

**Submission to the
Ministry of Health and Long-Term Care
Concerning
The Personal Support Worker Registry**

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ADVOCACY CENTRE FOR THE ELDERLY

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INTRODUCTION TO ACE

The Advocacy Centre for the Elderly (“ACE”) is a specialty community legal clinic funded by Legal Aid Ontario that was established to provide a range of legal services to low income seniors in Ontario. The legal services include individual and group client advice and representation, public legal education, community development, and law reform activities. ACE has been operating since 1984 and is the first legal clinic in Canada with a specific expertise in legal issues of the older population.

ACE receives, on average, over 2,500 client intake inquiries a year. These calls are primarily from the Greater Toronto Area but approximately twenty per cent are from outside this region. The individual client services are in areas of law that have a particular impact on older adults. These include, but are not limited to: capacity, substitute decision-making and health care consent; end-of-life care; supportive housing and retirement home tenancies; long-term care homes; patients’ rights in hospitals; and elder abuse.

In addition to producing written educational materials in the form of brochures and newsletters, ACE has written a text in excess of 600 pages that is now in its third edition entitled *Long-Term Care Facilities in Ontario: The Advocate’s Manual*. In addition to material about long-term care homes, this manual includes chapters on retirement homes, home care, substitute decision-making, powers of attorney and advocacy. ACE is planning to publish a fourth edition in 2013.

ACE is pleased to have this opportunity to provide our written submissions regarding the Personal Support Worker (PSW) Registry to the Ministry of Health and Long-Term Care (“Ministry”). Given ACE’s experience over the years working on legal and policy issues that impact older adults in Ontario and across Canada, we trust that our submissions to the Ministry will be of assistance and urge the Government of Ontario to consider our analysis and recommendations.

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GENERAL

In our submissions, we are providing our responses to the Consultation Questions that the Ministry used to guide their discussions with stakeholders, such as ACE. We thank the Ministry for distributing these questions for our reference and consideration. Please be advised, however, that some of our responses go beyond the scope of the Consultation Questions and draw on the expertise of our office as well the information we receive from seniors and their families who contact our office.

ACE submits that the success of the PSW Registry will depend upon whether employers, PSWs, clients and patients are confident that it achieves its intended purpose. It is our submission that the information to be collected and made accessible on the PSW Registry should, first and foremost, be available to the public so that employers, patients/clients and their families can make informed hiring decisions.

ACE supports the Ministry's efforts to create a PSW Registry. We are hopeful that the information to be included on the Registry will be helpful to employers and clients/patients and their families. ACE submits that the creation of a Registry is only a first step in achieving this goal and it remains our recommendation that in order to fully protect vulnerable patients and clients, the Ministry should revisit the notion of regulating PSWs in the future. Without addressing some key issues concerning how the Registry will, for example, deal with complaints/allegations/reports about abuse and neglect by PSWs, we submit that the PSW Registry will be limited in its effectiveness.

Recommendation: ACE recommends further consultation and consideration by the Ministry and the Government concerning the regulation of PSWs in Ontario.

1. What purpose should the database be intended to serve (e.g. informational, a record of performance issues, certification completion, etc.)?

ACE submits that the primary purpose of the database should be to provide important information to employers and the public so that informed hiring choices can be made; thus protecting vulnerable patients and clients from abuse and/or neglect by PSWs who may have engaged in such behaviour previously. Further, ACE submits that no matter what care setting clients and/or patients receive services in (i.e. long-term care homes, hospitals or within the client's own home) they should be afforded the same protection from abuse and/or neglect by PSWs. It is our submission that the Registry will allow patients, clients and employers in any care setting to make the most informed choice when hiring PSWs. The development of a database should also serve the purpose of improving standards of care amongst PSWs working in Ontario through the establishing of standards for educational requirements/competencies.

