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Our File: 205-17-013 KM

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Alberta Labour Relations Board
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Attention: Tannis Brown, Director of Settlement

Dear Madam:

**Re: An application for determination brought by United Nurses of Alberta and Jessica Wakeford affecting Alberta Health Services
Board File No. GE-07762**

This letter is in response to AHS's letter of May 7, 2018, expressing concerns about the Board's jurisdiction and the appropriateness of the forum in this matter.

In this case, the constitutional questions arise in the context of UNA's determination application. While the Court of Queen's Bench can address constitutional questions, only the Board has jurisdiction to resolve the determination application which makes the Board not only the most appropriate but the only forum available to have that application heard.

It is also preferable to have the Board resolve the constitutional questions. Those questions directly engage the Board's labour relations expertise, the Board can schedule hearing dates earlier than can the Court, and it is more efficient to have the Board decide both the constitutional issues and UNA's determination application. Indeed, doing so allows evidence adduced with respect to the constitutional issues to also be relied upon in the determination application. The alternative, having the Court decide the constitutional issue first and then having the Board decide the determination application, would be inefficient and result in significant duplication and delays, and the lengthy and continuing denial of Ms. Wakeford's ability to exercise her right to collective action.

Moreover, UNA is under no obligation to seek a determination with respect to all of its bargaining units. Nor is Ms. Wakeford obligated to apply to the Court for a broad constitutional declaration affecting all Nurse Practitioners in the province.

As AHS acknowledges, the Board has jurisdiction with respect to constitutional questions. While a finding in this case would not automatically apply to other employees or employers, if the Board finds that the exclusion of Nurse Practitioners is unconstitutional in this case, presumably this would be persuasive, although not binding, in subsequent similar cases. This is one of the

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reasons the intervenors seek participation in this matter and one of the reasons UNA did not object to the intervenors.

In this case the Applicants have chosen the Board to pursue these applications because it is the most appropriate forum for them and their counterparts. The suggestion to instruct the Applicants to start the process anew in a different forum, though that forum is not capable of addressing both applications, would only benefit other parties and would serve to unnecessarily extend delays in these applications.

This is not a case in which similar applications have been brought in different venues; no other matter exists in a different forum. Therefore AHS's question regarding the most appropriate forum is theoretical. The only appropriate question before the Board in these circumstances is whether the Board has jurisdiction, and no party has provided an objection to the Board's jurisdiction. Accordingly, UNA's position is that this is the most appropriate forum for its applications, and indeed it is the only forum for them.

Yours truly,

CHIVERS CARPENTER



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