



United Nurses of Alberta

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December 4, 2009

Noela Inions Q.C.
Suite 900, North Tower, Capital Health Centre
10030 – 107 Street
Edmonton, AB T5J 3E4

Dear Ms. Inions:

We have received your report on our Code of Conduct complaint.

We note that as an independent finder of fact, you have considerable leeway in determining your process. However, given your legal background, we expect you would agree that to have a complete investigation, a finding of facts and a dismissal of a complaint that was completed without even interviewing the complainants is a denial of natural justice.

Further, you have simply accepted statements by Stephen Duckett as facts, even when they are not. In addition, you have not shared CEO Duckett's response (except for selected excerpts) or allowed us an opportunity to respond or clarify.

On two of the four matters raised, you did not address our complaints or allegations.

As a result, a number of your findings are at odds with the facts.

We write this letter to correct the errors in fact found in your report.

Background

The background you provided is incomplete and inaccurate. With respect, this is but one of the problems that could have easily been avoided had a normal approach of an investigation and interview of the complainants occurred.

The complaint was sent to The Ethics and Compliance Officer by email, prior to 1800 hours on Friday, September 18, 2009. It is not at all unusual for the Executive Officers of UNA to still be in the office at that time. As we did not have the email address of CEO Duckett, we were unable to send him the email.

As a result, we directed Mr. David Harrigan, UNA Director of Labour Relations, to alert by email the AHS representatives with whom UNA normally deals. Prior to 1800 hours on that day, Mr. Harrigan alerted the three most senior Alberta Health Services Labour Relations representatives, up to and including the Vice-President level. Mr. Harrigan provided them a complete copy of the complaint.

You also have concluded the complaint was “extensively reported on by the media” over the weekend. Again, we have no knowledge of how this conclusion was reached. As we indicated to the AHS representatives we emailed on Friday, we had no plans to, and did not, issue any media release. We know the complaint was extensively reported on the following week, but to our knowledge most daily newspapers, major radio stations, TV stations, etc, began reporting on this matter on the Monday and Tuesday, not over the weekend. Indeed, the fact that CEO Duckett continued to publicly taunt and bully nurses as late as Sunday morning, September 20, suggests there was no extensive reporting over the weekend.

Complaints

1. Non-nursing Activities: You have found CEO Duckett, due to his extensive background in health services management, policy and research was aware of other studies and was not intending to refer to the CARNA study. You then provide a quote from CEO Duckett to back his claim:

“The typical professional nurse spends only about 30% of her or his time on direct patient care. The rest of the time nurses are on the phone, looking for other staff or equipment, tracking down medications, documenting at a central nurses station, running errands etc.”

With respect, this quote does not back up CEO Duckett’s claims. CEO Duckett knows or ought to know there is a major difference between non-nursing activities and “other than direct patient care” activities. Indeed CEO Duckett has been clear it is his belief Registered Nurses should be doing LESS direct patient care, not more.

2. Brooks Layoff.

CEO Duckett claims the relevant paragraph of his blog was directly addressing situations in Edmonton and Calgary. A reading of his blog will show this is not the case. There is nothing in his blog to suggest he was referring only to Edmonton and Calgary. CEO Duckett then provides a media report as an example of what he is responding to in his blog of September 15. A quick check of that media report shows it was produced on September 17.

To conclude CEO Duckett was responding to a media report that would be issued two days later is simply ludicrous.

CEO Duckett also claims there were no real layoffs in Brooks. First he states rather than layoffs, what occurred was "Due to the material change in scope of the three nursing units affected, and as the seniors' accommodation was not to be operated by Alberta Health Services, the terms of the collective agreements were triggered."

Such obfuscation is unbecoming for an individual in CEO Duckett's position.

AHS decided to contract out the majority of long term care, and as a result had to eliminate the positions of the staff employed in the long term care.

There were a number of employees who were involuntarily laid off. Interestingly Mr. Duckett comments only about the RN situation. This aspect of our complaint clearly involves more than just RNs. It involves deliberately publishing falsehoods. CEO Duckett is incorrect that there will be no involuntary reduction of RNs. Although there remain 3 vacant RN lines, there are 4 RNs away on various leaves who wish to return. Obviously one RN will be laid off. This is in addition to LPNs and others who were laid off.

In summary, the complaint was CEO Duckett deliberately published falsehoods. The evidence supports this.

3. Overtime and Part-time

With respect, we believe you have ignored the complaint that was made. There is no question Alberta has a very high percentage of part-time nurses. There is no question concern has been expressed about overtime. Neither of these matters formed part of our complaint.

