

**SEVENY SCOTT** LAWYERS

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April 25, 2018

Via Fax: (780) 422-0970 (4 pages)

Alberta Labour Relations Board  
#501, 10808 - 99 Avenue  
Edmonton, Alberta  
T5K 0G5

**Attention: Tannis Brown, Director of Settlement  
Dan Galdamez, Labour Relations Officer**

Dear Ms. Brown / Mr. Galdamez:

**Re: An Application for Intervener Status brought by the Health Sciences Association of Alberta ("HSAA") pursuant to section 12 and 16 of the *Labour Relations Code* respecting an application for determination brought by the United Nurses of Alberta ("UNA") affecting Alberta Health Services ("AHS") – Board File No. GE-07762**

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We are counsel for HSAA and we submit this application for intervener status in respect of the above matter.

**a) Contact Details of the Parties**

**The Applicant (Intervener):**

Health Sciences Association of Alberta  
18410 - 100 Avenue NW  
Edmonton, AB T5S 0K6  
Fax: (780) 488-0534  
Attn: Laura Hureau, Executive Director

**The Respondents:**

United Nurses of Alberta  
700, 1150 - Jasper Avenue  
Edmonton, AB T5K 0C7  
Fax: (780) 426-2093  
Attn: David Harrigan / Lee Coughlan

Alberta Health Services  
900, 9925 - 109 Street NW  
Edmonton, AB T5K 2J8  
Fax: (780) 424-4309  
Attn: Dennis Holliday

**b) Relevant section of the *Labour Relations Code***

HSAA relies upon sections 12 and 16 of the Code.

**c) Particulars**

HSAA is the certified bargaining agent for persons employed by AHS in a paramedical technical or paramedical professional capacity under ALRB Certificate No. 141-2017.

In respect of the constitutional challenge under section 2(d) of the *Canadian Charter of Rights and Freedoms* and its impact on the scope of the statutory healthcare bargaining units, any decision by this Board involving the representational and collective bargaining rights in healthcare under section 2(d) of the *Charter* obviously impacts HSAA and its members.

The current UNA application is framed in the context of Nurse Practitioners and their exclusion as “employees” under section 1(1) of the Code. However, a decision involving section 2(d) *Charter* rights, and the UNA submission that Nurse Practitioners are being denied the “freedom to bargain collectively through a representative of their choosing”, will have implications for other bargaining agents beyond just this application involving Nurse Practitioners – and could impact the four recognized healthcare bargaining units currently in effect.

Accordingly, HSAA (and other potentially affected unions) should be granted intervener status as it relates to the *Charter* challenge, including any issues relating to the right of employees to collectively bargain “through a representative of their choosing”.

In respect of the determination application, the legal principles in healthcare determination applications can, and by implication normally do, affect the rights and interests of all three healthcare bargaining agents (HSAA, UNA, and AUPE).

Therefore, it is the Board’s general practice to give notice of determination applications to all three of the potentially affected bargaining agents. The Board then often allows those unions to participate (if they apply for intervener status) in healthcare related determination applications that may address policy issues and / or involve a decision on what factors the Board may consider in determining the appropriate healthcare bargaining unit for a group of employees.

For example, in 2014 and 2015, HSAA, UNA, AUPE, and AHS were involved in a series of hearings on Board file GE-06846 regarding, among other things, the parameters of and delineation around the four bargaining units in healthcare, being:

- Direct nursing care or nursing instruction,
- Auxiliary nursing care,
- Paramedical technical or paramedical professional, and
- General Support Services (GSS).

The 2014/2015 hearings on Board File GE-06846 were just one in a series of determination applications over the years between UNA, AUPE, HSAA, and AHS regarding the scope and parameters of the four healthcare bargaining units.

The 2015 hearings also involved a UNA reconsideration application over the law applicable to healthcare determination applications, and the submissions of UNA were opposed by both HSAA and AHS. If UNA intends to argue some of the same positions in this application, then HSAA should certainly be granted intervener standing to participate.

The decision in Board file GE-06846 is still pending, but the April 5, 2018 determination application filed by UNA will raise many of the same issues regarding the scope and definition of the direct nursing care bargaining unit.

In particular, and assuming the *Charter* challenge is successful, the current UNA determination application will ask the Board to determine if employees employed in the position of "Nurse Practitioner" fall within the scope of the "Direct nursing care or nursing instruction" bargaining unit, and if not, then potentially in another healthcare bargaining units such as HSAA's paramedical professional bargaining unit or even the GSS bargaining unit.

From the particulars outlined in the UNA application, the applicant Nurse Practitioner is performing "paramedical" work as part of that employee's prime function. The position also falls into the "professional" category given the educational requirements. The Board will be asked, subject to the outcome of the *Charter* challenge, to decide which of the healthcare bargaining units is most appropriate for a Nurse Practitioner.

Based on the UNA application, that decision will most likely come down to either:

- the Direct nursing care bargaining unit (a UNA bargaining unit), or
- the Paramedical Professional bargaining (an HSAA bargaining unit).

If neither of these is found to be a proper fit for Nurse Practitioners, then one of the two AUPE bargaining units would be the other option.

Therefore, the determination application directly, and also by implication, affects HSAA's legal and practical interests, and HSAA also has a direct interest in what factors or criteria the Board decides to use in determining which bargaining unit is appropriate for Nurse Practitioners.

#### **d) Remedy**

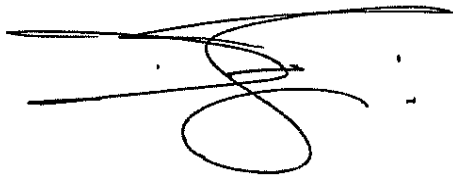
HSAA seeks an Order that HSAA:

- be granted full intervener status in Board file GE-07762,
- be granted to the right to call evidence (if necessary),
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Please contact the writer if you have any questions or require any further information.

**SEVENY SCOTT**

**Per:**

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**Dan Scott**

- Cc: HSAA  
Attn: Laura Hureau (Executive Director)  
Via Email
- Cc: Chivers Carpenter  
Attn: Kristan McLeod  
Via Fax: (780) 439-8543
- Cc: Jessica Wakeford c/o UNA  
Attn: Lee Coughlan  
Via Fax: (780) 426-2093
- Cc: AHS  
Attn: Monica Bokenfohr / Jackie Laviolette  
Via Fax: (780) 424-4309
- Cc: AUPE  
Attn: The Learned Larry Dawson & Company  
Via Fax: (780) 930-3392
- Cc: McLennan Ross LLP  
Attn: Chris Lane, Q.C.  
Via Fax: (780) 482-9100

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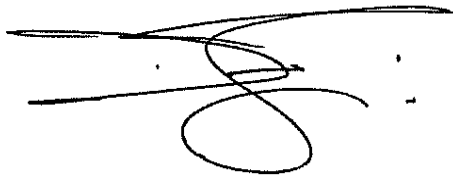
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