

## **OPSEU Presentation to Standing Committee on Social Policy**

**Re: Bill 171 - April 24, 2007**

Good afternoon. My name is Warren Smokey Thomas, the newly elected president of the Ontario Public Service Employees Union. With me is Patty Rout, OPSEU's newly elected 1st Vice-President. Both of us come from OPSEU's 30,000 member strong health care sector. It is appropriate that we meet here today during National Medical Laboratory Week, and would draw your attention to the fact that 85 per cent of decisions about diagnosis and treatment are based on laboratory test results.

Thank you very much for this opportunity to speak to you about this Bill, which is of great importance to many of our 125,000 members, not just those in health care.

OPSEU's concerns around Bill 171 fall into four areas:

1. The accountability of the new Ontario Agency for Health Protection and Promotion;
2. The plan to transfer about 600 workers from the Provincial Public Health Laboratories out of the Ontario Public Service and into the new agency;
3. The omission of a strong worker safety role for the new agency; and
4. The broad definition of psychotherapy and its sweeping implications for many public sector professions.

**Schedule K: *Ontario Agency for Health Promotion and Protection Act***

OPSEU continues to call on the government to rebuild Ontario's public services and repair the damage caused by more than a decade of cuts to funding, staff and services.

Nowhere has this damage been more evident than in Ontario's public health protection system – from the Walkerton tragedy in 2000, through the 2003 SARS crisis, to the Toronto Legionnaires' outbreak in 2005. Each of these events revealed significant flaws in our health protection and surveillance systems – flaws that resulted directly from conscious policy decisions by government, ongoing under-funding and chronic neglect.

OPSEU actively contributed to both the O'Connor Commission's Walkerton inquiry and the Justice Campbell's SARS Commission and we have endorsed many of their key recommendations.

This includes the call by both commissions:

- to create a new Ontario Agency for Health Protection and Promotion as an agency of the Ministry of Health and Long-Term Care, under the operational authority of the Chief Medical Officer of Health and the direction of a competent board appointed by the Minister of Health, and
- to transfer the Ontario Public Health Laboratories to the new agency.

However, we have a number of very serious concerns about this Act and its ability to achieve these objectives.

We note that the proposed agency will operate at a very long arm's length from both the Minister of Health and Long-Term Care and the Chief Medical Officer of Health (CMOH). The CMOH will be neither a member of the new agency's board nor on its senior management team. The CMOH will also have authority to direct the agency's activity only in emergency or outbreak situations.

This runs directly contrary to Justice Campbell's recommendation that the CHOH have "a hands-on role at the agency, including a seat on the board." Indeed, as he noted in his final report, the model put forward in this Bill represents a "completely opposite approach" and "ignores important lessons from SARS."

By establishing the new agency outside of the Ontario

Public Service:

- The Bill will undercut *both* the agency's accountability to the Minister *and* the Minister's direct accountability to the public for the agency's operations.

- It will reduce the transparency of the agency's operations while making it much more difficult to improve coordination between the public health labs, the Ministry's Public Health Branch and the rest of the health care system.
- It will do nothing to ensure that the new agency receives adequate funding from the Ministry to reverse past cuts and to meet the public health challenge of the future.
- Finally, it will create unnecessary uncertainty and dislocation for the almost 600 OPSEU members who work in the provincial public health labs – and increase the risk of service disruptions and other problems during this important transition.

Justice Campbell recommended the establishment of whistleblower protection for health care workers to ensure prompt reporting of public health risks to the authorities.

The government has yet to take action on this. Under recent changes to the *Public Service Act*, Ontario Public Service employees – including employees at the Provincial Public Health Laboratories - will soon have whistleblower protections – protections which they will lose if the new agency is established outside the OPS.

OPSEU therefore recommends that the Act be amended to establish the new agency within the Ontario Public Service and under the authority of the Chief Medical Officer of Health, in his or her capacity as an Assistant Deputy Minister within the Ministry of Health and Long-term Care.

This would allow the government to ensure the necessary independence and expertise of the new agency's board and senior management while preserving direct accountability to the Minister and the public for its operations.

I would now like to hand over the presentation to 1<sup>st</sup> Vice-President Patty Rout.

### **Worker Safety**

Although not a formal recommendation, it is noteworthy that Justice Campbell amended the name of the new agency – Ontario Agency for Health Protection and Promotion, *and Worker Safety* – in the section devoted to recommendations regarding the agency.

