



# MEDline

The Hospital Professionals Division Newsletter May 2004

## Chair's Report

Patty Rout, Chair,  
Hospital Professionals Division

According to an Ipsos-Reid poll released April 8, Canadians reject private sector funding of or involvement in key public services.

84 per cent of Canadians believe public services should be delivered by public sector workers accountable to elected representatives and the public, not by corporations accountable to shareholders. Governments need to start to listen to what Canadians value! The Ontario Health Coalition is.

**We need you to get involved.**

Many events are taking place around health care in May, including Long Term Care, Mental Health and P3 forums.

**Check today with your local coalition for dates and a forum near you.** These issues affect us all in OPSEU.

### Did you know?

- There are now 13 P3s planned for Ontario.
- Quebec unions shut down a recent pro-P3 conference.
- Bidding for the P3 Hospital in Abbotsford BC starts April 16.

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**Health care workers demonstrated April 3 at Queen's Park against the Liberal plans to continue the privatization of public hospitals.**

Photo courtesy OHC/John Bonnar

## Ontario Labour Relations Board rules against the OHA

Moya Beall, Negotiator

The Ontario Labour Relations Board has dismissed the application from the Ontario Hospital Association (OHA) that asked for consent to prosecute OPSEU for the February 13 Day of Action. The OHA had also requested in the alternative that the Board state a case of contempt against OPSEU, to the Superior Court.

A hearing was held into the matter in December 2003, at which time the OHA argued that there were good reasons for the Board to grant its request. It argued that the Board's finding that the Day of Action was an illegal strike was ineffective and that OPSEU's conduct would encourage illegal actions by other unions. It also pointed to OPSEU's conduct during the last OPS strike and asked the Board to find that OPSEU showed a pattern of illegal strike activity.

The Board found no basis for a pattern of illegal strike activity on OPSEU's part. It declared "there is nothing before the Board

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# The Invisible Professions

Bryan Mitchell, Public Policy

The new Ontario Liberal government has inherited a minefield of controversy on several fronts.

Bill 8 and an initiative to alleviate deficits and include accountability for hospitals has been started, along with a \$50 million promise to create full time nursing positions and improve their working conditions.

I applaud the initiative to address health concerns in a positive manner, but question why a similar commitment is not being made to all the other paramedical professions that are experiencing the same problems as nurses in every health care facility in the province.

Is it because we are invisible?

What about the other front line health care workers from radiation, nuclear medicine, respiratory and medical laboratory technologists who handled the patients and their specimens and who were adversely

affected during the SARS crisis? What about the every day problems of sicker patients and dwindling dollars that affect all of us?

What about the need for occupational and physiotherapists, the phlebotomists and pharmacists, the recreation therapists, the social workers and the myriad of all the other health professionals?

What about the trend in many of these professions to hire part-time instead of full time workers and the health and safety concerns of all these professions?

Is it because we are the invisible workers in health care that this government feels that the paramedical professionals can be given invisible promises? Or no promises at all?

It is time for us to come out of the shadows and remind this government that doctors and nurses are not the only health care professionals in this province.

Nurses and doctors are the most visible in the media and the minds of the public -- until they remember the technicians taking their blood or the person doing the x-ray. We are not only people who care about others. We put our hearts and souls into our jobs every day. We go the extra mile because it could be our mother, father, wife, husband or child in need of the services of the paramedical professions so important to the health care industry.

Write those letters to the Minister of Health, to your MPP, to the newspapers, radio and television stations!

Take time and engage your friends, family and the public at large in what we do. Encourage them to contact the media as well.

Health care is a priority to all of us. Together we will not let the lessons of the Day of Action of February 13 be lost.

## Eligibility for retroactive pay

Jim O'Leary, HPD retiree

Employees who leave employment after the previous collective agreement expired, but before a new collective agreement is negotiated, are entitled to retroactive wage adjustments after a settlement is reached. A recent award ruled that these employees are entitled to retroactive wage adjustments reflecting raises, buy-outs, and retirement bonuses! See the Ontario Grievance Arbitration by Gail Brent (Sole Arbitrator), May 29, 2003 on the matter between the Communications, Energy and Paperworkers Union of Canada, Local 87-M and Kitchener-Waterloo Record (Kathleen Martin, Union & Theodore Kovacs, Employer Counsel).

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# H & S Concerns of Using Sodalime During Anaesthetic Breathing

Frank Pezzutto, Health and Safety

Recently, respiratory therapists have taken on the duties of filling canisters used in anesthetic breathing systems. This used to be done by nurses in the operating room. Because of this change, some respiratory therapists have had health and safety concerns. These concerns are valid where Sodalime is used.