Based on the information provided to stakeholders by the Ministry at the consultation meetings, we understand that the Ministry is separately reviewing the issue of core competencies and education standards for PSWs in Ontario. Currently, the education and training of PSWs can be via a number of different means including in-service training, community colleges, private career colleges or boards of education. According to the Health Professions Regulatory Advisory Council (HPRAC):

The training base of PSWs, (with approximately 20 percent of the PSW workforce having received formal education in community and career colleges or through continuing education programs through schools boards, and the remainder through in-service training) has led to uneven skills through this occupational group.¹

In preparing our submissions, we reviewed documentation concerning the B.C. Care Aide and Community Health Worker Registry. The mandate of that Registry as set up by the British Columbia (B.C.) Ministry of Health Services is as follows, according to information posted on the Hospital Employees' Union website:

The current mandate covers two main areas: "to protect vulnerable patients, residents and clients...and to improve standards of care in the Care Aide and Community Health Worker occupations."

This includes: "a database of credentialed" CAs and CHWs [Care Aides and Community Health Workers] eligible to work for publicly funded employers, an investigation process for complaints of resident abuse; and a system to suspend, remove or reinstate CAs or CHWs who have been terminated for incidents of resident abuse through a grievance/appeal process.²

The HPRAC considered alternative options to the regulation of PSWs under the *Regulated Health Professions Act, 1991, S.O. 1999, Chapter 18 (RHPA)* including the establishment of a Registry. In its final report, *The Regulation of Personal Support Workers*, the HPRAC found that a Registry could serve three purposes:

¹ Health Professions Regulatory Advisory Committee (HPRAC), *Regulation of Health Professions in Ontario: New Directions*, (April 2006), online:

<http://www.hprac.org/en/reports/resources/New_Directions_April_2006_EN.pdf> at 229.

² *BC Care Aide & Community Health Worker Registry: Frequently Asked Questions*, Hospital Employees' Union, *Newsletter*, (29 January 2010), online:

<http://www.heu.org/sites/default/files/uploads/2010_Newsletters/01-28-10%20Care%20Aide_CHW%20Registry%20QA_final.pdf> at 1.

- A *Certification Registry* which would record the successful completion of a certified PSW program. Its purpose – to track vocational competency.
- An *Incident Registry* which would record performance issues occurring during a worker's employment as a PSW. Its purpose – to bring to light performance problems.
- A *Dismissal Registry* which would record the dismissal of a PSW by an employer, thus serving as a Registry to track employment termination.³

Recommendation 1: ACE recommends that the purpose of the database should providing access to relevant and important information that will allow employers/families/clients/patients to make informed hiring decisions when hiring PSWs to provide care/support. ACE submits that the result of having access to such information is that vulnerable clients and patients will be afforded further protection from abuse and/or neglect by PSWs who may have engaged in such actions previously and subsequently had his/her employment terminated as a result by allowing stakeholders/potential employers access to such information.

Recommendation 1.1: ACE recommends further consultation with stakeholders and organizations with expertise in dealing with complaints and abuse concerning the development of a comprehensive strategy and/or mechanisms for dealing with any potential complaints of abuse and neglect received by the Ministry/department/agency/organization responsible for the PSW Registry once it is implemented.

ELIGIBILITY

2. How should 'Personal Support Worker' (PSW) be defined?

In determining how 'Personal Support Worker' be defined, ACE reviewed a variety of different reports and documents relating to the regulation of PSWs.

PSWs are employed in a broad range of settings and engage in a variety of tasks including but not limited to: activities of daily living (ADL) such as light housekeeping, personal care (bathing, dressing, feeding, toileting), transferring (helping a client into or out of bed, etc.), and clinical care services such as taking a client's temperature, blood pressure, or pulse.

³ Health Professions Regulatory Advisory Council (HPRAC). *The Regulation of Personal Support Workers*, Final Report, (September 2006), online: <<http://www.hprac.org/en/reports/resources/PSW-FinalReportSept27-06.pdf>> at 24.

