

**MINISTRY OF HEALTH SERVICES/MINISTRY OF HEALTH PLANNING  
INFORMATION BRIEFING NOTE**

**Cliff # 435574**

**PREPARED FOR:** Dr. Penny Ballem - FOR INFORMATION

**TITLE:**      **Implications to the release of Discovery documents relating to Bill 29 –  
Health And Social Services Delivery Improvement Act**

**BACKGROUND:**

- To date, three separate legal actions have commenced against the Province in connection with Bill 28 – *Public Education Flexibility and Choice Act*, and Bill 29 – *Health and Social Services Delivery Improvement Act* (List of Plaintiffs attached).
- In addition, there has been an FOI request for all records related to the development of Bill 29. These records were released to the applicant in November 2002.
- In July of 2002, the Plaintiffs' legal counsel received government documents through the court document Discovery process.
- On October 30, 2002, the court ordered further release of documents through Discovery as a result of the Plaintiffs' challenge to the initial Discovery response from government.
- On November 13, 2002, the Premier publicly stated that the government would release the documents related to the Bill 29 legislation. This statement was primarily related to the FOI request.
- The Plaintiffs and their lawyers are alleging that government has not met its obligation to produce all relevant documents in litigation in a timely or complete manner. Legal counsel for the Attorney General were in BC Supreme Court on February 14, 2003 to address Madame Justice Baker about the issue. Possible sanctions may be administered should Madame Justice Baker find that document disclosure has not been complete.
- As a result of this court appearance, Deputy Ministers are required to sign an affidavit stating there has been a thorough search for records.

**DISCUSSION:**

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**Labour/Union:**

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### **Contracting out:**

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### **Financial:**

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### **Planning:**

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**Comments:**

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**CONCLUSION:**

There is sensitive information in the Discovery documents which will undoubtedly come out in the court case and be reported upon in the media.

Note: Discovery documents, as a rule, are to be treated confidentially and must be destroyed once litigation is complete.

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**Title/Division:** Program Consultant, PMID/ Administrative Coordinator, PMID/ Manager, Budget Coordination, Reporting and Accountability

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**Program Contact:** Phyllis Chuly, Executive Director, Telephone: 952-1204

**Date:** February 19, 2003

**Filename:** G:\Program Issues & Resolution\Briefing Documents\Briefing Notes 2003\BN-Bill 29.doc

## List of Plaintiffs

### Action 1-Relating to Bill 29

- Hospital Employees' Union

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### Action 2-Relating to Bill 29

- Paramedical Professional Bargaining Association
- Health Sciences Association of British Columbia
- British Columbia Government and Service Employees' Union
- Canadian Union of Public Employees (Locals 15, 23, 387, 389, 718 and 1978)
- Professional Employees' Association
- Hospital Employees Union

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### Action 3- Relating to Bill 28

- College Institute Educators' Association
- British Columbia Government and Service Employees' Union
- Capilano College Faculty Association Local 1
- University College of the Cariboo Faculty Association, Local 2
- Faculty Association of the College of New Caledonia, Local 3
- Douglas College Faculty Association, Local 4
- Kwantlen Faculty Association, Local 5
- College of the Rockies Faculty Association, Local 6
- University College of the Fraser Valley Faculty and Staff Association, Local 7
- Malaspina Faculty Association, Local 8
- Selkirk College Faculty Association, Local 10
- Academic Workers' Union, Local 11
- Camosun College Faculty Association, Local 12
- Langara Faculty Association, Local 14
- Vancouver Community College Faculty Association, Local 15
- North Island College Faculty Association, Local 16
- Faculty Association of the Open Learning Agency, Local 17
- Institute of the Indigenous Government Staff and Faculty Association, Local 18
- Nicola Valley Institute of Technology Faculty and Staff Association, Local 19
- Emily Carr Institute of Art and Design Faculty Association, Local 22

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**MINISTRY OF HEALTH SERVICES/MINISTRY OF HEALTH PLANNING  
INFORMATION BRIEFING NOTE**

