

## Resolution presented by the AOM Board of Directors to the AOM Voting Membership:

Given that:

1. The Association of Ontario Midwives has been raising concerns to the Ontario government about a growing wage parity gap for midwives since well before 2009.
2. The AOM entered into a Memorandum of Understanding with the Government of Ontario in 2009 in good faith, with the expectation that the compensation review process outlined in the report was not a token process but rather a genuine attempt by the Government to determine fair compensation for midwives.
2. The AOM and the Government of Ontario agreed in that 2009 MOU to undertake a third party independent assessment of how midwives should be compensated.
3. The AOM and the Government of Ontario jointly participated in the Steering Committee for this compensation review.
4. A third party produced a report that provided conclusions and recommendations that included:
  - a) The 1994 Morton report found that the income of a midwife should be somewhere above that of a primary care nurse and below that of a Community Health Centre family doctor, taking into account a variety of factors, including training, scope of practice, responsibility, overtime and other requirements. These comparators evolved slightly in 2004 based on the findings of the Hay Report, which replaced primary care nurses with nurse practitioners (a nursing category that was not in existence formally in 1993). The consultant found no reason to change this positioning, believing it has only been reinforced given the history and development of both the profession of midwifery and maternity care in the province over the past 19 years.
  - b) A one-time equity adjustment to midwifery compensation (i.e. experience fee, retention fee, secondary care fee, on-call fee) should be provided that would raise the income of midwives at each experience level by 20% effective April 1, 2011. This would restore midwives to their historic position of being compensated at a level between that of nurse practitioners and family physicians. While not completely consistent with the original Morton principles (which would push the upper limits of compensation for experienced midwives even higher), the consultant believed such an adjustment is fair in all the circumstances.
  - c) Intermittent and irregular negotiations between the midwifery profession and the Ministry have hurt the compensation of midwives and contributed to need for the 2010 compensation review. There were no true negotiations between 1994 and 2005 and no compensation increases. There was a new contract in 2005 and another in 2008.

5. The Government of Ontario has not implemented these recommendations.
6. The Ontario Ministry of Health has questioned the findings of the report because the consultant relied on the use of skills, education, responsibility, scope of practice, and working conditions to determine an appropriate wage for midwives, rather than comparing the pay of Ontario midwives to midwives who work in other jurisdictions; this is despite the fact that the Government's own pay equity legislation requires Ontario employers to use skills, education, responsibility, scope of practice, and working conditions as the basis of determining pay equity, and acknowledges that the use of market conditions such as comparing by jurisdiction can serve to reinforce gender inequity across an entire sector of workers.
6. Once again, delays by the government in negotiating with Ontario midwives will have a negative impact on the short and long term compensation of midwives and will exacerbate the current serious compensation inequity that already exists.
7. Midwives are a predominantly female profession providing care to women; providing equitable pay to midwives not only values midwives but also values women's health.
8. Wage equity has been recognized as a fundamental human right for many decades on the international level<sup>1</sup>, and wage inequity is based on systemic gender discrimination.
9. Wage equity is a fundamental and universal right owed to all female workers, including women who are contracted to work at arms-length through a transfer payment agency for the Ontario government.
10. Midwives, as predominantly women and as health care professionals, need to take a stand on issues of inequity wherever we find them.
11. Midwives are constrained in their bargaining with the government by the following:
  - a) ethical obligations to clients and by requirements for registration with the CMO to not engage in withdrawal of services that would affect regulatory obligations to client care.
  - b) predominately a single payor (government) to obtain income from midwifery work elsewhere.
  - c) a small profession of approximately 700.Therefore, the nature of the work (health care) and the structure of the payment creates systemic barriers to the AOM using the bargaining process to achieve fair compensation.
12. Discrimination of midwives by the government, through pay inequity, regardless of the contractual arrangement or the form of how compensation is provided, cannot be morally or economically justified.
13. The Board has determined that, at this time, legal action is the best recourse for addressing the current wage inequity that exists as determined by a government-sponsored third party report. The Board believes that other options have been exhausted in the two and half years

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<sup>1</sup> Ontario Government: Pay Equity Commission website, April 2013

since the report was presented to the government, and the Board has not seen any good faith bargaining on the part of the government to address the report.

14. Any type of legal action will require significant financial and human resources that the Board has determined are not available through the AOM's operational budget. Special levies have been used by other associations to fund short term special projects, and are a means to fund legal action as costs are incurred. The levies proposed here take into account the "worst case scenario", but actual levies may be less.

## **Resolution**

*Therefore, be it resolved that:*

- 1. Ontario midwives once again express their deep disappointment and frustration that the Ontario government refuses to acknowledge and implement the recommendations of this Report;*
- 2. Furthermore, Ontario Midwives once again express their shock and profound disappointment that the government has not acknowledged that this is a wage parity issue, and that Ontario midwives should be fairly compensated based on a comparator of similar health care professionals, using well-accepted job evaluation criteria that includes scope of practice, education, on-call requirements, and responsibility for quality of client care.*
- 3. Ontario Midwives support the AOM Board of Directors to begin legal action through whichever avenue the Board and AOM legal counsel believe will most likely address this issue.*
- 4. That a special fee be levied each year on all membership renewals; these fees will be determined by retrospectively determining the legal costs, supporting media costs, and additional staffing costs of such a legal action.*

## **Expected Implications**

This resolution will provide a strong mandate to the Board of Directors to undertake the above actions on behalf of AOM members.

This resolution will result in a special levy on membership dues to pay legal costs in this action. The levy would be calculated based on legal, a supporting media campaign and staff costs incurred as of October 30 each year. This levy would then be applied to the fall invoice due in January.

The following chart provides estimates based on a lengthy process with a negative outcome for the AOM. We believe that these estimates are close to the "worst case scenario" in terms of costs, but are not guaranteed.

**Estimates for a Possible Special Levy to Support AOM Legal Action**

Date of Levy	Estimated expenses for Oct 30	Est. # of members for Oct 30	Expected Levy in that membership year
January 1, 2014	270,000	641	\$421.22
January 1, 2015	270,000	721	\$374.48
January 1, 2016	295,000	801	\$368.29
January 1, 2017	135,000	881	\$153.23
January 1, 2018	300,000	961	\$312.17
<b>TOTAL over 5 years per member</b>			<b>\$1,629.40</b>

**Assumptions:**

1. # of graduates to join each year is conservative (80); over 80 graduates would decrease the cost per member (105 graduates are expected from May 1 2013 - April 30 2014)
2. Estimated expenses are high each year; lower actual expenses will decrease the cost per member
3. # of years the case will take is a high estimate; more likely 2 - 3 years, not 4; less time may lower expenses
4. Year 5 assumes we lose the case and have to pay 50% costs; assume the max is awarded by the court to the government; note that such awards will not be likely if a Human Rights complaint is pursued
5. An average of \$70,000 in additional staff costs would be incurred each year to support this work.
6. Approx. \$100,000 in supporting media costs would be incurred in the first year to support this work.
7. Less staff time needed in year 4 and no staff time in year 5; increased staff time may decrease lawyer fees

**Process:**

1. Levy would be added to the membership invoice sent in November each year
2. Members would be able to pay it in the same way that membership dues are paid
3. Levy would be pro-rated for those leaving the profession but not for those entering

**Commitment to Active Participation in Implementation**

The Board of Directors, Negotiations Committee and Negotiations Team will take a lead in ensuring the above actions are implemented on behalf of members.