

ONTARIO NURSES' ASSOCIATION

SUBMISSION

TO

THE STANDING COMMITTEE ON GENERAL GOVERNMENT

ON

***Bill 124 – Protecting a Sustainable Public Sector for Future
Generations Act, 2019***

Toronto, Ontario

November 4, 2019



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Summary of ONA Recommendations to Government

ONA proposes the following recommendations:

1. ONA recommends that the government reconsider a strategy of achieving cost reductions that impact patient care through collective agreement provisions that will certainly have an impact on the retention of nurses and health-care professionals.
2. The existing bargaining and interest arbitration framework in the health-care sector already factors in the economic situation of both employers and the province. The current regime reflects fiscal realities within a context of free collective bargaining and should be maintained.
3. Because public sector compensation in Ontario has been below inflation for the past five years, we recommend that the government allow a free collective bargaining process to continue, without government intervention, pursuant to our Charter rights. Bill 124 ought to be repealed.
4. Bill 124 will impose limits on collective bargaining between nurses and their employers that will deepen the nursing shortage in Ontario and have negative consequences for the health-care system and public safety. Registered nurses and health-care professionals governed under existing ONA collective agreements should be exempted from Bill 124 to prevent an exacerbation of the vacancy crisis and to protect the integrity of the health-care system.
5. Cost reductions or efficiencies may be achieved through other measures that do not adversely impacting the working environment of front-line nurses and health-care professionals and by extension, their patients. This includes reduction of the ever-increasing administrative, back-room, or management related costs or measures that divert dollars from front-line care to patients delivered by registered nurses and other health-care professionals. There is also potential cost savings from any benefit pooling arrangement, which ONA has been proposing for years. Any such cost savings should be reinvested in additional front-line nurses and health care professionals, and the care they deliver to patients each and every day.

I. Introduction

The Ontario Nurses' Association is the union representing 65,000 Registered Nurses (RNs) and health care professionals, as well as 18,000 nursing student affiliates, providing care in hospitals, long-term care facilities, public health, the community, clinics, and industry.

We provide these submissions on behalf of ONA to the standing committee without prejudice to ONA's right to enforce the Charter rights of its members to a meaningful collective bargaining process. In particular, ONA and its members are accorded fundamental rights under the Charter of Rights and Freedoms, which protects the rights of employees to act collectively through their union to exert meaningful influence over their working conditions through a process of collective bargaining. The legislation interferes substantially with this fundamental right.

II. Ontario Finances and Public Sector Compensation

ONA disagrees with the government's premise that there has been growth in the compensation of public sector workers. According to the Ontario Ministry of Labour,¹ the average annual increase in compensation in 2018 in health and social services sector was 1.5 per cent. The Consumer Price Index in Ontario in 2018 averaged 2.4 per cent. Wage settlements were well below inflation.

In comparison to the private sector, the public sector annual average wage settlements have been lower for the last five years²:

Annual average wage increases in Ontario collective bargaining

Year	Public Sector	Private Sector
2017	1.9%	2.1%
2016	1.4%	1.9%
2015	0.8%	1.7%
2014	1.4%	1.9%
2013	0.5%	2.3%

In fact, an analysis³ of public sector wage settlements, accounting for inflation, shows three startling findings:

- In the last 10 years, public sector wage settlements have averaged -0.4 per cent. Over that time, public sector employees have seen their real wages cut by 4.3 per cent.
- Since 2015, the average real wage settlement in the public sector has been -0.1 per cent. Real wages during that time have been cut by 0.6 per cent.

- Over the last 10 years, there have only been three years where public employees have received actual pay increases, the largest of which was 0.4 per cent.

Based on this analysis, we question the validity of the government's premise that there has been growth in public sector compensation. Our analysis shows quite the opposite – a cut to real wages by more than 4 per cent.

In addition, in 2017, the Ontario government also spent the lowest amount per person (\$9,829) on government programs, the lowest spending amount in the country.⁴ Ontario's program spending per person is more than \$2,000 per person below the average of the rest of Canada. Since 2011, Ontario program spending per capita has grown by 0.7 per cent, which is far less than half of the 1.9 per cent growth in the rest of Canada.

In particular, of utmost interest to Ontario patients, in 2017, Ontario spent \$3,903 per person on health care, which is the lowest amount in the country, and \$487 per person lower than the average of the rest of Canada. Ontario nurses agree with the FAO's conclusion that "given that Ontario's per capita program spending is already the lowest in Canada, opportunities to restrain or reduce spending further may be limited."

Ontario's tax revenue is above the average of other provinces because of the province's "stronger economic base."⁵ However, when Ontario's tax revenues are compared to their economic bases, Ontario's personal income tax is equivalent to 9.9 per cent of labour income, compared to the 11.7 per cent share in the rest of the country. As well, revenue from corporate income tax in Ontario is 11.8 per cent, compared to 12.2 per cent share in the rest of the country. This analysis shows that there is room for Ontario to raise revenue through taxes to improve program spending on vital programs in health and social services.