In certain limited circumstances, PSWs may perform delegated or authorized acts provided they are supervised by a member of a regulatory health college (i.e. College of Nurses) in accordance with that college's standards and guidelines. Such tasks may include administering a substance by injection or inhalation and/or putting an instrument, hand or finger into a body orifice or artificial opening into the body.⁴

The Ontario Home Care Association (OHCA), in their presentation to the HPRAC on January 17, 2006, provided an extensive description as to the scope of the PSW responsibilities:

- Assisting with Personal Hygiene – bathing, showering, sponge bath
- Assisting the client with Elimination needs
- Assists with catheters, colostomies, ileostomies and urostomies
- Assisting the client with dressing and grooming
- Assisting with Ambulation, Mobilization and Positioning
- Assisting with Mechanical or Physical Lifts and/or Transfers
- Changing bed linens
- Assisting with Meal Planning and Preparation and Grocery Shopping
- Supervising the client eating or feeding the client
- Assisting the client with medications
- Practices Universal Precautions and maintains a clean working environment
- Provides emotional support to clients and residents
- Seeks the assistance of professional staff for client as needed
- Observes and reports all behavioural changes, changes in ongoing conditions and any other information pertinent to a client's care
- Assists other team members as knowledge and skills allow
- Assists with other stable delegated tasks as directed by a professional or client as policies and procedures allows
- Collects urine, sputum and stool specimens as directed.⁵

The above list of responsibilities may cover some but not necessarily all of the responsibilities that PSWs have. In addition to those health care professionals working specifically as PSWs, there are other job titles that may encompass some of the responsibilities listed above. These include: health care aides, personal attendants, home supporters, visiting homemakers, respite care workers, palliative care workers and supportive care assistants.⁶ ACE submits that job title alone should not be definitive of whether someone is working as a

⁴ *Ibid*, at 5-6.

⁵ Ontario Home Care Association. *Presentation to Health Professions Regulatory Advisory Council (HPRAC)*, (January 17, 2006), online: <<http://www.homecareontario.ca/public/docs/ohca-presentation-to-hprac-psw.pdf>> at 4.

⁶ *Supra*, note 3 at 5.

“personal support worker” but that job duties and responsibilities should also be taken into consideration.

In its *New Direction* report, the HPRAC provided the 2004 preamble to the vocational standards published by the Ministry of Training, Colleges and Universities (MCTU) which states:

Personal support workers are unregulated health care providers. They work under the supervision of a regulated health professional, supervisor, or, in the supported independent living environment under the direction of the client. They provide clearly identified personal care, routine activities of living, and home management services, by following care/service plans and established policies and procedures. Personal support workers are responsible for their work to their clients and to their employers. Employers and supervisors, when assigning work to personal support workers, consider each client situation in relation to that client’s condition, the task to be done, the associated risk of performing the task, and the environmental supports required to safely and competently carry out the task. In carrying out their assigned work, personal support workers are responsible for safely and competently following care/service plans, oral directions and written guidelines, and for complying with established policies and procedures. Personal support workers cannot perform a controlled act (*Regulated Health Professions Act, 1991*) unless the authority is delegated to them by a regulated health professional who, in making this decision, has used the practice specific guidelines outlined by their regulatory body.⁷

There are a number of different organizations and associations in Ontario whose membership includes PSWs. These include the Personal Support Network of Ontario (PSNO) and the Ontario Personal Support Worker Association (OPSWA).

Recommendation 2: ACE submits that in developing the PSW Registry the Ministry should consult with all associations representing PSWs across the Province, and possibly even those organizations that are national in scope, as to what the most relevant, appropriate and comprehensive definition of ‘Personal Support Worker’ is to those who are working in that capacity whether that be their official job title or not.

3. Who should be eligible to register?

ACE submits that anyone working as a PSW or working in the capacity of a front-line health care provider providing care and support to clients/patients even if

⁷ *Supra*, note 1 at 231 citing Personal Support Worker Program Standard, MCTU, December, 2004.

they are not referred to as a PSW should be eligible to register with the PSW Registry.

