



## Ontario Nurses' Association

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August 2, 2019

Ministry of Labour  
400 University Avenue  
Suite 1502  
Toronto ON M5G 1S7

Dear Sir or Madam:

**Re: Feedback on Proposed Changes to the *Employment Standards Act, 2000* in  
respect of Overtime Averaging in Unionized Workplaces**

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The Ontario Nurses' Association (ONA) welcomes the opportunity to provide feedback on behalf of their respective members across all sectors to the proposed changes in respect of overtime averaging rules under the *Employment Standards Act, 2000* (ESA). We already provided joint submissions with the Ontario Hospital Association (OHA) and other Hospital sector unions. These submissions are specifically directed to the non-hospital-sector.

ONA is concerned that the specific ESA amendments through the *Restoring Ontario's Competitiveness Act, 2019* (ROCA) negatively impact the provision of quality patient care, as well as disrupt the balance created by the collective bargaining process in the broader public sector, including health. We are pleased to see that the government is conducting consultations on further changes to these amendments.

The health sector, including, but not limited to, long-term care, public health and community, operates in a highly unionized environment. Over decades, sophisticated and experienced parties have negotiated collective agreements and developed agreed upon scheduling arrangements that address the needs of health-care workers and their employers with the ultimate goal of providing quality care to patients on a 24/7 basis.

These long-standing agreements, which were permitted, subject to Ministry of Labour approval under the ESA prior to the amendments introduced through ROCA, provided that an employee's hours of work were averaged over a specified time period for the purpose of calculating the employee's entitlement to overtime pay. In many circumstances, this was for a period in excess of four weeks.

The four-week cap introduced through ROCA jeopardizes these arrangements, and interfere with the agreements between health care employers and unions that have been designed to address the specific needs of patients.

As such, ONA supports the government's intention to restore the ability of unionized parties to negotiate agreements that average hours of work for overtime pay purposes over a period that exceeds four weeks.

We further encourage government to consider implementing a cap that is higher than four weeks (e.g., a minimum of six weeks) that would apply absent an agreement between an employer and

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a union, with the ability for the unionized parties to negotiate an overtime averaging agreement in excess of this cap upon mutual agreement.

The members of ONA continue to work to ensure that quality patient care is provided in Ontario and encourage you to consider this perspective as you are reviewing this proposed change to the ESA.

Please do not hesitate to contact us at your convenience should you have any questions or wish to discuss further.

Sincerely,

**ONTARIO NURSES' ASSOCIATION**



Vicki McKenna, RN  
ONA President

C: Beverly Mathers, CEO  
Nicole Butt, Legal Counsel  
Lawrence Walter, Team Lead, Government Relations