



Notes for a Submission

By

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To the  
Law Amendments Committee  
On  
Bill 30 -  
Essential Home-support Services (2014) Act

February 28, 2014

## **Introduction**

Thank you, Madam Chairperson and members of the Committee for this opportunity to speak to you about Bill 30 - *Essential Home-support Services (2014) Act*. I am here to speak as an individual who has worked with NSGEU for 18 years as policy analyst. But I am also Vice-Chair of the Nova Scotia Citizens Health Care Network, and I was the Senior Policy Analyst for the former Provincial Health Council. I have older parents who have used home care services and now live in local nursing homes. So I have a personal stake in what happens with our continuing care system.

## **Main Concerns with Bill 30**

I am frankly distressed that this Bill has come forward at all instead of allowing the current dispute be resolved through fair and open collective bargaining. Interestingly enough, this seemed to be the position of the Premier while in opposition. For example, in 2010, the Premier was quoted as saying he thought that emergency service plans should be hammered out in times of labour peace, not days before a possible strike. He said: "(The government) should have been doing this in advance while there as labour stability". In

addition, he noted that this province has not stopped labour unrest and strikes.

So what has changed? Why would the government bring forward this legislation at this time? What was done to help achieve a fair settlement through the collective bargaining process other than insist that our members accept an offer that was rejected by 97% of them? Was every possible avenue pursued to get a new agreement? These are important questions that all members of the Committee should be asking.

Looking at the Bill, I am very concerned at how feasible it will be. Bill 30 has a very broad definition of what an essential home-support service is in Section 2 (i). I would suggest this could capture virtually any service provided by our members. Worse still, I think, are the detailed requirements that have to be followed in Section 5 (2). I have to ask has anyone of the government thought about how workable this process is. I frankly think it will be virtually impossible to implement, or at best, it will certainly take a long time to achieve an agreement. This could mean months, or even, years without this

current dispute being resolved. This, in itself, will work against the intent of the Bill and will poison the work environment. I would suggest that the time involved in this process would be much more cost-effective for the government to encourage and support both sides to achieve a new agreement.

As a policy analyst, I have to ask what are the broader implications of this Bill for continuing care more generally. The Minister of Health was quoted last November as saying his department and the government believe that the home will be the primary focus, and that "We are running out of money for bricks and mortar". If this is the case, why is the government bringing in this Bill which completely undermines the right to strike, and more broadly, ignoring the importance of front-line staff in delivering vital healthcare services.

If you look at the government's announcement on a continuing care strategy review and on the development of a dementia strategy which I have enclosed after my text, you don't find any reference to the front-line services. If we didn't know better, you would think that these services are delivered by themselves without any hands-on,

person-to-person contact. Of course, we know better that this is absolutely crucial, especially by front-line workers. I have seen the amazing dedication, commitment and sacrifice given by them such as our members in Local 34. They give over 100% to their clients and their family members. The system could not operate without them. And yet, they are barely acknowledged in continuing care or dementia strategies. They should be seen as the cornerstone, the foundation. Recruitment and retention are constant problems. Wages and working conditions are very important, not the only issues, but key ones to help address these problems.

The last point I wish to bring to your attention is a major effort by our Home Support members to develop new legislation that recognizes the importance of their services over the last nine years. It is called the "Continuing Care Assistants Act: An Act Respecting Home Support Services". You will find after the text of my remarks. You will this proposed legislation provides a purpose, details of what Home Support Services mean, in terms of clients, types of services, funding, the qualifications and training, workplace, workers' rights, benefits and protections, and relationship to other healthcare workers. It

would set up a broad-based Home Support Services Advisory Council and the need for a provincial strategy for recruitment and retention. In our view, this is a vital piece of legislation developed by Home Support Workers. What do we have now? Two very antiquated pieces of legislation: The *Homemaker Services Act* and the *Coordinated Home Care Act* which have been around since the 1980s. The government has said it will be working to update the current legislation which is hopefully out-of-date. As we said since 2005, our proposed legislation must be given serious consideration.

### **Conclusion**

In conclusion, Bill 30 is disastrous, a major step backwards from both a labour-management relations, and from a health policy perspective. To be honest, I have personally said the same thing before this Committee on Bill 34 in 2000 and Bill 68 on 2001. It is long overdue time for the government and all sides of the House give priority to health human resource policy in general, and fair and decent wages and working conditions for the front-line workers in particular. Besides getting back to the bargaining table, I would urge all MLAs and the government to look at our proposed Continuing Care

Assistants Act as a model for the new continuing care legislation which is long overdue.