In B.C., only those CAs and CHWs employed by publicly funded employers, whether or not they have a care aide/community health worker certificate, are eligible and required to register. Those without the requisite community health worker certificate were given an incentive to register sooner rather than later, as their educational requirements would be “grandfathered” – meaning that they were not required to have a care aide or community health worker certificate if they registered before the required date.

Recommendation 3: ACE recommends that there be no distinction with respect to job title and/or practice setting in terms of who should be eligible to register with the PSW Registry provided that to some degree provide clearly identified personal care, routine activities of living, and home management services, by following care/service plans and established policies and procedures. As well, ACE recommends that any individual whose job responsibilities include any of those listed under the OHS description in our response to question 2 above should be eligible to register.

4. What should the eligibility criteria be?

Any front line worker providing “. . . clearly identified personal care, routine activities of living, and home management services”⁸ to clients and patients, regardless of the setting in which this care is provided or his/her job title, should be eligible to register with the PSW Registry. ACE recommends that all workers in Ontario working in such a capacity should be eligible to register with the PSW Registry.

Recommendation 4: All front-line care providers who are providing clearly identified personal care, routine activities of living, and home management services to clients and patients, regardless of the setting they work in or their job title, should be eligible to register.

INFORMATION/DATABASE

5. What information should the PSW Registry capture?

The information to be captured by the PSW Registry must not breach any privacy laws in Ontario. It will be important to ensure that the Registry protects the privacy interests of the PSWs who are eligible and required to register, but it must also contain adequate and relevant information so as to be useful to those accessing it. For this reason, we submit that any information concerning allegations of abuse and neglect that have been investigated, substantiated and

⁸ *Ibid.*

may have led to the termination of employment is relevant, important and should be available on the Registry.

ACE submits that the question as to what information should be included on the Registry is not one of quantity but one of utility and quality. ACE recommends that the following information be included on the Registry:

- first and last name;
- year of graduation from a PSW or similar program, if applicable;
- name and address of college, school, university where such a program was completed (this is of particular importance for those internationally-trained PSWs);
- any information regarding ongoing training/certification to work as PSW;
- information concerning current employment;
- information about previous employment for the past five years (unless the registrant is a recent graduate), including names and contact information for previous employers; and
- any information regarding termination of employment as a result of allegations of neglect/abuse.

In addition to the aforementioned information, ACE submits that information regarding whether a PSW is/was formerly a member of a regulatory health college and if/when the PSW ceased being a member of that college would be relevant and could be important with respect to protecting vulnerable clients and patients.

There is no way to prevent a health care provider who is/was formerly a member of a regulatory health college under the *RHPA*, such as the College of Nurses of Ontario, from practising as an unregulated PSW or health care aide. In some instances, the regulated health professional's certificate of practice may have been suspended and/or revoked by his/her college for reasons of health or misconduct. ACE submits that this is why such information would be relevant and important to include on the PSW Registry.

Alternatively, some health care providers who are members of a college under the *RHPA* may elect to work as an unregulated PSW or health care aide and those accessing the PSW Registry may be interested in knowing this information and being able to make further inquiries as a result. Should the PSW Registry include information about a PSW being formerly a member of a regulatory health college, it may be possible to determine the reason their membership was suspended or revoked on the relevant college's public register or by contacting the college.

Recommendation 5: We recommend that information captured by the PSW Registry should include allegations of abuse and/or neglect against a PSW that have been investigated, substantiated and led to the termination of employment.

Recommendation 5.1: ACE recommends that the PSW Registry should capture at a minimum, the following information:

- first and last name;
- year of graduation from a PSW or similar program, if applicable;
- name and address of college, school, university where such a program was completed (this is of particular importance for those internationally-trained PSWs);
- any information regarding ongoing training/certification to work as PSW;
- information concerning current employment;
- information about previous employment for the past five years (unless the registrant is a recent graduate), including names and contact information for previous employers; and
- any information regarding termination of employment as a result of allegations of neglect/abuse.