**Cliff #**

**Program #**

**PREPARED FOR:** Minister Katherine Whittred and Minister Colin Hansen  
**FOR INFORMATION**

**TITLE:** Status of Financial Community Concerns regarding Facility Closures

**BACKGROUND:**

- The government has committed to provision of needed services and infrastructure through Public Private Partnerships (P3s).
- The government has also committed to developing an additional 5,000 new intermediate and long term care beds by 2006. These beds will consist of both residential care and supportive living and will be developed through P3s.
- The publicly funded residential care system consists of approximately 25,000 beds in over 300 facilities across the province. Of this total, 5,000 beds, (worth \$500M), are provided by the for-profit private sector through P3s.
- The contractual arrangement for beds provided by the private sector is a continuous service agreement: a contract with an indefinite term and usually a one-year (without cause) termination notice.
- Care providers and their financial institutions have stated they viewed these contracts as long term commitments to fund for as long as the facility met the standards of the health authority and would not be terminated without cause.
- Recent inventory information indicates that more than 4,500 beds are functionally or physically obsolete and require rebuilding, replacement or closure.
- Health authorities (HAs) recently announced the closure of 3,400 residential care beds and 1,700 new residential care beds and 4,100 new supportive living units.
- The majority of the supportive living units are part of the government's Supportive Living BC (SLBC) program being delivered by BC Housing.
- The new SL units and residential care beds are key components of the New Era commitment to 5,000 new intermediate and long term care beds.
- In April of this year, the Interior Health Authority issued termination notices to five private operators without 'cause'. HAs plan on issuing other termination notices to private service providers in the near future.
- In response, financial institutions and the Canada Mortgage and Housing Corporation (CMHC) have stated that they have stopped lending and renewing mortgages to the overall senior's sector until they can quantify their risk exposure.

- Ministry of Health Services executives have met with CMHC and several banks (e.g. TD, Peoples Trust, Royal Bank) to understand their issues and concerns, as follows:
  1. Invoking the one-year cancellation clause has reduced the effective term of the contract to one year which has removed the ability of a lender to finance new facilities or to re-new mortgages.
  2. Facility operators in IHA were not provided the opportunity to renovate; upgrade or change their facilities.
  3. The reasons for the termination notices were not clear to the lenders leaving them unable to gauge risk.
  4. Loan losses and CMHC insurance claims will occur and will reduce or eliminate profits from mortgage insurance. CMHC will not insure mortgages in industries that are not profitable.

## DISCUSSION:

- HA plans call for more functionally or physically obsolete residential facilities to be closed, rebuilt or renovated and overall residential care capacity to be reduced.
- Among the closures will be privately owned facilities with insured, outstanding mortgages – some can be renovated, others will experience losses.
- The lending community recognizes that some facilities are near or at the end of their useful lives. They primarily seek to understand risk factors so that they can appropriately estimate and price this obsolescence risk.
- Each HA has approached decommissioning differently – some have issued termination notices without warning or consultation, others have engaged in a dialogue and a process to allow operators to adapt to the changing needs.
- The financial community has requested a decommissioning framework - a province wide process and set of criteria for decommissioning. The Ministry has drafted a framework (see attachment A). If approved, it would oblige HAs to:
  - be transparent about service and facility requirements;
  - not terminate private sector causes for budgetary reasons; and
  - work with their existing care providers, within the continuous service agreement framework, to upgrade, renovate or replace their facility as needed.
- CMHC has linked its participation in the SLBC program with being held harmless from residential care insured loan losses:
  - CMHC has indicated an interest in sharing the losses from the closed facilities – placing the Province of BC as the ultimate insurer without the benefit of the insurance premiums; and/or multi-decade guaranteed funding.
  - The role of CMHC is important to some financial institutions and some operators (who need high ratio loans).