III. Negative Impact of Bill 124 on Ontario's Health-Care System and the Nursing Shortage

The identified government priorities relating to health care cannot be separated from Bill 124 and its impact on registered nurses and other health-care professionals. The Ontario Government has announced its objectives, including "...ending hallway health care, putting patients first and ensuring sustainable services for future generations." Access to safe, quality health care is a priority issue for Ontarians across the Province.

These objectives cannot be achieved without the requisite numbers of registered nurses, and by ensuring that the employment terms and working conditions under which “they put patients first” are not compromised. Registered nurses are the eyes and ears of the health-care system, onsite 24 hours a day, 7 days a week, delivering front-line care in hospitals, in nursing homes, in homes, and in the community. In particular, the government needs to ensure the province does not lose any further nurses and we attract new nurses. Without them, our system is at risk.

The health-care system is in crisis, with hospital, home care and long-term care employers struggling to recruit and retain nurses and to fill long-term vacancies.

ONA bargains central collective agreements with over 130 participating hospitals. ONA has observed and heard from many of these employers that they are experiencing critical nursing shortages, including:

- difficulty recruiting and retaining nurses; and
- high levels of job postings and vacancies for nurses.

These challenges further contribute to chronic short-staffing and burnout of nurses and further deepen the recruitment and retention crisis. This leaves hospitals short-staffed, where patient ratios for remaining nurses is unsustainable, and creates significant safety issues for Ontarians. When hospitals talk about shortage of beds what they really mean is shortage of nurses to serve patient needs. We see the same scenario over and over at other Hospitals, which are forced to understaff, staff with temporary agency nurses and engage in hallway nursing.

As recognized by the recent Long-Term Care Homes Public Inquiry, ensuring adequate qualified nursing staff is a chronic problem for nursing homes and directly impacts on patient care and resident safety, with sometimes tragic consequences. For example, the Final Report stated:

Nursing staff in LTC homes are stretched thin. In an Ontario study of LTC homes, some nurses describe the administration of medications as a “race against time.”

“There are not enough direct-care staff to meet the needs of all long-term care residents safely” and called for the implementation of the Sharkey report “on strengthening staff capacity for better care.”⁶

In its dealings with nursing home employers, ONA and its members see the impact of nursing shortages in this sector. Employers cannot recruit and retain nurses because of the workload, increasing patient acuity and too few nurses for residents.

Retention is not just an issue with individual hospitals and long-term care home employers – it also extends to home care and the community where there is an urgent crisis. Without these essential partners, the Government's objective to end hallway medicine is not possible.

The most recent data available from the Canadian Health Institute demonstrates that Ontario continues to have the lowest RN-to-population ratio in Canada:

- Current figures are 669 registered nurses per 100,000 population compared to 828 RNs per 100,000 people across the rest of Canada.⁷
- This is a decrease from the previous low in 2016 of 703 nurses per 100,000 people.⁸

Nurses are a mobile group of trained professionals and have historically left, and continue to leave Ontario, for other jurisdictions when wages and working conditions are unfavourable. Ontario loses nurses every year to other jurisdictions, which is understandable given stagnating pay and high workload, short-staffing and increasing patient acuity.

Collective bargaining over compensation of nurses is an important element of addressing recruitment, retention, and associated quality of care and public safety issues in the long-term care sector. In short, allowing ONA to shape working conditions without restraint through free collective bargaining will encourage qualified and experienced nurses to stay in Ontario and address the worsening nursing shortage. This ensures the health-care system that is under threat is not further compromised.

The Ontario Auditor General's 2016 Annual Report provided strong evidence for the need to improve RN staffing in our hospitals. The Auditor General found that RN patient assignment is heavier in Ontario than what international best practices recommend. As the Auditor's report notes, comprehensive research shows "that every extra patient beyond four that is added to a nurse's workload results in a 7 per cent increased risk of death."

ONA is gravely concerned about the impact that Bill 124 will have on the quality of public health and safety. Bill 124 will impose limits on collective bargaining between nurses, health care professionals, and employers that will deepen the nursing shortage in Ontario and have negative effects on the health care system and public safety.

Bill 124 should not apply to ONA Collective Agreements under which our members, including registered nurses, are covered. Exempting nurses from the application of Bill 124 is an important tool for this government to proactively manage the nursing vacancy crisis in all health-care sectors. This would facilitate the government's objective of protecting the sustainability of public services.

Bill 124 provides for legislative exemptions within the statute itself. It also allows for regulations exempting certain employees or collective agreements from the application of the Act.

The legislative exemptions may have unintended consequences. Bill 124 exempts municipal employees, including many police and firefighters, in addition to nurses in for-profit long-term care homes, home care, and family health team sectors. At the same time, it includes their counterparts who provide similar care to patients within the same sectors, such as at not-for-profit long-term care in charitable homes for the aged/nursing homes and not-for-profit home care providers would not be exempted. This despite the fact that the funding for both groups are comparable.