Recommendation 5.2: The PSW Registry should include information with respect to whether the registrant was formerly or is currently a member of a regulatory health college under the *RHPA*. If the PSW was formerly a member of a college, information should be included on the Registry regarding when that PSW stopped being a member and should advise those accessing the Registry to contact the relevant regulatory health college for further information.

MAINTENANCE

6. Should registration be mandatory?

ACE submits that registration should be mandatory otherwise the PSW Registry would not be reliable and this would not promote public confidence in the Registry. Nor would the Registry be of any use to employers who wish to rely on the information contained on it is the case that registration is optional. If some PSWs choose to register while others do not, the Registry would not be a reliable tool when it comes to making choices about hiring someone.

According to the Final Report of the *HRPAC*, concerning the regulation of PSWs:

For a Registry to be viable, the majority of stakeholders were of the opinion that listing on the Registry should be mandatory, and that the Registry be created and maintained by a central agency and updated regularly. The benefits would include having up-to-date information on a worker's qualifications, continuing education, certified competencies, work performance, and substantiated complaints regarding quality of service.⁹

⁹ *Supra*, note 3 at 24.

Further, we argue that there would be no incentive for PSWs to register if registration is not mandatory.

Recommendation 6: ACE recommends that registration should be mandatory for all individuals working as PSWs or working in the capacity of a PSW under a different job title, regardless of the practice setting that they work in.

7. If not, what incentives could be used to encourage PSWs to register?

In B.C., the requirement was that those working as care aides or community health workers had to register by a particular date in order to be “grandfathered”. Otherwise, they would have to either have a certificate or the equivalent educational requirements if they were registering after that date. Further, if a care aide or community health worker failed to register, he or she would only be allowed to work for their current publicly-funded employer and could not apply for a different position. They would not be eligible to work for any other publicly funded employers until proof of completion of a care aid and/or community health worker training program in B.C. could be provided.

ACE submits that for those PSWs working in Ontario for a publicly-funded employer, the incentive to register could also be tied to eligibility for applying for another position. This may be difficult to require of PSWs who are working in retirement homes or private settings.

Further, ACE submits that there should be a public media campaign targeting employers, unions, associations, and patient/client stakeholder groups to raise awareness about the establishing of a PSW Registry and to publicize the date by which PSWs must register by. Publicly funded employers and others would then know to check the Registry when considering hiring someone as a PSW or if they have any concerns about the quality of care being delivered (in the event that the Registry can be accessed by the public).

Recommendation 7: ACE recommends that the Ministry/department/agency/organization responsible for the PSW Registry should encourage PSWs to register by a certain date with a public media campaign. The campaign would serve the purpose of advising PSWs to register but also informing potential employers, clients and patients about the PSW Registry so that they know when it will be implemented and when they will have access to the information on the Registry.

Recommendation 7.1: ACE recommends linking eligibility for applying for publicly funded positions to registering with the PSW Registry so that PSWs who are currently employed by a publicly funded employer are not eligible to apply for any other publicly funded positions until they register.

8. Who should undertake the registration process? (i.e. employer or self registration)?

Registration should be done by PSWs themselves. PSWs should be given enough time to register themselves as well.

In developing a registration process, attention should be paid to making it as accessible as possible for PSWs to register. PSWs often work shifts, part-time, for different employers, and may not necessarily have access to the Internet. For example, registering online should be provided as the preferred option but those PSWs who wish to register by telephone, fax, in-person, or in writing should wish to do so. This will require that the Registry be staffed sufficiently to register all PSWs working in Ontario and to answer any questions or concerns PSWs or their employers may have during the registration period.

Recommendation 8: Registration should be undertaken by PSWs themselves so as to encourage PSW support for and confidence in the Registry. In terms of the actual registration process, the Registry should promote online registration as the preferred means but also provide for the option to register by telephone, fax, in-person or in writing to ensure that the registration process is as convenient and accessible as possible for PSWs.