I appreciate this opportunity to speak with you on Bill 30. I welcome any questions or comments.

# Dexter: essential services law not needed for N.S. health-care workers

Canadian Press in The Westmount Examiner  
Published on January 14, 2010

HALIFAX - Nova Scotia is the only province without a law restricting strikes in the health-care sector and none of the party leaders think that should change.

Premier Darrell Dexter said Wednesday he doesn't favour restrictions on collective bargaining, although it can create consternation.

"In the end, what they deliver is stability, they deliver productivity," he said. "I think that's what workplace democracy is about.

"When it comes to things like essential services agreements, those should be negotiated because they can be negotiated as part of contracts as well, and frequently are, and I just think that works better."

Hospital workers in Alberta, Ontario and Prince Edward Island don't have the right to strike and have a system of arbitration to settle contracts.

The other provinces have essential services legislation, which requires a certain number of unionized employees to keep working if the union strikes to back its demands.

**Liberal Leader Stephen McNeil said Nova Scotia effectively has essential services legislation already because collective agreements require emergency services staffing plans.**

**McNeil said he thinks those plans should be hammered out in times of labour peace, not days before a possible strike.**

**"(The government) should have been doing this in advance while there was labour stability," McNeil said.**

**He said the legislation in other provinces hasn't stopped labour unrest and strikes. (emphasis added)**

About 4,100 Canadian Union of Public Employees health-care workers could walk off the job Monday. They're employed at 33 hospitals outside the Capital District Health Authority.



A CUPE spokesman could not be reached for comment Wednesday.

Rick Clarke, president of the Nova Scotia Federation of Labour, said he saw on Monday evening the emergency plan CUPE and the employer worked out. He said that process is why Nova Scotia doesn't have legislation like other provinces, and he doesn't see that changing.

"I don't envisage that happening any time in the near or even the long term because, as this government's been saying through this process, they're supporting the collective bargaining process," Clarke said.

Interim Tory Leader Karen Casey also doesn't think legislation is necessary, a change from the position she had as part of the minority Tory government that brought forward a law in 2007 that would have taken away the right to strike from health workers and replaced it with arbitration.

"That was what was deemed to be necessary at the time, but I would not suggest that we bring back that legislation," Casey said.

Casey said her first choice would be to have an agreement outside of legislation to protect health care.

Another 3,000 CUPE school support workers outside the metro Halifax region could also go on strike Monday. There have been no talks between the union and government for more than a week.

New Democrat backbenchers said Wednesday they've been hearing from constituents - both union members and citizens - about the potential labour stoppage.

Some hospitals are scaling back services and plan to discharge patients in the next few days.

"There are grave concerns, but we hope that there will be some kind of settlement," said Pictou East member Clarrie MacKinnon.

Gary Ramey of Lunenburg West said he was satisfied with how the union and government have handled themselves to this point.

"People, I believe, are trying to solve a difficult issue, and difficult issues aren't solved quickly," he said.

A key issue for both groups of workers is getting the same 2.9 per cent raises as their metro Halifax counterparts. The province, facing a \$525-million deficit, is offering one per cent, although the school workers have been offered 2.9 per in the first two years of a four-year deal.

The province couldn't say Wednesday how much the union's demands would cost taxpayers.

Nov. 21/13 Chronicle-Herald

# Glavine: Start at home

## Seniors care can't depend on 'bricks and mortar'

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Health and Wellness Minister Leo Glavine doesn't use the term crisis when talking about seniors care. Rather, he says the system has challenges and pressures.

Meeting those challenges starts in the home, he said Wednesday. That is, in making sure seniors have the support they need to stay in their own homes as long as they can instead of in a nursing home or in hospital for weeks on end waiting for long-term care.

"We, as the Department of Health and government, have to say the home will be the primary focus," Glavine said.

"It's going to take, actually, pressure off of our nursing homes. . . . We are running out of money for bricks and mortar."

He spoke after the last of a series of stories in The Chronicle Herald about the problems families face waiting long periods for nursing homes, the care some seniors receive when they are in homes and possible ways to improve the system.

Glavine said the series was timely and gave readers a better understanding of what is happening with continuing care.

The government, in office for a month, is in the midst of reviewing the provincial continuing-care strategy, he said.

Some of the options mentioned in the series, such as the models used in some European countries, and improving the medical services available in nursing homes will be considered, Glavine said.

He also said there are already doctors, such as his own, in the province making regular house calls to check on seniors.

"I think there are a lot of areas in medicine, in the home repair area, in community supports and (that) families, collectively, can do," Glavine said.



