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**Wednesday 2 December 2009**

**Journal  
des débats  
(Hansard)**

**Mercredi 2 décembre 2009**

**Standing Committee on  
the Legislative Assembly**

Employment Protection  
for Foreign Nationals Act  
(Live-in Caregivers  
and Others), 2009

**Comité permanent de  
l'Assemblée législative**

Loi de 2009 sur  
la protection des étrangers  
dans le cadre de l'emploi  
(aides familiaux et autres)

Chair: Bas Balkissoon  
Clerk: Tonia Grannum

Président : Bas Balkissoon  
Greffière : Tonia Grannum

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Hansard Reporting and Interpretation Services  
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Toronto ON M7A 1A2  
Téléphone, 416-325-7400; télécopieur, 416-325-7430  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE  
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 2 December 2009

Mercredi 2 décembre 2009

*The committee met at 1307 in room 228.*

**The Chair (Mr. Bas Balkissoon):** I call to order the meeting of the Standing Committee on the Legislative Assembly, Wednesday, December 2, 2009. We're here to consider Bill 210, An Act to protect foreign nationals employed as live-in caregivers and in other prescribed employment and to amend the Employment Standards Act, 2000.

## SUBCOMMITTEE REPORT

**The Chair (Mr. Bas Balkissoon):** First, I need the approval by the standing committee of the subcommittee report. Mr. Delaney, can you read it into the record?

**Mr. Bob Delaney:** Thank you, Chair.

Your subcommittee met on Thursday, November 26, 2009, to consider the method of proceeding on Bill 210, An Act to protect foreign nationals employed as live-in caregivers and in other prescribed employment and to amend the Employment Standards Act, 2000, and recommends the following:

(1) Subject to referral of the bill by the House, that the clerk of the committee, with the authorization of the Chair, post information regarding public hearings on Bill 210 on the Ontario parliamentary channel and the committee's website.

(2) Subject to referral of the bill by the House, that the Ministry of Labour provide the committee with Bill 210 briefing binders prior to the public hearings.

(3) Subject to referral of the bill by the House, that interested parties who wish to be considered to make an oral presentation on the bill contact the clerk of the committee by 12 p.m. on Tuesday, December 1, 2009.

(4) Subject to referral of the bill by the House, that if all witnesses cannot be accommodated, the clerk provide the subcommittee members with the list of witnesses who have requested to appear by 12:15 p.m. on Tuesday, December 1, 2009, and that the caucuses provide the clerk with a prioritized list of witnesses to be scheduled by 2 p.m. on Tuesday, December 1, 2009.

(5) Subject to referral of the bill by the House, that the length of time for all witness presentations be 10 minutes.

(6) Subject to referral of the bill by the House, that the committee be authorized to meet for public hearings on Wednesday, December 2, 2009, from 1 p.m. to 3 p.m.,

and from 4 p.m. to 6 p.m., as per the time allocation motion.

(7) Subject to referral of the bill by the House, that the deadline for written submissions on the bill be 5 p.m. on Wednesday, December 2, 2009.

(8) Subject to referral of the bill by the House, that the deadline for filing amendments be 12 p.m. on Monday, December 7, 2009, as per the time allocation motion.

(9) Subject to referral of the bill by the House, that the committee be authorized to meet following routine proceedings on Tuesday, December 8, 2009, for clause-by-clause consideration of the bill, as per the time allocation motion.

(10) Subject to referral of the bill by the House, that the research officer provide the committee a brief paper on what Manitoba has done with respect to this issue prior to public hearings on the bill.

(11) Subject to referral of the bill by the House, that the clerk of the committee, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

This, Chair, is your subcommittee report.

**The Chair (Mr. Bas Balkissoon):** Shall the report be adopted? Agreed? Carried.

Okay, we'll now get to deputants, but before we do, I just want to make a couple of announcements. The House is meeting, and based on the last couple of days, there have been lots of bells. Mr. Dhillon?

**Mr. Vic Dhillon:** Chair, I would like to ask for—I know we haven't even started—a two-minute recess to clarify something that may have been read incorrectly in the report.

**The Chair (Mr. Bas Balkissoon):** I have a request for a two-minute recess. Granted? Agreed?

**Mr. Vic Dhillon:** Thank you, Chair.

**The Chair (Mr. Bas Balkissoon):** Quickly.

*The committee recessed from 1311 to 1314.*

**The Chair (Mr. Bas Balkissoon):** Could I ask all members to take their seats. We'll call the meeting to order.

**Mr. Norm Miller:** Did we already adopt the subcommittee report?

**The Chair (Mr. Bas Balkissoon):** Well, that's what I'm checking with the clerk. There's been a small error in

the dates on the subcommittee report, so Mr. Delaney would like to make a small correction.

**Mr. Bob Delaney:** Chair, with the indulgence of the committee, I would like to correct clauses (8) and (9) on the subcommittee report. Let me read them as they should correctly be:

(8) “Subject to referral of the bill by the House, that the deadline for filing amendments be 12 p.m. on Friday December 4, 2009, as per the time allocation motion.”

(9) “Subject to referral of the bill by the House, that the committee be authorized to meet following routine proceedings on Monday December 7, 2009, for clause-by-clause consideration of the bill, as per the time allocation motion.”

This, Chair, is your amended subcommittee report.

**The Chair (Mr. Bas Balkissoon):** Okay, shall the report carry? Carried.

We’ll go back to the deputants, but before I get to the first deputants, for the last couple of days—for the information of everyone in the room—we’ve had bells ringing, and members may have to leave to go and vote. If that should occur, I will recess the meeting about two minutes before voting time, and then we’ll reconvene when the vote is finished.

By the rules of the time allocation motion, this committee must end at 6 o’clock this evening. We’re here till 3 p.m. and then we reconvene at 4 p.m. in room 151 downstairs, and we carry on until 6 o’clock. At 6 o’clock the meeting ends, so I will be watching the clock very closely on deputants.

**Mr. Norm Miller:** Mr. Chair, I would just say that I have probably received 200 e-mails from people who are concerned about asking that the bill not be rushed through, so I wonder why the government is proceeding with such haste to rush this legislation through when there is obviously a lot of public concern about—people would rather the government took its time and got it right.

**The Chair (Mr. Bas Balkissoon):** Any comment from the government side? No?

EMPLOYMENT PROTECTION  
FOR FOREIGN NATIONALS ACT  
(LIVE-IN CAREGIVERS  
AND OTHERS), 2009

LOI DE 2009 SUR  
LA PROTECTION DES ÉTRANGERS  
DANS LE CADRE DE L’EMPLOI  
(AIDES FAMILIAUX ET AUTRES)

Consideration of Bill 210, An Act to protect foreign nationals employed as live-in caregivers and in other prescribed employment and to amend the Employment Standards Act, 2000 / Projet de loi 210, Loi visant à protéger les étrangers employés comme aides familiaux et dans d’autres emplois prescrits et modifiant la Loi de 2000 sur les normes d’emploi.

CAREGIVERS’ ACTION CENTRE

**The Chair (Mr. Bas Balkissoon):** Okay, we’ll go to the first deputant. The first deputant is Caregivers’ Action Centre. Pura Velasco, come forward. State your names for the Hansard record. You have 10 minutes. If there is any time left after your presentation, we will allow questions.

**Ms. Pura Velasco:** Good afternoon, everyone. Thank you for the opportunity to speak with you this afternoon. My name is Pura Velasco, a former caregiver and an organizer with the Caregivers’ Action Centre.

The Caregivers’ Action Centre, or CAC, is an organization of current and former caregivers under the live-in caregiver program and is committed to improving the lives and working conditions of caregivers. It strives to improve policies and legislation governing temporary foreign workers.

Over the years, CAC has been involved with numerous consultations with caregivers in diverse communities. We have heard from hundreds of caregivers about their concerns about violations they have faced on the job and gaps in the immigration system that make them vulnerable to different kinds of abuse.

One of the concerns we have heard over and over again are cases of caregivers charged exorbitant recruitment fees and other fees related to recruitment. Although, they pay huge amounts to get jobs, many of these caregivers have been released upon arrival, or in other words, were recruited to work for bogus employers by recruitment agencies. This puts workers at risk of deportation at the airport, while the recruitment agency faces no penalty.

We have heard many examples of workers asked to pay placement fees of \$3,500 up to as much as \$7,000 for female caregivers, for jobs that did not exist. The prevailing placement fee for a male caregiver is \$10,000. We have seen recruitment agencies charge for many other services. We have caregivers who have been turned into temp agency workers, charged for bogus labour market opinions, and asked to buy business numbers needed for filing income tax by workers. Workers are charged \$1,200 for labour market opinions and \$1,200 for business numbers. Workers are also being asked to pay the employer’s taxes of \$1,200 every six months, plus 10% penalties for late payment of taxes.

1320

There are many caregivers now dealing with recruiters who are not able to produce real T4s and ROEs, which the workers need to file their permanent residence applications. These recruiters have accountants who charge exorbitant fees for their services by justifying that the services they provide are outside of normal tax preparation services. A regular income tax preparation service would cost caregivers \$250, so you can imagine how much it would cost a caregiver to buy a backdated ROE and T4. And because of the growing tension and conflicts between the caregivers and recruiters, recruiters are resorting to all sorts of threats, such as deportation or death threats. The recruiters would brag that they

themselves would report to the Canada Border Services Agency or CIC those uncooperative caregivers who violated the LCP regulations.

The LCP supports the goal and purposes of the proposed legislation, introduced by the Ontario government, which recognizes that agencies and employers are able to exploit conditions created by the federal live-in caregiver program under the temporary foreign worker program. Bill 210 takes an important step in regulating recruitment agencies and employers and prohibiting all fees charged to caregivers. This bill addresses what we have heard from caregivers around recruitment fees and the confiscation of their property such as passports and SIN cards.

It is important that Bill 210 prohibit all fees, including those fees charged for professional services which, as I have described, can be very exploitative to workers. Most recruiters and other individuals, including employers, would demand that caregivers pay all the recruitment fees before they get the labour market opinion. This is paid either in the Philippines or in other countries where the caregiver is working. Bill 210 must be amended to ensure that fees can be recovered, whether the fees were paid in Canada or offshore, as is the reality for most caregivers.

For most caregivers, employers are involved in the collection of fees and the confiscation of documents. Bill 210 must be amended so that employers bear joint liability with recruiters and their subagents for illegal fees. Joint liability is absolutely essential to ensure that the government can enforce Bill 210 effectively.

Bill 210 provides some important steps for caregivers. However, CAC believes that Bill 210 must be amended to include temporary foreign workers and resident workers who face employment placement fees.

Most caregivers who came as “released upon arrival” encounter big problems of not meeting the requirements of the live-in caregiver program. They become victims of scams as they look for the ROEs and T4s they need to complete the program. The unlucky caregivers are disqualified from the program and they become temporary foreign workers under the temporary foreign worker program. These workers are paying fees to recruitment agencies for the jobs under the temporary foreign worker program. Caregivers become temporary foreign workers under the low-skilled category. This is the reason that the government should consider expanding the banning of recruitment fees for all temporary foreign workers and resident workers to catch all the violations that we are hearing about. If we don't include this big number of precarious workers, this will provide an incentive for the recruiters and employers to expand the charging of fees to unprotected workers.

Now I would like to address the issue that many caregivers cannot speak out about, their rights, until after they become permanent residents. Bill 210 is correct in allowing workers to file complaints up to three and a half years after an illegal fee was charged. This provision must be extended to the Employment Standards Act. We

have seen so many caregivers losing out on thousands of dollars of unpaid wages, overtime and holiday pay owing to them because they have missed the deadline by the time they can afford to file a complaint.

When they speak out, they risk everything, including their status in Canada. Caregivers can be reported by recruiters and employers to CIC. In order to ensure that caregivers will come forward about violations, the anti-reprisal provisions of the bill should explicitly prohibit an employer or other party from forcing repatriation on an employee who has filed a complaint under Bill 210 or the Employment Standards Act.

In conclusion, CAC supports the passing of Bill 210, and we would like to reiterate the following recommendations:

(1) Protections in Bill 210 need to be extended to all workers under the temporary worker program.

(2) Employers and recruitment agencies must be jointly liable for any prohibited direct or indirect fee charged to workers regardless of where and how the fee was levied.

(3) Live-in caregivers and temporary foreign workers need broader protections and enforcement under the Employment Standards Act. Thank you very much.

**The Chair (Mr. Bas Balkissoon):** We've got about 30 seconds for questions. Mr. Miller?

**Mr. Norm Miller:** Thank you, Chair. I guess I'd just ask you: The abuses that you talk about, how widespread is that? Is it something that's very common or is it quite rare—the charges—

**Ms. Pura Velasco:** Unfortunately—sorry.

**Mr. Norm Miller:** —and the other various abuses? Go ahead. Sorry.

**Ms. Pura Velasco:** Sad to say, it's very widespread, and it's rampant.

**Mr. Norm Miller:** So, fairly commonplace?

**Ms. Pura Velasco:** And it's not only the unscrupulous recruiters and employers but also immigration consultants who are involved in these kinds of scams.

**Mr. Norm Miller:** Thank you.

**The Chair (Mr. Bas Balkissoon):** We have to move on. Ms. DiNovo?

**Ms. Cheri DiNovo:** Thank you, Pura, for all your amazing work on this and for the incredible witness that you bear to this entire issue. I just want to thank you on behalf of every resident of Ontario. Rest assured we're going to fight very hard for the amendments that you have proposed. We in the New Democratic Party support this bill. Thank you.

**Ms. Pura Velasco:** Thank you.

**The Chair (Mr. Bas Balkissoon):** On the government side, anybody?

**Mr. Vic Dhillon:** Would you agree that the practice of releasing has diminished in the past few months because of federal reforms?

**Ms. Pura Velasco:** Thank you for that question. No. The release upon arrival has not stopped.

**Mr. Vic Dhillon:** We're not saying “stopped.” Has there been any decline that you've noticed?

**Ms. Pura Velasco:** I don't think so.

**Mr. Vic Dhillon:** I see some people nodding.

**Ms. Pura Velasco:** I don't think it has diminished. As you know, nobody is running after—

**The Chair (Mr. Bas Balkissoon):** Thank you very much. We'll have to move to the next deputant.

**Mr. Vic Dhillon:** Thank you very much.

**Ms. Pura Velasco:** Thank you.

CANADIAN ASSOCIATION  
OF PROFESSIONAL IMMIGRATION  
CONSULTANTS

**The Chair (Mr. Bas Balkissoon):** The Canadian Association of Professional Immigration Consultants, Mr. Phil Mooney. Please state your name for the record. You have 10 minutes. If there's any time left at the end of your presentation, we'll have questions.

**Mr. Phil Mooney:** Thank you, Mr. Chair and committee members. We appreciate the opportunity to speak to you today.

My name is Phil Mooney. I'm the president of the Canadian Association of Professional Immigration Consultants. I'm also a member of the Canada Border Services Advisory Committee, the Citizenship and Immigration Canada immigration practitioner advisory group, and the HRSDC immigration practitioners advisory group. I am a certified Canadian immigration practitioner located in Burlington, Ontario.

My colleague today, Mr. Nir Rozenberg, is also a certified Canadian immigration consultant who operates a caregiver recruiting agency in Markham.

First let me say that we support the intent of this bill and commend the Ontario government and the Minister of Labour for taking this initiative.

CAPIC members, as certified Canadian immigration consultants, assist caregivers by obtaining work permits so they can come to Canada, and by advising them of their rights under the Immigration and Refugee Protection Act both before and after they arrive in Canada.

Just like attorneys, we are regulated. We maintain client accounts for funds deposited with us, which are audited by the regulator. We carry insurance for errors and omissions, we have a criminal compensation fund and we operate under a rigorous code of conduct.

Today we'd like to use our deep understanding of the immigration system to help put this whole issue into perspective.

**1330**

It's sometimes useful to look back and see how we arrived at this point. Only then can we understand how best to move forward.

Today, you will hear that the process of bringing a caregiver to Canada requires many, many steps when done right. Many honest employers and agencies must have been doing it right as more than 6,500 caregivers gained permanent resident status in the 12 months prior to September this year. Given processing times, these are individuals who first came to Canada in 2005-06.

In general, the vast majority of caregivers are chosen carefully by employers who follow the rules and who are assisted by agencies who work with the employer to ensure that the caregiver meets their needs. This past year, 10,511 live-in caregivers entered Canada to work—approximately 55% of those in Ontario. What is a little troubling is that about 20,000 labour market opinions were issued at the same time.

Normally the system works well, but when done by those who would manipulate it, only two steps are required to be real and verifiable. There must be a real labour market opinion and a real work permit. The labour market opinion, or LMO, is entered into the HRSDC computer system and accessed by CIC. The bad guys cannot access the computer system. The work permit is a government-issued document based on a well-established process common to all temporary foreign workers and their applications.

