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# Bill C-377: An Act to Amend the Income Tax Act (requirements for labour organizations)

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Submission to the House of Commons Standing  
Committee on Finance

Where Knowledge Meets Know-How/Le savoir au service du savoir-faire  
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## **Executive Summary**

The Canadian Federation of Nurses Unions (CFNU) is a federated union with eight provincial nurses' union affiliates and an associate member, the Canadian Nursing Students' Association. The (CFNU) represents over 156,000 nurses and student nurses. Our members work in hospitals, long-term care facilities, community health care and private homes.

Eighty-five percent of nurses in Canada belong to a union. Nurses' unions work to improve wages, benefits and working conditions, provide a voice for nurses in the workplace, promote the highest standards of health care for patients, and act on resolutions passed by union members at annual or biannual meetings.

There is already a substantial regulatory and accountability framework for labour organizations in Canada such as the CFNU. The CFNU and each of its member organizations are accountable directly to members for their actions and their spending. Nurses directly control how union finances are spent through well-established, long-standing, transparent democratic processes. Close to 10,000 nurses are elected from the general membership annually to represent members in decision-making and to provide oversight of union finances and activities.

Nurses' unions disclose audited financial statements regularly to their elected boards of directors, to all union locals, and to delegates at meetings. These statements are then made available to all members, via the web, through meetings or upon request. Individual members can request the statements from their local, from their provincial union and from their national union. Individual members' right to information on union finances is protected in provincial and federal labour laws.

The Canada Labour Code, as one example, requires:

110. (1) Every trade union and every employers' organization shall, forthwith on the request of any of its members, provide the member, free of charge, with a copy of a financial statement of its affairs to the end of the last fiscal year, certified to be a true copy by its president and treasurer or by its president and any other officer responsible for the handling and administration of its funds.

(2) Any financial statement provided under subsection (1) shall contain information in sufficient detail to disclose accurately the financial condition and operations of the trade union or employers' organization for the fiscal year for which it was prepared.

Similar language requiring disclosure exists in provincial labour legislation.

Nurses are particularly concerned about the potential breaches of patient confidentiality that would occur if this bill is passed. . If passed, information regarding an individual's sensitive medical and financial information would be made publicly available as the bill requires broad disclosure from labour organizations and labour trusts on any expenditure over \$5,000 including the purpose and description of the transaction.

The bill threatens other privacy risks. The competitive bidding process will be undermined, as competitors will be able to deduce the value of current supplier contracts with labour

organizations and labour trusts. Solicitor-client privilege would be violated, as specific details of any invoice from a legal firm over \$5,000 would be required to be published. This too has implications for patient confidentiality. For example, unions may seek legal advice for nurses who have been deemed ineligible for workers compensation due to illness or injury on the job. No one in a private organization should be required to disclose to the government and the public these details.

Nurses unions request the Committee to recommend against the passing of this bill for three main reasons:

- Unions already provide as much or more information to members as any other private organization.
- The privacy of thousands of Canadians would be violated.
- The bill's provisions would impose onerous administrative burdens on labour organizations, labour trusts and the federal government without any benefit from additional public disclosure.

## **Introduction**

The Canadian Federation of Nurses Unions (CFNU) represents members of eight provincial nurses unions (United Nurses of Alberta, Saskatchewan Union of Nurses, Manitoba Nurses Union, Ontario Nurses' Association, Nova Scotia Nurses' Union, New Brunswick Nurses Union, Prince Edward Island Nurses' Union and Newfoundland and Labrador Nurses' Union). As well, CFNU represents student nurses through its association with the Canadian Nursing Students' Association.

The CFNU has concerns about this bill's purpose, its implications for patient confidentiality and privacy rights, and its cost for labour organizations, pension and benefit plans and the federal government.

## **Bill C-377: Unclear Purpose**

The bill has been described as "contributing to restoring the rights of workers to control how their dues are spent."<sup>1</sup>

Unionized workers already control how their dues are spent and how much they pay in dues, through long standing and well-established democratic structures.

