sup> McNamara et al, 2011, see note 10

<sup>24</sup> Henly and Lambert, 2010, see note 12.

<sup>25</sup> Bohle et al, 2004, see note 11.

<sup>26</sup> Sirgrist, J. , J. Benach, A. McNight, B. Goldblatt, and C. Muntaner. *Employment arrangements, work conditions and health inequalities. Report on new evidence on health inequality reduction*. Produced by Task group 2 for the Strategic review of health inequalities. 2010. Marmot Review, London, UK.; Economic Policy Institute., 2015, see note 2.

Research also indicates that unpredictability of works hours is bad for business as it can increase workplace stress, increased absenteeism and workplace conflicts.<sup>27</sup>

Based on this evidence adverse impacts of scheduling uncertainty on health and wellbeing, Decent Work and Health Network strongly recommends for changes in the ESA that can guarantee workers adequate advance notice of work schedule (two weeks), guaranteed minimum hours of work at regular pay, and appropriate compensation for cancelled shifts for on-call workers. Doing so will help to overcome work-life conflict and a host of mental health and physical health impacts, particularly among vulnerable, low-wage workers.

#### REVIEW OF ADVISORS' OPTIONS:

**Option 1** would maintain the status quo. We reject this option for reasons stated above. Evidence shows that lack of adequate advance notice and not having say and control over work schedule changes can have damaging impacts on financial wellbeing and health of workers. Since precarious and low-wage workers tend to be more likely to face scheduling uncertainty, maintaining the status quo would put them at further risk for financial insecurity and poor health.

**Option 2** would amend reporting pay rights in the ESA. The Advisors acknowledge in the CWR that when workers go to work but are sent home as a result of shortage of work, they need to be compensated fairly.

Of the three suggestions made by the Advisors regarding this option, we support **Option 2(c)** to increase minimum hours of reporting pay from three hours at minimum wage, to four hours of regular pay or length of the cancelled shift, whichever amount is less. This is fair considering the rising costs of transit and longer commute times. Further, since low-wage and precariously employed workers are more likely to face irregular work schedules, this increase in minimum hours to four hours at regular pay will contribute to greater financial security for these vulnerable workers.

To prevent employers from routinely scheduling workers for split shifts or shorter shifts, we also echo Workers' Action Centre (WAC) and Parkdale Community Legal Services (PCLS)<sup>28</sup> recommendation that the minimum allowable shift scheduled per day be three hours. This will help to increase financial security and work-life balance for workers.

**Option 3** would require employers to consider requests made by employees to change their schedules at certain intervals, as part of employees' job-protected rights.

We support Option 3 in part. Legislation needs to ensure that this is a statutory job-protected right for workers and that workers should be able to request schedule changes by their employers without facing any penalties. However, we do not believe that there should be a limit on the number of schedule

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<sup>27</sup> Zeytinoglu, I.U, Lillevik, W, Seaton, M.B., Moruz J. Part-Time and Casual Work in Retail Trade: Stress and other Factors Affecting the Workplace. *Relations Industrielles / Industrial Relations*. 2004, 59 ( 3, SUMMER): 516-544

<sup>28</sup> Workers' Action Centre and Parkdale Community Legal Services. Building Decent Jobs from the Ground Up. 2016. <http://www.workersactioncentre.org/wp-content/uploads/2016/09/Building-Decent-Jobs-from-the-Ground-Up.pdf>

change requests, or timing of these requests. We recommend provisions that require employers to consider all reasonable and valid requests for schedule changes.

**Option 4** would require employers to give advance notice in creating and changing work schedules. This would make schedules and hours more predictable for workers.

We support this option and the provisions outlined by the Advisors. This option and provisions replicate best practices from the San Francisco Retail Workers Bill of Rights. We recommend the amendments to the provision:

- Require employers to share schedules with employees two weeks in advance;
- Require employers to offer additional hours of work to existing part-time employees before hiring new employees or using staffing agencies or contractors to perform additional work;
- Provide new employees with a good faith written estimate of the employee's expected minimum number of scheduled shifts per month and the days and hours of those shifts
- Require employers pay for on-call shifts - If a worker is required to be "on-call," but is not called in for work, the employer must pay the worker a premium of two to four hours of pay at the employee's regular hourly rate (depending on the amount of notice and the length of the shift).

**Option 5** would allow sectoral regulation of scheduling, by promoting the opportunity for sectors to come up with their own arrangements.

We reject this option, unless good sectoral oversight and regulation is implemented to ensure that the process is fair, integrates both union and non-unionized workers into the process, and takes inherent power imbalances between the employer and employee into account.