But nothing else has to be real. In the world of those who would abuse the system, there does not have to be a real employer or a real qualified caregiver. Both can be faked and, until the start of 2009, it was very easy to do.

Before 2009, to get an LMO for a caregiver, no advertising was required. The paperwork was limited and easily assembled. Nor was there any follow-up to validate that the job was real. Stories abound about individuals being asked to sign a bogus LMO application and supply a few papers in return for cash.

The work permit application process was somewhat tougher but, in general, the LMO was respected. Until 2005, the process was relatively quick, especially since applicants could apply anywhere in the immigration system.

Then, in the spring of 2005, CIC changed the system by enacting delayed provisions of the Immigration and Refugee Protection Act. Applicants were required to file in their home countries or where they were working at the time. A huge backlog developed in the Philippines, which created a demand in Canada for those who could supply caregivers quickly. Enter the bad guys.

Soon, a pipeline was established that saw the unscrupulous recruiters and agents supplying the employers with caregivers immediately, even though the names on the work permit did not match the names on the LMO and the LMOs were mostly or completely fraudulent. Some of the employers and even some of the caregivers willingly participated in the fraud.

Those were the salad days for the abusers, taking in easy money without any fear of getting caught. There was a never-ending stream of caregivers in the pipeline on the way to Canada and a strong demand for their services with no monitoring after the fact and a very vulnerable worker population motivated to not make waves. Rules about work permit renewals or portability were ignored and the new LMOs were easily obtained.

After many complaints and more and more extreme examples of abuse, things started to change late last year and have continued into 2009. HRSDC required that all employers get a Revenue Canada tax number. Then, they

insisted on an advertising requirement that included the Service Canada job bank and another source. Finally, employers had to include an attestation from a recognized professional as to their own identity.

Further changes are on the way. Visa posts are now calling employers in Canada to ensure that caregivers have shown up and were really working where it said they were working. Most importantly, the CBSA is calling employers when the caregiver gets to Canada, and if there is no confirmation of the employment are refusing entry and putting the caregivers back on the plane. This is happening in substantial numbers now.

Even Air Canada is asking for a letter from the employer or they don't let the caregiver on the plane because they're responsible for the cost of flying them back. As a result, from hundreds of caregivers every month being "released upon arrival," which is a particularly onerous term, with no job and crushed dreams, the numbers have been reduced to a mere handful. Of course, this has now transferred the problem back to their home countries, but at least they are not easy prey for the vultures who circle the airport departure areas.

As a result, in a few short months since this bill was first proposed, the situation has changed completely. This is all to the dismay of the bad agents in Canada and abroad. Inland, their source of victims is drying up. Overseas, they're facing complaints from caregivers who were forced to return to their home countries, and who are demanding refunds and going after these agencies with the support of their families.

More help is coming with planned changes to the monitoring of LMOs by HRSDC and changes to the overall temporary foreign worker program, which have already been gazetted.

Bill 210, by adding employment standards compliance to these efforts, will be very helpful. However, the bill needs a few simple amendments, or the result will be, in effect, to snatch defeat from the jaws of victory.

The bill seeks to ensure that caregivers do not pay the cost of recruiting. This is a very good idea, and in line with what other provinces have already implemented, particularly in BC and Alberta. But like the Manitoba legislation, this bill goes further and states that recruiters cannot also charge for voluntary professional development services or for immigration services. For many of these honest, ethical businesses, provision of these services is their lifeblood as they compete with the bad agents. It differentiates them from the "body shops." By providing high-quality voluntary services like CPR training and menu preparation to caregivers who wish them, for a fee, they can compete with the bad agents who charge employers nothing for recruiting and charge extortionate fees to the caregiver.

What are the bad guys going to do after Bill 210 becomes law? I suspect that they'll just figure out a way to get around it.

If Bill 210 does not change, the costs to employers to bring in a caregiver will double or triple. This will make them very easy targets for bad agents offering them

caregivers for small or no recruiting fees. Many will give up altogether and try to find other, less expensive methods of daycare.

Bad agents will respond to the possible decline in revenues by marketing individuals with no skills who have paid even more extortionate fees to them, and by supplying questionable documents for references and educational backgrounds. Bad agents will ensure that when HRSDC or CBSA or even CIC calls, someone will be there to answer the phone with the right answers. Bad agents will just pay more to get phony employers to file for LMOs.

As with all such programs, the fight won't be over; the fight will continue. But to win the fight, we must all work together. If Bill 210 is not amended, the government loses their most important ally in the fight against the bad agents, an ally who not only understands the industry but is also prepared to take the fight overseas, where governments typically can't go. These allies offer a direct and ethical alternative to the bad agents inside Ontario and in all the source countries. These allies are the reputable recruiting agencies and the regulated professionals who work with them or for them.

**The Chair (Mr. Bas Balkissoon):** You have one minute left.

**Mr. Phil Mooney:** Thank you.

How difficult are the changes we need to make? Not difficult at all. The government simply has to issue a list of prescribed voluntary services for which recruiters can charge caregivers. If there is not time to do so now, the government can simply delay this section from coming into force while it consults with stakeholders on this issue.

Why have they not already been included? In our opinion, it's because of a fear that ethical caregiver agencies, lawyers and certified Canadian immigration consultants will bundle recruiting fees into their prices for professional development or immigration services. We believe that fear to be unsubstantiated. We can provide appropriate checks and balances that will ensure it does not happen.

Visa officers have unfettered discretion to refuse a work permit if they believe that the applicant is being taken advantage of. Let them make the decision by supplying them with all the relevant facts.

We also encourage the government to consider the setting up of some sort of recruiter registration and possibly licensing, as they have in other provinces. We understand there are cost considerations, but we believe this method—

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I have to move on to the next deputant.

**Mr. Phil Mooney:** Thank you.

#### PARKDALE COMMUNITY LEGAL SERVICES

**The Chair (Mr. Bas Balkissoon):** The next deputant is Parkdale Community Legal Services, Mary Gellatly.

Please state your name for Hansard. You have 10 minutes, as everyone else, and if you leave any time at the end, we'll allow questions.

**Ms. Mary Gellatly:** Mary Gellatly.

We applaud the government for taking these important steps to improve protections for caregivers. At Parkdale Community Legal Services, we work quite a bit with caregivers, like one caregiver named Maria, and I'm going to tell you a bit about Maria's situation.

She was told that she would have to pay an agency \$3,000 for a job under the caregiver program. While she was still in her home country, a representative of the Ontario agency came and collected \$2,000. When she landed in Toronto, the agency said, "Sorry, there's no job for you, but when you do get one, you still owe us \$1,000."

Bill 210 will help workers like Maria. Prohibiting recruiters from charging fees, preventing employers from charging caregivers for the costs of recruitment and replacement, prohibiting employers and agencies from taking and keeping caregivers' passports, and recognizing in the bill that the federal live-in caregiver program rules really prevent workers from enforcing their rights until they've completed the program: These are all really important changes and part of the government's goal of improving protections for caregivers.

#### 1340

The government is quite right to prohibit all direct and indirect fees for recruiting and job placement. Most provinces and territories across Canada already prohibit fees for placement. This will simply bring Ontario into line with those practices. Instead of causing hardship for recruiters, it merely puts Ontario's agencies on a level playing field with agencies in other provinces.

We're probably going to hear from a few recruiters today who say they want to be able to charge caregivers fees for professional services or some form of services. I think we have to see, based on people's experience, that this is merely an indirect way to charge workers fees. Bill 210 is right to prohibit all direct and indirect fees, including for things like resumés and other "professional services." Menu preparation would be one of those as well.

There can be no room for exceptions, because exceptions create legislative loopholes that recruiters will use to bypass the intent of the fee prohibition. We would also even argue that subsection 7(2), which allows for exceptions to be prescribed, should be deleted because it signals an intent, down the line, to allow for exceptions to be brought into being.

I think the government took a really good step with Bill 139, the temp agency act, when it prohibited all manner of fees, an across-the-board prohibition on all fees, including for professional services, because it recognized that temp agency workers are not in a position to refuse to a body that they're reliant on to get work. Caregivers are in the same, if not worse, situation, with no labour market mobility. The incredibly vulnerable position they're in with agencies means that caregivers

do not have the power to refuse these so-called voluntary fees for services because they're risking not only their jobs but their very future in the province.

I think the other point on that: I don't think we should contemplate giving any legislative sanctioning of private employment services when Citizenship and Immigration Canada are funding free employment services for newcomers, caregivers and foreign temp workers, and that's an appropriate thing to do.

I think Bill 210 is moving in the right direction, but there are three amendments that we believe it would be important to consider to improve this legislation. Going back to Maria, she very easily could have also been a foreign temp worker who faced fees for job placement in Canada and faced the same kinds of conditions. The amendment we're seeking is to extend the application of Bill 210 to, at the very least, apply to all temp foreign workers. There are tens of thousands of temp foreign workers who are facing fees, having their passports seized and being placed in quite bad housing situations. Failure to include and extend the bill to temp foreign workers at this point really would create an incentive for agencies to expand their fee charging practices to these unprotected workers. My colleagues from the Workers' Action Centre are going to touch on that a bit more.

Our second amendment—and I want to go back to Maria again. She had paid most of her fee offshore. Fee charging practices vary across the board. Some agencies charge here; some charge overseas. That's why we had to look really carefully at what the provisions and the tools are that we're putting in place to ensure that those fees can be recovered, particularly when you've got legislation that's fundamentally relying on caregivers, the people who have the least power in this situation, to enforce fee recovery through the claims process. So we're recommending one way to do that, which is that employers and agencies be jointly liable for any prohibited direct or indirect fee charged to a worker under the act.

Recruitment is a service. The employer pays the agency through the contracting for the service. Employers can compel agencies to comply with the prohibition of charging fees as a condition of their arrangement. So an employer contracts the agency, and until it is established that there are no illegal fees paid, the employer withholds payment until that is clearly established. If the agencies charge illegal fees, the employer withholds payment and it is remitted to the worker.

The experience in Alberta is quite instructive. In Alberta, you have a high number of temp foreign workers and you've got a prohibition on fees. But you talk to folks in Alberta and they're experiencing high numbers of violations and people paying fees.

Joint and several liability is an important tool in common law and other areas of employment law. It's tested; it works. Liability for non-compliance and prohibitive fees in job placement shifts that liability to agencies and to the employers that benefit, and basically takes the responsibility for recovery of those illegal fees

away from workers, who have the least power and whom this law is to protect.

Thirdly, I just want to return to Maria. After coming here without being placed, she got herself a job looking after an elderly woman. The woman's son paid her half of the wages that were part of the employment contract that she signed. He said, "Well, the reason you're getting half the wages is because I'm giving you a job with which, two years down the road, you're going to be able to apply for permanent residency, and that's a cost for giving you that 'opportunity.'" By the time Maria was able to get out of that job, she was owed over \$21,000 in unpaid wages and entitlements for vacation pay and public holiday pay.

There are huge gaps in protections for caregivers, in addition to fees and recruitment costs. Bill 210 really—and, I think, rightly—recognizes that the terms and conditions of the live-in caregiver program that require people to work 24 months in a 36-month period; that require women workers, largely, to live in their employers' homes and limit mobility out of exploitative situations; and make it really difficult for caregivers to file claims and try to recover their unpaid wages within the six-month time limit that is allowed under the Employment Standards Act.

This is why, under Bill 210, I think the government has recognized that and extended the time limits to three and a half years. So that time limit, which recognizes the barriers, is a very important part of the bill.

**The Chair (Mr. Bas Balkissoon):** If I could ask you to wrap up—you have less than a minute.

**Ms. Mary Gellatly:** Okay, I will try to do so.

Basically, what we're saying is that that principle recognized in Bill 210, to extend the time limits because of the federal immigration rules, must be extended to allow caregivers to also recoup unpaid wages and entitlements under the Employment Standards Act. Extend that principle to provide full protection for caregivers not only for fees, not only for one area of rights, but for all rights. That's the basis of it.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. Thanks for coming.

#### WEE CARE PLACEMENT AGENCY AND IN A PINCH TEMPORARY CARE

**The Chair (Mr. Bas Balkissoon):** We'll move to our next presenter, Wee Care Placement Agency and In a Pinch temporary care: Robyn Zeldin and Dani Katz. Please state your name for Hansard. You have 10 minutes, like everyone else. If you leave any time, there will be questions.

**Ms. Robyn Zeldin:** I'm Robyn Zeldin.

**Ms. Dani Katz:** I'm Dani Katz.

**Ms. Robyn Zeldin:** Thank you very much for this opportunity to speak on behalf of many reputable nanny recruitment agencies. My name is Robyn Zeldin. I'm a mother of two and the owner and operator of Wee Care Placement Agency and In a Pinch temporary care ser-

vices in Toronto. This is Dani Katz, who has worked for me for over five years.

We are here today to express our support for and concerns about Bill 210. We understand the government's reasons for putting this bill into place and agree that the exploitation of caregivers must come to an end. However, there will be grave unintentional consequences to passing this bill in its current form. We urge you to listen to our voice.

#### 1350

Wee Care has been in business for 13 years, during which we have always worked to support caregivers and maintain a high quality of care for all our clients and families in Canada. We have always had true, legitimate employers and a very high success rate. We have constantly advocated for the rights of caregivers by educating our clients about the laws, rules and regulations of the live-in caregiver program. We have always advised on appropriate hours, wages and living conditions.

When I first started this business 13 years ago, there was virtually no sponsoring. People were forced to employ illegal nannies, transient solutions that did not work and caused extra problems. In 2000, the law changed, and it became easier to sponsor and bring caregivers from abroad to a country of opportunity. However, with the change, it was no longer necessary for agencies to hold a licence, and the industry became deregulated. We also know that some caregivers were mistreated, and we have listened to some terrible stories; however, they are only a small part of the spectrum.

The more caregivers who came into the country, the more families we had who were able to go to work every day knowing that their children were well taken care of. Many families sponsored caregivers, brought them over and employed them as their caregivers, which was the intention of the program. Many of the caregivers became part of various Canadian families, were treated with respect and stayed with these families for many years. These are some of the good stories that touch our hearts every day. The program at this time was working. Families and caregivers alike were content and happy, and that was truly a mutual equilibrium.

While we see many amazing stories, we're also aware of the negative stories, and we're always there to help caregivers and find them positions within families that would treat them properly.

When the negative publicity hit recently, the government put new standards into action, which have improved the authenticity of the program. Employers now have to advertise, have an attestation of identity signed by a guarantor and prove that they have tried to recruit Canadian citizens. Service Canada calls every single employer to verify his or her application. The Canadian consulate in Hong Kong checks addresses, availability of private rooms and notices of assessment to verify that the employer can provide properly and financially for the caregiver. Finally, the Canada Border Services Agency calls each employer upon the caregiver's arrival, again, to check authenticity.

It all works. We have seen, as a result of this, that the number of caregivers entering has been drastically reduced, and more have been coming to authentic employers. This has been most noticed as the pool of local candidates has dropped immensely.

Bill 210 outlines that an employer would be responsible for all costs associated with sponsoring. This includes professional development permits, airfare and all paperwork associated with the sponsor. We also advise all employers to pay private medical coverage, which is approximately \$240, until OHIP comes into force. The approximate amount is \$6,000. If the bill is passed the way it currently stands, no employer will pay that sum of money to sponsor someone whom they have not met, especially with no guarantee that they will even show up and work successfully.

Most two-income, middle-class families that rely on caregivers for the sole reason of child care simply cannot afford these extra costs. This would be a massive burden on a family, never mind the fact that these are just the start-up costs. The caregiver's salary has not even come into play. During these economic times, it is almost impossible for families to pay these large sums in association with obtaining quality child care.

A number of months ago, we had a client who resided in London, Ontario. It was virtually impossible for them to find a caregiver locally in that area, and that client sponsored someone from Hong Kong. The woman they sponsored accepted the job with the full knowledge of where the employer resided, what the surrounding area was and how long it would take her for transportation into Toronto to visit her sister.

When she arrived, our client drove two hours to the airport and held up a sign to meet the caregiver. They had waited five months for her to come. The caregiver walked right past the employer and took a taxi to her sister's house. When we finally found her, knowing that she arrived because of the Canada Border Services Agency, she admitted that she never intended to work in London, that it was simply too far from her sister. It was a disastrous situation for our client.

If the caregivers from abroad have no accountability for their sponsorship whatsoever, this will happen time and time again. We are constantly facing this challenge with clients outside the greater Toronto area. The caregivers themselves feel isolated in these areas because there is not a large network of caregivers, as they have in more central locations. Due to this fact, they often leave after a month's time. Why would an employer pay a large fee with no guarantee that the caregiver will stay?

With overcrowded daycares and waiting lists of five-plus years, child care in the future will become virtually impossible. The financial burden of an employer covering all the costs with no guarantee will mean that no one will be willing to put up that amount of money, causing no future sponsorships, no new caregiver arrivals in Canada, a shortage of affordable caregiver options and, ultimately, a downward spiral, causing a daycare-caregiver crisis.