The Sodalime powder causes coughs, burning eyes and

respiratory problems despite wearing masks, gowns, gloves and goggles.

This can be rectified by using substitutes such as Amsorb or Spherasorb. Although similar in appearance to Sodalime, these do not contain the strong bases sodium, potassium or barium hydroxide that are known to degrade vaporous anesthetics to toxic chemicals such as carbon monoxide, formaldehyde, methanol and Compound A

( $\text{CF}_2=\text{C}(\text{CF}_3)\text{OCH}_2\text{F}$ ).

Because of the larger granular size of Amsorb and Spherasorb, they are virtually dustless thus eliminating the problems caused by soda lime.

When pre-filled disposable canisters are used, rather than filling these manually, virtually no problems have been reported.

## Beware of Fit Testing policies

Jan O'Leary, Job Security

Our hospitals are being directed to fit test all employees for respirators in the aftermath of the Sars outbreak. The health and safety representatives and the local executives should be carefully reviewing their hospital's proposed policies dealing with fit testing.

The Canadian Standard Association (CSA) provides detailed directions for respirator programs that comply with the Act and Regulations. A health questionnaire is a must so that employees with compromised respiratory systems (e.g. asthma) or other conditions like heart problems are not at risk during the testing or when wearing a respirator to

work.

Topics that should **not** be in your policy include making the use of the respirator a condition of employment, making any references to discipline, or making references to pay issues.

The health questionnaire must protect the medical privacy of an employee by listing the prohibitive medical conditions in a grouping so that the employees do not have to disclose their exact medical condition.

Our Local (659) contacted the Health & Safety department at head office when we saw our hospital's proposed policy. Terri Aversa was most knowledgeable and

helped with the technical aspects of the policy, the questionable Human Rights violations, and missing components.

We are currently after the hospital because they decided to proceed with fit testing without asking any health questions before starting fit testing. I personally had a bad experience, meaning we don't have to go far to prove the hazards of not following CSA standards.

Be vigilant: your policies could jeopardize someone's job.

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- There are eight more P3s planned for the Vancouver Coastal Health Authority.
- Costs continue to rise for the Ottawa and Brampton proposed P3 sites.
- Royal Ottawa Hospital will have fewer beds than the Hospital it is replacing.
- The Federal Government is keen on P3s.
- Health Council chair Michael Decter has strong connections to private health care initiatives and possible P3 connections.
- NUPGE is sponsoring a new website [www.p3-watch.ca](http://www.p3-watch.ca).

Kudos to the OPSEU HPD executive and members of the Ontario Health Coalition who held a sit in at Smitherman's office. They received a commitment that there would be broad public consultations on infrastructure renewal.

- Bill 8 has had second reading and is out for more consultations – thanks to your lobbying!

- Our legal case against P3s launched last September - Brampton is now waiting until a decision is made before moving ahead on their P3!

Remember -- it is your public health care -- don't let it slip away to the private sector.

Want to get involved?

Contact me at [routp@hotmail.com](mailto:routp@hotmail.com)

The following article was published in the Fall 2003 *In Solidarity*, a magazine pro-

duced by OPSEU's member-run editorial team InfoBis. In case you missed it, we are reproducing the article for you in MedLine this issue. Enjoy!

## Keeping health info private

Tim Gleason/CALM

Employers often want medical certificates, and sometimes they ask for a lot of information in those doctor's notes. How much information they can get depends on the collective agreement, but the general rule is that they are not entitled to more than they have bargained for. Most agreements don't address the content of a medical certificate.

Common provisions require employees to have absences or illnesses "certified by a medical practitioner." Sometimes agreements go further to say that an employee must produce a "medical certificate satisfactory to the employer." In each of these circumstances, the information required on the certificate will be subject to the limits of reasonableness, something lawyers love because there is never a definitive answer.

What information an employer can reasonably require always depends on the circumstances. There are three general categories: certifying

an absence due to illness, certifying fitness to return to work from illness, and seeking accommodation or modified work due to disability. These categories present an ascending scale of information requirements.

Employees generally need not provide much information to certify an absence due to illness. A doctor's note indicating that the doctor has seen you and that you are unable to work due to illness should suffice. An employer requesting more information than that should be prepared to show a compelling reason, such as well-founded suspicion of fraud. The employer should not be entitled to a diagnosis or to wide-open access to an employee's doctor or medical records. Any form requiring such broad disclosure should probably be challenged unless the contract specifically allows it.

In return-to-work circumstances, an employer might reasonably require more information. An employer is generally entitled to satisfy itself that an employee is fit for duty and is not a risk to herself or co-workers. This might mean that a doctor should indicate that she has reviewed the employee's duties and that the employee is capable of performing them. There is no reason to provide diagnosis information, although in certain circumstances, where an employer can demonstrate a solid basis for it,

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a functional abilities evaluation might be required.