This patchwork of inclusion and exclusion will result in differential treatment amongst registered nurses providing similar care to patients in the same sector and also results in dramatically inferior treatment of registered nurses compared to police and firefighters in the province who both provide pivotal services to the public in the area of health and safety. While nurses play a major role in protecting public health and safety like police officers and firefighters, they are not protected under Bill 124 against further erosion of their staffing levels because compensation will be below inflation levels. Nurses should be granted the same exemption and treated equally to these other comparable groups of employees in the municipal sector.

ONA submits that exempting nurses from the application of Bill 124 by regulation is consistent with the Act's purpose and, in particular, with ensuring public sector compensation that is "consistent with the principles of responsible fiscal management and protect the sustainability of public services."

ONA and health sector employers are best positioned to identify and collectively bargain issues, including compensation, which will help protect the retention of nurses within health-care employers and within the province.

Allowing ONA and health sector employers to bargain freely would support the sustainability of public services from both a fiscal and quality of care perspective and achieve the purpose of Bill 124.

Furthermore, any bargaining over compensation in which ONA engages is constrained by the *Hospital Labour Disputes Arbitration Act*:

- which prohibits strikes in this sector; and
- submits disputes to arbitration in which awards are governed by criteria that also support the purpose of Bill 124.

These criteria include:

1. The employer's ability to pay in light of its fiscal situation.
2. The economic situation in Ontario and in the municipality where the hospital is located.
3. The employer's ability to attract and retain qualified employees.⁹

It is ONA's position that an exemption from Bill 124 for its members and ONA collective agreements, including those in place with the participating hospitals and participating nursing homes, would be consistent with the fiscally responsible protection of sustainable and quality public services.

IV. Reinvesting in Front-Line Nursing and Health-Care Professional Staff

Nurses and health-care professionals know where efficiencies or savings might be achieved. Unfortunately, the perfect venue for these discussions – hospital Fiscal Advisory Committees (FACs) – are being underutilized or are not fully in operation. Cost reductions or efficiencies may be achieved through other measures that do not adversely impacting the working environment of front-line nurses and health-care professionals and by extension, their patients.

For example, this includes reduction of the ever-increasing administrative, back-room, or management related costs or measures that divert dollars from front-line care to patients delivered by registered nurses and other health-care professionals. There is also potential cost savings from any benefit pooling arrangement, which ONA has been proposing for years.

The Auditor General provides another source of savings in her 2015 Annual Report, where she notes that "home care used to serve primarily clients with low to moderate care needs, but now serves clients with increasingly more complex medical and social-support needs."¹⁰

The Auditor documents issues of duplication and omission in the contracts with about 160 private sector service providers who provide home care services, and comments on the resulting commercial confidentiality in the model so that the true costs are left unsubstantiated.

Under the current system, each home care provider must maintain staff and devote resources to manage the procurement process. In addition, at the moment, the Local Health Integration Networks (LHINs) must also engage staff and allocate resources to the awarding of home care contracts and the monitoring of quality and standards.

If the competitive bidding system is dismantled, it would mean a much more efficient use of limited resources and would eliminate the needless and wasteful expenditure of resources and extra costs on the current process of contracting to private sector providers. It would allow for informed public accountability and transparency for clients and families, rather than restrictions and barriers imposed by commercial confidentiality. Ontario's managed competition model siphons profit from public funding that should be designated for care.

We recommend that these savings be reallocated in the transformed public health-care system. Further, any cost savings from the ideas above should be reinvested in additional front-line nurses and health care professionals, and the care they deliver to patients each and every day.

V. Conclusion

Thank you for the opportunity to provide the Standing Committee with the perspective of front-line nurses and health-care professionals.

We make five recommendations to ensure that our health-care system is able to provide hands on care to the patients of Ontario.

Without the right providers and the right staffing levels, our patients will be unable to access the quality care they deserve.

Endnotes

¹ <https://www.labour.gov.on.ca/english/lr/pubs/4thquarter2018.php>

² <https://www.cbc.ca/news/canada/toronto/doug-ford-union-negotiation-wage-cap-legislation-1.5126776>

³ ONA calculations. Source: Weighted average based on Statistics Canada data for agreements covering 500+ employees.

⁴ Ibid.

⁵ <https://www.fao-on.org/en/Blog/Publications/inter-prov-comparisons-feb-2019>

⁶ Long-Term Care Homes Public Inquiry. *Final Report – Volume 3: A Strategy for Safety*, pp 115-117.

http://longtermcareinquiry.ca/wp-content/uploads/LTCI_Final_Report_Volume3_e.pdf

⁷ RNAO, "Ontario has the worst RN-to-population ratio in Canada: Province must hire more RNs to end hallway nursing," June 14, 2018, <https://rnao.ca/print/8306>

⁸ ONA and RNAO, "Ontarians need more Registered Nurses: Backgrounder," May 2018.

⁹ *Hospital Labour Disputes Arbitration Act*, s 9(1.1).

¹⁰ 2015 Auditor's Annual Report.