Response to the Initial Proposed Employment Accessibility Standard

General Comments

In this section of our Official Response, March of Dimes makes five general comments about the nature and thrust of the Proposed Standard.

Consistency with the AODA Alliance

March of Dimes is a founding member of the AODA Alliance, the mission of which is to help make the AODA as effective as it possibly can be in making Ontario accessible and barrier-free. It is, therefore, appropriate that we point out that March of Dimes is supportive of the AODA Alliance's official response paper on the Initial Proposed Employment Accessibility Standard.

The Duty to Accommodate

Also consistent with the commentary from several organizations in Ontario's disability sector, it is important that we point out that the AODA in many ways is an expression of the 1982 Ontario Human Rights Commission that established the "duty to accommodate" as regards employers in Ontario. While the specifics of the AODA might, and in some cases will, put added costs on organizations' budgets, the employer's duty to accommodate was legally clarified with the 1982 amendment to the Ontario Human Rights Code. This obligation is 27 years old.

In this regard, the essence of these provisions (ie. Creating a barrier-free workplace to accommodate persons with disabilities) is not new.

Greater Clarity and Definition

What is new for employers in Ontario is the definitions and the "codification of accommodation" that will be found in the Standard. It is for this reason that we

seek clear, defined requirements in each of the standards, leaving nothing to interpretation or question.

For example, the Standard relies on what are unclear and incomplete definitions in the Information and Communication Standard.

Compressed Timelines for Compliance

Another general comment focuses on timelines. On balance, and specifically in view of the already existing duty to accommodate, we feel that the timelines can be compressed somewhat.

Regulatory Burden of Paperwork

Finally, if we were to highlight a general theme that resonates throughout this Standard, it would be the fact that the regulatory/compliance burden for employers seems focused on paperwork. While paperwork and documentation are important, perhaps a easing of the paperwork burden on employers might allow these organizations to focus their resources on actually eliminating and preventing barriers to inclusion.

Specific Comments

Our commentary and suggestions now focus on specific areas and clauses of the Proposed Standard that we feel require further work or re-consideration.

Indicators of Progress

The Proposed Standard requires that organizations identify indicators of progress towards accessible employment, and collect data that measures against selected indicators. Yet, this Clause offers no prescription on this matter.

If this Clause remains non-prescriptive, there will have to be a government-mandated guide or tool to support its implementation, and that the type of information used as indicators of progress would include both quantitative and qualitative data.

If this is the route ultimately taken, Clause 6, Indicators of Progress, should explicitly outline what the process will be and how employers will comply with the Standard.

Classes of Organizations

Section 2 addresses classes of organizations, who need to comply and within what timelines. We recommend that organizations can be appropriately classed by the number of employees – but only if all aspects of the organization are captured. Related organizations, jointly-operated entities and co-managed arrangements need to be captured in the definition of organizational class.

Union versus Non-union

Both the employer and the union need to have responsibility for eliminating and preventing barriers. The Standard does not specifically address this matter. Collective agreements need to be flushed out in the Standard to ensure that such agreements are not an unintended source or perpetuating cause of any workplace or employment barrier.

We recommend that greater consideration be given to the union-versus-non-union aspect of the workplace, and that the Standard specifically flush out the requirement that collective agreements be accessible and barrier-free as well.

Greater Clarity and Definition

The legislation needs to explicitly tell employers what they need to do in order to comply and when they need to do it. Section 4.6 represents an example of the need for greater clarity and definition, yet the difficulty in achieving that clarity.

This Section is subject to whatever the Information and Communications standard will be. As that Standard has not been accepted yet, there is no definition or requirement. We need to point out that commentary, much less compliance, is not possible to provide when it comes to those areas where this Standard relies on the unfinished Information and Communications Standard.

Recruitment and Advertising – Partner with the Sector

It is abundantly sensible that the Standard creates an additional mechanism for notifying people with disabilities about job opportunities. Section 4.3.1 outlines the following: "when recruiting, organizations shall provide information, including contact details, about the employment opportunity to organizations that provide employment services for persons with disabilities."

In addition to traditional means of advertising job openings, the Standard incorporates and more fully utilizes the services and networks of organizations like March of Dimes, CNIB, Canadian Hearing Society, etc.

We would like to point out, though, that this part of the regulation will need periodic review to ensure accuracy of organizations. Implementing Section 4.3.1 might also require the creation of an information system that "marries" the private sector with the disability sector and the provincial government (a website, perhaps). We recommend further dialogue among the various

stakeholders on this matter, and that such dialogue (even if it is informal) be held immediately and be reviewed prior to any further consideration of this Standard.

Paperwork

Under Section 5.1, “Providing individual accommodation plans for employees”, the Proposed Standard requires documentation on upwards of a dozen procedures related to accommodation plans.

This might be appropriate in large organizations. However, we question the efficacy of such a measure for smaller classes of organizations. There is a fine line between establishing an accurate paper trail on the one hand, and, on the other, focusing one’s efforts on paperwork instead of the actual outcome that the paperwork was created to achieve.

We recommend a reconsideration of the measures of compliance within this Section, and reduce wherever possible the amount of paperwork and regulatory burden – especially for smaller organizations.

Timelines for Compliance

We agree with the AODA Alliance and several other organizations on the point that, in most instances, time lines can be shortened considerably. In fact, most clauses in the Proposed Standard can be shortened.

For example, Section 4.1.2 allows up to three years for organizations to adopt a policy on delivering accommodation to job applicants. In light of the existing “duty to accommodate” in Ontario, there really is no reason why employers cannot establish an accommodation policy within six months to one year. This should be sufficient time for any organization.

Similarly, Section 4.5 allows organizations up to three years before being required to inform successful job candidates about the process for asking for workplace accommodation. This measure can be implemented immediately after the Standard becomes law. The process around informing successful job candidates will certainly become more developed over time, but the immediate impact could see an employee simply asking his or her supervisor when workplace accommodation is required. The Standard could be simplified here, and the timeline for compliance could be immediate upon legislative enactment.

These are but two examples of what is a common theme of excessive timelines throughout the Standard. Overall, we recommend a re-consideration of the timelines for compliance with a view towards shortening them.

Concluding Recommendation

There will certainly be added costs for organizations. However, these costs represent a necessary part of working toward an accessible Ontario that is a more successful Ontario. In fact, the greater cost resides in not employing Ontarians with disabilities to their full potential and the accompanying benefits bestowed on organizations as a result.

That said, government has many fiscal tools at its disposal to encourage implementation and compliance. As a means of facilitating and expediting this process, tax incentives might serve a useful tool.

We recommend that the Ministry of Community and Social Services coordinates with the Ministry of Finance to create a tax credit for businesses and organizations that recognizes the added expenses incurred in broadening

accessible employment and achieving accessible workplaces. There are several tax deductions currently available to business. However, we recommend the creation of an AODA-specific tax measure that provides tax incentives to improve accessibility, and one that could serve the purposes of other AODA Standards as they become enacted.

For additional information about this Submission please contact:

Steven Christianson
Manager, Government Relations and Advocacy
10 Overlea Boulevard
Toronto, ON M4H 1A4

Tel: 416-425-3463
Fax: 416-425-1920
Email: schristianson@marchofdimes.ca
Web: www.marchofdimes.ca