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**Leo Glavine**  
Health and Wellness minister

"Can we go to a model such as (Denmark) with universal home care, 100 per cent of everything paid for? Probably not. Can we do some version of that and do it well? I think we have to do it."

He said he was concerned to read stories about nursing home residents with diapers unchanged for periods of time and being served inadequate meals.

Those issues would be part of the continuing-care review, as well as an examination of the level of staffing, Glavine said. A Health and Wellness Department staffer could make unexpected visits to nursing homes to check in with residents about the care they are getting, he added.

The minister said nursing homes should be the place for the most frail seniors and those most in need. He said the average length of stay is more than three years, while in the United Kingdom, it is nine months.

Opposition critics agreed with Glavine that helping seniors stay in their homes longer is the right area of focus.

New Democrat David Wilson, the health and wellness minister before the election, said his government was fully aware of the

growing number of seniors in the province and was taking steps to improve home care.

"One of the key things is definitely trying to make sure that people can stay in their homes longer," Wilson said.

"(The government) needs to continue to look at where do we invest in personnel, or in policy, or in training, and that's what I'll be doing as health critic over the coming years, keeping close track of the current government."

Progressive Conservative MLA Chuck Porter said the Liberal government can get to work right away on better home care and improving the way seniors are placed in long-term care so they are closer to their home communities.

Porter also said he doesn't think there should be an income test for whatever new home-support programs may be created.

"(If) we can be looked after at home, and we can save a pile of money from the government coffers . . . in keeping them at home through these programs, then we should be seriously look at that, because that's where people want to be."

## Continuing Care Strategy Review Begins

Health and Wellness  
January 31, 2014 1:10 PM

The province is beginning its promised review and refocus of the Continuing Care Strategy.

Health and Wellness Minister Leo Glavine announced today, Jan. 31, the province has met with a Minister's Roundtable on Continuing Care and will consult with the public on how best to care for an aging population.

The Minister's Roundtable on Continuing Care was made up of leading Nova Scotia researchers, academics, clinicians and advocates who work with seniors and people of all ages with disabilities and conditions.

"Government understands the pressures facing seniors," said Mr. Glavine. "We have an opportunity to be innovative with the delivery of health care, especially for our older population."

Mr. Glavine said the Continuing Care Strategy is eight years old. He added Nova Scotia has the oldest population per capita in Canada. These demographics highlight the need to review and refocus the Continuing Care Strategy and create a provincial dementia strategy.

Mr. Glavine said he looks forward to hearing the valuable insights into care that only clients and caregivers can provide, as well as the experience of those who provide services each and every day.

"Caregivers Nova Scotia fully supports the review of the Continuing Care Strategy as it is the foundation for how Nova Scotians will be able to live at home longer," said Angus Campbell, executive director of Caregivers Nova Scotia. "Part of the framework is to ensure care recipients and their unpaid caregivers are supported with the programs and services they need to achieve the best health outcomes possible."

Continuing Care services are available to all Nova Scotians who require ongoing care, whether for a short or long term, like beds in nursing homes and access to home care supports and equipment. These services are provided in homes, nursing homes or residential care facilities. About 36,000 Nova Scotians access continuing care services each year.

Nova Scotians can access Continuing Care services by calling toll-free 1-800-225-7225 or visiting the Department of Health and Wellness website at [www.gov.ns.ca/health/ccs](http://www.gov.ns.ca/health/ccs)  
(<http://www.gov.ns.ca/health/ccs>) .

### FOR BROADCAST USE:

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Health and Wellness Minister Leo Glavine announced today (January 31st) the province has met with leading Nova Scotia

researchers, academics, clinicians and advocates and will consult

with the public on how best to care for an aging population as part of the review.

Mr. Glavine says the Continuing Care Strategy is eight years

old. He added Nova Scotia has the oldest population per capita in

Canada and these demographics highlight the need to review and refocus the Continuing Care Strategy and create a provincial dementia strategy.

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## Nova Scotia's First Dementia Strategy Announced

Health and Wellness  
January 27, 2014 12:22 PM

The government and Alzheimer Society of Nova Scotia are co-leading an advisory committee that will guide the development, consultation and implementation of Nova Scotia's first comprehensive plan to care for people with dementia and their families.

Health and Wellness Minister Leo Glavine announced today, Jan. 27, that the provincial dementia strategy will aim to improve timely access to services, provide support for caregivers and ensure people affected by dementia can remain independent for as long as possible.

"Nova Scotia has an aging population. As we grow older, there will be greater pressures on our health-care system to deliver the care people with dementia need and deserve," said Mr. Glavine.