- Those financial institutions that self-insure are keen to gain market share if insurance is restricted from other suppliers. (If and only if, they can quantify the risks and appropriately price their financing and insurance products.)
- Other sources of capital that may not rely on CMHC for the industry include new and existing care provider equity, non-profits, and foundations.
- The Ministry is also seeking a solution over the next 4-6 weeks that is acceptable to all parties AND that meets the needs of the home and community sector (access to financing for quality operators and their facilities) without providing perverse incentives. Until it is concluded, HAs will not further exacerbate the situation by issuing additional decommissioning notices.
- The use of continuous service agreements is an established and valuable procurement tool ideally suited to long term care:
  - It allows the private sector the security of a long term contract enabling the investment in the facility.
  - It provides continuity of services to the frail.
  - It provides best practices procurement vehicle for purchasing services where lowest price is not necessarily best value.
- The use of continuous service agreements is consistent with the Procurement Reform project (Ministry of Management Services) and the Capital Asset Management Framework (Ministry of Finance) and is indicative of the innovative and creative procurement techniques necessary in P3s.

#### **CONCLUSION:**

- The Ministry's primary objective is to restore access to reasonably priced financing to those care operators that provide quality care, maintain their facilities and adapt to care models over time.
- The linkages between the SLBC program and the decommissioning process are tenuous and attempts to link them should be resisted.
- The provision of provincial guarantees or risk sharing would introduce a moral hazard that could work against the objectives of the government.
- A Provincial framework agreed to and adhered to by all HAs would provide consistency and predictability.
- The MHS is preparing a cabinet submission for July 2002 that will provide a recommendation on a strategy that balances the New Era commitments to restoring free and open tendering with the government's commitments to increase private sector investment.

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**Contact:** Chris Sullivan, Executive Director

**Title/Division:** Capital Services

**Telephone:** 952-1416

**Program Area Contact:** same

**Date:** July 3, 2002



## **2002/2003 MINISTRY OF HEALTH PLANNING ESTIMATES DEBATE BRIEFING NOTE**

**TITLE: RNABC concerns regarding Bill 29**

**ISSUE:**

The Registered Nurses Association of BC (RNABC) is hearing from their membership that nurses have quality of care concerns regarding Bill 29.

**BACKGROUND:**

- RNABC is the regulatory body for registered nurses (RNs) in BC and sets the standards of practice that RNs are to follow in their work setting.
- RNABC has been hearing from its members regarding their concerns with the new legislation, Bill 29.
- RNABC reports that nurses fear they will be moved to units/services outside their area of specialty without appropriate planning and orientation.
- RNABC President, Bonnie Lantz and Executive Director, Laurel Brunke met with Minister Hansen in February to discuss these concerns.
- The Minister agreed that principles to ensure nurses' ability to practice safely be developed and discussed with senior Ministry staff and the Leadership Council.
- These principles have been drafted in consultation with the RNABC and are in the process of being reviewed within the Ministry before presentation to the Leadership Council.

**RECOMMENDED RESPONSE:**

- **Health Reform is essential to ensuring that we have a sustainable Health Care system, which will provide British Columbians with health care where they need it, when they need it.**
- **Registered Nurses, the largest group of health care professionals in BC, are essential to the current and future provision of quality health care to British Columbians.**
- **This government, the Ministries of Health and the Health Authorities are committed to developing systems which provide safe appropriate and quality care to our patients.**

- **We are currently working with the RNABC on principles developed to ensure nurses' ability to practice safely and to address the concerns of RNABC's members.**

**LINKAGES TO SERVICE PLAN:**

- Supports the establishment of provincial health standards that ensure all citizens are entitled to equitable, reliable, high quality health services.
- Supports the MOHP service plan to ensure that patients receive effective, quality care at the right time, in the right setting and health services are planned, managed and delivered around the needs of the patient.
- Supports the MOHP service plan in better planning and management of the health care system.

