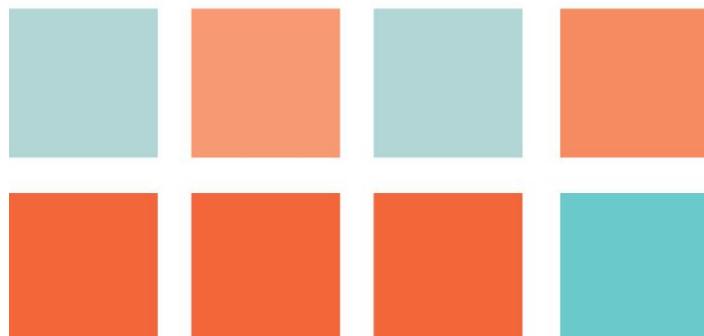


**Bill 33: Toby's Act – Right to be Free from  
Discrimination and Harassment Because of  
Gender Identity or Gender Expression**

RNAO Speaking Notes:  
Standing Committee on Social Policy  
June 11, 2012



## **Bill 33: Toby's Act – Right to be Free from Discrimination and Harassment Because of Gender Identity or Gender Expression**

Good afternoon. My name is Doris Grinspan and I am the Chief Executive Officer of the Registered Nurses' Association of Ontario – (RNAO). With me is Lynn Anne Mulrooney, Senior Policy Analyst at RNAO. We are the professional association for registered nurses who practise in all roles and sectors in Ontario. Our mandate is to advocate for healthy public policy and for the role of registered nurses in enhancing the health of Ontarians.

We are pleased and humbled to be here today to support Toby's Act. This legislation is of fundamental importance, both in term of strengthening human rights and, for taking a stand against transphobia and for the protection of trans Ontarians against discrimination and harassment.

We are thrilled that Bill 33 is proceeding as all-party legislation, sponsored by Cheri DiNovo of the New Democratic Party, Yasir Naqvi of the Liberal Party and Christine Elliott of the Progressive Conservative Party. As human rights legislation, it is both appropriate and significant that it is moving forward on its obvious merits, without partisanship. It is in the best traditions of MPPs working together for all Ontarians, RNAO thanks you for your courage and your leadership.

Bill 33 is proof that good things can come in small packages. As short as the Bill is – no more than one page – it is tall in importance and what it will mean in real terms for the many people in this province who have lived with harassment, transphobia and discrimination. They know discrimination can take various forms through direct assaults such as hate crimes, physical violence and verbal attacks.

They also know that it can come as a result of stigmatization, barriers to inclusive and appropriate care because of discriminatory practices by health-care institutions and professionals, and by not having access to the quality, safe work environments that many of us take for granted.

Sections one to five of Toby's Act amend the Human Rights Code by adding the words "gender identity, gender expression", ensuring that every person has a right to equal treatment without discrimination because of gender identity or gender expression with respect to services, goods and facilities, accommodation, contracting, employment and membership in a trade union, trade or occupational association or self-governing profession. Section 7 of the Human Rights Code is amended to guarantee every person has a right to be free from harassment because of gender identity or gender expression.

One short page speaks volumes: Toby's Act recognizes a human right to be free from discrimination and harassment because of gender identity or gender expression.

It is a fitting tribute to Toby who, like many other trans persons, died prematurely after a life fighting depression and addiction issues. It is named for Toby Dancer, but it is for all trans people who have experienced trans-phobia and trans-bashing and the fear, violence, ignorance, stigma and hatred that is still all too common. It is for all of us, as we value the diversity of our province where discrimination and harassment against one person affects us all.

RNAO has a long and proud history advocating for human rights and the health and wellness of lesbian, gay, bisexual, transsexual, transgender, two-spirit, intersex, queer or questioning persons.

I want to acknowledge and thank the brilliant and dedicated members of the Rainbow Nursing Interest Group, the expert group within the RNAO that stands with the Trans Health Lobby Group, the Trans Lobby Group, Rainbow Health Ontario, Rainbow Health Network and all those who have worked so hard and selflessly for the day to come when Toby's Act would finally become law. We share their heartfelt hope that they will not need to wait much longer.

Toby's Act is an essential step in providing full human rights protection for one of the most marginalized, economically and socially vulnerable groups in our society.<sup>1 2</sup> Advocating for full human rights protection for trans Ontarians through legislation is an ethical and professional imperative consistent with registered nurses individually and collectively seeking to promote justice.<sup>3</sup>

Strengthening human rights protection enables people to be who they are. As was explained during the House of Commons debate on Bill C-389, a Bill to amend federal legislation:

“Gender identity is a person’s innate feeling of being male, female, both genders, neither or in between. It is not a reference to people’s biological sex or their sexual orientation. Identity is something to be respected and honoured and gender identity is no different. Gender expression is the expression of that inner identity. It is the freedom to be, plain and simple, one’s self.”<sup>4</sup>”