"This work will take time to develop, build and implement correctly. It's my goal to enhance delivery of dementia care and treatment so Nova Scotians living with dementia, as well as their families and caregivers, are well supported."

The advisory committee members will soon be named and provide direction and advice on the strategy's content, recommendations and help craft the implementation plan. Nova Scotians with dementia, caregivers and service providers and geriatric health care professionals will make up the advisory committee members.

"We're very pleased the minister and government are moving forward with this commitment," said Lloyd Brown, executive director of the Alzheimer Society of Nova Scotia. "We are excited to partner on a strategy that will support caregivers and families and no doubt add quality of life to those affected by dementia."

Nova Scotia has the oldest population per capita in the country; about 17.7 per cent of Nova Scotians are aged 65 or over. Mr. Glavine said these demographics highlight the need to review and refocus the province's Continuing Care Strategy and create a provincial dementia strategy.

"I am enthusiastic about taking part in helping to formulate a dementia strategy," said Dr. Kenneth Rockwood, professor of geriatric medicine and neurology at Dalhousie University. "The commitment to a system that is more responsive, more efficient and more effective is inspiring."

A panel of experts was invited to discuss Nova Scotia's aging population, its impacts on the Continuing Care Strategy and solutions around care delivery. The Minister's Roundtable on Continuing Care brought together leading Nova Scotia researchers, academics, clinicians and advocates who work with seniors and people of all ages with disabilities and conditions for a discussion about how best to care for an aging population and how to move forward on a dementia strategy.

January is national Alzheimer Awareness month.

"January is a good time to begin work on the strategy as understanding the effects of living with dementia are top of

mind for all Nova Scotians," said Mr. Glavine.

The provincial dementia strategy will be announced in spring 2015.

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# Continuing Care Assistants Act

## An Act Respecting Home Support Services

Be it enacted by the Governor and Assembly as follows:

### Short Title

1 The Act may be cited as the Continuing Care Assistants Act, 2012. R.S. c. \_\_\_\_, s. \_\_\_\_.

### Purpose of Act

2 The purpose of this Act is

(a) to ensure that the needs of persons who require personal assistance or support of home support workers are met; and

(b) to increase public awareness about how without such assistance or support, the functioning of all clients would likely deteriorate making it impossible for them to remain in their homes and/or community; and

(c) to ensure that there is continuity of health/home care services for the persons in need; and

(d) to recognize the vital and distinctive role and contribution of home support workers/continuing care assistants to the provision of such assistance and support; and

(e) to ensure that these workers have fair and equitable pay, benefits and working conditions and a major voice in determining the policies and procedures affecting the delivery of their services.

(f) to recognize that home support services has a distinct and variable work environment.

### Interpretation

3 In this Act,

(a) “agency” means an agency providing home support services and employing home support workers or continuing care assistants;

(b) “continuing care” means the provision of care to clients/persons in need outside of hospital or long-term care facilities either on a short-term or long-term basis;

(c) “continuing care assistant” or “home support worker” means the health care provider that is trained and involved in the delivery of personal assistance and support services for residents of nursing homes and hospitals as well as for persons living in the community;



(d) "Department" means the Department of Health and Wellness

(e) "home support services" means the range of personal assistance, health care, and support services required to enable persons in need to remain in their homes and in their community.

(f) "home support worker" means the health care provider with standardized training who is involved in the delivery of home support services;

(g) "Minister" means the Minister of Health and Wellness.

### **Home Support Services**

#### **Clients**

4 (1) A client of home support services is any one who qualifies for continuing care through the Department of Health.

(2) Clients include but are not limited to the elderly, persons with disabilities, children, palliative care patients, and mental health clients.

#### **Types of Services**

5 The Department has to approve the types of home support services to be provided.

#### **Funding of Services**

6 (1) The Department shall provide funding for home support services to the agencies.

(2) The funding provided shall be determined in response to an annual funding submission to a RFP for the next fiscal year to the Department from each agency with input from their home support workers/continuing care assistants. This submission shall be sent to the Department by no later than December 31 of the previous fiscal year.

(3) a. The Department and each agency shall jointly determine the amount of funding to be provided in order to provide adequate types of services for the needs in their community.

b. The adequacy of funding in response to changing community needs shall be jointly reviewed before end of each fiscal year.

(4) The annual funding for each agency shall be provided by the Department within the first quarter of each fiscal year.



(5) Copies of the approved budget breakdown for each agency each year shall be made available to their home support workers.

(6) Agencies shall be held accountable for the amount of donations from clients and their families and how they are used.

