

December 1, 2017

The Honourable Kathleen Wynne  
Premier of Ontario  
Legislative Building  
Queen's Park  
Toronto ON M7A 1A1

**Re: Schedule 30 of Bill 177**

Dear Premier:

I am writing to express serious concerns over some truly dangerous changes to Ontario's Occupational Health and Safety Act. The proposed changes in Schedule 30 of Bill 177 deal with:

- Providing authority for the Deputy Minister (DM) of the Ministry of Labour (MOL) to establish written directives for use by inspectors respecting the interpretation, administration and enforcement of the Act and its regulations;
- Allowing the authority to be granted to an Assistant Deputy Minister
- Adding a legal requirement that inspectors comply with the directives

This power allows a DM to effectively write law, in essence by-passing the Legislature and Cabinet.

These provisions will undermine the legal authority of the MOL inspectorate. This is not the first time that we have dealt with this issue. The bureaucrats tried to make a similar power grab with proposed amendments in 2011.

Part of argument we heard back then was that they needed the changes to deal with a lack of consistency of enforcement. As we responded then and we say again today, if the issue is one of a lack of consistency then the MOL needs to do a better job of managing consistency. This is a labour relations issue that should be dealt with through the ministry's labour/management process.

The MOL already has the authority and indeed the responsibility to prepare policy and procedures, directives and interpretations. The management of the MOL also has the responsibility to ensure that everyone is following these policies, procedures, etc.

This appears to be the MOL admitting publicly that senior management at the Ministry are incapable of managing the organization; that ADMs are not able to ensure that regional offices are applying MOL policy, procedures and directives consistently across the province; that regional managers are not able to supervise the inspectors to ensure they are complying with MOL policy, procedures and directives.

It is the responsibility of the MOL as an employer to ensure that all MOL employees from senior management to front line staff have the training and skills to do their job. If the ministry's management representatives are not competent to perform their duties they should receive additional training. If this does not resolve the issue the MOL has a duty and responsibility as an employer to conduct progressive discipline to correct the behaviour.

Imagine if senior management at a corporation went to the government to say the senior management team is not able to ensure their middle management and front-line staff are consistent in following the company policies and procedures, so the government should pass a law to make them obey.

There would be calls for the resignations of the senior management up to and including the CEO.

Our experience with senior bureaucrats is that they do not always make the best decisions. It has been our experience that the WSIB, who also has the power to write policy, has at times done so in a manner that is in contradiction with the Workplace Safety and Insurance Act.

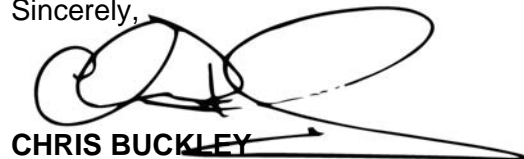
Many of the policies over the past six years have been detrimental to injured workers and their families.

During the SARS crisis in the spring of 2003 Inspectors were forbidden to deal with the health and safety concerns of health care workers. They were directed to refer inquiries, etc. to their managers. This was bad policy, which did put health care workers at risk. The outbreak killed 44 including two nurses and a doctor. Justice Archie Campbell who conducted a public inquiry into the outbreak noted throughout his report, "Spring of Fear", that the MOL was sidelined during the outbreak. This was largely a result of deliberate decisions made by senior levels of the MOL.

We have good reason to be concerned that similar decisions could be made that would have the power of law; that are made behind closed doors and without the transparency of the legislature if these powers are granted to a DM.

We have attached a document with more detailed concerns and a list of those proposed changes in schedule 30 that we support.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Buckley", with a long horizontal stroke extending to the right.

**CHRIS BUCKLEY**  
President  
Ontario Federation of Labour

CB:kn\*cope343

cc: Hon. Kevin Flynn, Minister of Labour  
Hon. Charles Sousa, Minister of Finance