Discrimination against people who are transgender,<sup>5 6</sup> including those who identify as transsexual,<sup>7</sup> erodes health through increased risk of violence, poverty, and social exclusion, diminishes access to health care, and threatens quality work environments.<sup>8</sup>

Results of the National Transgender Discrimination Survey by the National Centre for Transgender Equality in the United States found that their respondents experienced unemployment at twice the rate of the general population; 15 per cent lived on \$10,000 per year or less—again, twice the rate of the general population; and 19 per cent of the sample have been

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<sup>3</sup> RNAO Bill 33 Submission: Toby's Act - Right to be Free from Discrimination and Harassment Because of Gender Identity or Gender Expression. June 11, 2012

or are homeless.<sup>9</sup> A staggering 90 per cent of the respondents reported experiencing harassment or mistreatment at work.<sup>10</sup> Because of gender identity/gender expression, 44 per cent did not get a job they applied for; 23 per cent were denied a promotion, and 26 per cent lost their job—particularly hard hit for job losses were those who are Black (32 per cent) or Multiracial (37 per cent).<sup>11</sup> These multiple barriers to health and well-being experienced by trans people are consistent with findings from the Ontario Public Health Association's Trans Health Project,<sup>12</sup> the Ontario Human Rights Commission's consultation on human rights and rental housing,<sup>13</sup> and the Trans PULSE project, a community-based research project in Ontario.<sup>14</sup>

The Trans PULSE Project “aims to broadly understand how social exclusion impacts the health of trans people.”<sup>15</sup> In their analysis of the significant barriers to receiving health care that trans people experience, the authors identify the processes of erasure in information production and dissemination and in institutional protocols, practices, and policies. Assumptions that those assigned male or female at birth will always grow up to be the same are so prevalent that they are difficult to even recognize. Social activities such as child rearing, the policies of institutions and the organization of the broader social world and the health-care system itself disallow the possibility of trans existence or trans visibility.<sup>16</sup>

As nurses, we know client-centered care is based on the values of respect and human dignity.<sup>17</sup> As part of the commitment of registered nurses to improving health outcomes and the health-care system for transgender clients and staff, Ontario's registered nurses urge you, our elected leaders, to make trans people visible by fully protecting their human rights.

Ontario's registered nurses view Toby's Act as an essential way to address discrimination that threatens health, well-being, and access to health care.

Ensuring that the human rights of all Ontarians are protected is not only the just thing to do but it will also contribute to building a stronger, more vibrant community where all people are respected.

That is why the RNAO is here with you this afternoon - to add nurses' voices to those of so many who have played key roles in bringing Toby's Act so close to reality.

Let me just take a final minute to give voice to some of those who have experienced discrimination and harassment first-hand. These are excerpts from emails sent to the Canadian Senate upon its consideration of Bill C-389 last year:

"Being transgendered is not easy. Loss of relationships, family, friends, limited employment, ridicule on the streets, denial of service in stores are just some of the issues I have experienced. But I am one of the lucky ones; I was able to afford help when I considered suicide and I have not suffered physical violence or lost employment, but for so many, this is not the case...It is my hope that with your support...we can start to reduce the rage and violence, the suicides, the almost guaranteed poverty, the destructions of families and most importantly, access some form of dignity and self respect."

And another:

As the wife of a man who identifies as Transgendered, I have witnessed many years of struggle and shame. He was honest with me from the outset of our relationship and I attributed the wonderful characteristics of caring and empathy with his transgendered nature. But with those gifts also come guilt and shame...Going out into the world, even

to private meetings of other trans people, is traumatic because of the looks, comments and fears of being recognized and judged.”

Toby’s Act is an essential step in providing full human rights protection to trans Ontarians. We must put the harmful effects of stigma, discrimination and harassment behind us. Remove the barriers to employment and stability, health services, income security, food security and housing. In passing Toby’s Act without further delay, together, we can end the shame we all share that trans people continue to be among the most marginalized groups in our society.

Thank you again for giving us the opportunity to present the views of the Registered Nurses' Association of Ontario.

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<sup>1</sup> Bauer, G., Hammond, R., Travers, R., Kaay, M., Hohenadel, K., & Boyce, M. (2009). “I Don’t Think This Is Theoretical; This Is Our Lives”: How Erasure Impacts Health Care for Transgender People. *Journal of the Association of Nurses in AIDS Care*. 20 (5), 349.

<sup>2</sup> Sutherland, K. & Townsend, M. (2010). Letter to Bill Siksay. Victoria: Canadian Professional Association for Transgender Health. May 7, 2010. Retrieved from: <http://www.cpath.ca/wp-content/uploads/2010/05/Human-Rights-letter-Bill-C389.pdf>

<sup>3</sup> “Nurses uphold principles of justice by safeguarding human rights, equity and fairness and by promoting the public good.” Canadian Nurses Association (2008). *Code of Ethics for Registered Nurses*. Ottawa: Author, 17. Retrieved from: [http://www2.cna-aic.ca/CNA/documents/pdf/publications/Code\\_of\\_Ethics\\_2008\\_e.pdf](http://www2.cna-aic.ca/CNA/documents/pdf/publications/Code_of_Ethics_2008_e.pdf)

<sup>4</sup> Canada. Parliament. House of Commons Debates (2010). 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, Vol. 145. Number 043, May 10, 2010, 2552.