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**Contact/ Telephone:** Anne Sutherland Boal (604) 916-6041

**Division:** Nursing Directorate

**Date:** March 22, 2002

**Filename and Path:** K:\ESTIMATES 2002\Nursing Directorate\RNABC Concerns with Bill 29.doc

**Keywords:** RNABC, Bill 29, Principles developed, safe practice

**2002/2003 MINISTRY OF HEALTH PLANNING  
ESTIMATES DEBATE BRIEFING NOTE**

**TITLE:**            **Bill 29 Implications for nurses**

**ISSUE:**

Nurses are concerned that they will not be able to deliver safe care with the implementation of Bill 29.

**BACKGROUND:**

- Bill 29 was initiated in January 2002 to provide for greater flexibility in the redesign of the health system by allowing for easier and more streamlined movement of staff within and across facilities.
- RNABC is fielding a number of calls from nurses who are asking:
  - What do I do if I'm asked to work in another practice setting and feel that I don't have the necessary knowledge and skills?
  - Will I lose my job if I refuse to work in an area where I have no experience?
- BCNU is advising their members that the legislation gives health authorities the power to re-assign staff without their consent.
- RNABC met with the Minister of Health Services to advise him of their members concerns.

**RECOMMENDED RESPONSE:**

- **Bill 29 allows for flexibility to make changes to the health care system to ensure sustainability.**
- **Changes made within the health authorities will be made in a planned way.**
- **Staff skills and abilities will be foremost in planning to ensure quality patient care.**
- **The Minister's, Deputy, and CEO's of the Leadership Council are committed to the development of a health care system that provides quality health care to British Columbians and is delivered by nurses able and skilled to provide that care.**

**LINKAGES TO SERVICE PLAN and NEW ERA:**

- Supports the establishment of provincial health standards that ensure all citizens are entitled to equitable, reliable, high quality health services.
- Supports the MOHP service plan in ensuring that patients receive effective, quality care at the right time in the right setting and health services are planned, managed and delivered around the needs of the patient.
- Supports the MOHP service plan in better planning and management of the health care system

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**Contact/ Telephone:** Anne Sutherland Boal (604) 916-6041

**Division:** Nursing Directorate

**Date:** March 5, 2002

**Filename and Path:** F:\ESTIMATES 2002\Nursing Directorate\bill 29.doc

**Keywords:** Bill 29, BCNU, RNABC

**2002/2003 MINISTRY OF HEALTH SERVICES  
ESTIMATES DEBATE BRIEFING NOTE**

**TITLE:** Healthcare Labour Adjustment Society (HLAA)

**ISSUE:** Bill 29, The Health And Social Services Delivery Improvement Act, enacted on January 28, 2002, enabled the Minister of health Services to appoint an administrator who would be responsible for winding up the HLAA in accordance with the Society Act.

**BACKGROUND:**

The HLAA was established in 1993 to help manage the restructuring in the healthcare industry, without layoffs. The need for the agency was supported, and its role further defined, by a report of the Industrial Inquiry Commissioner, Vince L. Ready, in 1996.

Since the industrial inquiry was conducted, healthcare delivery in BC has undergone significant change. One important reform measure was the regionalization of healthcare – health authorities are now responsible for the delivery of most programs. As well, the industry is faced with increasing challenges caused by shortages of healthcare professionals.

In keeping with these changes to health service delivery, the role of HLAA has also changed and expanded. HLAA acts in partnership with the Ministries of Health, the Health Employers' Association of BC, and representatives of the major health sector bargaining associations, to achieve several goals related to human resources in healthcare. The Ministry of Health Services funds HLAA \$12.0M annually for its programs, which include: job placements, early retirement, severance, training and job sharing.

Under Bill 29, the Minister of Health Services appointed an administrator, John Herbert, Chartered Accountant and ex-Senior Financial Officer for the Ministry of Health, to be responsible for winding up HLAA.

Several health unions have taken issues to the Labour Relations Board with respect to the wind up of HLAA, specifically requesting:

1. ongoing registration and job placement activities be done by employers, through the HLAA, and
2. early retirement applications be forwarded from the employers to HLAA.