We understand that you would like to model Bill 210 after Manitoba with a population of 1,119,583. Please consider that Ontario's population is 12 times that number, at 12,687,000. This is a drastic difference and will unintentionally create a catastrophic child care situation. There does need to be accountability to all caregivers, employers and agencies. We would recommend licensing agencies, creating government employer and employee contracts that would protect the workers from exploitation, and the employers as well.

We are Canadian citizens and taxpayers and we work very hard to support our families. We feel we are treated like criminals when we have done nothing wrong. We have always done everything by the book, and with this new bill we can see that the live-in caregiver program will be no longer in existence, and neither will our businesses.

We do support Bill 210 and to protect the caregivers from exploitation and abuse, but we implore you to go slowly and take into consideration section 7 of Bill 210. It is crucial for you to understand the consequences of this bill if passed in its current form.

Understand that there are reputable agencies already in existence that want what is best for everyone, and please understand that there are success stories that do exist. We believe the good far outweighs the bad. However, no one seems to be taking this into consideration.

We plead with you to exempt the fees for professional development and immigration consulting within the regulations, as is the case in BC and Alberta. We are concerned with the speed with which this bill is passing through the legislative process. Please examine the impact on all areas and all sides. No one wants to see a daycare-caregiver crisis happen to this province.

**The Chair (Mr. Bas Balkissoon):** Thank you. We've got about 30 seconds for each side. Ms. DiNovo.

**Ms. Cheri DiNovo:** We in the New Democratic Party don't want to see that either. That's why we're advocating for what we've always advocated for, which is a daycare program that people can afford, like they have in Quebec and Manitoba: \$7 a day or \$17 a day. But thank you very much for your deputation.

**The Chair (Mr. Bas Balkissoon):** The government side?

**Mr. Vic Dhillon:** I just want to say thank you for your presentation.

**The Chair (Mr. Bas Balkissoon):** Mr. Miller?

**Mr. Norm Miller:** Your big concern is this \$6,000 in extra costs. I think the couple of hundred e-mails I've received have stated a similar concern. How do you protect the vulnerable caregivers and also allow businesses like yours to stay in business and provide the services you do?

**Ms. Robyn Zeldin:** If this comes into play, we don't know if we will be able to stay in business—correct—because employers will not put up the \$6,000, what we estimate it to cost, in order to employ a caregiver. Therefore, they will no longer bring caregivers into the

country, and in a couple of years there will be no caregivers left to employ.

**The Chair (Mr. Bas Balkissoon):** Thank you very much.

#### SHURE CONSULTING SERVICES

**The Chair (Mr. Bas Balkissoon):** We'll move on to the next presenter, Shure Consulting Services: Deborah Shure. Please state your name for the record. You have 10 minutes like everyone else.

**Ms. Deborah Shure:** Thank you. Good afternoon. My name is Deborah Shure. I am a mother of three young children. I have employed three nannies through the foreign live-in caregiver program in the last seven years, and I'm the founder and owner of Shure Consulting Services, nannytax.ca, Canada's provider of payroll tax services to employers of nannies and elder caregivers. We are in our fourth year of providing nanny tax services, and while my company is not an agency, I must speak out against the well-intended but economically damaging Bill 210, which is currently being put forth.

By disallowing agencies from charging caregivers, not only does this bill have the potential to put the good, understanding agencies out of business, but the results will reach even further.

**1400**

Without these agencies, the people using the live-in caregiver program, employer and employee alike, are put in a vulnerable situation. My company works with a number of agencies in Ontario that refer clients to us to ensure that employers are paying their nannies or elder caregivers fairly, that the appropriate taxes are being deducted, that tax paperwork is being completed, that the employers are registering with the Workplace Safety and Insurance Board in Ontario, and that employment obligations as laid out by Ontario's standards are being met, including being paid out vacation pay, public holiday pay and termination pay, if necessary. I can sympathize with the caregivers that we've heard about that are being charged high fees for tax returns and for possibly getting a business number. Shure Consulting Services charged only \$25 plus GST to complete foreign live-in caregiver tax returns for the 2008 tax year. We also only charged \$25 plus GST to get a business number, which is a fee to the employer.

My main concern is that one of the obligations of the employers involved with the foreign live-in caregiver program is not being addressed. To ensure that people coming to Canada under this program are working legally means that their tax and other source deductions are being paid by their employers. Then, at the end of the program, the foreign worker can apply for an open work permit and permanent residency. One of the requirements is a minimum number of months—which is 24—and hours—which is 30 hours per week—for which the caregiver was paid. Should this bill be passed in its current form, more families, in order to save money and possibly recoup the cost of agency fees, will only pay their nanny

or caregiver for the minimum amount required, or 30 hours per week.

Bill 210 attempts to disallow employers from recouping agency fees' costs from their employee. However more employees and employers would feel that they would benefit by being paid in cash, if not in full but in part. As we all know, this type of economics does not do society any good. So the results of passing Bill 210 would be to support and promote the use of the underground economy and will result in the loss of millions of dollars in both provincial and federal tax revenues. Based on my calculations, losses would be over \$8 million annually. Without amending this bill to require licensing of agencies rather than disallowing caregivers from being charged for services they are being provided, this province is taking a step backwards.

Another scenario, should this bill be passed in its current form and the good, legitimate agencies cannot operate, is where the employer is unaware of their obligations to pay the Canada Revenue Agency and the Workplace Safety and Insurance Board. Should the agencies that are doing an exemplary job no longer exist? Many employers may only find out years after hiring their caregiver that they were supposed to remit source deductions and pay WSIB premiums. It's a very costly mistake and one that I have seen happen on numerous occasions when my clients were coming from sources other than these agencies.

I ask that you reconsider the direction that Bill 210 is taking. The repercussions of the bill in its current form are far-reaching. The amendments suggested, namely requiring the licensing of agencies and continuing to allow agencies to charge caregivers for certain services, make more economic sense. We need to focus on a process that promotes ethical practices and provides support to small businesses, families and the economy. Bill 210, as it stands, does the opposite of this. It will destroy small businesses and put a financial burden on all Ontario families and on the economy.

I ask you, as a mother, an employer, a business owner and a Canadian to seriously think through the implications of Bill 210, make the amendments brought forward, and delay section 7 from coming into force.

**The Chair (Mr. Bas Balkissoon):** You left lots of time for questions. I've got about a minute and a half each. Government side: Mr. Delaney.

**Mr. Bob Delaney:** How many caregiver clients do you have?

**Ms. Deborah Shure:** I work across Canada, so I have hundreds across Canada.

**Mr. Bob Delaney:** Hundreds? How many hundreds?

**Ms. Deborah Shure:** Three hundred currently. I get clients calling every day.

**Mr. Bob Delaney:** So you're saying that it costs you \$2,500, \$5,000, \$7,500 just to prepare some T4s?

**Ms. Deborah Shure:** I'm sorry?

**Mr. Bob Delaney:** I'm just doing the math. How much does it cost you to prepare your T4s?

**Ms. Deborah Shure:** I charge my employers an annual fee of \$300.

**Mr. Bob Delaney:** So how do you recover that money?

**Ms. Deborah Shure:** I'm not sure what you're saying.

**Mr. Bob Delaney:** Do you have any permanent employees?

**Ms. Deborah Shure:** I have one person who works for me part-time.

**Mr. Bob Delaney:** Do you charge your permanent employees for preparing their T4s?

**Ms. Deborah Shure:** I don't have any permanent employees.

**Mr. Bob Delaney:** Didn't you just say that you had one permanent employee?

**Ms. Deborah Shure:** I have one part-time person who works for me on a consulting basis, and I pay her an hourly wage.

**Mr. Bob Delaney:** Do you charge that person for preparing a T4 at the end of the year?

**Ms. Deborah Shure:** I don't prepare a T4 for her because she's not my employee; she's an outside consultant.

**Mr. Bob Delaney:** That's fine. Those are all my questions. Thank you.

**The Chair (Mr. Bas Balkissoon):** We'll move on to the PCs. Mr. Miller.

**Mr. Norm Miller:** Thank you for your presentation today. I gather that what you're saying is that the change that you'd like to see is you'd like to require all agencies to be licensed. I'm not that familiar with this, but I assume you're not required to be licensed now? Is that correct?

**Ms. Deborah Shure:** I'm not an agency, but no, from what I understand, licensing is not a requirement in Ontario. I think that's what BC and Alberta have brought forward.

**Mr. Norm Miller:** And your concern is that by not allowing some charges, a lot of these small businesses will no longer be able to stay in business.

**Ms. Deborah Shure:** Exactly. No, they won't be able to stay in business because the families won't be able to afford to pay the fees that would be required to provide their services.

**Mr. Norm Miller:** And is that \$6,000 fee that a previous person talked about a fair estimate or is that—

**Ms. Deborah Shure:** Again, I'm not an agency so I don't see the work that they do. I know what I do. I do the tax remittance calculations—the CPP, EI and provincial and federal tax deductions. I keep my clients up to date, so as taxes change, I give them an update, a new breakdown of what they should pay the caregiver. Then if they decide to give their caregiver an increase, I give them a recalculation. I file the T4s for them and I do the record of employment if the employment ends. I provide pay stubs. I do all the—

**Mr. Norm Miller:** And—

**The Chair (Mr. Bas Balkissoon):** I have to move on to Ms. DiNovo.

**Ms. Cheri DiNovo:** I certainly recognize the work you do. I used to own an agency and we charged fees only to clients, never to applicants. That was the rule before Mike Harris changed it, so this is, in a sense, not inventing anything new.

Quite frankly, the fees that we charged—10% to 20% of their annual salary—were considerably above the \$6,000 you mentioned. It was simply a cost of doing business, and our clients willingly paid it for the folk that they hired. Our agency was 90% women as well. I don't really see the argument for not charging a clients' fee—

**Ms. Deborah Shure:** I think my concern—

**Ms. Cheri DiNovo:** Excuse me for a second. That's number one. Number two, enforcement: You made the point about driving people to the underground economy. But this is true of all laws, right? All labour laws need to be enforced, and there I would absolutely agree with you. What we need from the government side and what we'd like to see is more employment standards officers actually enforcing these laws better and making random checks on houses, making random checks on employees and actually bringing to bear the weight of this law.

I just wanted to bring my background to the table and say that it's really not necessary to charge fees to applicants.

**The Chair (Mr. Bas Balkissoon):** Thank you very much.

#### WORKERS' ACTION CENTRE

**The Chair (Mr. Bas Balkissoon):** I have to move on to the next deputant, the Workers' Action Centre: Sonia Singh and Deena Ladd. Please state your name for the record. You have 10 minutes like everyone else, and if there's any time left we'll allow questions. Go ahead.

**Ms. Deena Ladd:** Thank you. My name is Deena Ladd and I'm the coordinator of the Workers' Action Centre. The Workers' Action Centre commends the Ontario government for introducing Bill 210 to ensure that foreign nationals who are live-in caregivers have increased protections. We agree that women and men from around the world should not have to pay for the fact that Canada does not have an affordable child care program, and we also agree that workers from around the world should not have to pay the costs of business and employers. I think that if the same arguments were being made for other workers in Canada who regularly go to work and are not asked to pay this range of fees—I think it's outrageous that the agencies are putting this forward.

#### 1410

We support the goals and purposes of the proposed legislation and the protections, such as prohibiting recruiters from charging any fees; preventing employers from recovering costs from caregivers; prohibiting employers and recruiters from taking and keeping a caregiver's passport, work permit and other personal documents; and allowing live-in caregivers up to three and a half years to make a complaint. These are all incredibly vital protections that are going to improve the lives of caregivers.

The Ontario government recognizes that agencies and employers are able to exploit conditions created by the federal live-in caregiver program under the temporary foreign worker program. I think the bill seeks to address some of these gaps in employment standards that allow agencies and employers to exploit live-in caregivers in Ontario.

We think that the bill provides some incredibly important steps forward for caregivers. However, we believe that the government really needs to extend the application of Bill 210 to include all temporary foreign workers.

At the Workers' Action Centre, we run a hotline in six languages. We do workshops in the community and do lots of outreach to newcomers. Increasingly we've been getting calls from workers who are here under the temporary foreign worker program.

I want to give you an example of two young men we worked with, Hiten and Suresh, who worked under the temporary foreign worker program. They were both offered jobs in Ontario, working for a caterer under that program. The workers were told that they would have standard working conditions and that they would be provided with living quarters. Hiten and Suresh understood that the employer would pay each of their families in India the equivalent of C\$350 per month and that they would personally receive \$67 per month, which worked out to be \$2.60 an hour.

When Hiten and Suresh arrived in Toronto, their passports and work permits were seized and held by the employer. They joined other temporary foreign workers of the caterer, sleeping eight to a room and working over 70 hours a week. After working long days in the kitchen, the workers returned to their sleeping quarters, only to find packages of food that had to be labelled for the employer's store.

The families of both these workers ended up receiving only \$700 each. These workers were owed well over the \$10,000 maximum amount recoverable under the Employment Standards Act by the time they could actually leave their jobs.

Other experiences of temporary foreign workers:

—A worker paid an agency \$10,000 to be placed in a food processing plant. More than a third of the workers at the factory were also temporary foreign workers who had paid similar fees. The employer had seized and held the workers' passports.

—We worked with a worker whose employer had charged him almost \$4,000 to work under that program in his restaurant in Toronto. The worker was also charged indirect fees. The employer made him pay for the airfare. The employer also confiscated the worker's passport. The worker required police assistance to obtain his passport.

—The International Organization for Migrants acts as a recruiter for workers from Guatemala, charging workers \$500 for jobs.

—Temporary foreign workers working as agricultural workers are charged \$500 to \$1,000 in recruitment fees from an in-house recruiter of the company.

—Temporary foreign workers working in the hospital industry report paying \$1,000 each to recruiters to get their positions.

—Temporary foreign workers hired to work in the health care sector paid close to \$5,000 for work but were not informed by the recruiter that their licences would only be valid for six months.

The failure to expand the application of Bill 210 would not only exclude from protection tens of thousands of workers in Ontario like Hiten and Suresh and all the examples that I've mentioned but it would also create incentives and loopholes for recruitment agencies to expand fee-charging practices for these unprotected workers.

The government needs to take very seriously the unintended consequence of, on one hand, providing much-needed protections for caregivers, but on the other hand, worsening the situation for other workers coming in through the temporary foreign worker program. These workers will be left abandoned in the same plight that caregivers are in right now but at the mercy of recruiting agencies and employers using abusive and exploitative practices. It just does not make sense.

We know that it is extremely difficult for workers under the temporary foreign worker program to come forward, as the employment standards rights and fee prohibitions contemplated under Bill 210 rely on workers making individual complaints.

The system of work permits under the temporary foreign worker program makes it virtually impossible to complain, because for many it means immediately losing your housing, income and future work, and the real consequence of being deported back home, all the time being owed thousands of dollars. The government, we feel, should return to the broad scope outlined in its original consultation paper, which is A Consultation Paper on Foreign and Resident Employment Recruitment in Ontario. A comprehensive approach must be taken to accomplish the government's goal of protecting workers in vulnerable employment.

As such, there are a couple of important amendments that I'd like to reiterate that should be made to Bill 210. The first is that it be amended to ensure that no worker—temporary foreign worker, live-in caregiver or resident worker—faces recruitment or employment placement fees. We need to expand the application of the act to include all temporary foreign workers, and that includes seasonal, agricultural and resident workers.

As the International Labour Organization Multilateral Framework on Labour Migration makes clear, a whole range of categories of temporary foreign workers require this protection. We have a great opportunity here before us to do what's right for the thousands of workers who are looking for the leadership of this government to do the right thing, as it's already recognizing what's happening with caregivers. It needs to ensure that all workers need to have the same protection.

The other amendment that I'd like to make clear is that a comprehensive approach to enforcing new protections

is essential; otherwise, recruiters will simply move fee-charging practices offshore, which, again, we've had many experiences with.

Employers and agencies must be jointly liable for any prohibited direct or indirect fee charged to a worker. Liability for non-compliance with the prohibited fee would be borne by the agency and employer who benefit, not the worker.

The anti-reprisal provision of the bill should explicitly prohibit an employer or other party from forcing repatriation on an employee who has filed a complaint under this act or the Employment Standards Act.

The last amendment that we think is quite critical is that regulating recruitment practices is essential; however, there are many other gaps in employment standards that must be addressed to ensure that caregivers and temporary foreign workers have the same access to employment standards protections as other workers. So we would request that you extend Bill 210's three-and-a-half-year time limit on complaints about contraventions of the act to include complaints respecting unpaid wages and ESA entitlements.

**The Chair (Mr. Bas Balkissoon):** Thirty seconds each. Mr. Miller.

**Mr. Norm Miller:** Thanks for your presentation. You stated that there are other gaps in employment standards not being enforced. I guess I would ask: Are the current standards being enforced in the case of caregivers?