9. How should data quality be assured / maintained?

ACE submits that there are many different associations and organizations that represent the interests of PSWs in Ontario and they may not necessarily all have the same philosophy or opinion on all issues of relevance to PSWs. Therefore, we submit that it would be inappropriate for the information gathering and maintenance to be done by any one of these associations/organizations.

It is our submission that the data quality can only be assured and maintained if it is collected and managed by well-trained and experienced staff. Having an association that does not represent all PSWs working in Ontario take on this task may be detrimental to the objectivity and the legitimacy of the Registry. ACE therefore submits that the data quality can only be assured and maintained if the collection of the information and the management of the Registry is done by the Ministry.

Recommendation 9: ACE recommends that the data quality can only be assured and maintained if the collection, management and updating of the Registry is done by the Ministry or a department of the Ministry. Further, ACE has some concerns regarding quality of the data and confidentiality if it is done by an external organization or third-party without any affiliation to the Government.

10. Should there be a yearly requirement to re-register (e.g. with the issue of mobility: if someone leaves the province, how will this be reflected on the database)?

The requirement that PSWs re-register annually with the register could be one way of supporting ongoing educational requirements – to ensure that the complement of PSWs in Ontario engage in continuing education activities thereby improving the standard of care and their practice. ACE submits that this would be of great benefit not only to the PSWs themselves, but also to the patients and clients who are receiving care.

Recommendation 10: ACE recommends that there should be a yearly requirement to re-register to ensure that the information on the Registry is up-to-date. In addition to an annual re-registration requirement, registrants should be required to provide any changes in their registration information as soon as possible on an ongoing basis to the registrar/Registry staff. Therefore, ACE submits that the department/agency that is responsible for the Registry must be sufficiently resourced and staffed so as to be able to handle the needs.

11. How will the Registry address instances of abuse by PSWs towards their clients? What will the process be for employers / clients / families to report abuse and to have abuse investigated?

In addition to establishing the B.C. Care Aide and Community Health Worker Registry, the B.C. Ministry of Health Services also developed a new standardized process for investigating abuse allegations. Where there is an allegation of abuse, the employer may suspend the employee alleged of abuse or neglect. Suspensions are to be reported to the Registry and during the suspension the employee is removed from the Registry.

ACE submits that it will be difficult for the Ministry to develop a PSW Registry in Ontario without also developing the comprehensive mechanisms and policies that need to be in place to address any complaints of abuse and neglect received by the Ministry/department/organization/agency responsible for the Registry. While the B.C. Registry provides for this to some degree, it is through a labour model. ACE submits that this may not be the best approach to dealing with reports of abuse/neglect that are received by the body responsible for the Registry here in Ontario.

In order for the public to have confidence in the PSW Registry and feel that the information on the Registry will assist in protecting vulnerable clients and patients from abuse and neglect, it is important that any reports of abuse and/or neglect received by the body responsible for the Registry, regardless of the source of

these complaints, be handled by staff who are fully trained and sensitive to these issues. ACE submits that the Registry should have its own specialized unit or department to handle reports of abuse and neglect. Further, staff handling reports of abuse and/or neglect should also have the expertise to determine when complaints/reports received warrant referral to the relevant authorities such as the police.

ACE does not recommend divesting the responsibility for the investigation of allegations and reports of abuse and/or neglect to another organization or agency unless it is one that has expertise in this area and staff to handle such investigations; for example, a regulatory health college. Further, ACE submits that public confidence in the PSW Registry will be impacted should the Ministry decide that any reports of abuse and neglect received by the body responsible for the register will simply be referred to another department or agency to be dealt with or should those reporting such incidents be referred elsewhere.

ACE submits that public confidence in the PSW Registry will be dependent on how the Ministry/department/agency/organization managing the Registry will handle complaints of abuse and/neglect; including what effective remedies may be available where allegations of abuse and/or neglect are substantiated. Any process set up for handling complaints/reports/allegations of abuse and/or neglect through the development of a Registry will not afford vulnerable clients and patients the same protection as the regulation of PSWs through the creation of a regulatory health college.