Nurses' monthly membership dues are determined at general assemblies by delegates, who are elected representatives of the union membership by region or worksite. Budgets are approved annually at general membership meetings as are financial statements which are audited by an independent third party. Financial reporting to members is required by

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<sup>1</sup> Canadian Centre for Policy Studies, March 15, 2012.  
[http://www.policystudies.ca/index.php?option=com\\_content&view=article&id=444:think-tank-supports-union-reform-bill&catid=1:press-releases&Itemid=2](http://www.policystudies.ca/index.php?option=com_content&view=article&id=444:think-tank-supports-union-reform-bill&catid=1:press-releases&Itemid=2)

provincial legislation governing labour unions. Provincial unions organize members into smaller groups called locals. Locals pass budgets and report on spending at their general assemblies. Elected local leaders review provincial union financial reports, along with variance reports and balances quarterly.

A similar democratic, accountable, and transparent structure already exists nationally. At a national level, elected nurse leaders set the budget and review financial statements. The budget is set to accomplish a mandate provided to the union by elected nurse representatives at Conventions.

As membership-based organizations, it is unclear how requiring public disclosure is necessary to improve internal governance and transparency. However, as the web is used as a means to communicate with members, financial and political reporting is already typically available also to the public.

Here is a sample of nurses' unions reporting on finances and political activities that is publicly available:

- Canadian Federation of Nurses Unions  
[http://www.nursesunions.ca/sites/default/files/audit\\_statements\\_2011.pdf](http://www.nursesunions.ca/sites/default/files/audit_statements_2011.pdf)  
[http://www.nursesunions.ca/sites/default/files/presidents\\_report\\_final.pdf](http://www.nursesunions.ca/sites/default/files/presidents_report_final.pdf)
- Saskatchewan Union of Nurses  
<http://publ.com/RcbmFxp#/28/>
- Manitoba Nurses Union 2011-2012 Annual Report  
<http://www.manitobanurses.ca/briefs-reports/index.php>
- Ontario Nurses' Association  
[http://www.ona.org/documents/File/annualreport/ONA\\_AnnualReport\\_201011.pdf](http://www.ona.org/documents/File/annualreport/ONA_AnnualReport_201011.pdf)
- New Brunswick Nurses Union  
[https://www.nbnu.ca/images/stories/publications/2011\\_Parasol\\_E.pdf](https://www.nbnu.ca/images/stories/publications/2011_Parasol_E.pdf)
- Newfoundland and Labrador Nurses' Union  
<http://www.nlnu.ca/uploads/NLNU%20Annual%20Report%202010-2011%20WEB.pdf>

Yet, supporters of the bill have said it is necessary “since unions are not required to disclose their financial reports,” and to give members a greater say in union activities. “Do [the members of these unions] get to learn what political activities their leadership is engaged in? We will never know, because unlike in the U.S., France or the United Kingdom, unions in Canada do not have to disclose that sort of information.”<sup>2</sup> These statements are patently false as you can see from the above short description of the democratic and transparent nature of unions, and the existing disclosure requirements, spelled out in labour legislation.

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<sup>2</sup> Oakley, T. (Aug. 21, 2012) “Union Merger Shows Need for Disclosure” *National Post*.  
<http://opinion.financialpost.com/2012/08/21/union-merger-shows-need-for-disclosure/>

Whereas 85 percent of nurses pay union dues, 100% are required to pay professional association fees. These fees, like union dues, are tax deductible for the individual nurse. Professional associations, like labour unions, are tax exempt as not-for-profit organizations. This bill, however, targets unions, yet excludes these organizations, again calling into question the purpose of this bill.

It is critical in the consideration of the bill, that members of parliament remember that labour organizations exist for a different purpose and under different legislation than charities. Whereas charities are required by law to restrict their political activity, labour unions must undertake political activity to fulfil their mandate of protecting the rights of workers.

The Canadian Federation of Nurses Unions and the provincial nurses' unions it represents have always been non-partisan unions. Nurses, however, mandate their unions to engage in political activities on a wide variety of issues from nursing issues, to those affecting women, marginalized communities, health care and labour rights. For example, the Canadian Federation of Nurses Unions engaged the federal government in the development of the Canadian Pandemic Influenza Plan for the Health Sector to seek adequate protection for nurses. This was based on a direction set by the elected board of nurse leaders. The right of unions to engage in political activity was affirmed by the Supreme Court of Canada in 1946 and again in 1991.

