

June 22, 2018

Alberta Labour Relations Board

By: fax (780) 422-0970

ALRB

501, 10808 -99 Ave

Edmonton Alberta

T5K 0G5

Attn: Tannis Brown, Director of Settlement.

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

**Introduction:**

I am, Kevin Huntley MN NP, an affected individual and was recently given intervener status by the board. The following is my reply to the application for determination brought by the United Nurses of Alberta ("UNA") and Ms. Wakeford dated April 5, 2018 (the "Application").

I take position against the application as written to apply to all Nurse Practitioners employed by Alberta Health Services and the remedy sought by UNA.

**REPLY TO THE PARTICULARS**

1. Paragraph 5, the citing of the code is admitted but Alberta has unique legislation requiring specific protection for the public and Nurse Practitioners from the less desirable effects of trade union representation and union contracts. This "application" risks denial of individual Nurse Practitioners (NP's) right to self-represent or choose their representation for their terms of employment regardless of the employer or certificate being identified. The comparison to other jurisdictions is not relevant as other jurisdictions do not share the same legislation, regulations or governance within the NP profession.
2. Paragraph 6, I am aware that UNA was negotiating for RN's on the extended practice roster in some Health Authorities before enactment of Bill 27 however, "Nurse Practitioner" became a protected title after this time. As the profession of the Nurse Practitioner has evolved, legislation amendments have been required to support the development and protect this relatively new profession. No Nurse Practitioner has filed a complaint about the legislation from 2003 until 2018. History on who negotiated on behalf of Nurse Practitioners before the profession developed is not relevant.

The feelings of NP's at the time of the amendment was that trade unions would sign contracts in the interest of their very large membership numbers (in this case the RN's) and not support the small number of NP's as a unique contract, rather they would simply apply the RN contract with an adjusted pay structure. This action could have limited the growth of the Nurse Practitioner

profession and potentially limit new employment opportunities especially with small employers in the province. NP's require a great amount of flexibility in our terms of employment and the ability to negotiate to optimize our function in the system and maximize our benefit on patient outcomes which a union contract would not provide and likely hinder. We also require equality with management to negotiate and make decisions to optimize patient outcomes.

3. Paragraph 11, the intent of Government from the excerpts is a matter of opinion. An alternative opinion is that the intent was to allow a profession an opportunity to develop to its potential to maximally benefit the health of the public and reform health care delivery in Alberta.
4. Paragraph 12, the exclusion of Nurse Practitioners in the Code also protects patients by allowing a profession to grow and allow the members of that profession to individually negotiate their positions, terms and conditions. This allows NP's flexibility to work within terms that make sense for unique circumstances for services or patients rather than applying a union contract that restricts options and focuses on the employee. The amendment Bill 27 brought allowed NP's to work in clinical leadership positions and work as equals in management to influence hiring, provide performance feedback, participate in decisions for program development/evaluation, set policy and consult to senior leadership, in addition to clinically managing patients. NP's independently make final decisions on patient care issues without needing approval, develop their own positions, and negotiate their roles unlike union employees.
5. Paragraph 14, I strongly disagree with the statements in paragraph 14 as they do not accurately or comprehensively describe Nurse Practitioner practice. NP's are advanced practitioners, they create and apply their own unique model of care utilizing theory and research from multiple sources. Our models of care are individual, fluid and based on patient need with a focus on outcomes far beyond the outcomes of "direct nursing care". As an NP, I direct the care provided by other regulated professionals with independent authority provided by my practice permit. I have specific legislated activities that RN's cannot perform (outlined in restricted activities under the Health Professions Act) and separate requirements for ongoing registration including NP competencies and NP practice hours for license renewal. I perform activities RN's are not authorized to perform with knowledge outside the scope of an RN.

The comparison made between an RN and NP in paragraph 14 could be said for anyone in a profession with knowledge that overlaps with an RN's knowledge. This includes: physicians as they can also utilize their knowledge to perform all the activities of an RN and more, yet this application does not attempt to apply to all physicians.

