

Canadian Union of Public Employees

Submission on the Proposed *Nova Scotia Health Professions and Occupations Act*

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CUPE / Canadian Union
of Public Employees

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Introduction

The Nova Scotia Division of the Canadian Union of Public Employees represents more than 19,000 members in the Province of Nova Scotia and nearly 1 million members Canada-wide. We represent more than 4000 CCAs (Continuing Care Assistants) in Nova Scotia, along with other health and community care workers, social service workers, municipal, education, and other public service workers.

We welcome this opportunity to respond to the Department of Health and Wellness's concept document on the proposed regime change around the regulation of health professions. In this submission we will respond to the questions posed in the concept document as well as outline recommendations on key issues Nova Scotia CCAs are currently facing.

It is our contention that while the collection of data about the occupation would be a welcome development, the main thrust of the Department's proposal for a Registry is based on a narrow view of what constitutes a threat to public safety, focusing solely on the workers instead of the underlying problems facing our health care system. We would argue that the greatest threats to public safety in our health care system are the result of systematic underfunding and a failure to update provincial standards around the amount of labour required to complete increasingly complex health care tasks.

CUPE Nova Scotia believes that there is no need for regulation of CCAs. There are better ways to protect the public, such as increasing the staffing ratio in nursing homes and improving CCA compensation to reduce turnover and fight burnout in acute care and home support settings.

Protecting the Public

CUPE is committed to ensuring that the working conditions in long-term care facilities and hospitals facilitate high quality care for patients and residents. Unfortunately, the provincial funding currently allotted to long-term care only covers 2.45 hours of personal care per resident per day, not nearly enough to meet the care needs of an increasingly complex and frail resident population. This limited funding caps staffing levels far below where they ought to be, and CCAs are asked to do more with less. The resulting overwork can lead to quality concerns. For instance, it can take up to 45 minutes to get a patient or resident out of bed, but we have heard from some CCAs that they may have only 15 minutes to complete this task and may have even less time on days when they are working short. Residents deserve better than to be rushed along an assembly line by someone who has no choice but to perform 45 minutes' worth of care in the space of 15.

A 2018 survey of CUPE members found that 95% of residential long-term care workers have been affected by working short. Seventy-five per cent of workers said they work short either daily or weekly (37% daily, 37.5% weekly). The result is that CUPE continuing care assistants, LPNs and other workers do not have enough time to adequately meet the needs of residents.

Along with the working conditions described above, the levels of compensation for CCAs (including wages and benefits) and increased resident acuity undermine recruitment and retention efforts. Even though CCAs describe their work as personally rewarding because of the relationships they form with residents and the feeling that comes from caring for people well, people are discouraged at the prospect of CCA work when they hear about the conditions: mandated shifts and required overtime, inadequate support on the job due to staffing shortages, and low pay.

The academic research and the experience of CUPE members both tell us that in this sector, the conditions of work are the conditions of care. With this in mind, we will continue to stress the importance of increasing the funding the DHW provides to long-term care facilities to 4.1 hprd immediately. By increasing staffing levels and improving working conditions, the Nova Scotia government will significantly improve the quality of seniors' care, and drastically reduce any risks to the public that have been identified. That work should take priority over the creation of a Registry, which will do nothing to address the systematic underfunding the occupation is facing.

Double jeopardy

While CUPE Nova Scotia is not opposed to the principle of improving the quality of information the DHW has about the CCA workforce, the powers of a Registry as it is currently proposed go beyond collecting data for human resources planning and stray into disciplinary territory.

A CCA Registry as it is currently conceived has the potential to create a situation of "double jeopardy" where a CCA could be disciplined twice for the same alleged infraction – once by the employer or supervisor and again by being removed from the Registry. Double jeopardy is unfair and unneeded and causes unnecessary extra expenses. Duplicate discipline systems and processes are costly. The funding of public health care delivery should be the priority.

The proposed Registry also creates a discipline process that would normally be associated with a college before a foundation has been constructed to support it. It appears that by subjecting CCAs to this disciplinary mechanism without providing them the benefits (such as practice supports, training opportunities, and mentorship) and professional status associated with a regulatory body, the DHW is putting the cart before the horse.

When it comes to ensuring that public safety is protected, CCAs are already accountable to their employers who are responsible for providing proper care for patients and residents. CCAs (unlike some other self-regulating health professionals) practice under a legal employment relationship, where the employer assumes liability. CCAs are also subject to the provisions of criminal and civil courts, and established complaint and investigation mechanisms are available to the public. Complaints relating to CCA job performance can be made directly to the employer. In instances where abuse is suspected, employers are legally bound to report any and all allegations under the *Protection of Persons in Care Act*.

Major concerns going forward

CUPE recommends that a Registry and accompanying regulatory mechanism for CCAs is not necessary and would bring minimal benefit to CCAs already working in Nova Scotia or those who are considering taking up the occupation. Although we are opposed to the Registry as described in the concept document in principle, if the Registry is established against our wishes and CCA participation is mandatory, the following concerns must be addressed before legislation is introduced:

- First and foremost, any proposed CCA Registry must be without fees. The starting hourly rate of pay for a CCA is \$17.47 per hour. This puts many CCAs well below the living wage, and sometimes below the poverty line. CCAs cannot afford to pay professional fees in order to fund a Registry and the rest of the proposed governing body without a significant pay increase. Any extra burden for CCAs will have serious negative consequences affecting both CCA recruitment and retention, not to mention morale.
- CCAs are some of the most vulnerable members of the health care workforce. Protecting their privacy is a top priority for CUPE. In order to ensure that their privacy is not unreasonably invaded, we would require that:
 - The Registry be housed within the DHW and that employers could request to run a search on a specific name but would not have access to the overall list.
 - The Registry NOT keep records of abuse allegations:
 - If they do not result in a termination, or
 - Where a special investigator, or arbitrator, determines that the accused individual should *not* be removed temporarily or permanently from the Registry.
 - The DHW have the Privacy Commissioner review a proposed Registry structure and process before legislation is tabled.

Those concerns aside, CUPE is open to working with the Department on efforts to collect more demographic and workforce information, and to have a directory that contains that information, so long as there are no potentially punitive mechanisms.

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