

# Submission of the Nova Scotia Federation of Labour



The Nova Scotia Federation of Labour Represents 70,000 workers from various unions in Nova Scotia.

While we welcome measures to restrict the use of sick notes, we are concerned about several of the items contained within Bill 256.

We have heard time and time again from our worker members. Instead of staying home and recovering, workers are forced to sit in walk in clinics with cold and flu symptoms to get a sick note for their employer. It puts a burden on the health care system, and on the health of the worker.

These restrictions mean that more and more workers are forced to show up to work sick because they simply can't afford to stay home.

### **Non-consecutive absences**

Unlike the Federal standards, this government's bill allows employer to demand a note if the employee took at least two non-consecutive absences of as little as one day each due to sickness or injury in the preceding year.

In practical terms, this will mean employers will easily get around the prohibition on medical notes for sickness/injury absences lasting 5 or fewer consecutive working days.

We recommend and urge the government to delete section 5(1)(b) in Schedule B.

*5 (1) An employer may not require a certificate with respect to an employee's absence from work due to the employee's sickness or injury unless*

*(a) the absence continues for more than five consecutive working days;  
or*

*(b) the employee has had at least two non-consecutive absences of five or fewer working days due to sickness or injury in the preceding 12 months.*

**Qualified health care practitioner**

This bill also puts conditions on the qualified health practitioner who is authorized to provide medical certificates. It specifies that a qualified health professional who is providing a diagnosis, treatment or care to the employee:

(a) with respect to the sickness or injury that is causing the employee's absence from work;

(b) that falls within the scope of practice of the profession of the qualified health professional; and

(c) that falls within the individual scope of practice of the qualified health professional.

The federal legislation doesn't have any of these requirements. It simply defines health care practitioner as a person lawfully entitled, under the laws of a province, to provide health services in the place in which they provide those services.

We'd therefore recommend that section 5(2) in its entirety be replaced by following phrase:

*(2) A certificate permitted to be required under subsection (1) may be issued by a qualified health professional who is providing a diagnosis, treatment or care to the employee*

- (a) with respect to the sickness or injury that is causing the employee's absence from work;*
- (b) that falls within the scope of practice of the profession of the qualified health professional; and*
- (c) that falls within the individual scope of practice of the qualified health professional.*

*“(2) A certificate permitted to be required under subsection (1) may be issued by a qualified health professional.” A qualified health professional could then be defined simply along the lines of the Canada Labour Code.*

Accordingly, we’d delete section 10(1)(a) and (b), which allows the government to make regulations to define ‘qualified health professional’.

*10 (1) The Governor in Council may make regulations*

- (a) excluding classes of persons for the purpose of the definition of "qualified health professional" in Section 2;*
- (b) prescribing classes of persons for the purpose of the definition of "qualified health professional" in Section 2;*
- (c) excluding persons or classes of persons from the application of this Act;*
- (d) for the purpose of Section 8, respecting administrative penalties for contraventions of this Act, including*
  - (i) prescribing the form and content of the notice of an administrative penalty,*
  - (ii) respecting the determination of amounts of administrative penalties, which may vary according to the nature or frequency of the contravention, and*
  - (iii) respecting any other matter necessary for the administration of the system of administrative penalties provided for under this Act;*
- (e) defining any word or expression used but not defined in this Act;*

*(f) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.*

It is also our contention that no employee should be on the hook for the cost of a medical certificate required by employers, if an employer requires it they in turn must pay for it.

Sick notes can also create an unnecessary financial burden on workers whose employers require them. For-profit companies like Maple, which more and more Nova Scotians have been forced to rely on for their health care, charge up to \$69 for a sick note.

Employers that require sick notes should have to reimburse workers for the cost of supplying them.

I also personally believe that if Employers were on the hook for these fees, they may think twice about how much they are truly required.