6. Paragraph 15, the minimum education for entry to practice is a Master's degree and the requirements set out by the College and Association of Registered Nurses of Alberta (CARNA) as described.
7. Paragraph 17, cited from s. 15 of the Regulation the activities are also activities Physicians can perform.

8. Paragraph 22, if Ms. Wakeford is simply practicing as an RN, CARNA should not count her practice hours towards maintaining her registration as an NP and AHS should not be paying her as an NP or employ her using management out of scope terms and conditions and she should be working under the RN union contract. If she is practicing as an NP she would be diagnosing her patients, ordering diagnostic tests, interpreting the results and prescribing treatment to her patients which is directing care NOT providing direct nursing care. The question to ask is "If Ms. Wakeford is not available to complete a consultation, who responds in her place?" If it is a clinical nurse specialist or RN(without involvement of anyone else), Ms. Wakeford is not practicing to the scope of an NP and perhaps is simply working as an RN but if it requires a Physician to replace her, then she is not providing "direct nursing care".
9. Paragraph 23, does not state if the RN's receive and follow Ms. Wakeford's orders or if Ms. Wakeford takes orders from the RN's. If NP's and RN's are not interchangeable then they do not fulfil the same role for providing "direct nursing care" and the certificate does not apply to NP's. An RN cannot perform the same restricted activities as an NP. If the certificate was meant to include NP's it would specifically state NP's just as it includes RPN's.

AHS reporting structure will vary based on the specific positions. I report to an Executive Director and a Medical director so the only relevance in Paragraph 23 statements is to Ms. Wakeford INDIVIDUALLY and does not apply to all Nurse Practitioners in AHS. Any decision considering this paragraph 23 from the board should only apply to Ms. Wakeford and cannot be applied to other Nurse Practitioners.

10. Paragraph 24, only applies to Ms. Wakeford as other NP's have some "manager" responsibilities within their role and thus consideration of this paragraph should only be included if the remedy applies to Ms. Wakeford alone and not all NP's employed by AHS.
11. Paragraph 26, I cannot confirm if NPAA is a registered lobbying agency or what authority they have been granted by the Government of Alberta or AHS. Ms. Wakeford's signature does not appear to be on NPAA's list of individuals whom they represent as an intervener in this application.
12. Paragraph 27, as an employee of AHS employed as a Nurse Practitioner, I do not share Ms. Wakeford's concerns. AHS has been supportive of my practice and profession and I have never felt that advocating for patients jeopardizes my employment. I have spoken to other NP's that share my thoughts. Ms. Wakeford has many options to address the lack of understanding among other professionals and she can certainly educate others about her scope of decision-making authority and her role. Development and promotion of the NP role was one of my "job duties" within the terms of my employment when I started as an NP with AHS.

## 13. Paragraph 29,

- i. UNA does not have a lengthy and successful history of representing NP's and has not yet proven to understand NP concerns in this application.
- ii. NP's must hold a Master's degree and a NP practice permit unlike RN's.
- iii. Individual NP's are better positioned to deal with their employer regarding their ability to do their job and their professional responsibilities as they know the specialized needs that cannot be applied across all practice settings.
- iv. NP's have separate practice permits and governing standards through CARNA, NP's are also RN's thus have overlapping standards but NP's have standards that are not applied to RNs nor are we employed to fill the role of an RN. While UNA has significant experience in dealing with CARNA, they do not have experience with Nurse Practitioners and this would be a new position for UNA. NPs should have the right to choose their representation including the right to choose to self-represent and not simply be forced into a bargaining unit based on an application from one individual NP.

14. Paragraph 30 Nurse Practitioners do not provide direct nursing care or nursing instruction when employed as Nurse Practitioners. The code alone is not what prevents NP's from being part of UNA, the fact that Nurse Practitioners are Nurse Practitioners and do not provide direct nursing care or instruction when employed as NP's should mean that certificate 73-2013 does not apply.