Our complaint was regarding the statements made by CEO Duckett:

On September 18, 2009, CEO Duckett was quoted in the media speaking about nurses and he stated:

“I don't want to say part-time is a bad thing, but many of them say: ‘I'm going to work three days a week and get paid and then do another two days of shifts and get paid for six days a week.’ That's not on.”

The implication in this statement is nurses are manipulating the system, intentionally choosing to become part-time employees in order to work overtime. As we pointed out, no nurse can choose to become part-time - only the employer can make that decision. Likewise, no nurse can decide to work overtime - only the employer can approve this.

As we pointed out in our complaint, CEO Duckett has the sole decision-making power over which positions will be posted and filled. As of September 16, 2009, 192 Registered Nurse vacancies were posted on the Alberta Health Services website; only 33 were regular full-time.

To decide only 15% of new vacancies would be full-time and then imply nurses choose to work part-time in order to manipulate the system is misleading the Alberta public in a way that will only serve to negatively impact nurses across the province.

4. Hours of Work

Again, we respectfully submit the issue raised in our complaint was not dealt with.

Your report states “Dr. Duckett agrees that he said that a nurse at the top of the pay scale in Alberta received a higher salary than in any other province and works fewer hours, except for two other provinces.”

That is not what he said. What he said was:

“A nurse working in our system for a long time gets more money than any other province. Not only that, in order to get that money they work fewer hours because of the length of time for lunch breaks and morning tea breaks and afternoon tea breaks and coffee breaks and everything else.” (emphasis added)

The clear implication is nurses do not work hard and spend too much time on breaks.

For the actual quote, see

http://www.calgarysun.com/news/columnists/rick_bell/2009/09/18/10971591-sun.html

CEO Duckett produced a chart of the annual hours of work, and completely ignored the matter he raised - time spent on breaks.

CEO Duckett claims he understands from studying this data the reason for the lower hours of work was breaks and holiday entitlement.

It is reasonable to conclude that due to his extensive background in health services management, policy and research, he would be aware there is no basis for such a conclusion. Holiday entitlements are included in all the numbers in his chart. As for breaks, the following chart sets out the actual break times:

Comparison Rest and Meal Breaks of Canadian Nursing Agreements

Province	Meal Period	Rest Period	Province	Meal Period	Rest Period
BC	30 minutes unpaid	15 minutes per half shift	Quebec	Unpaid, unspecified length	Two 15 minute rest breaks per work day
UNA	30 minutes unpaid	Two 15 minute breaks	New Brunswick	30 minutes unpaid	Two 15 minute breaks
Saskatchewan	30 minutes unpaid	Two 15 minute breaks	Nova Scotia	30 minutes unpaid	Two 15 minute breaks
Manitoba	30 minutes unpaid	15 minutes during each 3 continuous hours	PEI	Unpaid, unspecified length	Two 10 minute breaks
Ontario	30 minutes unpaid	15 minutes for each half hour	Newfoundland & Labrador	30 minutes unpaid	Two 15 minute breaks

CEO Duckett continued to publicly taunt and bully nurses regarding their break times over the weekend of September 19th and 20th.

As a result of his very public comments about breaks, some nurses commented on his blog. On Sunday, September 20th, a nurse wrote on CEO Duckett's blog as follows:

“I must have missed a few pages in my contract book as no where did I see all the breaktimes that you outlined in your recent blog. Perhaps if I submitted for all the breaks that I missed in the last 35 years as a nurse, I would be ready and able to retire. As it is, I miss breaks on a regular basis and there is no reconciliation for this. Whomever provided your information for this issue must have been reviewing staff performance in a private facility. Marlene”

Less than an hour later, CEO Duckett published the following response:

“Marlene: The current nursing Collective Agreement includes provision for various breaks. If no one takes them, it should not be an issue if they were to be removed, or at least harmonized with what is provided in other provinces. Best wishes Stephen”

Conclusion

With respect, we believe your investigation into this matter resulted in a denial of natural justice. The results of the investigation are at odds with the facts. We understand no appeal process exists, and thus we will not be pursuing this matter further. But we felt it important to not let further misrepresentation of the truth go unchallenged.

We also disagree with your comments about confidentiality. CEO Duckett’s negative comments about nurses were extremely public, and we believe his misrepresentations need to be publicly corrected.

Yours truly,



Karen Craik
Secretary/Treasurer
United Nurses of Alberta



Jane Sustrik
2nd Vice-President
United Nurses of Alberta

cc: Stephen Duckett, CEO AHS