<sup>5</sup> “Transgender or trans: a transgender or trans person is someone whose gender identity or expression differs from conventional expectations of masculinity or femininity. It is often used as an umbrella term to include crossdressers, transsexuals, Two-Spirit, intersex, and transgender people.” Registered Nurses’ Association of Ontario (2007).

*Position Statement: Respecting Sexual Orientation and Gender Identity*. Toronto: Author, 11. Retrieved from: [http://rnao.ca/sites/rnao-ca/files/storage/related/2486\\_Respecting\\_Sexual\\_Orientation\\_and\\_Gender\\_Identity.pdf](http://rnao.ca/sites/rnao-ca/files/storage/related/2486_Respecting_Sexual_Orientation_and_Gender_Identity.pdf)

<sup>6</sup> “Transgender: people whose life experience includes existing in more than one gender. This may include people who identify as transsexual, and people who describe themselves as being on a gender spectrum or as living outside the gender categories of ‘man’ or ‘woman.’” Ontario Human Rights Commission (2008). *Gender Identity: Your Rights and Responsibilities*. Toronto: Author. Retrieved from: [http://www.ohrc.on.ca/en/issues/gender\\_identity](http://www.ohrc.on.ca/en/issues/gender_identity)

<sup>7</sup> “Transsexual: people who were identified at birth as one sex, but who identify themselves differently. They may seek or undergo one or more medical treatments to align their bodies with their internally felt identity, such as hormone therapy, sex-reassignment surgery or other procedures.” Ontario Human Rights Commission (2008). *Gender Identity: Your Rights and Responsibilities*. Toronto: Author. Retrieved from: [http://www.ohrc.on.ca/en/issues/gender\\_identity](http://www.ohrc.on.ca/en/issues/gender_identity)

<sup>8</sup> Registered Nurses’ Association of Ontario (2007). *Position Statement: Respecting Sexual Orientation and Gender Identity*. Toronto: Author.

<sup>9</sup> Grant, J., Mottet, L. & Tanis, J. (2011). *Injustice at Every Turn: A Report of the National Transgender*

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*Discrimination Survey*. Washington: National Center for Transgender Equality and the National Gay and Lesbian Task Washington: Authors, Retrieved from:

[http://endtransdiscrimination.org/PDFs/NTDS\\_Report.pdf](http://endtransdiscrimination.org/PDFs/NTDS_Report.pdf)

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Gapka, S. & Raj, R. (2003). Trans Health Project: A position paper and resolution adopted by the Ontario Public Health Association. Toronto: Ontario Public Health Association. Retrieved from:

[http://www.oph.ca/our\\_voice/ppres/papers/2003-06\\_pp.pdf](http://www.oph.ca/our_voice/ppres/papers/2003-06_pp.pdf)

<sup>13</sup> Ontario Human Rights Commission (2008). *Right at Home: Report on the consultation on human rights and rental housing in Ontario*. Toronto: Author, 13. Retrieved from:

[http://www.ohrc.on.ca/en/resources/discussion\\_consultation/housingconsultationreport/pdf](http://www.ohrc.on.ca/en/resources/discussion_consultation/housingconsultationreport/pdf)

<sup>14</sup> Bauer, G., Hammond, R., Hohenadel, K., Kaay, M., Scanlon, K. & Travers, R. (2009). Social Determinants of Trans Health in Ontario, Canada: The Trans PULSE Project Phase II. Retrieved from:

<http://www.transpulse.ca/documents/WPATH-%20SDOH-%20GBauer%202009%20v2.pdf>

<sup>15</sup> Bauer, G., Hammond, R., Travers, R., Kaay, M., Hohenadel, K., & Boyce, M. (2009). “I Don’t Think This Is Theoretical; This Is Our Lives”: How Erasure Impacts Health Care for Transgender People. *Journal of the Association of Nurses in AIDS Care*. 20 (5), 350.

<sup>16</sup> Bauer, G., Hammond, R., Travers, R., Kaay, M., Hohenadel, K., & Boyce, M. (2009). “I Don’t Think This Is Theoretical; This Is Our Lives”: How Erasure Impacts Health Care for Transgender People. *Journal of the Association of Nurses in AIDS Care*. 20 (5), 356.

<sup>17</sup> Registered Nurses’ Association of Ontario (2006). *Client Centred Care*. Toronto: Author, 19. Retrieved from:  
[http://rnao.ca/sites/rnao-ca/files/Client\\_Centred\\_Care.pdf](http://rnao.ca/sites/rnao-ca/files/Client_Centred_Care.pdf)