Recommendation 11: We recommend that the Ministry engage in further consultations with those organizations and stakeholders with expertise in abuse reporting and investigation to determine what systems and supports are needed to equip the Ministry/department/agency/organization responsible for the PSW Registry to deal with these issues and afford the best protection possible to vulnerable patients and/or clients from PSWs who engage in such behaviour.

ACCESS TO INFORMATION

12. Who should have access to the PSW Registry (i.e. employers, public, etc.)?

ACE submits that if the main objective of the PSW Registry is to protect the most vulnerable patients and clients, then access to the information should be available to the public. We understand that this may create concerns with respect to privacy rights and possible infringement of such rights. We submit, however, that given the nature of the role of PSWs as front line care providers for a vulnerable population it is important that the Registry be available to the public.

Another reason for public access to the register is the fact that PSWs work in a number of different settings – including a patient/client’s home and therefore, not necessarily under the same degree of direct supervision as those PSWs working within a facility. While some PSWs provide home care through a community organization or the Community Care Access Centre (CCAC), others are hired either directly by the client or by an agency. In these instances, it will be important for clients or their families to be able to access the information on the Registry – particularly regarding a PSW’s employment history and information about any complaints that may have led to termination of employment.

Recommendation 12: Access to the PSW Registry should be available to the public if the main objective of the Registry is to protect the most vulnerable patients and clients.

13. What level of access should each user have?

ACE submits that there should be no difference in the level of access and the register should be made available to the public. There should be no reason why the information collected for the database cannot be made accessible to the public if all the regulatory health colleges now have public registers on their websites that are accessible to the public.

ACE submits that a public register offers the best protection to vulnerable clients and patients as either they themselves or their families can access any relevant information concerning the employment history of a particular PSW and determine whether there were any previous incidences of abuse or neglect that resulted in the termination of employment. This will allow employers/clients/patients/families access to important and relevant information prior to hiring a particular PSW.

Recommendation 13: There should be no differentiation as to the level of access to the information on the PSW Registry depending on who is accessing it. ACE recommends that the PSW Registry should be publicly accessible and only contain information on it that would allow it to be so.

EDUCATIONAL STANDARDS/COMPETENCIES

14. How/when should we incorporate this piece into the development/implementation of the Registry so as not to delay initial implementation?

In order for the registration process to not be too onerous for PSWs which could delay implementation, ACE submits that a “grandfathering” approach such as that used in B.C. would be of assistance. PSWs currently working in Ontario should be eligible to register and given an opportunity to do so by a certain date,

after which they would have to provide proof educational standards/competencies in the form of a certificate or equivalent educational requirements.

At some point after the PSW Registry has been active it may be the case that individuals working in a PSW capacity who have done so for a number of years but do not have any formal training should be required to meet certain standards and/or requirements so that a baseline level of educational standards and competencies for PSWs in Ontario can be established. We submit, however, that the completion of educational equivalents and the meeting of certain standards/requirements should have no bearing on the eligibility criteria for registration if a worker can demonstrate that they have been/are working in the capacity of a PSW.

While we understand that it would be unfair to require PSWs who have been working on the front-line with no formal training other than that received in-house to obtain a certificate or the equivalent education requirements in order to be eligible to register, ACE submits that there is some value to ensuring that all PSWs in Ontario have at least achieved a minimum standard of training at some point later on.

Currently in Ontario, any PSWs working in a long-term care home are required to meet the qualifications set out in the Regulation to the *Long-Term Care Homes Act*, 2007, O. Reg. 79/10. Specifically, section 47 of the Regulation states:

47.(1) Every licensee of a long-term care home shall ensure that on and after the first anniversary of the coming into force of this section, every person hired by the licensee as a personal support worker or to provide personal support services, regardless of title, has successfully completed a personal support worker program that meets the requirements in subsection (2).

(2) The personal support worker program,

(a) must meet,

- (i) the vocational standards established by the Ministry of Training, Colleges and Universities,
- (ii) the standards established by the National Association of Career Colleges, or
- (iii) the standards established by the Ontario Community Support Association; and

(b) must be a minimum of 600 hours in duration, counting both class time and practical experience time.