## **Part I - Home Support Workers**

### **Qualifications and Training**

7 (1) Home support workers/continuing care assistants are trained through approved modules that are offered by the Department-approved educational institutions.

(2) Any training required by the Department for home support services shall be paid by the agencies for their home support workers/continuing care assistants in a timely manner before any changes or new services are implemented.

(3) Each agency shall also pay for education/refresher courses required for their home support workers/continuing care assistants.

### **Workplace**

8 (1) Each agency shall recognize that the workplace for each home support worker/continuing care assistant shall be a client's home, the worker's private vehicle if used for work purposes, and the worker's home if used for administrative work.

(2) All the requirements of the *Occupational Health and Safety Act* and its Regulations shall pertain to the workplaces of each home support worker.

(3) Each agency shall provide all materials and equipment that are required by a home support worker/continuing care assistant to perform her/his job.

### **Worker Rights, Benefits and Protections**

9 (1) All home support workers/continuing care assistants will be encouraged to be organized in a union according to the provisions of the *Trade Union Act* including the right to have a recognized bargaining agent, a collective agreement negotiated with their agency, and successor rights in the event of a transfer to a new employer.

(2) Any collective agreement for home support workers/continuing care assistants shall recognize the importance of fair and equivalent rates of pay/benefits and working conditions in order to attract and retain the numbers of home support workers/continuing care assistants required.

(3) Such an agreement shall provide for regularly scheduled hours of work, defined benefit pensions, and a range of health benefits provided by a recognized health insurance provider.

(4) Each worker shall receive adequate compensation for the use of their personal vehicle if required for work purposes.

### **Protection from Allegations**

10 (1) Each agency shall provide protections for any home support worker/continuing care assistant faced with allegations of abuse, theft or any other misconduct related to the services provided by the worker.

(2) These protections shall include but are not limited to coverage of legal costs, coverage of accidental breakage, due process within the agency to a fair hearing and any suspensions with pay until the allegations are found to be accurate or false within the agency or in a court proceeding.

### **Protection from Contracting-Out, Mergers, Annexations or Transfers**

11 (1) No agency shall contract out the services of home support workers/continuing care assistants or enter into merger, annexation or transfer agreements without advance consultation and participation with the home support workers/continuing care assistants and their union.

(2) This process shall include the establishment of a joint review committee, a public hearing process in which the home support workers/continuing care assistants and their union shall have standing, and the release of a public review report of the process.

(3) If it is decided to proceed with a proposed contracting-out, merger, annexation or transfer after this process, any home support worker/continuing care assistant affected by such a decision shall have the right to move to the new employer with all their existing employment, rights, seniority, rates of pay/benefits and entitlements maintained.

### **Relationship to Other Health Care Workers**

12 (1) Home support workers/continuing care assistants are recognized pursuant to this Act as an established group of health care workers providing a vital health service.

(2) No person can provide home support services except as pursuant to this Act.

(3) No home support worker /continuing care assistant shall perform the duties of any other health professional designated under a health professional Act while working as a home support worker/continuing care assistant.

## **Part II - Home Support Services Advisory Council**

13 (1) The Minister shall establish a Home Support Services Advisory Council to oversee this Act and its implementation.

(2) This Council shall be composed of representatives chosen from the following:

- (a) Home Support Workers Occupational Council of the Nova Scotia Government and General Employees Union;
- (b) Other unions representing home support workers/continuing care assistants
- (c) Health Association of Nova Scotia
- (d) Continuing Care Assistants Program Advisory Council
- (e) Care Coordinators with the District Health Authorities
- (f) Department of Health
- (g) Retired home support workers/continuing care assistants

(3) There shall be a minimum of seven and a maximum of fifteen members of the Advisory Council.

(4) The Minister shall appoint two Co-Chairpersons of the Council, one of which shall be a representative from the Home Support Workers Occupational Council of the Nova Scotia Government and General Employees Union.

## **Recruitment and Retention**

14 (1) The Council shall develop a provincial strategy for the recruitment and retention of home support workers/continuing care assistants.

(2) Such a strategy shall be based on broad consultation and input on future training and staffing needs for home support workers/continuing care assistants. It shall give immediate priority to planning for retirements of home support workers/continuing care assistants.

## **Part III - General**

15 (1) The *Homemaker Services Act*. R.S., c. 201, s. 1 is repealed.

(2) All regulations made pursuant to this Act are regulations within the meaning of the *Regulations Act*.

(3) This Act comes into force on such day as the Governor in Council orders and declares by proclamation.