OPSEU strongly endorses the following recommendations made by Justice Campbell:

- *the Ontario Agency for Health Protection and Promotion should have a well-resourced, integrated section that is focused on worker safety research and investigation, and on integrating worker safety and infection control.*
- *That any section of the Ontario Agency for Health Protection and Promotion involved in worker safety have, as integral members, experts in occupational medicine and occupational hygiene, and representatives of the Ministry of Labour, and consult on an ongoing basis with workplace parties.*

- *That the Ontario Agency for Health Protection and Promotion serve as a model for bridging the two solitudes of infection control and worker safety.*
  
- *That the Ontario Agency for Health Protection and Promotion ensure that it become a centre of excellence for both infection control and occupational health and safety.*

- *That the mandate of the Ontario Agency for Health Protection and Promotion includes research related to evaluating the modes of transmission of febrile respiratory illnesses and the risk to health workers. This research should also identify the hierarchy of control measures required to protect the health and safety of workers caring for patients with the respiratory illnesses.*

(SARS Commission Executive Summary: Volume One: Spring of Fear, p.56, 57)

Justice Campbell describes how the “two solitudes” of infection control and worker safety contributed to the spread of SARS and the chaos created in Ontario’s health system and beyond.

OPSEU believes that it is critical to broaden the mandate of the proposed new Agency as a necessary first step to demonstrate the importance of worker safety and to make the critical links between worker safety and the safety of the public. It is a grave error to try to separate the health and safety of patients and the public from the health and safety of workers.

These changes would help ensure that the new agency's structure and mandate are more consistent with Justice Campbell's recommendations, the needs of Ontario's health protection system, and the public interest.

In the meantime, if the new agency is established outside the Ontario Public Service, OPSEU is seeking immediate commitments from the government that:

- Successor rights will apply to all OPSEU members affected by the transfer to the new agency.
- Affected OPSEU members' entitlements and participation in the OPSEU Pension Plan will be grandfathered, in accordance with the outstanding Amendment 12 to the OPSEU Pension Plan text.
- No OPSEU member will be laid off as a result of the transfer, either by the government or the new employer.
- No services currently performed by the 12 provincial public health laboratories will be privatized, downloaded or contracted out.

## **Schedule Q: *Psychotherapy Act***

Schedule “Q” of the Act creates the College of Psychotherapists, including a very loosely defined scope of practice that, if implemented, will affect the work of many public sector workers who make no claim to providing psychotherapy.

The scope of practice of psychotherapy is defined as “the assessment and treatment of cognitive, emotional or behavioral disturbances by psychotherapeutic means, delivered through a therapeutic relationship based on verbal or non-verbal communications.”

The difficulty of psychotherapy is that there is no clear definition of what “psychotherapeutic” means. Further, in the scope, a therapeutic relationship can be broadly defined as any relationship that benefits a partner within that relationship.

In British Columbia, the Health Professions Council recommended in 2001 against making psychotherapy a reserved act – in Ontario called an “authorized act” -- receiving submissions indicating that more than 400 types of interventions can be considered psychotherapy.

In its September 2006 paper, the Ontario Coalition of Mental Health Professionals highlighted this difficulty of interpretation by pointing out that psychotherapy was part of the same continuum as counseling.

The paper states: “in the centre lies a large area of overlap where the two practices cannot be readily delineated. Many counselors are trained in the theory and practice of psychotherapy and employ its techniques in their everyday work with clients.”

This has the potential to limit many areas of professional practice within the public sector that are well-established, under clearly defined guidelines, well supervised and effective. It may impact upon child and youth care workers, youth justice workers, developmental services workers, women’s shelter workers and many others. The services are all in high demand.

The current exception for counseling under the Regulated Health Professions Act is too narrow and has the potential to adversely affect the work of many of these professions.

The solution in other jurisdictions has been to exempt these public sector employees where institutional supervision and training provide a measure of protection to the public.

While the Ministry has said it is addressing the problem for Social Workers, we expect the same for other workers in the Social Service network.

We are concerned that the bill has been written without suitable input from the social services sector.

Ontario may be trying to fix a health care problem and inadvertently be creating a new one in the broader scope of social services delivery.

We thank you for the opportunity to offer these comments and recommendations.