**Ms. Deena Ladd:** I think the issue of enforcement is a critical one with any legislation that's passed. As we've seen, any employment standards protections need—I think that all workers need to ensure that enforcement is happening. So obviously—

**The Chair (Mr. Bas Balkissoon):** Thank you very much. We'll have to move to Ms. DiNovo.

**Ms. Cheri DiNovo:** Thank you, Deena, very much. Absolutely: We intend to fight for these amendments and we intend to support the bill in the New Democratic Party. Also, the backdrop of child care: We'll fight for that as well.

**The Chair (Mr. Bas Balkissoon):** The government side: Mr. Dhillon.

**Mr. Vic Dhillon:** With respect to joint and several liability: Is your position that employers should be responsible for the recruiters' charging of fees, even if the employers know nothing about the recruiters' misconduct?

**Ms. Deena Ladd:** I think it's about putting the onus of responsibility on employers, because the thing is that if people don't feel that sense of responsibility to ensure that they are using an agency to recruit someone and then not doing the kind of background checks to ensure that they're not engaging in those exploitative practices, we're not sure exactly how these practices can be stopped in the first place. We don't have that.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I have to move on to the next deputant.

## RONELL TABAFUNDA

**The Chair (Mr. Bas Balkissoon):** The next person is Ronell Tabafunda. You have 10 minutes. Please state your name for the record. If there's any time left, we'll allow questions.

**Mr. Ronell Tabafunda:** Good afternoon. Thank you for this opportunity to speak with you. My name is Ronell Tabafunda. I am a Libyan caregiver. My father, who is working in the United States, paid my placement fees, amounting to US\$8,000, or \$10,000 in Canadian dollars, to a Canadian recruiter through my aunt here in Toronto, in 2004.

**1420**

A day after my arrival in Toronto on September 10, 2007, I was shocked to learn—when I asked the recruiter where my employer was, he told me that they moved to another location. Weeks after, the recruiter told me that my employer no longer needed me.

Since my family paid so much money to this recruiter, I continued to go to his office asking him to find me another employer. He told me that he could not find a caregiving job for me because of my gender. I was deeply disappointed and disturbed by this situation. I was helpless since I had no money to pay for another recruiter.

On one of those days that I was at the recruiter's office, he introduced me to his contractor friend through the phone. The contractor offered me a job to work for his company as a drywaller. I had no experience in construction like this, but since I was desperate to survive in Toronto and to pay my debts, I accepted the job. I learned how to do drywall and other construction chores. I was paid \$10 an hour. The contractor would pay me \$1,600 monthly wages by cheque, but he also asked me to return to him \$330.48 in cash for the monthly taxes.

While I was doing the construction job, I did not stop looking for a caregiving job. I also continued to bug the recruiter about his promise of a caregiving job. After several months, the recruiter had applied for a labour market opinion for a caregiving job for me, with the contractor as my employer, since he has two sons. Now my immigration status under the live-in caregiver program is in question. I am considered to have violated the regulations of the live-in caregiver program. The recruiter lied about the caregiving job that he promised me.

What is sad and disturbing about my situation is that there are many caregivers who have had the same experience as me. I hope you will be able to help us with our situation. There are many of us who would like to recover the exorbitant recruitment costs that have been fraudulently collected from us here or abroad by recruiters, their subagents and by other parties involved.

Because of all that I have experienced, I believe it is very important to ensure that recruiters are not allowed to charge any fees to workers—not for recruitment, not for services, not for anything. This situation has given me so much stress and has put me at risk. I cannot sleep and I

have no peace of mind. This was not what I expected coming to Canada.

I want to make sure that no other workers face the abuses that I did. The government is taking an important step with Bill 210, and I encourage the standing committee to support the bill. However, I want to make sure that Bill 210 gives protections to all temporary foreign workers.

I know that many temporary foreign workers who are not caregivers are also charged fees and are abused by recruiters. Their families put an investment in them and used all their savings to pay recruiters, just like mine did. They deserve protection against these violations too. They deserve peace of mind. I urge the standing committee to amend Bill 210 to ensure it covers all temporary foreign workers.

I paid fees to a recruiter here, but I know many workers who have paid fees back home. Regardless of where the money is paid, whether here in Canada or overseas, the recruiter and the employer should be held responsible. Otherwise, they will just find ways to get around these new laws. I urge the standing committee to amend Bill 210 to make recruiters and employers jointly responsible for any illegal fees, no matter where the fees were paid.

Since I paid the \$10,000 recruitment fee in 2004, please also consider extending the limit of three and a half years for employment standards claims and make the legislation retroactive. There are many caregivers and temporary foreign workers who deserve to recover their fees.

Speaking the truth of what happened to me and to other temporary foreign workers is not easy. I have never done this before. I hope that the province of Ontario will work with the federal government on rectifying the injustice done to us by rogue recruiters and employers by letting us stay and continue to contribute to the Canadian society.

Thank you for the opportunity to speak to you today and share my experiences with you.

**The Chair (Mr. Bas Balkissoon):** You have about a minute each. Ms. DiNovo.

**Ms. Cheri DiNovo:** Thank you very much, Mr. Tabafunda. Thank you for your courage in coming forward to speak to us. I know that can be daunting. Our job in the New Democratic Party is to fight for your rights, yours and others like you, so that others don't have to go through the same experience you have. That reiterates the need for that amendment to extend this bill to all foreign workers.

**Mr. Ronell Tabafunda:** Thank you so much.

**The Chair (Mr. Bas Balkissoon):** The government side: Mr. Dhillon.

**Mr. Vic Dhillon:** You mentioned—was it a \$10,000 recruitment fee that you were charged?

**Mr. Ronell Tabafunda:** Yes, sir.

**Mr. Vic Dhillon:** Other than that, were there any other fees that were charged?

**Mr. Ronell Tabafunda:** So far, no.

**Mr. Vic Dhillon:** Thank you.

**The Chair (Mr. Bas Balkissoon):** The PC party: Mr. Miller.

**Mr. Norm Miller:** Thank you, Mr. Tabafunda, for your information. Your telling your story is very much appreciated. The \$10,000 that your father paid: Did he pay that in the United States, or did he pay it into Canada?

**Mr. Ronell Tabafunda:** My father gave this money to my aunt in the United States, and then this aunt of mine in the United States forwarded this money to her sister here in Canada. The payment was paid here in Canada, and I have all the proof and receipts for this payment.

**Mr. Norm Miller:** Okay. I was just wondering, because you were talking about fees both here and abroad in your talk. Also, you said that when you were working as a drywaller, you were giving this money back, \$300—

**Mr. Ronell Tabafunda:** Three hundred and something, sir, for the tax—\$337.47 or \$337.48 for the monthly tax.

**Mr. Norm Miller:** The question I have is: It sounds like a bad employer who isn't following the current laws that we have in the province, so how do you stop those bad employers from just ignoring whatever new laws are passed? That's probably not a question you can answer, but thank you for your presentation.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. Thanks for coming.

#### JUSTICIA FOR MIGRANT WORKERS

**The Chair (Mr. Bas Balkissoon):** We'll go to the next deputant, Justicia for Migrant Workers, J4MW; Chris Ramsaroop. Please state your name for the record. You have 10 minutes, and if there's any time left at the end of your deputation, we'll allow questions.

**Mr. Chris Ramsaroop:** Good afternoon. My name is Chris Ramsaroop. I'm an organizer for Justicia for Migrant Workers.

Thank you for providing Justicia for Migrant Workers with the opportunity to share our experiences relating to the detrimental impact that recruitment fees and other fees have had on the lived experiences of migrant workers. Justicia for Migrant Workers is an all-volunteer collective of students, community and labour organizers who work with migrant workers, particularly migrant workers employed under the auspices of the seasonal agricultural worker program and the temporary foreign worker program, particularly low-skilled.

While the committee has a mandate to examine the role of recruitment fees, we encourage you to also examine the broader implications that these employer-driven migration programs have had on the workers who participate in them.

I want to provide a few examples of what we've seen, what we've heard and what the workers want to relay to you.

Recruitment fees have negatively impacted the lives of migrant workers in Ontario. The following composite

represents the experiences of numerous temporary foreign workers employed under the low-skilled pilot project.

Saswati came to Canada to provide for her family. Her mother and father are both disabled. She is the only income earner. After hearing about potential opportunities that were available in Canada, she borrowed money from underground loan lenders. The Canadian recruiters' agent in Thailand had told her that she needed to pay \$10,000 plus 3% interest to find work in Canada. After putting a mortgage on her house and arriving here, Saswati's passport was taken by the recruiter. She was also denied wages that she was promised when she agreed to the contract back home. She also noticed that her work permit and her workplace did not match, and furthermore she was constantly being moved from workplace to workplace. One day while on the job, she received an injury at work. Her employer contacted the recruiter, who took her to the hospital. This recruiter charged her several hundred dollars for the visit.

#### 1430

When Saswati's work permit neared completion, the recruiter offered to return her passport only after she paid him \$1,500 for a work permit extension. Nervous that she may break the law by not having proper documents, she willingly paid to continue to support her family, pay her debts and get her documentation back. Nearing the completion of the extension, Saswati yearned to be back home with family and friends. In conversations with these same friends, she knew she could legally be in Canada until the termination of her visa, and that she would need to return home for four months and could then legally return to Canada.

Anxious to return home and careful not to infringe Canadian laws, she returned home, and through the same recruiters who brought her to Canada, returned to work for a second time. Rather than the \$10,000 she previously paid, this time the recruiter charged her \$5,000 plus interest. Upon return, it became evident that work was not available. She received 15 or 20 hours one week and three to five hours the following week, clearly not enough to pay either her incurred debts or any other costs she paid to come to Canada.

Out of necessity, she accepted work at a neighbouring farm—while against the contract, she had no choice. Shortly afterward, immigration officials raided her workplace arresting Saswati and detained her. Despite the efforts of advocates and Saswati herself, who was willing to speak out against the injustices, officials refused to listen and Saswati was not released. Instead she was deported and barred from Canada.

Lara and her friends arrived in Canada with a false promise of permanent residency. Like the other workers who are employed at the food-packing factory, Lara, a teacher in her home country, cannot become a permanent resident, because the low-skill program does not permit these workers the right to permanent residency. Lara paid a minimum of \$5,000 to come to Canada, including her airfare. This, of course, is contrary to the temporary

foreign worker program, where the employer is supposed to pay these costs. The workers weighed the costs and benefits of speaking out: They could speak out against this injustice and face reprisals or remain silent and be assured of employment. These workers chose the latter. Lara signed a contract in her home country. Upon arrival in Canada, she signed another contract agreeing to different working conditions than she had agreed to earlier.

On top of the initial payment, workers at this one facility are also deducted about \$1 an hour per worker for housing, where the workers are crammed together in small rooms, and in some locations where the workers deem their accommodations potential fire hazards. Workers accept these conditions out of fear that if they move out of the recruiter's provided housing they would also lose their work contract.

While you may believe that the recruiter deals solely with financial transactions—payment for work in Canada—the workers want to relay that this in fact is not the case. Their recruiter plays a role in their place of employment, their work permit extension, their housing and in numerous other areas of their lives. The recruiter has told these same workers not to discuss human rights violations with any outside group, or to join any organization that may address these violations.

When a friend of Lara went to find another LMO for a workplace unrelated to where he was working, the worker was rebuked and threatened by the recruiter who, unknown to him, had relationships with multiple employers in his industry. Apparently, the employer at the second location phoned the recruiter about what this worker wanted to do.

While we encouraged many workers to document their experiences to us, the workers were fearful that speaking about their experiences in the open would lead to (1) their termination, (2) their repatriation and/or deportation and (3) denial by their recruiter to grant work permit extensions, which in many cases would cost an additional \$1,500.

Alberto, a farm worker under the temporary foreign worker program, was recently laid off due to the economic recession. His employer terminated dozens of workers across Ontario. While permanent residents and Canadians could receive employment insurance, welfare and other social entitlements, these workers could not because (1) they did not work enough hours and (2) migrant workers are excluded from benefits such as welfare. As Alberto and countless others of those terminated explained to us, they had debts and obligations to their families; they tried to get other LMOs, other jobs.

In recounting how they came to Canada, their employer had an in-house recruiter who coordinated with a local recruitment agency in their home country to find migrant workers. The recruiter interviewed and helped choose the workers who would eventually come to Canada. The workers paid an estimated \$1,000. However, the role of the recruiter did not end there. The in-house recruiter enforced the contract, was their landlord and oversaw the concerns of the migrant workers.

When it came to terminating these workers, not only did the recruiter oversee this; he was also responsible for evicting these workers and ensuring that many of these workers were deported or repatriated. Thus, the in-house recruiter exerted control over the lives of these workers through termination, eviction and repatriation.

All these workers want to send a message that they came here to provide for their families. Many are from impoverished communities, and the employment promised in Canada was necessary to alleviate economic insecurities they faced. However, they are angered that despite their willingness to work and contribute to society, they have been mistreated and abused as a result of legislative exclusions, discrimination and control by employers and recruiters who deny them rights accorded to other workers. The concerns raised by migrant workers are a result of the framework of the temporary foreign worker programs, and represent the structural flaws in their design.

While the committee has chosen to address the conditions of LCP workers, the government has failed in its responsibility to protect the rights of all temporary foreign workers who pay recruitment fees to work in this province. Abuses in the recruitment process are rife across all temporary foreign worker programs. To deny this fact is to perpetuate different labour standards for different categories of workers.

Furthermore, the absence of discussion regarding the numerous fees and deductions that participants in the seasonal agricultural worker program pay is equally appalling. Caribbean workers, for example, endure mandatory deductions of 25% of their salary, which is held until they return to their home country. Breaking the silence about working and living conditions of the SAWP must be a priority.

Manning, a migrant worker from the Caribbean, wants to know why his rights are being consistently denied by the governments of Ontario and Canada. He has seen numerous violations, but the workers do not have access to the necessary avenues to ensure their complaints are heard. Furthermore, through the process of repatriation, naming and disbarment from the seasonal agricultural worker program, workers are denied the right to exert their rights, and if they do, they'll be subject to deportation.

Bill 210 is an important first step, but amendments are needed:

—There must be an expanding of protection to include all temporary foreign workers.

—We must also implement legislation to prevent employers, recruiters and other third parties from confiscating identification from all temporary foreign workers.

—We must ensure that legislation is retroactive, to capture the expansion of the temporary foreign worker program, particularly the low-skill program.

—Joint and several liability, where the employer and the recruiter, and also contractors and subcontractors, are

jointly held responsible for any and all fees incurred by workers, whether in Canada or abroad.

—The bill should be expanded to encapsulate the strategies that third parties and employers may use to download costs on to workers.

—Steps should be undertaken to address the international scope of recruiters. Provincial efforts alone will not deter recruiters from deducting fees in the workers' home country.

—For participants in the seasonal agricultural worker program, the provincial government should eliminate the mandatory 25% deductions that are taken from workers' pay in Canada and returned when they return home.

—No loopholes: We need to cut sections that would allow exemptions through future regulations.

—There should be no repatriation or deportation for workers making a complaint under the Employment Standards Act or any new labour laws.

—We must update other provincial labour laws—workers' compensation, employment standards, human rights legislation—to ensure that migrant workers' rights are protected.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. We have to move on to the next presenter.

**Mr. Chris Ramsaroop:** Thank you.

#### CAPULONG LAW OFFICE

**The Chair (Mr. Bas Balkissoon):** The next person is Maria Capulong, of Capulong Law Office. Please state your name for the record. You have 10 minutes, like everyone else.

**Ms. Maria Capulong:** Good afternoon. My name is Maria Capulong. I am a lawyer practising in the North York area.

First off, I want to thank you for allowing me the opportunity to share with you some of my observations regarding Bill 210. Before I get into my observations, allow me to provide you with the context in which I formed these observations.

You may be able to tell from my accent that I am a born-and-raised Torontonion. My parents were Filipino immigrants who came over as skilled workers, a different program than the one addressed by Bill 210.

You can imagine that when I hung out my shingle as a lawyer in North York, I was approached by an alarming number of migrant workers with legal issues. The majority of them were live-in caregivers. Although each of them had their own unique legal issue, there was one common thread, and that thread was exploitation. Each was suffering some type of exploitation as a result of gaping loopholes in the federal live-in caregiver program.

You can imagine my shock on encountering both men and women who had their passports confiscated, used as leverage or security for a "placement fee" at an exorbitant rate; and workers who regularly worked overtime without pay, were threatened constantly with deportation or were barred from seeing a doctor when they were ill because it wasn't their day off. You can understand my

shock because, as a Canadian citizen, the only standard I know is a Canadian standard for human rights.

**1440**

There are really three observations that I have and I would like to make to you for your consideration. The first is that of the extension of protection for all migrant workers. I don't think that it's an off assumption to say that we all agree that there is exploitation that is occurring. I think we all agree that something has to be done about that exploitation. That comes from all sides, whether you're left or right on the scale. The question is: How is that going to be addressed? Now, kudos to the government for standing up and attempting to address that through Bill 210. The same conditions which give rise to a viral breeding ground for exploitation for live-in caregivers are the same conditions for migrant workers. Extend the protection to them as well.