The LRB ruling is expected mid to late April.

**RECOMMENDED RESPONSE:**

- **An administrator, John Herbert, has been appointed, and is responsible for winding up the HLAA.**
- **This process will include the following activities:**
  - **compilation of several thousand employee files and transmittal of these files to health authorities – this will be done by April 12, 2002**
  - **health authorities will review these files, and assess the ongoing liability for their staff, and reply back to HLAA – their timeframe for this is 45 days from receipt of the files**
  - **HLAA will then transfer the funding and liability for any ongoing obligations to the health authorities**
- **With the reduction in the number of health authorities to six, it is expected that there will be more opportunities for health authorities to provide the services that were previously managed by HLAA, such as training and job placement activities.**

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**Contact/ Telephone:** Murray Jacobs

**Division:** Finance & Decision Support, Regional Grants

**Date:** 03 April 2002 11:47 AM

**Filename and Path:** K:\AcuteCare\FundPlanEval\Budget 2002-03\HP Estimates HA funding categories.doc

**Keywords:** HLAA, Bill 29

**MINISTRY OF HEALTH SERVICES/MINISTRY OF HEALTH PLANNING  
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**Cliff #**

**Program # (if applicable)**

**PREPARED FOR: Penny Ballem, Deputy Minister of Health - FOR DECISION**

**TITLE: Transfer of Public Sector Employees to the Health Sector**

**BACKGROUND:**

- As a result of historical decisions, employees at Riverview Hospital (RVH), Forensic Psychiatric Society Commission (FPSC), Oak Bay Lodge (OBL) and The Lodge at Broadmead (L@B) have remained public sector, rather than health sector, employees.
- Transfer of these employees to the health sector has been agreed to, in principle, by PSEC (Rick Connelly) and PSERC (Ron McEachern), pending funding from the Ministry of Health Services.
- HEABC (Gary Moser) has confirmed they can absorb the resulting responsibilities.

**RATIONALE:**

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## **Cost Implications**

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## **Labour Implications**

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## **Riverview Redevelopment**

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**Options for Funding the Transfer of Employees to the Health Sector**  
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## **Next Steps**

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## **Recommendation (to be confirmed)**

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Appendix A

**Transfer to the Health Sector  
Summary of Projected Costs  
Assumes a Transfer Effective January 1/03 \*\***

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Appendix B  
Breakdown of FTE's

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**MINISTRY OF HEALTH SERVICES/MINISTRY OF HEALTH PLANNING  
INFORMATION BRIEFING NOTE**

**Cliff #**

**Program # (if applicable)**

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**Cost Implications**

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**Labour Implications**

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**Process**

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## Recommendation

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**Transfer to the Health Sector**  
**Summary of Projected Costs for 02/03**  
**Assumes a Transfer Effective January 1/03 \*\***

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*Current draft*

**MINISTRY OF HEALTH SERVICES/MINISTRY OF HEALTH PLANNING  
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**RATIONALE:**

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## **Cost Implications**

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## **Labour Implications**

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## **Riverview Redevelopment**

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**Recommendation (needs to be confirmed)**

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Appendix A

**Transfer to the Health Sector  
Summary of Projected Costs  
Assumes a Transfer Effective January 1/03 \*\***

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## Appendix B Breakdown of FTE's

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*Mail Changes*

**MINISTRY OF HEALTH SERVICES/MINISTRY OF HEALTH PLANNING  
INFORMATION BRIEFING NOTE**

*Sept 20*

**Cliff #**

**Program # (if applicable)**

**PREPARED FOR: Penny Ballem, Deputy Minister of Health - FOR DECISION**

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**RATIONALE:**

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## **Cost Implications**

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## **Labour Implications**

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## **Riverview Redevelopment**

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## **Options**

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**Recommendation (needs to be confirmed)**

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## Appendix A

### **Transfer to the Health Sector Summary of Projected Costs Assumes a Transfer Effective January 1/03 \*\***

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Appendix B  
Breakdown of FTE's

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