## REMEDY

## 15. I would seek the following remedies:

- a. the board refer the application to a superior court for decision on the constitutional issue in the Code.
- b. a declaration that Nurse Practitioners performing the restricted activities of Nurse Practitioners are excluded from certificate 73-2013 at the Labour Relations Board for Alberta Health Services described as: "All employees when employed in direct nursing care or nursing instruction."
- c. an order that the Board's decision be posted in AHS's workplaces in a place visible to employees and;
- d. the board keep active AHS Nurse Practitioner's current "terms and conditions of employment for management and out of scope employees" with AHS while the charter issue works through the judicial system.

Kevin Huntley MN NP

CC:

Chivers Carpenter  
101, 10426 81 Avenue  
Edmonton, AB T6E 1X5  
**Attention: Kristan McLeod**  
Fax: (780) 439-8543

United Nurses of Alberta  
700, 11150 Jasper Avenue  
Edmonton, AB T5K 0C7  
**Attention: David Harrigan/  
Lee Coughlan**  
Fax: (780) 426-2093

Jessica Wakeford  
c/o United Nurses of Alberta  
700, 11150 Jasper Avenue  
Edmonton, AB T5K 0C7  
**Attention: Lee Coughlan**  
Fax: (780) 426-2093

Alberta Health Services  
10301 Southport Lane SW  
Calgary, AB T2W 1S7  
**Attention: Jacqueline Laviolette**  
Fax: (403) 943-0972

Alberta Health Services  
900, 9925 109 Street  
Edmonton, AB T5K 2J8  
**Attention: Dennis Holliday/  
Monica Bokenfohr**  
Fax: (780) 424-4309

Seveny Scott  
3155, 10180 101 Street  
Edmonton, AB T5J 3S4  
**Attention: Dan Scott**  
Fax: (780) 638-6062

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

The Alberta Union of Provincial  
Employees  
10451 170 Street NW  
Edmonton, AB T5P 4S7  
**Attention: William Rigutto/  
Larry Dawson/ Carol Drennan/  
Jim Petrie**  
Fax: (780) 930-3393

McLennan Ross LLP  
600, 12220 Stony Plain Road  
Edmonton, AB T5N 3Y4  
**Attention: Christopher J. Lane, Q.C.**  
Fax: (780) 482-9100

Covenant Health  
11111 Jasper Avenue  
Edmonton, AB T5K 0L4  
**Attention: Michael J. Hughes**  
Fax: (780) 342-8258

Taylor Janis LLP  
120, 301 14 Street NW  
Calgary, AB T2N 1A1  
**Attention: Micah A. Kowalchuk**  
Fax: (587) 356-0422

Nurse Practitioners Association of Alberta  
P.O. Box 71192 Northtown  
Edmonton, AB T5E 6J8  
**Attention: Teddie Tanguay**  
(via mail)

Dina Sotiropoulos  
1302, 8000 Wentworth Drive SW  
Calgary, AB T3H 5K9  
(via mail)

Anthony Falvi  
220 Citadel Meadow Bay  
Calgary, AB T3G 4Z4  
(via mail)

Kevin Huntley  
~~931~~ Kerfoot Crescent SW  
Calgary, AB T2V 2M8  
(via mail)

Attorney General of Alberta  
Constitutional and Aboriginal Law Section  
4<sup>th</sup> Floor, 9833 109 Street  
Edmonton, AB T5J 3S8  
**Attention: Margaret Unsworth, Q.C./  
Roderick Wiltshire**  
Fax: (780) 425-0307

Attorney General of Canada  
Prairie Regional Office - Edmonton  
Department of Justice Canada  
3<sup>rd</sup> Floor, 10423 101 Street  
Edmonton, AB T5H 0E7  
**Attention: Paul Shenher**  
Fax: (780) 495-5835