



# ONA Equity Bulletin

*News Bites from the Human Rights and Equity Team*

ONTARIO NURSES' ASSOCIATION

VOLUME 2, ISSUE 4

OCTOBER 2008

## Did You Know?

### DIVERSITY FACTS

- We have reached a “glass ceiling” of approximately 20-25 per cent representation of women in parliament across Canada.
- At the rate we are electing women, it will be over 100 years before we reach parity.
- Canada ranks 51st in the world in representation of women in parliament. We trail countries such as Iraq and Afghanistan.

## A Message from ONA’s Vice-President, Human Rights and Equity Team



**Andy Summers**

I’m inviting all members to attend the Human Rights and Equity Caucus meeting on Monday, November 17, 2008, at the Royal York Hotel in downtown Toronto. This is a great opportunity to network with peers, to learn about the union’s activities and to provide your feedback. Participants will receive specific education on the duty to accommodate. There will be afternoon sessions on the accommodation of mental illness and addiction in the workplace, and on successful accommodation programs and protocols. We have an impressive line-up of speakers and we encourage members to bring their questions.

## Duty to Accommodate: Failure to Consider Alternatives

The duty to accommodate extends beyond providing short-term modified duties, and includes the obligation to consider permanently modifying a position.

In *Community Lifecare Inc. and Ontario Nurses’ Association (2001)*, 101 LAC (4th) 87 (Howe), the Board of Arbitration concluded an employer’s determination that a nurse could not perform the duties of her former job was a violation of her human rights.

While the employer’s return-to-work program was laudable, it should have gone further and considered permanently modifying a position or rebundling light duties from a number of positions into a job the nurse could perform.

## College of Physicians and Surgeons of Ontario: New Human Rights Policy

In September 2008, the College of Physicians and Surgeons of Ontario (CPSO) adopted a new policy entitled “Physicians and the Ontario Human Rights Code.”

“Complaints received by the College suggest an explanation of human rights obligations and professional expectations would assist the profession,” the CPSO has stated.

The policy is divided into two sections, the first addressing

physicians’ obligations to provide medical services without discrimination and the second addressing physicians’ obligations to accommodate the disabilities of patients or individuals who wish to become patients.

“While the College does not have the expertise or authority to make complex, new determinations of human rights law, physicians should be aware it is obliged to consider the Code when determining whether physician conduct is consistent with the expectations of the profession. Compliance with the Code is one factor the College will consider when evaluating physician conduct.”

### No discrimination

The Code requires physicians to provide medical services with-

out discrimination. This means physicians cannot make decisions about whether to accept individuals as patients, whether to provide existing patients with medical care or services, or whether to end a physician-patient relationship on the basis

*contd. on pg. 2*

## Calling all ONA members!

### Human rights and equity representatives are needed at the bargaining unit level.

Unfortunately, our members continue to experience and witness various forms of harassment and discrimination in the workplace. You can take a critical step forward and make a difference.

Please contact your ONA Bargaining Unit President today. Join the fight to end discrimination.

Help ONA to help you!  
Become a human rights and equity representative.

### Contact Information for the Human Rights and Equity Team

E-mail: [asummers@ona.org](mailto:asummers@ona.org)

Call ONA toll-free at 1-800-387-5580 or 416-964-1979, press 0 and follow the operator’s prompts to access the voicemail boxes:

- English: 7768
- French: 7769
- Andy Summers: 7754

## New Human Rights Policy *contd. from pg. 1*

of the individual's or patient's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status and/or disability.

The policy advises physicians to proceed cautiously in cases where they have moral or religious beliefs that affect or may affect the provision of medical services.

"Physicians should be aware, however, that the Ontario Human Rights Commission or Tribunal may consider contrary to the *Code* decisions to restrict medical services, accept individuals as patients, or to end physician-patient relationships based on a physician's moral or religious beliefs.

"This could occur if the physician's decision to refuse to provide a service, though motivated by religious belief, has the effect of denying an individual access to medical services on one of the protected grounds. For example, a physician who is opposed to same-sex procreation for religious reasons and therefore refuses to refer a homosexual couple for fertility treatment may be in breach of the *Code*."

### SEND US YOUR FEEDBACK!

The Human Rights and Equity Team would like to hear what's going on at your bargaining unit or Local and how we can provide support or assistance.

Contact us at:

[asummers@ona.org](mailto:asummers@ona.org)

The policy notes that because the law in this area is unclear, the College is unable to advise physicians how the Commission, Tribunal or Courts will decide cases where they must balance the rights of physicians with those of their patients. At most, the policy identifies some legal principles that "may" inform the decision of Courts and Tribunals.

### College Expectations

The College has articulated its own expectations for physicians who limit their practice, refuse to accept individuals as patients, or end a physician-patient relationship on the basis of moral or religious belief.

In these situations, the College expects physicians to do the following:

- Communicate clearly and promptly about any treatments or procedures the physician

chooses not to provide because of his or her moral or religious beliefs.

- Provide information about all clinical options that may be available or appropriate based on the patient's clinical needs or concerns. Physicians must not withhold information about the existence of a procedure or treatment because providing that procedure or giving advice about it conflicts with their religious or moral beliefs.
- Treat patients or individuals who wish to become patients with respect when they are seeking or requiring the treatment or procedure. This means physicians should not express personal judgments about the beliefs, lifestyle, identity or characteristics of a patient or an individual who wishes to become a patient. This also means physicians should not promote their

own religious beliefs when interacting with patients, nor should they seek to convert existing patients or individuals who wish to become patients to their own religion.

- Advise patients or individuals who wish to become patients that they can see another physician with whom they can discuss their situation and in some circumstances, help the patient or individual make arrangements to do so.

The College will consider the extent to which a physician has complied with this guidance when evaluating whether the physician's behaviour constitutes professional misconduct.

For the full text of the policy, please visit the CPSO website at:

[www.cpso.on.ca/Policies/Human\\_Rights.html](http://www.cpso.on.ca/Policies/Human_Rights.html)

## Human Rights and Equity-Related ONA Education Programs

### "Supporting Members with Addictions" 1-Day Workshop (\*new)

In this workshop, participants will learn to:

- Identify signs of addiction and explain how to provide the members with representation starting at the bargaining unit level.
- Identify addictions as a disability covered under the *Ontario Human Rights Code*.
- Identify ONA policies to help guide the ONA rep in acting on behalf of the members with addictions.
- Identify resources available to reps, such as LEAP, in supporting members with addictions.
- Develop heightened awareness in knowing how to handle these situations in bargaining units and where to refer members for additional support.

Target audience:

- ONA reps.
- Front-line members.

What members said they learned:

- "To stop enabling the disability."
- "Addiction is more prevalent than I thought."

\*This workshop replaces the *Substance Abuse Workshop*.