



RNAO

Registered Nurses' Association of Ontario
L'Association des infirmières et infirmiers
autorisés de l'Ontario

July 29, 2014

Hon. Yasir Naqvi
Minister of Community Safety and Correctional Services
16th Floor, George Drew Building
25 Grosvenor Street
Toronto, ON M7A 1Y6

RE: Ensure Enforcement of Transgender Human Rights in Correctional Facilities

Dear Minister Naqvi,

As the evidence has made increasingly clear,¹ transgender people are among the most vulnerable in our society. For that reason, RNAO was proud to be in the Legislature on June 13, 2012 when the historic Bill 33, Toby's Act (Right to be Free from Discrimination and Harassment Because of Gender Identity or Gender Expression), passed Third Reading. We are deeply appreciative that you co-sponsored Toby's Act with Cheri DiNovo of the New Democratic Party and Christine Elliott of the Progressive Conservatives to amend the *Ontario Human Rights Code* to protect the human rights of transgender people. As health professionals devoted to improving health equity and as citizens, we also congratulate the Ontario Human Rights Commission (OHRC) for their recent publication, *Policy on Preventing Discrimination Because of Gender Identity and Gender Expression*, to help us all implement the letter and spirit of the *Ontario Human Rights Code* for all Ontarians.

Given this progress is our common understanding of the need to protect the human rights of trans people, this letter is to urge you in the strongest possible terms to quickly improve policies and practices of the Ministry of Community Safety and Correctional Services (MCSCS) related to trans people in your care. It is shocking that in February 2014 a legally and self-identified trans woman was held for 20 hours at Maplehurst Correctional Complex for men and was referred to by staff as male before being transferred under pressure to a women's facility.^{2 3 4} An editorial in the *Toronto Star* argued that it is unacceptable for MCSCS to disregard the legal status of trans inmates as "a woman under the law must be treated by the law as a woman. Same goes for a man. Anything else is unsafe and unjust."⁵ OHRC's policy puts an even greater responsibility on the MCSCS: "Trans people should be recognized and treated as the gender they live in, whether or not they have undergone surgery, or their identity documents are up to date."⁶ The OHRC has cited case law in support of their recommendation that "to the greatest extent possible, institutions should provide trans inmates with housing that is appropriate for their lived gender identity."⁷

RNAO recognizes that change is never easy. In addition to the terrific resources that are available through Rainbow Health Ontario and the OHRC, RNAO would like to offer the cooperation and assistance of our members. Two of our interest groups have particular experience, expertise, and enthusiasm for supporting human rights and improved clinical care of trans people: the Ontario

Correctional Nurses Interest Group and the Rainbow Nursing Interest Group. We hope that you and your staff will not hesitate to contact us if we can be of any assistance in helping to speed the process of safeguarding human rights for trans people within our correctional services.

Minister Naqvi, you have been so eloquent on why you co-sponsored Toby's Act:

What this very simple piece of legislation does—it's not very complicated; it's one page long—is it ensures that members of a trans community in the province of Ontario have the same rights accorded to them as everyone in this province. It makes us greater. It makes us more equal. It celebrates our diversity. That is the reason I'm so happy to part of this legislation: that we are ensuring that equality is accorded to every single human being in our great province, because that makes us stronger and that makes us even stronger Canadians in terms of the values we enjoy so much.⁸

We ask you now to take urgent action to enable every single human being in our great province to be afforded their human rights, especially those Ontarians in your care as Minister of Community Safety and Correctional Services.

We look forward to your response.

Kind regards,



Doris Grinspun, RN, MSN, PhD, LLD(hon), O.ONT
Chief Executive Officer, RNAO

Copy: Ontario Human Rights Commission
Rainbow Health Ontario

¹ Trans PULSE is a “community-based research project that is investigating the impact of social exclusion and discrimination on the health people in Ontario.” Reports and peer-reviewed articles are available at:

<http://transpulseproject.ca/>

² Keung, N. (2014). Transgender woman files complaint over arrest at Pearson. *Toronto Star*, July 4, 2014, A9.

³ Transgender woman Avery Edison moved to women's jail after outcry online. *CBC News*, February 11, 2014.

⁴ Saul, H. (2014). Transgender woman Avery Edison returns to the UK after being held in a men's Canadian prison. *The Independent*, February 15, 2014.

<http://www.independent.co.uk/news/world/americas/transgender-woman-avery-edison-returns-to-the-uk-after-being-held-in-a-mens-canadian-prison-9130637.html>

⁵ “Editorial: Transgender Inmates, An Unfair Policy,” *Toronto Star*, July 6, 2014, A10.

⁶ Ontario Human Rights Commission (2014). *Policy on Preventing Discrimination Because of Gender Identity and Gender Expression*. Toronto: Author, 4.

<http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression>

⁷ OHRC, 48.

⁸ Hansard, May 10, 2012, 2289. http://www.ontla.on.ca/web/house-proceedings/house_detail.do?Date=2012-05-10&Parl=40&Sess=1&locale=en