

Submission to the Law Amendments Committee

Re: Bill No. 79 - Civil Service Act (amended)

by Deborah MacKenzie

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April 13, 2015

Thank you for giving me an opportunity to speak to you today.

Based on a standard health impact analysis, I recommend that Section 19 of Bill 79 be further amended to read:

“Appointments to the Civil Service and terminations of employer-employee relationships must be processed in accordance with the Human Rights Act.”

The primary purpose of the *Human Rights Act* is to “recognize the inherent dignity and the equal and inalienable rights of all members of the human family.”

Beyond the ‘legal’ bit, safeguarding human rights is an ethical duty of the nursing profession, which is my background. I would like to clarify that nurses do not protect human rights by ‘filing complaints’ with quasi-legal entities, but by using health assessment, health teaching and other nursing interventions to prevent actions by others that harm the dignity of vulnerable individuals.

Despite the *Human Rights Act*, the Province has long terminated employer-employee relationships with employees who become disabled without safeguarding their inherent human dignity in the process. And this has not been cost-free. This still occurs because the Province, like many other employers, has delegated disabled employee “management” decision-making to third parties, including insurers and unions, who can then exclude disabled employees from decisions through which “terms and conditions” are set for “their rehabilitation,” “their return to work” or the “termination of their employer-employee relationships.”

The inability to adequately participate in these vital, health-related decisions can then cause severe psychological distress, anxiety, fear, and feelings of powerlessness in already ill or injured employees. This psychological trauma then causes “secondary” injury related to compromised human dignity, which is essentially what the *Human Rights Act* and the nursing profession both seek to avoid. Ill and injured employees currently risk receiving this type of injury because of the fundamentally paternalistic nature of “disability insurance” schemes forced on them by law, here and elsewhere, including the Workers Compensation system and the Nova Scotia Public Service Long Term Disability Plan.

Government and labour leaders were clearly unaware of the potential for harm when they created the existing paternalistic systems of “compensating” and “helping” workers who become disabled.

In contrast, ethical health care professionals know, and oppressed disabled people everywhere know, that “health” can only be achieved when making decisions about what “help” is needed by people facing health challenges, and then controlling how such “help” is provided, are done with the full participation of the actual individuals and groups experiencing the health challenges and receiving the “help.”

Therefore, since 1981, the slogan of “Disabled People International” has been **“Nothing About Us Without Us!”** That is also my message today to the Province and its labour leaders.

Employees who become disabled are a uniquely disadvantaged subgroup of “persons with disabilities,” who are harmed by the fact that their voices are still ignored in government-sponsored “plans” to “help them.” Unions do not, and cannot, competently speak for this group.

By implementing my recommendation that it change its human resource management practices to “process terminations of employer-employee relationships” with “dignity,” the Province will advance two public health goals: improved health protection for all citizens, and equitable workplace inclusion of persons with disabilities.

Eliminating paternalism from the Province’s “disability management” practice will also permit financial cost savings related to “disability benefits.” Further, the strategic elimination of paternalism will demonstrate the Province’s intent to protect the psychological health and safety of disabled employees, thereby avoiding potential future litigation costs related to psychological injuries.

A cost-free first step will be to simply allow uninsurable disabled employees to “opt out” of the currently mandatory “participation in the Nova Scotia Public Service Long Term Disability Plan” as “a condition of employment.” This paternalistic provision is still found in the *General Civil Service Regulations* made under the *Civil Service Act*, where it functions to unfairly bar many disabled employees from returning to work and to instead force undignified “terminations” on them.

I have a longstanding relationship with the Province, including having served as a Public Health Nurse. Some seem unclear about the full scope of health-protective services potentially provided by a Public Health Nurse. Imagine that through this role, nursing care subtly scales up and extends its’ health-protective reach throughout the whole social ‘ecosystem,’ much as the humble grey seal fertilizes and promotes the health of ocean life overall.

I welcome any of your questions or comments.