The second, and perhaps the most contentious—and I smile as I say this because I know section 7 will be something that all of you will perhaps dream about this evening because it's going to be raised again and again—is an absolute ban on placement fees. There is no doubt that people have raised \$5,000, \$6,000, \$7,000—I think there were amounts of \$10,000 that were being raised as amounts that were being charged for what we call “placement fees.” Now, where should that placement fee be placed? Is that placed on the employer, or should that rest on the migrant worker?

In my experience, caregivers make about \$12,000 net a year; that's with statutory withholdings and deductions for room and board—\$12,000 net a year. Now, I've never been that great at math, which has been a disappointment to my parents, but if I was to do the calculations of \$5,000 as a placement fee, that's in and around 41% or 42% of an individual's annual income through the live-in caregiver program. That seems exorbitant to me. That seems like exploitation to me.

Now, there's a question regarding, how far should this ban go? Should it go into professional development fees, such as resumé writing, interview skills training? From what I understand, the CIC funds several settlement programs which offer these services for free to individuals in Canada. I don't understand having to pay a recruitment agency for those same services.

Now, there's also a question regarding immigration services, and I will be honest and blunt with you: I have an issue regarding this. Professional guidance fees or immigration service fees in order to assist a caregiver or migrant worker with legal information or legal services—I don't understand why a recruitment agency should be able to charge those fees. Mr. Dhillon, if you were my lawyer, I don't understand why I would have to pay Mr. Delaney for your services. We would have a direct relationship.

As a member of the law society, my relationship, my duty, my obligation is to the client directly. If there is an involvement of a third party, that is considered a conflict of interest. The rules of professional conduct which lawyers and paralegals must abide by ban us from

sharing a referral fee with non-licensed individuals. So my question is: Is this a way to circumvent that existing rule? I'm not certain. Is it a way for an agency to trump up the amount that they're receiving? Perhaps; I'm not sure; I don't run an agency. All I know is that if I'm providing legal services to an individual, that money, if there is money that is being charged, should come directly to me. We are dealing directly with one another, with a client, not with a third party. That, then, blurs the lines of who is paying this bill and who then is going to be instructing the individual providing legal services?

Now, there's also talk of assisting employers with remittance for WSIB, CRA. Those, to me, sound like services being given to the employer. Again, I do not understand why a live-in caregiver, who makes \$12,000 net a year, would be responsible to pay for those services.

The third observation that I would like to make is that of the extension of time limitation periods and the amounts that an individual can collect. There is no doubt that because of the loopholes with respect to the federal live-in caregiver program—and I'm not going to shift blame here today—the conditions are very difficult for an individual to come forward and enforce their rights for fear of deportation, for fear of what have you. Extending that six-month limitation period to three and a half years is wonderful; I think that's a good recognition. But let's extend that a step further to employment standards, not just the placement fees that were wrongfully charged; how about the overtime that wasn't paid?

I understand the awkward position you are placed in, having to balance the rights of everybody and the responsibilities of everybody, and I understand the very common argument: “As a Canadian citizen and as a taxpayer....” That is a very a common argument. Well, I'm here to tell you today that as a Canadian citizen and as a taxpayer I recognize the rights of taxpaying non-Canadian citizens. I'm happy that Bill 210 reflects that, and I hope that you'll make the appropriate changes to ensure that live-in caregivers and migrant workers as a whole are no longer exploited.

I thank you, and I'd just like to point out that this is perhaps the first and only lawyer you will see who is not long-winded.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. We've got about 30 seconds. The government side: Mr. Dhillon, do you have a question?

**Mr. Vic Dhillon:** Yes, Chair. Is there any risk that caregivers could not find necessary legal representation without recruiters' assistance?

**Ms. Maria Capulong:** I'm sorry?

**Mr. Vic Dhillon:** Is there a risk that exists for caregivers who could not find necessary legal representation without recruiters' assistance?

**Ms. Maria Capulong:** Are you asking if a caregiver could find legal assistance without the assistance of a recruitment agency?

**Mr. Vic Dhillon:** No. Is there a risk that, without the assistance, the caregiver could not find it?

**Ms. Maria Capulong:** I do not think so. I think that if—

**The Chair (Mr. Bas Balkissoon):** We'll have to move on to the PC side. Mr. Miller.

**Mr. Norm Miller:** Thank you for the opportunity. I think I get 30 seconds—

**The Chair (Mr. Bas Balkissoon):** Everybody gets 30 seconds.

**Ms. Maria Capulong:** My apologies. I was trying to leave.

**Mr. Norm Miller:** I was going to say that I think all the long-winded lawyers got jobs around here at Queen's Park.

You talked about passports being confiscated. Is that not against the law? Is there any law now that makes that illegal? I'd be shocked if it wasn't against the law, but I'm not a lawyer.

**Ms. Maria Capulong:** There are a couple of statutes that come to mind: the Criminal Code of Canada and the Immigration and Refugee Protection Act.

**Mr. Norm Miller:** So are the bad employers, the bad guys—

**The Chair (Mr. Bas Balkissoon):** Mr. Miller, I'm sorry. I'm going to have to move on to Ms. DiNovo: 30 seconds.

**Ms. Cheri DiNovo:** Thanks, Maria. Don't ever go into politics; you'll immediately become long-winded.

Thank you for this. We absolutely agree, and we're going to fight for the amendments, as I've said to the other deputants.

#### SAOWARAK BUNPITAK

**The Chair (Mr. Bas Balkissoon):** We'll move to the next deputant, Saowarak Bunpitak.

Before you get started, I just want to let the person who was scheduled for 2:40 know that the committee has to recess at 3, so I hope you can stay until 4 o'clock and we'll have you as the first deputant. Unfortunately, that's the only time I have.

**Ms. Deryn Nicole Rizzi:** I work nights, so there's no possibility that I can stay.

**The Chair (Mr. Bas Balkissoon):** You have a written submission?

**Ms. Deryn Nicole Rizzi:** I have.

**The Chair (Mr. Bas Balkissoon):** I apologize; we got started a little late. I'm on a very tight schedule.

**Ms. Deryn Nicole Rizzi:** I do realize that, but I did request on two occasions to have the earliest possible time available.

**The Chair (Mr. Bas Balkissoon):** My apologies.

**Mr. Vic Dhillon:** Maybe this group can wait until 4?

**The Chair (Mr. Bas Balkissoon):** I'm open. Would you be able to stand down your presentation and come back at 4, if it's not too much—are you willing to?

*Interjection.*

**The Chair (Mr. Bas Balkissoon):** I need a quick decision, because I don't have much time.

**Mr. Vic Dhillon:** If the presenter is available to stay, would that be okay with you?

*Interjection.*

**Mr. Vic Dhillon:** I don't think they—

**The Chair (Mr. Bas Balkissoon):** You cannot stay until 4? Okay, we'll move on with the deputant.

You have 10 minutes. If there's any time left, we'll allow questions. Please state your name for the record.

**1450**

**Ms. Saowarak Bunpitak:** Good afternoon. Thank you for inviting us to speak with you today. My name is Saowarak Bunpitak. You can call me Poon. I was a registered nurse in Thailand, recruited to work under the federal live-in caregiver program. Before I left Thailand, my recruiter asked me to pay \$2,450, the full recruitment fee. I was also made to sign two contracts that were long and very hard to understand. I now understand that these contracts were only good for my recruiter and employers' interests. I felt like a slave tied to my recruiter and my employer.

The first contract tied me to the recruiter and the employer. I asked my recruiter to give me another employer because my employer owes me two months salary and unpaid overtime hours, amounting to \$5,728.87. My employer also didn't provide me with adequate food. I sometimes shared the daycare food with the child that I was taking care of during the play dates. My employers were demanding, angry and stressed out because they lost their business. When they left for abroad in September for two months, they just left me \$30 for food with two dogs that I had to take care of.

I informed my recruiters several times about my situation, but they told me just to stay there. When I told them I couldn't stay because of the working conditions, they provided me with an alternative employer, but the job would not start until April 2010 when my work permit would have already expired. I told them this wouldn't work for me. I had to start looking for another employer on my own. The recruiter told me that if I broke my contract with them, or if I got a job that I found by myself, I would have to pay them for the penalty amounting to \$3,850 plus \$750 for the administration cost.

I feel that the recruiter didn't care about me or the violations I experienced with my employer. They just wanted me to stay with them so they could sell me to another employer. Recruiters should not be allowed to charge recruitment fees to caregivers, and I am glad to see the government introducing Bill 210 that would make these fees illegal. This is an important first step in giving caregivers more protection.

The second contract that I signed with my recruiter was a requirement that I pay my recruiter's counsel \$84 monthly to pay for a work visa and for immigration services that I might need.

For nine months, I paid the recruiter for the counsel service, a total amount of \$766. I now understand that the agency doesn't own my work permit. I got the work permit on my own. I got it from my employer. If the

counsel wants to ask or wants money from the service, they should ask for it from the employer or the agency, not from us or from the caregiver. I now know that I don't need to maintain and pay the counsel because my work permit is valid to stay and work in Canada. Recruiters should not be allowed to charge caregivers for these kinds of services; it is very unnecessary. Caregivers only pay because they do not know their rights and they are afraid of what will happen if they don't pay.

Despite the financial threat from my recruiter that I may risk being charged for breaking my contract with them, I decided to find another employer on my own, as the situation with my employers was getting extremely difficult for me to bear. I left my employer on November 28, and, in February 2010, I will be working for a new family.

I could take this action because I know my rights, but many people are afraid to speak out. Some caregivers may have been placed with a good employer and they don't want to complain about the recruitment agency. But for many of us, when the recruiter placed us with a bad employer, we see where their interests are when they don't help us to get out of a bad situation.

I've met other workers from Thailand who came to work in Ontario as temporary foreign workers doing agricultural work. Many of them paid much more than me to recruiters back in Thailand; some of them paid \$10,000 to come to work as temporary foreign workers. They told me that the agency in Thailand told them that they have to pay a lot of money because they would send the money back to Canada. This is a huge amount of money. The workers come from poor families with very little income. They have to borrow some money from moneylenders to pay this recruitment fee, and the moneylenders charge them huge interest rates each month. They told me that they must work for two years in Ontario just to pay back the money that they borrowed. I felt really angry when I heard about this story, and I feel sorry that they are facing this situation.

I would like to tell the government to not only look at me but also please look at the situation of these temporary foreign workers. These workers shared their stories with us so that we can share them with you.

On behalf of these workers, I'd like to ask the standing committee to amend Bill 210 so that it provides protection to these women and to all temporary workers. I hope the standing committee will support this bill but make the very important changes that are needed so that our temporary foreign workers are included and that the recruiters can't find any way to get around the new protections. Thank you very much. Thank you for this opportunity to share my experience with you.

**The Chair (Mr. Bas Balkissoon):** We have 30 seconds each. Mr. Miller?

**Mr. Norm Miller:** I'd just like to thank you for taking the time to come in and helping to educate me on your personal experience.

**Ms. Saowarak Bunpitak:** It was my pleasure.

**The Chair (Mr. Bas Balkissoon):** Ms. DiNovo?

**Ms. Cheri DiNovo:** Thank you particularly for bringing in the contracts. Some of these conditions are absolutely indentured servitude. They're astounding, so thanks for giving them to us. It's the first I've seen of them.

**Ms. Saowarak Bunpitak:** It was my pleasure.

**The Chair (Mr. Bas Balkissoon):** Mr. Dhillon?

**Mr. Vic Dhillon:** Thank you very much for your presentation. What do you think the government should do in terms of informing caregivers of their rights, in your opinion?

**Ms. Saowarak Bunpitak:** I think the government should take care of or keep an eye on the agencies because right now we have problems. I think many workers or caregivers pay a lot of money just to work as a caregiver, just to get very little income, but they have to pay a lot of money—

**Mr. Vic Dhillon:** For the future, how can we inform caregivers of their rights so it doesn't happen, so they can take corrective action before they get into a bad position?

**Ms. Saowarak Bunpitak:** Before I came here, I did know about my rights. The government, before caregivers can—

**Mr. Vic Dhillon:** What can we do to tell you about your rights?

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I have to recess the meeting. Members, we'll be back at 4 o'clock, and we're in room 151, on the lower floor.

**Ms. Mary Gellatly:** Can I just clarify that this is all one recruiter, but three contracts from one recruiter under different names.

*The committee recessed from 1457 to 1600 and resumed in room 151.*

#### CAREGIVERS' RIGHTS AND EDUCATION

**The Chair (Mr. Bas Balkissoon):** We'll convene the meeting and move to the 4 p.m. deputant, Caregivers' Rights and Education, Nancy Abbey. Please state your name for the record. You have 10 minutes. If you leave any time after your presentation, we'll allow questions from all parties.

**Ms. Nancy Abbey:** Good afternoon. I want to thank the committee for the opportunity to be here today. Before I start my remarks—

**The Chair (Mr. Bas Balkissoon):** Can you please state your name for the record?

**Ms. Nancy Abbey:** Yes, my name is Nancy Abbey.

Before I start my remarks, I'd like to comment on two things: first off, this committee reviewing such important legislation with only 24 hours' notice on the public website.

The second one is the fact that we know of a number of caregivers who requested to appear before this committee and were denied that opportunity. These were caregivers who had a very positive story to tell about their experience with the foreign live-in caregiver program and have gone on to become very successful.

I'm here on behalf of CARE, a coalition of caregiver recruitment agencies and associations united by the need to protect caregivers' rights and education. Joining me is Evangeline Ancheta, a licensed immigration consultant with the Canadian Society of Immigration Consultants.

CARE strongly supports the intent of Bill 210 and agrees that there is a need for this important legislation. We want to work with the Ontario government to ensure that Bill 210 achieves the intended results: employment protection for foreign nationals.

We're concerned with the provisions of section 7, which prohibit recruiters from charging the foreign national a fee for any good, service or benefit provided to the foreign national. Whereas we believe that this should be the case for recruitment fees, a blanket ban on charging for any services has significant and unintended negative consequences.

Our suggested amendments are based on the best of current legislation that already exists in British Columbia, Alberta and Manitoba to protect caregivers and the families they serve. Our suggested amendments will strengthen the province's ability to keep the recruitment industry accountable.

The majority of foreign nationals seeking employment under the foreign live-in caregiver program do not have sufficient professional skills that an Ontario employer would expect from a caregiver. Caregiver recruitment agencies based in Ontario offer a valuable service by providing training programs to foreign caregiver candidates, to learn the skills needed to immigrate to Canada to pursue a better life under the foreign live-in caregiver program.

Professional development programs, offered on a voluntary basis, teach caregivers critical skills, like how to write a resumé and conduct a professional interview; first aid and CPR training—all life skills that are transferable beyond their 24-month work permit requirements.

Bill 210 would ban foreign nationals from paying for these professional development programs, thus denying them the ability to improve their skills and to compete more effectively in the job market.

Bill 210 would also ban recruiters from charging foreign caregivers for immigration consulting services from a licensed immigration consultant. These are services that are crucial to the foreign caregiver so that they avoid making mistakes that could negatively impact their application for permanent residence in Canada.

Immigration services include the proper preparation of a work permit application; representation before the visa officer, addressing concerns raised; application for permanent residence; and extensions or changes to a work permit. There are many cases in which foreign caregivers have been encouraged to misrepresent their marital status in order to be processed faster. After working 24 months in Canada, they are advised that since they misrepresented their status in their original application for a work permit, they are not permitted to ever bring their family to Canada.

By banning all fees to foreign caregivers, the entire financial cost now shifts to the employer. This will be of particular concern to families that desperately need live-in caregivers when they work shift work: people like pilots, flight attendants, doctors, nurses. They live outside a metropolitan area or where other traditional caregiver services don't exist, like daycare centres.

We estimate that without amendments, the cost will be over \$6,000 for an Ontario family to sponsor a foreign live-in caregiver, a cost that will be prohibitive to many, if not most, Ontario families, with no assurances that a foreign live-in caregiver will stay with that family to fulfill the 24-month obligation.

I ask you, would you be prepared to pay \$6,000 for a foreign live-in caregiver, knowing this person may not stay with you for two years, or two days, and even if they do, after two years you may have to again pay \$6,000 to hire another foreign live-in caregiver? This caregiver option becomes one only available to the wealthy and, even then, the financial risk may be too great.

Bill 210, if passed without amendments, will reduce the demand for foreign caregivers.

Bill 210, if passed without amendments, will reduce the demand for caregiver agency services and cause reputable agencies that want to offer high-quality, well-trained, well-documented candidates to potential employers to close their business.

Bill 210, if passed without amendments, will have an impact on both the quality and quantity of caregivers available in Ontario.

Bill 210 will result in less reputable agencies continuing to operate and representing less qualified candidates to care for the most vulnerable, the young and the old in this province.

