

Constitutional Law
4th Floor Bowker Building
9833 – 109 Street
Edmonton, Alberta T5K 2E8
Canada
Telephone: (780) 422-7145
Fax: (780) 425-0307
E-mail: Roderick.Wiltshire@gov.ab.ca

Our File:5000-C072-15-2-1
Board File No.

July 17, 2018

Via fax: 780-422-0970

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

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**

We have the proposals on procedure made by the applicants and Alberta Health Services. I apologize for not responding to the Board's request yesterday.

The Attorney General believes that this case should not be bifurcated but should proceed as a single hearing.

The issues in this case do not simply divide into constitutional issues and non-constitutional issues. The Board *may* decide that this case is rather like *Dunmore*,¹ that while the applicants have no *Charter* right to Wagner Act-model collective bargaining (as confirmed in *Fraser*²), Alberta legislation more generally suffers from a failure to provide narrower protections for collective action to nurse practitioners. (That is, a *Charter* infringement, if there is one, may not simply be found in the exclusion of nurse practitioners from bargaining under the *Code*.)

This case may thus require the Board to consider the labour relations implications of a legislative failure to fulfill a positive *Charter* obligation. The Board may face the question of what to in such a circumstance.

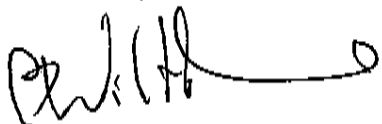
Some interested parties and interveners object to bargaining in the same unit with nurses generally. Their evidence and argument will be relevant to the Board's determination of what, *exactly*, a broader constitutional defect in Alberta legislation may consist in.

¹ *Dunmore v. Ontario*, 2001 SCC 94

² *Fraser v. Ontario*, 2011 SCC 20

We believe that the broader issues will need to be considered when the Board considers the constitutionality of nurse practitioners' exclusion. All the evidence and argument should be before the Board at the same time.

Yours truly,



Rod Wiltshire
RW/jp

c.c. Chivers Carpenter
Attention: Kristan McLeod
Via fax: 780-439-8543

McLennan Ross LLP
Attention: Christopher J. Lane, Q.C.
Via fax: 780-482-9100

United Nurses of Alberta
Attention: David Harrigan/Lee Coughlan
Via fax: 780-426-2093

Covenant Health
Attention: Michael J. Hughes
Via fax: 780-342-8258

Jessica Wakeford
c/o United Nurses of Alberta
Attention: Lee Coughlan
Via fax: 780-426-2093

Taylor Janis LLP
Attention: Micah A. Kowalchuk
Via fax: 587-356-0422

Alberta Health Services
Attention: Jacqueline Laviolette
Via fax: 403-943-0972

Nurse Practitioners Association of Alberta
Attention: Teddie Tanguay
Via mail

Alberta Health Services
Attention: Dennis Holliday/Monica Bokenfohr
Via fax: 780-424-4309

Dina Sotiropoulos
Via mail

Seveny Scott
Attention: Dan Scott
Via fax: 780-638-6062

Anthony Falvi
Via mail

Health Sciences Association of Alberta
Attention: Laura Hureau
Via fax: 780-488-0534

Kevin Huntley
Via mail

Alberta Union of Provincial Employees
Attention: William Rigutto/Larry Dawson/Carol Drennan/Jim Petrie
Via fax: 780-930-3393

Nugent Law Office
Attention: Patrick Nugent
Via fax: 780-439-3032

Attorney General of Canada
Attention: Bruch Hughson
Via fax: 780-495-8491