

## **LCP Reforms NOW (part II)**

Please pardon me for devoting yet another column on this matter but it is an issue which increasingly resonates within our community, which is known to be the biggest source of live-in caregivers in Canada. Those who have been following the series of Toronto Star investigative articles in the past few weeks involving abuse and exploitation of live-in caregivers would have also heard about the government's quick response through a number of actual and proposed legislative reforms which led one article to conclude, "Victory for Nannies".

These are of course welcome developments and enough reason to be hopeful that long overdue changes are finally happening. However, I also cannot help but be cautiously optimistic as recent developments have emphasized the continuing need for vigilant advocacy.

A relevant change that has been recently implemented is the granting of provincial medical (OHIP) coverage to most open work permit holders. This is certainly good news to many live-in caregivers who are issued open work permits while awaiting the processing of their permanent resident applications. However, this change still does not cover those who are on *implied status*. Those on *implied status* include caregivers (or other work permit holders) who have submitted their open work permit (or renewal) applications prior to the expiry of their existing permits. They are able to retain their legal temporary status under the same terms and conditions of their expired work permits, until they receive the decision on their applications. While it is not exactly known why the OHIP administrators failed to consider this situation (implied status), one can reasonably attribute it to the fact that immigration law (where the implied status concept originated) is a matter of federal jurisdiction while healthcare coverage is a matter falling with the provincial jurisdiction. One would think that government bureaucrats would be prudent enough to coordinate across jurisdictional boundaries to ensure cohesive and sensible governance. But as this simple example illustrates, even that may be a bit too much to ask, it seems.

A second welcome development again arose within the provincial level when MPP Mike Colle introduced a private member's bill meant to protect caregivers from the unscrupulous practices of recruitment agencies and employers. This was followed by a commitment from the provincial government itself to introduce a government bill that will go along similar lines. While this extraordinary move is indeed a cause for rejoicing, we have yet to see the actual government-sponsored bill that is supposed to replace MPP Colle's initial proposal. MPP Peter Fonseca, who is also the current provincial labour minister, backtracked on his earlier position that the protection of caregivers is a matter that is within the federal government's jurisdiction. He later agreed, following MPP Colle's proposal, to enact measures that will mirror the protections already in place for foreign workers in other provinces such as Manitoba. But since the wheels of government legislative process grind exceedingly slow, we may have to wait a few more months (not years, hopefully) before concrete legal reforms are enacted, much less implemented.

Meanwhile, it has also been reported that Citizenship and Immigration Canada Minister Jason Kenney is conducting consultations across the country on possible areas of immigration law reform, particularly within the Live-in Caregiver Program (LCP). No doubt, this is a golden opportunity to try to influence the current federal immigration minister's views on effecting long-overdue changes to the LCP. The Minister's decision to conduct wide-ranging consultations is commendable. However, we hope that these are genuine consultations with the intention of truly listening to the actual experiences and situation of the very people who are affected by the law, the caregivers themselves. While there are those who claim to articulate the caregivers' views and/or to speak on their behalf, it is not the same as when the voices of the caregivers themselves are heard. For it is only upon hearing their stories that the Minister (and others able to influence change) will be convinced that at least the following aspects of the LCP need an urgent overhaul:

1. the mandatory live-in requirement – the caregivers' stories will prove how rampant the employers' abuses are and how easy it is to take advantage of the caregivers within this context
2. extremely poignant stories of, and often irreparable harm arising from, family separation
3. pervasive insecurity arising from lack of permanent resident status
4. loss of dignity and freedom caused by the employer-specific nature of the LCP work permit
5. vulnerability to trafficking and exploitation due to lack of enforcement mechanisms against abusers as well as the lengthy processing times of LCP immigration applications (whether for the initial work permit, renewals and permanent resident application processing).

Only time will tell if the recent legislative changes introduced and ongoing consultations being conducted in respect of the situation of foreign workers and caregivers, will actually produce effective and long-lasting results. Only time will tell if the Canadian government and its people will truly live up to its proud tradition of respecting human rights for all.

We should therefore keep up the pressure and unceasingly remind the lawmakers and other powers-that-be that that time is now.

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