So what amendments are needed to protect foreign caregivers and for this legislation to achieve the intended results?

First off, section 7, "Protective Measures": You need to delay section 7 coming into force until the regulations for prescribed exemptions have been written.

You need the regulations to exempt fees for professional development and immigration services, as is the case in BC and Alberta.

You need to engage stakeholders in regular discussions to update the list of exempt services and define the supporting documentation to validate proof of fees paid, proof that services were delivered and mechanisms available to monitor and implement the regulations.

We have provided the committee members with a list of recruiter services that we suggest should be paid for by the employer, and optional services that should be made available to and paid for by the caregiver.

An important section missing from the bill relates to the licensing of agencies. Ironically Bill 160, a previous Liberal bill introduced this year to protect caregivers, included provisions that would regulate and license caregiver recruitment agencies. Bill 210 does not, and we believe it should.

Ontario should make it a requirement to have a licence to operate a caregiver recruitment agency, as in Alberta and British Columbia.

Ontario should require a caregiver recruitment agency to post a bond in an amount significant enough to ensure that only genuine and legitimate recruiters will apply for and obtain a licence, as in Manitoba.

Ontario should have a government website, as is the case in BC and Manitoba, that posts a list of valid licence holders' names.

Bill 210 has moved through the legislative process with lightning speed. There would be a number of unintended consequences should the bill be passed without amendments. You need the time to make this legislation right for Ontario.

Please consider the information I have provided you with today when you conduct your clause-by-clause review on Monday. Thank you.

**The Chair (Mr. Bas Balkissoon):** Thirty seconds on each side. Ms. DiNovo.

**Ms. Cheri DiNovo:** Yes, very quickly. I've already stated that I used to own an agency. We never charged fees to applicants. Six thousand would have been a low fee for us to charge an employer. I don't—

**Ms. Nancy Abbey:** I'd be curious to know how long those people stay with you for employment.

**Ms. Cheri DiNovo:** Excuse me. I don't think that the lack of child care in this province should be borne on the backs of migrant workers. I think child care is a separate issue. It needs to be in place, and I think somebody who hires a worker needs to be able to pay for that worker—

**Ms. Nancy Abbey:** And we're suggesting they do. We're suggesting they pay for the recruitment fees.

**Ms. Cheri DiNovo:** They have to stay for 24 months, otherwise they lose their immigration status.

**Ms. Nancy Abbey:** Correct.

**The Chair (Mr. Bas Balkissoon):** Excuse me. I have to move on to the government side. Mr. Dhillon.

**Mr. Vic Dhillon:** How much do you charge a caregiver to refer him or her to an immigration consultant?

**Ms. Nancy Abbey:** There's no charge to refer.

**Mr. Vic Dhillon:** If you don't receive a direct fee, do you receive any monies from the immigration consultant for the referral?

**Ms. Nancy Abbey:** You'll have to ask that of one of the recruitment agencies. I don't work for a recruitment agency.

**The Chair (Mr. Bas Balkissoon):** We'll move to the PCs. Mr. Miller.

**Mr. Norm Miller:** Thank you for your presentation. I've noted that the amendments you're looking for are licensing of agencies, requiring bonds and requiring a government website. I did bring up at the start of the hearings today that I thought there's not really a valid reason for why the government's trying to move this through so quickly. I've certainly received—

**Ms. Nancy Abbey:** I agree.

1610

**Mr. Norm Miller:**—a lot of e-mails from people who are concerned about that and making mistakes. In its present form, is it going to deal with the bad apples out there that are abusing or taking advantage of vulnerable people—

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I have to move on.

**Mr. Norm Miller:** We don't get much time for questions.

**The Chair (Mr. Bas Balkissoon):** Caregiver Resource Centre—you'll have to make the questions short if you want me to allow them.

**Mr. Norm Miller:** They are short.

#### CAREGIVER RESOURCE CENTRE

**The Chair (Mr. Bas Balkissoon):** You have 10 minutes. State your name for the record, and if you leave time at the end of your presentation, we'll move to questions.

**Ms. Terry Olayta:** Thank you. Good afternoon, everyone. My name is Terry Olayta from the Caregiver Resource Centre. I had difficulty hearing our first speaker earlier, so I'll try to speak louder.

The Caregiver Resource Centre is an organization—

**The Chair (Mr. Bas Balkissoon):** Excuse me. Just sit normal. The mike will pick you up. You don't have to speak right into it.

**Ms. Terry Olayta:** Sorry. The Caregiver Resource Centre is an organization founded, organized and operated by members and participants of the then Canada foreign domestic movement, now the live-in caregiver program of the Canadian immigration and citizenship ministry. This organized community of caregivers is registered under the name Cross-Cultural Community Centre, located in Scarborough, Ontario, serving the community of caregivers in Toronto and across the GTA.

Operation is fully through volunteerism, as founders, officers and members are fully employed with their respective employment. All officers and members have gone through the life of working as caregivers, embroiled with rules and regulations imposed by both the federal and the provincial government, thereby leaving the caregivers open to abuse and exploitation by the employers, the recruiters and their parties. The community of caregivers believes in democratic participation, where workers are encouraged to participate in the dialogue to improve the welfare of the highly marginalized group of workers within the temporary work permit holders.

We believe in the value of our contribution in building a First World country, Canada, and so we believe that our participation should be recognized and be given the fair value—and have our voices heard for our very own experiences and experiences of our fellow caregivers. Our families and friends have been documented for many decades, painting all types of exploitation, abuses and neglect.

Bill 210 should be studied further and should include the most important element to make it realistically

effective on its implementation. Without proper regulation to follow through on the intention of this bill, it won't mean anything for those who deserve and are qualified to come and work in a place away from our birth nation.

It will again become another monumental history for the Minister of Labour, Peter Fonseca, after announcing the nanny hotline, 1-866-372-3247—when, during his caregivers' community meeting in the office of MPP Kathleen Wynne there was the alleged report by the two live-in caregivers that they had been abused, neglected and exploited by the elected official MP Ruby Dhalla and her family.

Minister of Labour Peter Fonseca still owes the community of caregivers his findings and actions taken in regard to the alleged violation reported in his very presence while promoting the nanny hotline. Minister of Labour MPP Peter Fonseca, we applaud the idea of punishing the violators, but we have to be very specific and clear in how we go about this bill to truly engage, in a credible way, in protecting the most vulnerable: the caregivers, the foreign domestic workers.

I don't know how many more minutes I have. I really want to be very clear in what I really want to say.

**The Chair (Mr. Bas Balkissoon):** About six minutes.

**Ms. Terry Olayta:** So, the migrant workers' bill, a political feint? That's a question. The much-ballyhooed, made-in-Ontario legislative fix to protect foreign workers may well only be a political feint to deflect criticisms of provincial insensitivity to foreign workers' concerns.

Ontario Labour Minister Fonseca had initially balked at passing legislation to regulate agencies recruiting foreign workers, but relented only after MPP Michael Colle had proposed a private member's bill for the purpose and when the public outcry over workers' abuses had snowballed to a degree that ignoring it would result in great political peril for the McGuinty government.

If the discussion paper prepared by the Ontario labour ministry, which is being used in its current public consultations, is an indication of things to come, there seems to be nothing much to hope for in the proposed legislation on the part of foreign workers. Notably, the paper limits itself to the issues of prohibiting placement fee collection and licensing of recruiters, even asking if these reforms, deemed by most as already given, should be the subject of regulation in the first place.

The federal government had clearly signalled that it favours the banning of placement fee collection from foreign workers, and the registration of employers and recruitment agencies. The labour standards legislation of the western provinces specifically provides for these regulations. Even the Canadian Society of Immigration Consultants, whose members clearly have a stake in the compensation of services for its members, sees the fee prohibition and registration as core proposals to reform the system.

Needless to say, the absence of regulation over the recruitment industry in the province for so long and the consequent lack of accountability had caused unscrupulous

placement agencies to amass tax-free millions on the backs of foreign workers seeking a better life in Canada. It also gave rise to bogus employers, eager to dip their hands in the booty of life savings of these foreign workers, or to abuse and exploit the migrants, knowing that there are no mechanisms or effective systems in place in the province to assist or protect them.

As noted before, as Ontario mulls its proposed legislation, the shifting of gears could be heard above the din of public outcry over the reported widespread abuses committed against caregivers and temporary workers. Ersatz workers' advocacy groups, composed mostly of recruiters, have begun to crop up, hogging government consulting meetings and presenting their own submissions, ostensibly to protect the workers, but in reality just their own selfish interests. Flushed with filthy lucre, these have been noted recently to conduct expensive public relations campaigns, including rewarding themselves with seals of approval and glowing testimonials from nebulous public interest groups. Our provincial officials should see through these posturings and beyond the political war chests that these vested interests could provide.

Ontario is expected to receive the bulk of the targeted almost 400,000 temporary workers in the coming year. Therefore, it should not bend to pressure from vested interests, but should be taking the high road to come out with labour legislation that is simply moral and right.

I support, and I'm submitting also, CMI Pushes for Licensed Recruiters and Employer Accountability.

I just want to also mention the chronic labour issues of the live-in caregiver participants, which are:

- unpaid long hours of work, overtime and flexibilities;
- shared nannies;
- temporary layoffs;
- uncollected wages and the limitation of the nanny hotline;
- services rendered away from Canada and the break-away vacation culture of the employers, where they carry their workers with them;
- vacation pay;
- illness at work;
- injuries at the work site;
- unreported wages, cash wages;
- the release-on-arrival factor, where the worker has no access to resources to fight for their rights because they are deported immediately;
- ghost employers that pay so much for the agencies;
- employers' neglect on the remittance of tax deducted;
- withdrawal or denial of records of employment;
- T4s;
- death of an employer or a permanent change of work location. Those are contributing factors in the non-completion of the 24-month requirement.

**The Chair (Mr. Bas Balkissoon):** Thirty seconds for each side. Mr. Dhillon.

**Mr. Vic Dhillon:** Thank you very much for your presentation. I really appreciate it.

**The Chair (Mr. Bas Balkissoon):** Mr. Miller?

**Mr. Norm Miller:** Thirty seconds isn't much time to ask a question. You said right at the very beginning, in your migrant workers part, that you think this may be just a political feint to deflect criticisms. Can you expand on that?

**Ms. Terry Olayta:** Yes, considering the fact that we had experienced this with the nanny hotline—because I am a frequent caller with the nanny hotline, and it's very limited.

When you file for bankruptcy, your records will be there for 10 years or more than 10 years. You're lucky if that will be off your record. And when you owe something—

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I have to move to Ms. DiNovo.

**Ms. Cheri DiNovo:** I couldn't agree more. Whatever happened to the Ruby Dhalla case? We're still waiting for Peter Fonseca to investigate that.

Very quickly, just to respond, they have a 24-month guarantee because, otherwise, nannies' immigration status is problematic if they leave within 24 months. So that's more of a guarantee than we ever had.

**The Chair (Mr. Bas Balkissoon):** Thank you very much.

We'll move to the next deputant. The next person is Basiliza Remorque. I hope I got it right. My apologies if I didn't. Is the 4:20 deputant here? Okay, we'll move to the next one.

1620

#### DIAMOND PERSONNEL INC.

**The Chair (Mr. Bas Balkissoon):** Diamond Personnel Inc.: Susan Zwaal.

Please state your name for the record. You have 10 minutes.

**Ms. Susan Zwaal:** Susan Zwaal.

Dear committee members, I'm here today on behalf of Audrey Guth, the founder and director of Diamond Personnel. I'm Susan Zwaal, VP of global recruitment for the Diamond group of companies. I am also the employer of a live-in caregiver.

Diamond Personnel is a leader in the caregiver placement industry. Established in 1988, our head office is in Toronto. We are a licensed recruiter of temporary foreign workers in Manitoba, Alberta and British Columbia. We are one of only two Canadian firms approved to operate a licensed caregiver employment agency in Hong Kong.

For 22 years we've been protecting caregivers' rights through an ethical and professional business practice. We have placed over 3,000 live-in caregivers over the past 10 years with Ontario families, and with unprecedented success. We've maintained our leadership position in the industry because of our integrity-based business practices.

Unfortunately, many recruitment agencies have not operated ethical practices. Bill 210 has an incredible opportunity to clean up our industry, with minor amendments to this bill.

Who are our clients? The families just like yours that need quality care for their children and their parents. These families live in rural communities; they live in large cities. They are doctors, flight attendants, teachers, shift workers, police officers and people who travel extensively for work. They all have a common need for quality care for their families at an affordable rate. Our employers pay our agency recruitment fees to source, screen and match them with the most qualified caregivers.

Our caregivers are our clients too. Our caregivers need and want an opportunity to learn the skills necessary to be a successful immigrant in Canada. Diamond has created a professional development program called Job Skills Advantage that provides caregivers with the job-seeking skills, child development skills, comprehensive knowledge of Ontario labour laws, image consulting, interview preparation, employment standards briefing, and first aid and CPR training.

We wouldn't represent candidates without a valid driver's licence to clients who require a driver's licence. Why would we represent caregivers without proper training and skill? All skills that we train are transferable to future job opportunities here in Canada. We prepare our caregivers to be successful immigrants.

Diamond caregivers have a professional consultant available to them for the 24 months of employment to mediate, solve problems and to support and encourage, as and when it is required. Our licensed immigration consultants provide our caregivers with the support necessary to obtain a work permit and permanent resident status in Canada for themselves and their families. Our caregivers want this service.

What is our formula for success? (1) Education and professional development; and (2) immigration consultation, and support to that. We've proven during 22 years that education and training yield successful placements and successful permanent residents.

Bill 210 would deny caregivers the right to these services, as Bill 210 bans recruiters from charging live-in caregivers, directly or indirectly, a fee for any service provided to a foreign national. Bill 210 would ban the caregivers from being able to pay Diamond Personnel for these professional development programs and immigration services. We believe that it is the right of our caregivers to take professional development courses to secure the skills they need to be successful in Canada.

Bill 210 as it's written will shift to the future employer the cost of all professional development and immigration services provided to the caregiver. The affordable care option that so many Ontario families rely on will now become a luxury. This will be a luxury that only the wealthy can afford.

If we want to improve our skills for a job opportunity ourselves, there would be no question that we, individ-

ually, would incur those costs at our own expense. If we chose to hire a licensed immigration consultant to prepare applications for us, there would be no question: We would be deciding to do so at our own expense.

British Columbia and Alberta make provisions for caregivers to pay for professional development and immigration services. Ontario should do the same. Ontario should prescribe exemptions for professional development and immigration services within the regulations for Bill 210. Section 7 should be delayed from coming into force until the regulations for prescribed exemptions have been written. Stakeholders should be a part of the process to ensure that the regulations achieve the intended results.

Ontario should also require a licence to operate a caregiver recruitment agency, as in Alberta and British Columbia. The caregiver recruitment agency should be required to post bond to ensure that only licensed agencies are permitted to operate as recruiters. A government website should post the names of valid licence holders, as in the cases in British Columbia and Manitoba. This, in itself, would clean up the rogue, basement operators and allow ethical agencies to continue to deliver the same services that both our employers and our caregivers demand.

If allowed to pass as written, this bill would seriously impact the quality and quantity of caregivers entering Canada under the live-in caregiver program. Caregivers will not be able to distinguish between rogue agencies charging underground fees and those operating value-based, integrity-built businesses.

Caregivers will not be able to pay for the professional development services that make them highly qualified. They will not be able to pay us for immigration services. Rogue agencies will fester in the absence of ethical firms like the ones that do stand before you and have spoken today. Rest uneasy: This industry will continue underground on a cash basis, and it will proliferate.

If allowed to pass as written, Bill 210 will force Diamond Personnel to close our offices in Hong Kong. We will no longer travel every eight weeks to Hong Kong, as we have done over the past 13 years. We will no longer provide the education and support our caregivers have grown to need, value and want.

The only impact Bill 210 will have if passed without amendments is to eliminate ethical, legitimate operators like us who care about protecting—and I say “protecting”—the caregivers’ rights. Thank you.

**The Chair (Mr. Bas Balkissoon):** One minute each. Mr. Miller.

**Mr. Norm Miller:** You say that you’ve had 3,000 caregivers placed.

**Ms. Susan Zwaal:** Yes.

**Mr. Norm Miller:** And you’ve got lots of positive experience. Do you have any testimonials from these people who have—

**Ms. Susan Zwaal:** Yes, we do. I have them, and I could submit them.

**Mr. Norm Miller:** And in terms of the recruitment fees, what would be the recruitment fee for one of these individuals?

**Ms. Susan Zwaal:** I’m speaking on behalf of Audrey Guth today—because this involves immigration as well, so our licensed immigration consultant is here with me and she will speak to those fees and the breakdown. Evangeline?