Nurses' unions also engage in organizing activities, which too are lawful union activities. Bill C-377 however will compromise these legitimate activities by requiring unprecedented public detailed reporting on these activities. Bill C-377 would 'unlevel' the playing field as the same requirements for disclosure will not be required for public or private sector employers.

Bill C-377 compromises a union's duty of fair representation and bargaining in good faith on behalf of its membership, as employers will be able to learn about organizing drives or potential legal actions from the description and purpose of transactions over \$5,000.

It is unclear what issue the Bill is trying to solve. If it is, as it appears to be, a backdoor attempt to restrain union political and organizing activities, then it is undemocratic to do so through amendments to the *Income Tax Act*.

### **Bill C-377 Undermines Patient Confidentiality and Other Privacy Rights**

Nurses are legally and ethically required to ensure patient confidentiality. It is therefore abhorrent that by association with a union, however loose that association may be, a patient's health condition could be made publicly available through Bill C-377. Labour trusts are loosely defined in the Bill, so loose, that even a non-unionized worker receiving benefits or pension cheques over \$5,000 could have their privacy violated, if a union representative is in anyway involved in the management of the pension or benefit plan.

Bill C-377 would require financial statements of labour unions and labour trusts to identify individual transactions over \$5,000, detailing the payee, the payer, the purpose and description of the transaction. Pension and benefit plans make thousands of transactions for nurses and other workers covered under the plans over the \$5,000 threshold. Requiring the purpose and description will require the revealing of sensitive medical and financial information. For example, many pension plans offer an opportunity for a lump sum payout, a commuted value payment, in the case of imminent death. Similarly, for patients with serious chronic or episodic mental or physical illness, payment for drug expenditures could easily exceed the \$5,000 threshold.

Bill C-377 therefore poses a substantial risk to patient confidentiality.

Bill C-377 also compromises solicitor-client privilege, competitive bidding processes for supply contracts and puts a chill on the use of consultants whose fees would be made publicly available. As with respect to individuals, violations of privacy should not be imposed on any business or organization simply by virtue of some association with the business of a labour organization.

The CFNU echoes a concern raised by the Canadian Bar Association about the provision contained in section 149.01(3) (b) (xx) allowing the Minister to extend disclosure requirements by regulation and without examination by Parliament. Such a provision leaves the door open for even more violations of privacy than those already contained in the bill.

### **Bill C-377 No Value for Money**

The public benefit from this legislation would be nil, yet the costs would be real and substantial. The unprecedented level of detail on political activities and financial transactions that Bill C-377 requires would drive up administration costs for unions, pension and benefits funds. This would be particularly devastating to smaller locals and unions. It would mean less union dues for member-directed purposes, eroding the ability of unions to deliver on their mandates.

Union mandates are spelled out in constitutions approved and reviewed, amended by member-elected nurses at general assemblies.

The Canadian Federation of Nurses Unions objectives are to:

- Promote nurses' labour issues within the Canadian Labour Congress (CLC).
- Advance the social, economic and general welfare of its members.
- Preserve free democratic unionism and collective bargaining in Canada.
- Promote unity within the nursing unions and other allied health fields through co-operation with and support of other Organizations sharing these objectives.
- Provide its members with a national forum for the purpose of promoting desirable legislation on matters of national significance which affect its Member Organizations.

- Promote educational goals; disseminate information on labour legislation and labour strategies among Member Organizations.
- Promote the highest standards of health care throughout Canada.
- Be advocates for social justice and equality.

Increasing administrative costs, without a public purpose for doing so, is a waste of members' dues.

Bill C-377 would cost the federal government millions in compliance. The government will have to pay to develop the software program to file, receive and process information, and to set up an online searchable database. The ongoing costs to manage these returns once the system is in place would be substantial for government without any revenue or public benefit. At a time when most sectors are seeing red tape diminished in the name of efficiency and expediency, it is unclear why Bill C-377 is tying up unions, and any who associate with them, in mountains of red tape.

### **Conclusion**

On behalf of the Canadian Federation of Nurses Unions, we appreciate the opportunity to comment on this Bill. We urge you to reject Bill C-377 as unduly onerous, a threat to privacy rights and unnecessary in the face of existing legislation and structures ensuring union transparency and accountability.