### 5.3.5 Paid Sick Days

#### BACKGROUND:

Currently the ESA does not ensure that workers have access to paid sick leave. Current policies under the provisions for Personal Emergency Leave only require employers with 50 or more employees to offer workers 10 days of unpaid leave. The existing exemption leaves the 1.7 million Ontarians who work for employers with fewer than 50 employees without legislated access to personal emergency leave; this represents a third of Ontario's workforce.

Canada, along with the United States and Japan, are the only OECD countries without national policies for paid sick days<sup>29</sup>. Presenteeism, coming to work while sick, is more common amongst workers with no paid sick leave<sup>30</sup> increasing the risks for the spread of communicable diseases, such as influenza. Those without paid sick leave are three times more likely to forgo medical care for themselves and 1.6 times more likely to forgo medical care for their families compared to individuals with paid sick leave benefits.

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<sup>29</sup> Heymann, J., Rho, H. J., Schmitt, J. & Earle, A. Contagion Nation: A Comparison of Paid Sick Day Policies in 22 Countries. (2009). at <[www.cepr.net](http://www.cepr.net)

<sup>30</sup> DeRigne, L., Stoddard-Dare, P. & Quinn, L. Workers Without Paid Sick Leave Less Likely To Take Time Off For Illness Or Injury Compared To Those With Paid Sick Leave. *Health Aff. (Millwood)*. **35**, 520–7 (2016).

This, in turn, delays treatment, slows recovery times, and increases the probability that minor conditions can grow into more serious illnesses.

The Public Health Agency of Canada's recommendation is that "if you are sick, stay home"<sup>31</sup>. Ontario's current ESA does not allow for Ontarians to follow the recommendations of this federal agency demonstrating that our policies are out of step with health promotion strategies. Parents with paid sick days are five times more likely to care for sick children than parents who do not have paid sick days<sup>32</sup>. Children whose parents stay home with them while sick have faster recovery times. Paid sick days also impact working individuals' ability to care for their aging parents<sup>33</sup>.

### **Review of Advisors Options:**

#### **Option 1** Maintain the status quo

We reject this option for the reasons stated above.

**Options 2(a)** would introduce paid sick leave based on a fixed number of days per year or earned by an employee at a rate of one hour for every thirty-five hours worked.

We support this option and recommend that paid sick leave should be provided at a rate of one hour for every thirty-five hours worked up to a maximum of seven days per year.

**Option 2(b)** would require a qualifying period before an employee is entitled to paid sick leave or other limitations to access. We reject this option as it would likely leave employees who are in more precarious employment circumstances without these benefits. Those with precarious employment are at greater risk and this option would not meet their needs.

**Option 2(c)** Would require employers to pay for doctor's notes if they require them. We reject this option as it continues mistrust between employers and workers. Second, it still requires workers to take time away from their recovery period to attend a doctor's appointment. This increases the likelihood of transmission of infectious diseases, either by the worker who is sick, or increases their exposure to infection. Workers may also face other costs associated with travel, potential child care costs, all just to get a note from a doctor. Even if the employer is responsible for the cost of the note itself, there may be other costs that the employee will have to cover.

### **Summary**

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<sup>31</sup> Government of Canada, P. H. A. of C. Public Health Reminder: Seasonal Flu - Public Health Agency of Canada.

<sup>32</sup> Heymann, S. J., Gerecke, M. & Chaussard, M. Paid health and family leave: the Canadian experience in the global context. *Can. J. public Heal. = Rev. Can. santé publique* S9-15 at <<http://www.ncbi.nlm.nih.gov/pubmed/20629441>>

<sup>33</sup> Earle, A., Mokomane, Z. & Heymann, J. International perspectives on work-family policies: Lessons from the world's most competitive economies. *21*, 191-210 (2011)

Health promotion strategies necessarily implicate multiple sectors, and for this reason it is crucial that public policies are designed to be in support of health for all, as they are arguably essential for stimulating sustainable societal impacts. The CWR offers an important window of opportunity to ensure that public policy considers the long-term interests for the health of all Ontarians. Not only can better working conditions support the health of individual workers, it can ensure that health equity gaps are filled while having profound impact on the provincial budget, as 41.9% of provincial dollars are spent on health care. Fostering healthier working environments can stimulate significant government saving. We hope that the Advisors for the CWR and policy makers see the value in including health literature as a base of evidence to inform their decision making process. Thank you for conducting a thorough evaluation of the issues related to employment and working conditions in Ontario.