**The Chair (Mr. Bas Balkissoon):** Please state your name.

**Ms. Evangeline Ancheta:** I’m Evangeline Ancheta. I’m a licensed immigrant consultant. I’m employed by Diamond Personnel to act as their immigration consultant. So I assist the foreign workers, the live-in caregivers in the application process from the time they apply for a work permit overseas, from the time they land as a worker at Pearson airport, from the time they renew their work permits, if necessary, from the time they apply for open work permits and permanent residence—

**The Chair (Mr. Bas Balkissoon):** Thank you very much. We have to move to the next person. Ms. DiNovo.

**Ms. Cheri DiNovo:** Yes. With all due respect, the list of services that you provide that you charge the applicant for, the caregiver, are all services that are provided either by government agencies, legal aid societies or the other caregiver associations that don’t charge at all.

*Interjections.*

**Ms. Cheri DiNovo:** Excuse me. No one disputes the right of your existence to do business. What we’re disputing is the right to charge exorbitant fees to caregivers. That’s what we’re disputing here. Again, I haven’t heard any justification—I certainly haven’t seen any deputants who are caregivers who support you. So I would have suggested—

*Interruption.*

1630

**The Chair (Mr. Bas Balkissoon):** Excuse me. I’ll empty the room if we can’t have order.

**Ms. Cheri DiNovo:** That’s it. Thank you, Mr. Chair.

**The Chair (Mr. Bas Balkissoon):** Thank you. Government side?

**Mr. Vic Dhillon:** Thank you, Chair. What professional development programs do you supply?

**Ms. Susan Zwaal:** We have an extensive professional development program which provides image consulting—

**Mr. Vic Dhillon:** How much do you charge for each? Say, image consulting: What would that entail?

**Ms. Susan Zwaal:** We were talking a breakdown of the fees earlier. Evangeline, would you like to speak to the breakdown?

**Mr. Vic Dhillon:** Yes, but that doesn’t—I don’t think that’s the immigration aspect of it, but from the caregiver. I mean, why would someone need the immigration consulting, for example?

**Ms. Susan Zwaal:** It’s \$550 for what is called the Job Skills Advantage, which is a program that we deliver.

**Mr. Vic Dhillon:** Do you have any other examples?

**Ms. Susan Zwaal:** I do, and we can submit that as well.

**The Chair (Mr. Bas Balkissoon):** Thank you very much.

FILIPINO-CANADIAN  
COMMUNITY HOUSE

**The Chair (Mr. Bas Balkissoon):** The next deputant is the Filipino-Canadian Community House: Merfa Yap-Bataclan and Marivic Prelas Rivera.

Please state your name for the record. You have 10 minutes. If you could leave time at the end, we will allow questions.

**Ms. Merfa Yap-Bataclan:** Hi. I'm Merfa Yap-Bataclan from the Filipino-Canadian Community House, a network partner of the Caregiver Resource Centre of Ms. Terry Olayta. May I address my submission to the members of this standing committee on the proposed Bill 210, the Employment Protection for Foreign Nationals Act, 2009.

I'd like to thank you for allowing me to speak at almost closing time. After all the submissions earlier, I can only appeal to the honourable labour minister, Peter Fonseca—

**The Chair (Mr. Bas Balkissoon):** Just hold on one second. Rather than you carry on and we break up your deputation, I will recess the committee right now so that they can attend the vote, and when we come back, I'll allow you to start all over again.

**Ms. Merfa Yap-Bataclan:** Thank you so much.

**Interjection:** It's a quorum call.

**The Chair (Mr. Bas Balkissoon):** Quorum call? We still have to—

**Interjection:** It's present now.

**The Chair (Mr. Bas Balkissoon):** It's present now? Okay.

Sorry. You can start all over; I'll start the clock again.

**Ms. Merfa Yap-Bataclan:** I can only appeal to the honourable labour minister, Peter Fonseca, and to you, distinguished members of the standing committee. It is my hope and prayer that before this Bill 210 is enacted into law, you please ensure that the following points are taken into consideration and additional provisions incorporated into this bill in response to the many abuses, maltreatments and scams of both the con recruiters and the abusive or sadistic employers. To wit:

(1) Ensure that there is a provision that allows the Ministry of Labour to monitor, investigate and reprimand or penalize the recruiters, whether licensed or unlicensed, when reported to have contravened the law. The reality is that at the initial phase of recruitment, clandestine agreements are made between the recruiter and the foreign worker that a certain amount is charged by the recruiter, with consent that the foreign worker will not in any way divulge this payment to the Canadian federal or provincial governments. This practice must be stopped by this bill.

(2) Ensure a provision that would block the unregulated modus operandi of these con recruiters at the initial phase of the transaction, in the recruitment process.

(3) Provisions should ensure that all steps and procedures in the recruitment process do not give a chance for recruiters to engage in any under-the-table deals with the employer or the foreign employee.

(4) At the processing and hiring phase, provisions should include protective measures that register employers and enumerate their duties, responsibilities and liabilities before they are duly recognized as eligible employers with government approval to hire a foreign worker.

(5) Provide also that the duties and responsibilities of the directors and officers implementing the Employment Standards Act and the bill, when enacted into law, should add powers and authority to investigate reports and complaints of foreign caregivers and justly act upon them within a prescribed period of time. For me, justice delayed is justice denied. The Ministry of Labour should directly hear and decide on these cases, since most likely the foreign caregiver cannot afford to hire a lawyer and file a court case.

(6) Provisions also should be added to respond to abuses happening during the time of service. Documentation or formatted recording of work hours and overtime should be enforced. This important document may be used as evidence against employer abuse. A number of reasonable working hours should be indicated also by the Ministry of Labour so that the 24-month live-in requirements under the federal live-in caregiver program are converted into reasonable working hours, allowing them to have completed the requirements for them to apply for permanent resident landing status.

(7) By virtue of the provision of this Bill 210, all live-in caregivers—not only a few, as cared for by other recruitment agencies—should be made aware and be informed of the laws affecting their employment and also clarified regarding their roles, responsibilities, rights and privileges. It should be the duty of the implementers of these laws to provide an information package to both the employer and the foreign employee.

I have more to propose, but I have limited time. In closing, I wish to attach in my submission articles published in Atin Ito. This is a newspaper in Toronto serving the Filipino community and this was also referred to by Ms. Terry Olayta. May I request that these be read into the record for purposes of reference.

It is my hope and prayer that you as members of Parliament be the statesmen that you are and not be viewed as just those whack-a-mole guys at Queen's Park. Do your job well, and God bless you. Thank you for your time and attention.

**The Chair (Mr. Bas Balkissoon):** Thank you. We have a minute each. Ms. DiNovo.

**Ms. Cheri DiNovo:** Thank you, Merfa, very much for this, and thank you for your bravery and courage in coming forward.

You heard deputed by some of the recruitment agencies and immigration consultants that you and others like you represent a very small portion of abused, mistreated live-in caregivers, particularly from the Philip-

piners, and that the vast majority of live-in caregivers serviced by them really don't have any issues. Is that the case?

**Ms. Merfa Yap-Bataclan:** I don't think this is the case, because I believe that there are many unreported cases of abuse. I have here Ms. Anne Nacorda; she's a former live-in caregiver. Maybe we can have time for her, just to listen for two minutes or a minute about what she experienced as an abused—she's just one of the many we cannot service because we're just but a few non-profit organizations.

**The Chair (Mr. Bas Balkissoon):** Sorry, I have to move to the next question. To the government side. Mr. Dhillon.

**Mr. Vic Dhillon:** Does your organization provide new foreign live-in caregivers with information on employment standards? And if yes, what type of information is provided?

**Ms. Merfa Yap-Bataclan:** We are a new organization when it comes to advocacy. We have been directly helping caregivers, but not on the education and the information part. We were able to conduct an information seminar on this only this year, and it's not enough. We want to reach out to more, but we have limited funds. We know we have to reach out to more because we are getting so many caregivers—hundreds and hundreds—who we cannot service because we don't have enough people and we don't have enough funds to help them in their problems with their employers.

1640

**The Chair (Mr. Bas Balkissoon):** Thank you very much. We'll move on to Mr. Miller.

**Mr. Norm Miller:** Thank you for your presentation. Anne can use my time to talk if she'd like.

**Ms. Anne Nacorda:** Good afternoon, everybody. My name is Anne Nacorda. I'm a widow and a mother of four. I came to Canada in 2003 as a caregiver.

I have worked with three employers within my 24 months in the program. In the span of three years, I wasted 11 months just waiting for a work permit. My third employer was from an agency that charged me \$50 for enrolment and one month of my first paycheque.

As a caregiver, I spent more than a year with them and took care of a premature newborn until he was more than a year old, when I finally finished my LCP. During my stay with them, I spent 24 hours with the baby, not seeing the shadow of the mother. This was the case from day one up to the time I left. I was paid with a flat rate of \$500 every two weeks and, in the succeeding year, \$600 every two weeks.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I now have to move to the next deputant. I'm really sorry.

**Ms. Anne Nacorda:** Okay.

#### FAMILY MATTERS CAREGIVERS INC.

**The Chair (Mr. Bas Balkissoon):** The next deputant is Family Matters Caregivers Inc., Tova Rich. You have

10 minutes, like everybody else. If you leave time at the end, we'll allow some questions.

**Ms. Tova Rich:** Hi. My name is Tova Rich. Thank you for allowing me to speak with you all today.

I am the owner of Family Matters Caregivers Inc. here in Ontario since 2003, and Family Matters Caregivers (HK) Ltd. in Hong Kong since 2006.

The reason I wanted to speak to you today is so I can inform you and help you make Bill 210 a successful and effective bill.

For years, I've wanted this industry to be cleaned up, and I'm happy that the Liberal government is finally doing something about it. I am in support of Bill 210 and its intentions. I feel caregivers need to be protected. Ontario families need to be protected as well. I run two reputable agencies, one here and one overseas, and I truly feel that agencies such as mine play an essential role for both employers and caregivers alike.

There are players in this industry, just as there are in every industry, that have some very questionable business practices, and it would be a shame and quite catastrophic for many Ontarians if the actions of a few unscrupulous businesspeople were responsible for bringing down the entire live-in caregiver program, especially since agencies such as mine offer such valuable services to employers, employees and the individuals whom the care is for.

In order for Bill 210 to be successful, it needs amendments. Families need quality control, and caregivers need our help to educate, inform and train them for a new life in Canada. Both sides need representation, and we provide an invaluable service.

The reason families call us is because we personally meet, screen, qualify and train every single one of our Family Matters candidates. The reason candidates seek us out and enrol in our seminars in Hong Kong is because they have heard through various means—their friends and family members, mostly—that we are honest, trustworthy, straightforward and empathetic, and offer real support to them, along with real jobs with real families in Ontario.

On average, our travels take us to Hong Kong every 12 weeks. While there, we have two main jobs to complete.

One is to find the best possible candidates that we can for our employers back in Ontario. We do quite a bit of screening. This benefits the caregivers as well. If they don't qualify, we won't take them on. A lot of caregivers have paid huge sums of money, as you've heard today—\$8,000, \$10,000—and I suspect it was because it was the only way that they could get into Canada. Reputable agencies probably wouldn't have represented them in the first place.

The other is to educate, inform and offer professional development and immigration advice to the candidates. Examples of professional development include resumé preparation, interview skills, and teaching labour laws in Ontario. Once they get to Ontario, we put them through first aid and CPR and a cooking class. We also take them

through the process of how the live-in caregiver program and employment standards work. Along with our Hong Kong representative, we teach them and guide them on how to process their paperwork at the Canadian embassy. Without both of these services that we offer, candidates will not have the skills necessary to succeed in their new lives in Canada.

Furthermore, they will likely be denied at the embassy or the process will be very drawn out on account of the fact that the process of submitting their paperwork and application is not an easy one. It is confusing for many. Mistakes are made regularly. This in itself will cause a huge backlog at Canadian embassies abroad.

As an aside to answer your question from earlier, it is a fact that release upon arrival has virtually disappeared. I see it, and other agency owners see it. The Canadian embassy in Hong Kong is processing visas much quicker these days. It is actually a very fast process now due to the decrease of fraudulent applications.

We take on the responsibility of making sure that the documents have no mistakes and the applications are complete. Most applicants who work in Hong Kong have very little time off, if any, and getting this application to the Canadian embassy, as well as completing the required medical exam and police clearance, is virtually impossible. They have no choice but to hire someone to facilitate this all on their behalf.

Without reputable agencies such as Family Matters, their only option will be to pay exorbitant amounts to a local agency to handle it for them. In our experience, these local agencies lack the integrity to treat these caregivers fairly and honestly. In case you're interested, I brought with me the Sun, which is the Filipino newspaper in Hong Kong. If you open up to any given page, it is full of local agencies saying, "Come to Canada." They just don't know who to choose. There are so many choices, and most of these just take advantage of them.

Family Matters is in a unique position. We are one of two Canadian companies that are licensed to operate an employment agency in Hong Kong. We therefore wear two hats: We operate as a local agency in Hong Kong, and we are able to assist with every step that needs to be taken on that side. Plus we are the Canadian agent, so we do everything that needs to be done on this side.

As you will learn today, there are about 28 hours of work to be done per candidate in Hong Kong and about 23 hours of work to be done for each family in Ontario. It is not an easy process; it is not a fast process; it is a lengthy process. The value of us being both agencies is huge. It gives both the employer and the caregiver peace of mind knowing that the same people are handling all aspects of the hire. We don't pass the duties off to anyone else. As a result, people put enormous trust in us knowing we will be very involved every step of the way. Candidates do not have to take their chances with agencies in Hong Kong; they have the option of using a reputable Canadian agency.

If Bill 210 is passed as written, two major things will happen. First, the quality of caregivers coming into this

province will decline. We won't be in a position to travel abroad and personally interview the candidates. Employers won't have our expertise and experience to guide them through the process. If we can't meet them personally, how can we assure our employers that they are hiring the best candidate for their family? We have been a credible filter for our employers. No employer is going to agree to pay the entire fee without any commitment on the caregiver's side. There is no guarantee that the caregiver will stay in their job. Families that live in rural areas or have three or more children or a family with a special needs child will be most at risk, as these are more challenging jobs to fill.

The caregiver can arrive and, within days, quit the job for an easier one in a more central location. It was believed that they have a 24-month guarantee. That's not, in fact, correct. They have to complete 24 months within a 36-month period, and it's cumulative, so they do not have to stay with one employer at all.

Currently, we provide maps to the caregiver to discuss the exact location where she's going to be working and the proximity to Toronto. When we're in Hong Kong, we really encourage our candidates to let us know if there's a location that they want to work in or they don't want to work in because their sister's here or their cousin or their friend. We really encourage them to tell us where they want to work because they need to be happy too. It's their life too. Because we're working for both sides, we need all parties to be happy for the success of the placement. As a result, we very rarely have caregivers leaving their jobs shortly after they arrive. They are prepared and they are invested.

#### 1650

If Bill 210 is passed without amendments, the financial risk will simply be too big, and most of our employers can't afford it in the first place. The majority of our employers are middle-class, regular families with two incomes.

According to StatsCanada, the average for a typical family is \$862.64 per week. Paying a caregiver a gross wage for 40 hours a week at \$10 an hour is \$1,600 a month. That's half of the family's income. Many of my clients work just so they can pay their caregivers because they love their job and they want to be working mothers or fathers, and this will penalize them, frankly.

Currently, our employers and the caregivers both pay us a fee. The employers pay us the placement portion and the employees pay for all the additional services that I described earlier, plus way more. The skills that they learn—

**The Chair (Mr. Bas Balkissoon):** You have one minute left.

**Ms. Tova Rich:** One minute?—will stay with them no matter what type of job they end up doing in the future.

Second, the caregiver's best interests will no longer be looked after. Our services are invaluable to the caregivers. They want to be trained. They want to better themselves. They want to be informed. They come to Canada with confidence, knowing the expectations of the

job and knowing that they have someone looking out for them. They were trained before they got here, before they started their job. They have invested in themselves and are much more likely to stay in the job that they have committed to.

If Bill 210 is passed as written, caregivers will still come to Ontario. The numbers will be considerably lower, but they will still come. They will still need to hire someone to help them come, and their only options will be the unscrupulous agencies, both here and abroad, that will still be operating. The ones here will simply go underground. Many are underground to start with.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I have to move on.

The next deputant is Ronnie Sacks—not here.

#### TAX4NANNY

**The Chair (Mr. Bas Balkissoon):** Tax4Nanny: Gila Ossip.

**Ms. Gila Ossip:** I'm here, but I just wasn't exactly ready. I just have to put my computer on. I thought I had 10 minutes. Sorry.

**The Chair (Mr. Bas Balkissoon):** Take your time. Okay. You have 10 minutes. Please state your name for the record.

**Ms. Gila Ossip:** Oh, my computer's not open and my speech is on it.

**The Chair (Mr. Bas Balkissoon):** I'm just giving you the rules. Tell me when you're ready to start.

**Ms. Gila Ossip:** Thank you. It's open; it's coming. Sorry.

**The Chair (Mr. Bas Balkissoon):** Okay. Half a minute.

**Ms. Gila Ossip:** Give me 30 seconds. It's a Mac.

**The Chair (Mr. Bas Balkissoon):** In the meantime, you have 10 minutes. If you leave time at the end of your presentation, we'll allow questions.

