

OCSCA Submission - Schedule 2 - Health and Supportive Care Providers Oversight Authority Act, 2021

Introduction

The Ontario Community Support Association (OCSCA) supports efforts to strengthen the personal support workers (PSW) workforce across the province.

OCSCA recognizes that an oversight regulation for PSWs, one that utilizes best practices in health workforce regulation, could lead to achieving the government's goal of improving service quality and help promote the provision of safe, competent care. We support greater uniformity of education and training for PSWs and permit public access to the professional information associated with registered PSWs.

However, we are concerned that this proposed legislation could further destabilize an already fragile workforce. Regulation of PSWs, will not resolve more pressing systematic issues such as improving compensation, benefits, and more full-time work. With the focus of the government on the new legislation, we are concerned it may delay any potential permanent increase to wages for personal support workers. The priority should be to attract not constrain the entrance of new PSWs to the workforce.

The home and community care sector is experiencing a significant shortage of PSWs. There are numerous issues to the retention and recruitment of PSWs. The home and community sector cannot afford for this legislation to result in restricting and reducing entry or, further limit the number of workers.

The most pressing and outstanding issue for PSWs is compensation. PSWs in home and community care drastically need parity with other sectors, as well as access to more guaranteed full-time positions as well as improvements in benefits.

It is well known that PSWs, in the home and community care sector, are making on average of 19% less than PSWs in the hospital sector and 9% less than PSWs in the long-term care sector. Compensation disparities have led to many PSWs leaving home and community care for work in other sectors that are better compensated. The number of vacant positions for frontline staff including PSWs in the home and community care sector grew by 14.5% between November 30 and December 31, 2020.

The Ontario government recently extended a wage enhancement of \$3 per hour for approximately 38,000 eligible home and community care PSWs until June 30, 2021. However, PSWs need a permanent increase of more than \$3 dollar per hour to achieve wage parity.

OCSA feels that the province should prioritize its efforts on stabilizing the PSW workforce prior to moving ahead with the regulations. This includes improving scheduling to maximize the current workforce, and improve compensation, benefits, pension, and travel costs. There must be a standardization of working conditions, parity and equity among personal support workers.

The proposed legislation

The proposed legislation would enable a new legislative framework designed to regulate specified professions, beginning with Personal Support Workers. The proposed legislation would establish a new corporation without capital under the name Health and Supportive Care Providers Oversight Authority. The Authority mandate would provide oversight of personal support workers and potential other classes of registrants who provide health and supportive care services.

Set objectives of the Authority:

- Establishing educational and skill-based qualifications for individuals seeking to be registrants with the Authority.
- Establishing one or more visual marks or identifiers for the exclusive use of registrants.
- Promote the provision of safe, competent, ethical and high-quality services by registrants to the public.
- To establish codes of ethics applicable to each class of registrants governing the services they provide.

The anticipated impacts:

- Oversight to align the province with the best practise in health workforce regulation.
- Improve service quality and help promote the provision of safe, competent care and would support government investment in key areas, such as long-term and home and community care.
- Support greater uniformity of education and training for PSWs.
- Permit public access to the professional information associated with registered PSWs.

Challenges of this legislation

OCSA recommends that the regulation of PSWs must be proportionate, consistent, targeted, transparent, accountable, agile, and aligned with best practices. However, it is unclear at this time if proposed legislation will achieve this approach.

There are a number of fundamental challenges to regulation and registration of personal support workers. Currently, there remains several processes and avenues for entering the workforce. We support the Authority's recognition of the need to grandparent the provision and processes for already practising PSWs but may not meet the formal credentials.

The Authority must consider that there is a large number of personal support workers who have not completed formal training and do not have a recognized, standardized certificate. This would include workers who received training abroad or those who have prior experience and have been given equivalency.

There are also different legislated and policy requirements for entry to practice across health sectors which will cause further challenges. Additionally, the existence of similar but not quite equivalent roles such as attendants, developmental services workers (DSW), Home Support Workers (HSWs) and Resident Support Aides (RSAs) will have to be reconciled. The Health and Supportive Care Providers Oversight Authority will have to be clear on who it is regulating going forward beyond PSWs.

How some of these functions interact with existing enforcement and complaints mechanisms at the service provider level will be critical to the successful functioning of the Authority. The workforce draws knowledge from other regulated health professionals. This results in much of their work, such as levels of services and scheduling, being out of the PSWs' control. This has important impacts when creating standards of practice, complaints, and enforcement mechanisms. A quasi-judicial complaints and enforcement process is unlikely to be accessible to this workforce.