Where an employee is seeking accommodation, or modified work, an employer may be entitled to detailed information about the employee's restrictions, limitations, expectation of recovery, and other factors affecting the employee's ability and accommodation needs. Even at this stage, an employer can probably not reasonably demand diagnosis information, but an independent functional abilities evaluation might reasonably be required.

It will be rare that an employer will be able to reasonably request information about an employee's diagnosis. Yet, it is not uncommon for employers to produce forms requiring employees to execute broad releases of medical information. When unions see such forms, they should carefully consider whether the form violates the agreement or misleads employees about the level of information they must provide.

Arbitrators are increasingly sensitive to the privacy concerns of employees. Unfortunately, many employers are not. It is up to unions and employees to watch for unnecessary or unreasonable intrusions on employee privacy.

*Tim Gleason practices law with Sack Goldblatt Mitchell in Toronto. For more information on labour law issues, visit the firm's web site at [www.sgmlaw.com](http://www.sgmlaw.com)*

# Campbell report validates key role of front-line health care workers

OPSEU Staff

Mr. Justice Archie Campbell's interim report on the SARS crisis echoes OPSEU's consistent warnings about cuts to public health and the health care system.

OPSEU President Leah Casselman praised Campbell for listening to health care workers.

"This is Walkerton all over again: Our members warned about the failings of the system, and the Harris government ignored them. The result was another needless crisis," Casselman said.

"This report clearly indicates the importance of investing in public services, and it outlines the consequences if we as a society fail to make these investments. We agree with Justice Campbell that only the dedication and commitment of front line health care workers enabled a broken system to contain SARS. We look forward to Campbell's findings on occupational health and safety in a later report."

In particular, in October 2001, OPSEU strongly and repeatedly warned the public against the unpreparedness of the provincial public health

laboratory due, in part, to the layoff of the last five public health scientists. In his report, Campbell sharply criticized the Ministry of Health for its handling of the provincial public health laboratory, and called for the revitalization of this facility.

The interim report reiterates many of the concerns voiced by OPSEU members before, during, and after the crisis. It recommends among other items:

- strengthening the role of "health care workers (beyond nurses and doctors) and their unions" in protecting public health;
- the need for renewal and proper funding of public health;
- the uploading of accountability, direction and control to the province.

"Despite this report, our members still feel the Ministry of Health does not understand the important role health care workers other than nurses and doctors played during this crisis, and their ongoing super-human efforts to keep the health care system together," Casselman said.

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upon which any reasonable person could conclude that labour relations in the province generally would benefit from the prosecution of OPSEU.” It further notes that “OPSEU’s conduct and actions have not appeared to erode the rule of law in labour relations in Ontario.” For these reasons the Board refused to grant consent

for the OHA to prosecute.

On the question of contempt, the Board cautioned that the contempt processes “should be exercised where there is some real labour relations purpose to be gained,” and dismissed the application as a “lawyerly” device.

# Pension Report - Lobby the HOOPP Board !

Frank Pezzutto, HPD, and Marcia Gillespie, Staff

There is a possibility of 20 to 30 per cent of the members retiring soon. If so, this will place a burden on the members left due to the increased workload and the shortage of skilled workers. The Ontario Hospital Association (OHA) is lobbying the HOOPP board to extend the transition bridge benefit. We should also be lobbying the HOOPP board as well. By extending the bridge at sometime in the future, there will be a glut of retirees, but it may buy some time for more graduates to fill the vacan-

cies in our professions. Marcia Gillespie, our staff member on the HOOPP board, has said that the HOOPP Plan Committee will be reviewing this situation over the coming weeks and will be making recommendations for the HOOPP Board to consider at their June 23, 2004 meeting. She said the HOOPP trustees will consider a range of options for dealing with the transition benefit that is set to expire Dec. 31, 2005 given the widespread concern

over the impact that its demise is expected to have in health care workplaces.


In any case, we should be lobbying the HOOPP board with the above suggestions. Lobbying efforts can

be directed to John Crocker (President and CEO, HOOPP), Dan, Anderson (HOOPP Board Vice- Chair appointed by ONA) and Helen Fetterly (Chair of the HOOPP Plan Committee).

**Keep in touch with us**

MEDline is the newsletter for Hospital Professionals in OPSEU. Contact Patty Rout, HPD Chair, for more information.  
 See our web site at <http://www.opseu.org>  
 Or go directly to:  
[www.hospitalprofessionals.org](http://www.hospitalprofessionals.org)

Authorized by:



Leah Casselman, President

## Hospital Professionals Division Executive

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