**Ms. Gila Ossip:** Good afternoon. My name is Gila Ossip. I'm a chartered accountant and a certified financial planner who has over 11 years of accounting experience. I'm also the founder and president of Tax4Nanny. I started Tax4Nanny 18 months ago to provide payroll services for employers of caregivers, including record-of-employment preparation, payroll source deduction calculations, T4 filing and registering employers with the CRA and WSIB.

The employer is the person who pays for my services, not the caregiver. No caregivers are ever charged by Tax4Nanny. Employers use my service to make sure that their caregiver tax remittances and the resulting T4 are correct. Having a proper T4 is a key requirement for the caregiver to apply for permanent resident status.

I am not a recruiter, nor do I run a recruiting agency. My business is a natural extension of the services provided by the reputable recruiting agencies. In my business, there are a number of issues that I have seen with employers and caregivers that you may not have heard about today: firstly, an employer that does not

provide caregivers with a pay stub; an employer not providing a caregiver with a T4 statement of remuneration; an employer paying their nanny on a cash basis and not paying tax, unbeknownst to the caregiver; and finally, an employer not providing a record of employment to the caregiver, denying them the ability to apply for a new work permit, which is of particular concern when the caregiver is trying to leave a challenging work environment.

Specifically, I am recommending the following: Bill 210 needs to reinforce the section with respect to the employer's duty of record-keeping, section 14. In my experience, families that hire a live-in caregiver do not perceive themselves as business owners and therefore have limited knowledge about what is expected of them under the Employment Standards Act.

Under section 14, the Ontario government should add certain standards between the employer and the caregiver. These standards would include:

- the employer must provide caregivers with a pay stub, based on a sample pay stub that could be provided to them;

- the employer must pay the caregiver with a proper paper trail for payment, such as cheque, direct deposit or issuing a receipt for cash payment; and

- finally, the creation of a new government database, linked to the WSIB and CRA systems, to identify employers of domestic workers.

For example, if a government database is available with a list of domestic worker employers, automatic communication to employers would be possible for any important changes affecting foreign workers—for example, minimum wage increases or maximum charges allowed for room and board. An employer registry is part of the Manitoba legislation.

Overall, these amendments would go a long way to make sure that the proper record-keeping between the employer and caregiver and the government is in place. This would also go a long way to improving the visibility of employment standards with families that employ foreign live-in caregivers.

Bill 210 is very important legislation. Time is needed to get it right. I see where amendments are needed and understand the ripple effect if this legislation were to be passed as written. I strongly believe that if passed as is, the demand for foreign caregivers will go down, resulting in fewer foreign workers being employed, and parents will look for other daycare options for their children.

Parents look to hire a nanny for their children because they want their children to be taken care of in their home. They do not want to leave work if a child is sick or the daycare is closing because of striking workers. Frankly, many people cannot afford private daycares, and there's not enough supply of government-run affordable daycares. Caregivers provide these families with a wonderful option for affordable and loving childcare.

I urge you to please think through the implications of Bill 210. Make the amendments brought forward and delay section 7 coming into force.

**The Chair (Mr. Bas Balkissoon):** That's it?

**Ms. Gila Ossip:** That's it.

**The Chair (Mr. Kevin Daniel Flynn):** Okay. I've got about a minute and a half each. The government side: Mr. Dhillon.

**Mr. Vic Dhillon:** I just want to thank you for your presentation.

**The Chair (Mr. Bas Balkissoon):** Mr. Miller.

**Mr. Norm Miller:** Thank you. You make some interesting recommendations that seem to make a lot of sense. Do we have a copy of your presentation and also a copy of the amendments you're recommending?

**Ms. Gila Ossip:** Yes, I will get them to you.

**Mr. Norm Miller:** If we could get a copy of those, that would be beneficial.

**Ms. Gila Ossip:** Sure. That would be great.

**The Chair (Mr. Bas Balkissoon):** Ms. DiNovo?

**Ms. Cheri DiNovo:** Yes, thank you very much. I disagree with you around section 7, and we are planning on putting forward amendments based on what the nannies have come forward with. But, having said that, I really liked your suggestion for section 14 and immediately sent that off to our researchers as a possible amendment. So we will act on that. I think it's really important that employers keep records, and I agree that a lot of employers do not keep records. They don't really see foreign live-in caregivers as employees in that sense. So thank you very much.

**The Chair (Mr. Bas Balkissoon):** Thank you very much.

**Ms. Gila Ossip:** Can I make one comment?

**The Chair (Mr. Bas Balkissoon):** Sure. You have time.

**Ms. Gila Ossip:** I guess the reason why section 7 is so important to me is that I rely on reputable agencies to work, and I also believe that the reputable agencies drive the demand for foreign workers. So if reputable agencies can't act in their business that they're currently in, then there won't be any employers that are willing to pay. And the people that work with reputable agencies are the employers who want to pay correctly. They are the people who hire me to make sure that things get done. If you go through a fly-by-night agency, they tell you they sit 30 hours a week and do this and pay \$200 in taxes. There's no client of mine who pays under \$450 a month in taxes.

1700

**Ms. Cheri DiNovo:** Can I just respond? We've got a little bit of time.

**The Chair (Mr. Bas Balkissoon):** I've got time.

**Ms. Cheri DiNovo:** Unless pigs have wings, I really don't think there's going to be lowering of demand for foreign-trained caregivers unless, again, we have a really solid government-provided daycare system. So I think really—I'm quite willing to bet on this—there will still be reputable agencies and you'll still probably do very well.

I came from the agency business where no applicant was ever charged a fee and that's true of 90% of the agency business in this province, quite frankly. Appli-

cants are not charged. It's only in this area and executive recruitment. Most agencies don't charge applicants fees. So I want to reassure you that I think you're probably okay.

**Ms. Gila Ossip:** Personally, I would never have hired someone to take care of my new child after going back to work for a year had they not met that person in Hong Kong. To me, that was huge.

**The Chair (Mr. Bas Balkissoon):** Thank you very, very much and thank you for your presentation.

#### SELECT NANNIES INC.

**The Chair (Mr. Bas Balkissoon):** We'll move to the last deputant, Select Nannies Inc. Eva Kristina Knof. I hope I pronounced your last name correctly.

**Ms. Eva Knof:** Yes, you did. My name is Eva Knof—

**The Chair (Mr. Bas Balkissoon):** I've got to give you the rules. Ten minutes, state your name and if you save time we'll have questions.

**Ms. Eva Knof:** I'm pleased to have the opportunity to speak with you and want to thank you for allowing me to comment on Bill 210.

My name is Eva Knof, and I am a mother of three, a licensed immigration consultant and the owner of Select Nannies Inc., a successful nanny agency with four offices across Canada. Over the past 10 years, I have designed a business model for the placement of overseas caregivers which is very efficient and fair to all parties involved. I am proud to say that my staff and I have always conducted business with the highest ethical standards and integrity.

I'm in full support of Bill 210 but I have several serious concerns.

My main reason for speaking with you today is to ensure that you understand the inner workings of the nanny industry so that you can appreciate the complexity of the placement procedure and the role of each party involved.

Unless you have hands-on experience, it may appear that a caregiver placement is a simple two-step process: the employer gets an LMO from Service Canada, and the caregiver applies for a work permit at the overseas office and hops on the plane. Well, nothing is further from the truth. I have put together a document that explains that there are 99 important steps to placing a caregiver. I hope you have that all in your hands, because I can't read it all due to time constraints today.

Generally, there are three specialists involved in each placement, unless it's a direct hire: the Canadian agent, the overseas recruiter and the licensed immigration consultant. In some cases, one person wears two or three of those hats.

The Canadian agent finds the employers, pre-screens them for qualifications, advertises with the job bank on the employers' behalf, prepares nine different documents for Service Canada and matches the employers with their future caregivers.

The overseas recruiter advertises for applicants, pre-screens them for qualifications and references, and assists

them with the preparation of their profiles. Because of the hardship that the overseas caregivers experience in their host countries, they are often completely dependent on the assistance of overseas recruiters to get them to Canada in situations—and this is particularly in Hong Kong and Taiwan—where the employer will hold their passport, where the employer does not speak the same language as the caregiver, or where the caregiver does not have a day off to represent herself in front of the visa office.

The licensed immigration consultant assists the caregiver with the submission of the work permit application and ensures that the submitted work permit package is accurate and complete, making the job of the visa officer easier. He also communicates with the embassy in regard to the application progress.

In 2004, the Immigration and Refugee Protection Act was amended to state that immigration consultants can, for a fee, advise and represent potential immigrants before Citizenship and Immigration Canada.

Canadian immigration is not only a set of policies, but it's also, in fact, a business and an industry. Law firms, immigration consultants and their employees make up thousands of companies and individuals across Canada who facilitate the immigration process for fees.

As you heard my colleague Mr. Mooney explain, licensed immigration consultants are regulated by the Canadian Society of Immigration Consultants and must comply with very strict admission requirements and meet educational and language standards as set forth by the society.

According to my calculations, and I've been in business long enough to know, a competent Canadian agent spends 23 hours on each placement, an overseas recruiter spends 20 hours and an immigration consultant spends eight hours. That is 51 work hours per placement, given that it's done properly, and that still does not guarantee success. The total cost of this work has been estimated at over \$6,000 per placement. The employer cannot be expected to carry the entire cost, because it is prohibitive, and the employer does not have a guarantee the caregiver will in fact remain with him upon arrival.

I would like to address this particularly to Ms. DiNovo. I'm not sure what kind of agency she was running; however, I, in my conscience, would not run an agency and charge a client, a family, over \$6,000 for my services. These are clients who are single mothers, who are widows and widowers, clients who are elderly, who are living on social support and have no other options. They are looking for live-in caregivers as a viable and feasible option to child care because they can't afford to put their children in daycare; they have three or four kids, and it's cheaper to have a live-in nanny. I just wanted to clarify.

**Ms. Cheri DiNovo:** Cheaper?

**Ms. Eva Knof:** It is cheaper. So I do have an issue with—

**Ms. Cheri DiNovo:** That's the problem.

**Mr. Phil Mooney:** It's not a problem; it's a fact.

**Ms. Eva Knof:** It's a fact. The other issue is—

**Ms. Cheri DiNovo:** It's a problem for the nannies.

**Mr. Phil Mooney:** No, they're paid the appropriate amount.

**Ms. Cheri DiNovo:** Anyway, continue.

**The Chair (Mr. Bas Balkissoon):** Let's keep to the deputation. It's your clock that's running.

**Ms. Eva Knof:** Well, then, I will—

**The Chair (Mr. Bas Balkissoon):** Stick to your presentation.

**Ms. Eva Knof:** Yes. If Bill 210 comes into effect unchanged, the recruiter, who is also an immigration consultant, would not be able to bill for his immigration services, thus contravening his right to charge for services, as is currently allowed by existing legislation.

If Bill 210 comes into effect, I will not be able to carry on my business because I am both a recruiter and a certified immigration consultant. This means that I cannot offer my immigration expertise to a caregiver for whom I have found a job, and must tell her to seek help elsewhere, while exposing her to either bad agents or to well-meaning family members who then give her the wrong advice.

Ironically, when I started my business 10 years ago, I did not charge any fees to caregivers, and was often questioned by them as to whether I was a legitimate agency, because according to them, no one in their right mind offers free services. Once I became licensed and began to charge for my services, my credibility was no longer questioned and none of my caregivers ever told me that my fees were excessive. I need to point out that charging sensible fees to caregivers has never been an issue, while charging excessive fees, or fees for jobs that are not real, is an issue.

I hold in my hand appendix 2, which contains eight visa refusals of caregivers who applied at an overseas visa office without the expertise of an immigration consultant or a recruitment agency. They all qualified for the program and reapplied using the services of an experienced and qualified agent, and all are happily working in Canada today. With the help of an agency they would not have been refused the first time, and could have saved a lot of money, emotional stress and hardship.

In my opinion, the no-fee clause in Bill 210 is an overkill to a situation that can be better remedied by a few amendments. Please consider us as the voice of experience and allow us to assist with the new standards in this industry.

Here are my recommendations:

—Delay section 7 from coming into effect until regulations are created.

—Clearly differentiate between recruitment fees and fees for professional services offered to the caregivers on a voluntary basis.

—Establish a list of services related to recruitment and make it mandatory for the employer to pay for these services.

—Allow overseas recruiters to charge for professional development, as is done in BC and Alberta.

—Allow CSIC members to charge fees for professional services, despite being recruiters.

—Regulate the nanny agency industry by requiring licensing, strict codes of ethics and payment of bonds.

I just wanted to make another comment. I find it very ironic that we have advocates sitting here today on behalf of caregivers who fail to see that Bill 210 will kill the live-in caregiver program. If you have no agencies, you will have no caregivers coming into Canada—or they will be coming in through illegal agencies overseas.

I would also like to protest the fact that only caregiver horror stories were allowed to be heard today, whereas those who were a success, sitting here, sat here in silence. I ask you, where is the fairness here?

**The Chair (Mr. Bas Balkissoon):** You have less than a minute left.

**Ms. Eva Knof:** Thank you.

When the recession hit the GTA quite hard in June, I was the one who found these caregivers new jobs, at no cost to them, and housed them in my home, again at no cost to the caregiver. So many other agencies—my colleagues—have done the same thing. What I'm trying to demonstrate here is that most people in our industry are very people-oriented. That's why our agencies are recognized and referred to. We are referred by caregivers to their friends overseas and we are referred by families to other families here in Canada. This is how our business thrives: by having good reputations in both the employer community and the caregiver community. I have many witness testimonies of caregivers who are very happy with the program and our services.

**The Chair (Mr. Bas Balkissoon):** Thank you for taking the time and presenting to us.

**Ms. Eva Knof:** Thank you.

**The Chair (Mr. Bas Balkissoon):** That comes to the end of the deputation list. For members of the committee, the committee will be meeting on Monday, December 7, 2009, for clause-by-clause consideration of the bill. I want to remind everybody that the deadline for filing amendments to the bill with the clerk of the committee shall be 12 noon on Friday, December 4, 2009.

*Interjection.*

**The Chair (Mr. Bas Balkissoon):** The deadline for submission of clause-by-clause amendments is 12 noon on Friday, December 4.

**Mr. Norm Miller:** It's clause-by-clause on Bill 218 tomorrow too—

**The Chair (Mr. Bas Balkissoon):** And we're meeting on Monday, December 9 for clause-by-clause—

**The Clerk of the Committee (Ms. Tonia Grannum):** Monday, December 7.

**The Chair (Mr. Bas Balkissoon):** December 7, sorry. Do we have a time?

**The Clerk of the Committee (Ms. Tonia Grannum):** Two o'clock.

**The Chair (Mr. Bas Balkissoon):** At 2 o'clock in the afternoon.

Meeting adjourned.

*The committee adjourned at 1713.*





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## CONTENTS

Wednesday 2 December 2009

<b>Subcommittee report</b> .....	M-233
<b>Employment Protection for Foreign Nationals Act (Live-in Caregivers and Others), 2009, Bill 210, <i>Mr. Fonseca</i> / <b>Loi de 2009 sur la protection des étrangers dans le cadre de l'emploi (aides familiaux et autres), projet de loi 210, <i>M. Fonseca</i></b>.....</b>	M-234
Caregivers' Action Centre .....	M-234
Ms. Pura Velasco	
Canadian Association of Professional Immigration Consultants .....	M-236
Mr. Phil Mooney	
Parkdale Community Legal Services.....	M-237
Ms. Mary Gellatly	
Wee Care Placement Agency and In a Pinch Temporary Care .....	M-239
Ms. Robyn Zeldin; Ms. Dani Katz	
Shure Consulting Services .....	M-241
Ms. Deborah Shure	
Workers' Action Centre .....	M-242
Ms. Deena Ladd	
Mr. Ronell Tabafunda.....	M-244
Justicia for Migrant Workers.....	M-245
Mr. Chris Ramsaroop	
Capulong Law Office .....	M-247
Ms. Maria Capulong	
Ms. Saowarak Bunpitak .....	M-249
Caregivers' Rights and Education .....	M-250
Ms. Nancy Abbey	
Caregiver Resource Centre.....	M-252
Ms. Terry Olayta	
Diamond Personnel Inc. ....	M-254
Ms. Susan Zwaal; Ms. Evangeline Ancheta	
Filipino-Canadian Community House .....	M-256
Ms. Merfa Yap-Bataclan; Ms. Anne Nacorda	
Family Matters Caregivers Inc. ....	M-257
Ms. Tova Rich	
Tax4Nanny.....	M-259
Ms. Gila Ossip	
Select Nannies Inc. ....	M-260
Ms. Eva Knof	