(3) Despite subsection 91), a licensee may hire as a personal support

worker or to provide personal support services,

- (a) a registered nurse or registered practical nurse who, in the opinion of the Director of Nursing and Personal Care, has adequate skills and knowledge to perform the duties of a personal support worker;
- (b) a person who was working or employed at a long-term care home at any time in the 12-month period preceding the first anniversary of the coming into force of this section as a personal support worker who has at least three years of full-time experience, or the equivalent considering part-time experience, as a personal support worker;
- (c) a student who is enrolled in an educational program for registered nurses or registered practical nurses and who, in the opinion of the Director of Nursing and Personal Care, has adequate skills and knowledge to perform the duties of a personal support worker; or
- (d) a person who is enrolled in a program described in subsection (2) and who is completing the practical experience requirements of the program, but such a person must work under the supervision of a member of the registered nursing staff and an instructor from the program.

(4) The licensee shall cease to employ as a personal support worker, or as someone who provides personal support services, regardless of title, a person who was required to be enrolled in a program described in clause (3)(c) or (d) if that person ceases to be enrolled in the program or fails to successfully complete the program within five years of being hired.

Recommendation 14: ACE recommends that Ministry should consider how best to establish minimum standards and educational requirements for all PSWs and how to ensure that these are met so that there can be common care standards across the Province.

OTHER ISSUES

15. How do you envision the implementation of the Registry will play out?

The Registry will only serve its purpose if people are made aware of its existence. Therefore, ACE submits that a public advertising and education campaign will be important in implementing the Registry. ACE submits that the campaign should target the public, employers, PSWs and their organizations/associations/unions.

Recommendation 15: There should be a broad advertising campaign about the rolling out of the Registry, how the Registry will work, what information the Registry will have, and by what date PSWs are expected to have registered by.

16. How do you envision the registration process functioning?

ACE is not providing a response to this question as we are uncertain as to exactly what it is referring to.

17. What are some of the overarching themes/directives that we should keep in mind when developing a PSW Registry?

ACE submits that protecting the public, particularly those patients/clients who are vulnerable, should be an overarching theme/directive that forms the basis for the development of a PSW Registry. As such, ACE submits that careful thought must be given to how the Ministry/department/agency/organization responsible for all aspects of the PSW Registry will handle complaints/reports of abuse and neglect by PSWs that it receives; including when appropriate reports/referrals to authorities, such as the police, must be made where there may be contraventions of other legislation.

Recommendation 17: An overarching theme/directive to be kept in mind when developing a PSW Registry is how the creation of the Registry, the information on the Registry and access to the information will serve the purpose of protecting vulnerable patients and clients in Ontario.

18. How should the Registry deal with the division between publicly funded and privately operated agencies and their service providers?

The Registry should create no distinction between publicly funded and privately operated agencies and their service providers. ACE submits that clients who receive services in from both publicly funded and privately operated agencies are entitled to the same level of protection. Though it may be the case that the Ministry will consider rolling out the Registry by having only those PSWs working in publicly funded positions enrol first, ACE submits that the goal of the Registry should be the creation of a database that has information on all individuals working as PSWs in Ontario.

Recommendation 18: There should be no distinction between publicly funded and privately operated agencies and their service providers for the purpose of the PSW Registry. We reiterate that anyone working in Ontario, either specifically as a PSW, or the capacity of a PSW but under a different job title, regardless of the

setting in which they are providing care and support services, are eligible to register and should be required register.

19. How will the plan for a database be perceived by non-health providers?

We are uncertain who the “non-health providers” are that this question refers to.

20. Any foreseeable challenges?

ACE foresees that the greatest challenge to the Registry will be the balancing of the privacy and other interests of PSWs; the staffing and other interests of employers; and objective on the part of clients and their families to make sure they are protected while receiving care and support that meets all the best practices and standards available.