Challenges and risks of regulating PSWs under the new Authority include:

- Ensuring standardized education for PSW curriculum, when currently there are multiple avenues for education.
- Risk of restricting and reducing entry to this workforce due to administration burden on a heavily declining workforce
- The cost of registration fees or increased registration fees for individual PSWs. PSWs already have low wages, the lowest in home and community care. Therefore, the cost of financing a new regulatory Authority can be a burden on many of workers.
- Risk of additional burden and responsibilities on employers for ensuring registration. Increased costs to and limiting innovation within the health system as a result of regulation.

Potential benefits include:

- Enhanced public safety.
- Alignment in educational and skill-based qualifications for individuals.
- An opportunity for the standardization of continued education and professional development.
- Adherence to standards of practice and enforcement of ethical behaviour.
- A better understanding of the workforce size, credentialing, location, capacity.

Complaints and Investigations

Part V establishes the procedures for complaints and investigations. The Chief Executive Officer may investigate complaints or may appoint investigators on their own initiative.

The discipline committee is established by the board to hear allegations of contraventions of the prescribed code of conduct. They may direct the Chief Executive Officer to revoke, suspend or impose conditions on a registration. Their decisions may be appealed to the appeals committee, which is also established by the board.

OCSA recommended that the complaints process of the Authority must be well defined and clearly articulated to take into account the unique nature of the work done by PSWs and state clearly the responsibility of the PSW, responsibility of the supervising regulated health professional, the employer and other health system actors such as care coordinators in home and community care.

Governance structure

Part II establishes the Health and Supportive Care Providers Oversight Authority (the "Authority"). The Authority is governed by a board composed of directors appointed by the Lieutenant Governor in Council and directors appointed by the members of the board.

The board appoints a Chief Executive Officer to discharge a number of duties and obligations under the Act. The objects of the Authority include administering the Act and the regulations and governing the health services and supportive care services provided by registrants.

Board Eligibility

A person is eligible to be elected or appointed as a director of the Authority if they,

- (a) **are not a registrant;***
- (b) meet any prescribed qualifications; and*
- (c) in the case of elected board members described in subsection (5), meet any qualifications that are set out in the Authority's by-laws.*

OCSA recommends that the government adhere to their commitment of a significant role and place to ensure there is a voice and meaningful participation for PSWs in the governance structure of the Authority.

We support a mix of a competency and representative board positions. The province should ensure that the expertise and experience of those being governed is reflected in those persons appointed to the governance of the Authority, however participation should not be limited to just the advisory committees and must be included at the board level.

Once the Authority proceeds to regulate more than PSWs, there will be a need to develop sector specific committees to ensure there is a good understanding of the realities of the role in various workforce positions. Advisory committees could play an important role in the development of the quality assurance and standards of practice.

Cost/fees for registration

The Authority may set and charge fees, costs or other charges in relation to anything that the Authority does in administering this Act or anything that the Chief Executive Officer does under this Act as long as the decisions to set and charge are made in accordance with processes and criteria that the Authority establishes and that the Minister approves.

Personal Support Workers are drastically underpaid. These workers should not be burdened by the cost of financing a new regulatory Authority. The province must consider this when developing the fees for registration.

Evaluation process

For the Authority to meet their objectives what remains unclear is if there will be an evaluation process that includes benchmarks and key performance indicators. OCSA strongly recommends this be implemented.

Conclusion

The Ontario Community Support Association (OCSA) supports the province's effort to strengthen the personal support workers workforce across the province. We support greater uniformity of education and training for PSWs and workforce regulation that will improve service quality and help promote the provision of safe care that encourages not constrains entry into our sector.

This legislation should not delay any potential increase to wages of personal support workers. Compensation remains the most pressing item.

The province should prioritize its efforts on stabilizing the PSW workforce by improving compensation and working conditions for PSWs prior to moving ahead with the regulations.

United in our commitment to care
We recommend continued consultation with the home and community sector to ensure the Authority delivery registration and regulation that is targeted, transparent and accountable.

For more information please contact:

Deborah Simon

CEO

Deborah.simon@ocsa.on.ca

416-256-3010 ext. 231

Eric Mariglia

Manager of Policy, Government and Stakeholder Relations

eric.mariglia@ocsa.on.ca

416-256-3010 ext. 227

For more information, visit www.ocsa.on.ca