



## **ONTARIO NURSES' ASSOCIATION**

85 Grenville Street, Suite 400  
Toronto, ON M5S 3A2  
Phone: (416) 964-8833  
Fax: (416) 964-8864  
Website: [www.ona.org](http://www.ona.org)

### **SUBMISSIONS TO THE ONTARIO CHANGING WORKPLACES REVIEW ON PERSONAL EMERGENCY LEAVE**

Changing Workplaces Review  
Employment Labour and Corporate Policy Branch  
Ministry of Labour  
400 University Avenue, 12<sup>th</sup> Floor  
Toronto

**August 30, 2016**

## **Introduction**

The Ontario Nurses' Association (ONA) represents approximately 62,000 registered nurses (RNs), nurse practitioners (NPs), registered practical nurses (RPNs), and allied health professionals and more than 14,000 nursing student affiliates across Ontario. Our members provide front-line care in hospitals, long-term care facilities, public health, the home and community, clinics, and industry. The vast majority of ONA's members are women.

Under the current legislation, the *Employment Standards Act (ESA)* provides that employees whose employer regularly employs 50 or more employees are entitled to 10 days of unpaid personal emergency leave (PEL). ONA believes that the current flexibility in the personal emergency leave provisions of the *ESA* should be maintained and that the legislation should expand the application of such leave to all workers, by removing the 50-employee threshold from the current provision.

The Interim Report presents four options. We will address each option separately below.

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

We reject this option as it fails to protect the workers who work in small and medium-sized workplaces. It is often these workers who are the most vulnerable and in the most precarious types of jobs, therefore maintaining the status quo is not in keeping with the purpose of the Changing Workplaces Review.

### **Option 2: Remove the 50-employee threshold for PEL.**

ONA has reviewed the submissions made by the Workers' Action Centre (WAC) on PEL. ONA supports the WAC in its submissions regarding Option 2. The 50-employee threshold will increasingly impact the health-care sector in coming years as smaller workplaces become more common in this sector.

As referenced in our Supplemental Submissions to the Changing Workplaces Review on February 25, 2016, the provision of health care in Ontario is increasingly fragmented among workplaces as services are downloaded out of the hospital sector. Some health-care services previously available in large, publicly-funded hospitals are now provided in the patient's home

by community agencies, in clinics and/or by family health teams. There is, as a result, a shift towards a proliferation of smaller workplaces in the health-care sector. While a majority of health-care employers are still larger entities, this is rapidly changing as the provision of health-care services is transitioned and redistributed to the community. ONA submits that there is no reason why health-care practitioners who work for these smaller community service providers should not have the same entitlements as their peers in the hospital or long-term care sectors.

**Option 3: Break down the 10-day entitlement into separate leave categories with separate entitlements for each category but with the aggregate still amounting to 10 days in each calendar year.**

This option would provide a specific number of days for each type of leave identified in the current provision, for example a specified number of days for each of personal illness/injury, bereavement, dependent illness/injury or dependent emergency leave.

ONA rejects this option and supports the WAC's submissions on this point. Breaking the leave entitlement down into multiple discrete leaves would only reduce the types of leave available to workers and hinder the current flexibility provided by the *ESA*. The changing landscape of Ontario's population and workplaces lends itself towards providing higher, rather than lower, flexibility in terms of personal leave entitlements.

The Interim Report notes that employers raised concerns about "absenteeism and employees abusing the PEL provisions. Some employers pointed to high levels of absenteeism on Mondays and Fridays and on days abutting holidays as circumstantial evidence of abuse."<sup>1</sup> ONA submits that the issue of abuse is completely irrelevant to the question of entitlement to job-protected leaves under the *ESA*. Where an employer feels there is a high level of employee abuse of any type of leave, it may manage employee attendance in accordance with the statutory provisions and/or its internal policies. It is not for the government to manage a particular employer's employees. We agree with the WAC that "the social and individual cost of

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<sup>1</sup> Mitchell, C. Michael and John C. Murray (2016) Changing Workplaces Review: Special Advisors Interim Report. Online: [https://www.labour.gov.on.ca/english/about/pdf/cwr\\_interim.pdf](https://www.labour.gov.on.ca/english/about/pdf/cwr_interim.pdf) at p. 210

reducing the leave entitlements and removing flexibility under the PEL far exceeds the cost of this unpaid leave to some employers." <sup>2</sup>

As noted by the WAC in its submissions, the reasons for workers using personal emergency leaves are changing, and in particular, workers are more burdened than ever before with elder care responsibilities. As the vast majority of ONA's members are women, ONA has particular concerns in this area. Women who work are still overwhelmingly responsible for dependent care giving, and therefore any changes to the flexibility of current PEL provision would disproportionately impact female workers. Currently, a worker who cares for her elderly mother has the flexibility to use all of her PEL entitlement to meet her mother's care needs. Under the Option 3 suggestion, this entitlement would be substantially reduced and yet she may never require the other types of leave in a given year. The focus of the Changing Workplaces Review is to address issues facing increasingly vulnerable workers in increasingly precarious jobs, and we believe that a reduction in PEL entitlements would only increase difficulties faced by vulnerable workers in balancing their work and family lives.

**Option 4: A combination of Options 2 and 3 but maintaining different entitlements for different sized employers.**

We reject this option for the reasons discussed in our rejection of Option 3. We would add that this option would even further reduce flexibility and reduce individual leave entitlements, with no benefit whatsoever to vulnerable workers in precarious jobs.

All of which is respectfully submitted by the Ontario Nurses' Association.

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<sup>2</sup> "Submission to the Changing Workplaces Review On Personal Emergency Leave" by the Workers' Action Centre and Parkdale Community Legal Services, August 29, 2016 at page 5