

April 19, 2022

Delivered via Email or Postal Mail

Attention: All Affected Grievors

RE: Update regarding Covid-19 related grievances

In mid-March, AHS announced that employees could return to the workplace without testing or proof of immunization. While this relieved some pressure on our members impacted by this policy, there remain a number of important issues to address and UNA moved forward with its Marshalling Application to continue to address those concerns.

On [21 March 2022](#), the Alberta Labour Relations Board held a hearing on the application for Marshalling instigated by the United Nurses of Alberta. The Board issued a decision on [5 April 2022](#). Prior to the hearing, UNA and AHS agreed to use Cheryl Yingst-Bartel to either arbitrate or mediate issues arising from religious accommodation files on [March 22-25](#). The Board's order formalized this agreement and assigned Ms. Yingst-Bartel to deal with all religious accommodation matters. UNA and AHS proceeded by mediation on those dates and UNA raised a number of concerns for AHS and the mediator to consider. We are hopeful our efforts will result in positive outcomes on a large number of UNA's individual grievances. UNA anticipates further updates by the end of April or early May.

As part of the Marshalling Order, the Board also assigned Cheryl Yingst-Bartel to files relating to medical accommodation requests and ordered each party to identify one representative grievance to advance to arbitration and for them to be heard at the same hearing. The Board assigned J. Leslie Wallace as arbitrator on the grievance taking issue with AHS's policy and ordered the individual grievances relating to non-compliance with the policy to be stayed pending the outcome of that hearing.

AHS agreed to respond to a number of questions from UNA by [7 April 2022](#). Pending that response and UNA's assessment of the information provided, the Union's grievance against AHS for refusing to meet as part of the dispute process was also stayed.

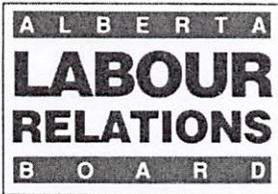
The parties are in the process of notifying the relevant arbitrators of this decision so that we can proceed with necessary arguments. At this time, no decisions have been issued by arbitrators or recommendations made by mediators. None of the grievances have been settled, granted or withdrawn but concrete steps have been taken and we will continue to take steps to ensure the grievances are addressed.

Yours truly,



Lee Coughlan
Manager of Labour Relations

LC/ar



April 5, 2022

United Nurses of Alberta
700, 11150 Jasper Avenue
Edmonton, AB T5K 0C7
**Attention: David Harrigan/
Lee Coughlan**
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lcoughlan@una.ca

Alberta Health Services
500, 10030 107 Street
Edmonton, AB T5J 3E4
**Attention: Leland McEwen/
Erin Ludwig/
Sylvie Lang/
Kim Leblanc/
Rick Mann/
Raelene Fritz**
Leland.McEwen@albertahealthservices.ca
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Affected Grievors
c/o United Nurses of Alberta
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**Attention: David Harrigan/
Lee Coughlan**
dharrigan@una.ca
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Alberta Human Rights Commission
800, 10405 Jasper Avenue NW
Edmonton, AB T5J 4R7
**Attention: Director of the Human Rights
Commission/
Danielle Gallo**
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OUR VISION...

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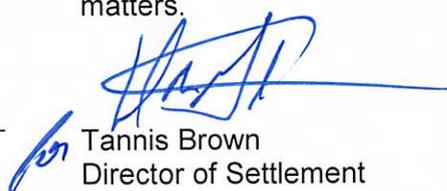
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RE: An application for a Marshalling of Proceedings brought by United Nurses of Alberta affecting Alberta Health Services and numerous Grievors - Board File No. GE-08649

RE: An application for a Marshalling of Proceedings brought by Alberta Health Services affecting United Nurses of Alberta and numerous Grievors and Human Rights Complainants- Board File No. GE-08690

Please find the enclosed Marshalling Order affecting the above-referenced matters.


Tannis Brown
Director of Settlement

DG

CC: Human Rights Complainants via email
Scott Armstrong - Scott.Armstrong@ahs.ca
Bethany Beer - Bethany.Beer@ahs.ca
Kimberly Jacobson - Kimberly.Jacobson@ahs.ca
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SECTION 67.1(10) MARSHALLING ORDER

RE: An application for a Marshalling of Proceedings brought by United Nurses of Alberta affecting Alberta Health Services and numerous Grievors - Board File No. GE-08649

RE: An application for a Marshalling of Proceedings brought by Alberta Health Services affecting United Nurses of Alberta and numerous Grievors and Human Rights Complainants – Board File No. GE-08690

Whereas on September 20, 2022, Alberta Health Services (“AHS”) implemented Policy 1189 – Immunization of Workers for COVID-19 – which policy received subsequent amendments (collectively referred to as Policy 1189);

And Whereas the United Nurses of Alberta (“UNA”) and or its members initiated multiple grievances as outlined on the attached Schedule “A” (the “Grievances”);

And Whereas some of the individual grievors have filed complaints with the Alberta Human Rights Commission which complaints are concurrent to their individual grievances and which individual grievors are listed on the attached Schedule “B”;

And Whereas UNA did apply pursuant to section 67.1 of the *Labour Relations Code* (the “Code”) for a Marshalling Order;

And Whereas AHS sought to expand the Marshalling Order to address the human rights complaints;

And Whereas UNA and AHS both acknowledge that there exists the fundamental requirements for a Marshalling Order as described in section 67.1(3) and (4) of the *Code*;

And Whereas the grievances are to be grouped as follows:

- religious accommodations grievances;
- religious and medical grievances;
- medical accommodation grievances; and
- non-compliance with Policy 118 – unpaid LOA grievances

And Whereas it is understood that this Marshalling Order being provided is not exhaustive and it may be necessary to have the Board issue further terms to the Marshalling Order as the parties progress toward resolution;

And Whereas at the marshalling hearing on March 21, 2022, the parties proposed various terms for the Order;

And Whereas on March 21, 2022, Vice-Chair Johnson outlined orally the terms of the Order.

It is hereby ordered that:

1. Religious Accommodation – Terms of Order
 - i. Grievance 211578 shall be arbitrated by Arbitrator Cheryl Yingst-Bartel with March 22 to 25 being the scheduled hearing dates.
 - ii. Upon receipt of the Arbitration Award for Grievance 211578 the parties shall endeavour to determine if further arbitrations are necessary and if so, how to proceed.
 - iii. Either party may apply to the Board for a further Marshalling Order addressing the remaining religious accommodation grievances.
2. Medical Accommodation Grievances – Terms of Order
 - i. For grievances 21213, 21204 and 212536, UNA is to advise AHS on or before May 30, 2022 if such grievances are proceeding and if they do proceed, which class within the Medical Accommodation Grievances such grievances are to fall.
 - ii. Grievances 21215 and 211676 are consolidated and are to proceed to arbitration. Cheryl Yingst-Bartel is the Arbitrator.
 - iii. The remaining medical accommodation grievances are grouped together and each party is to select one representative grievance to be advanced to arbitration. The representative grievances are consolidated for hearing purposes and are to be heard by Arbitrator Cheryl Yingst-Bartel.
 - iv. Should a further order be desired by either party that party may apply to the Board to vary the terms of this Order.
3. Non-Compliance with Policy 1189 – Unpaid LOA Grievances – Terms of Order
 - i. Grievance 211864 shall be arbitrated by Arbitrator J. Leslie Wallace.
 - ii. The 147 remaining individual grievances are stayed pending the decision on grievance 211864.
 - iii. Upon issuance on the arbitration award on grievance 211864 and upon the parties being unable to resolve how to proceed with the remaining 147 grievances, either party may apply to the Board for a further Marshalling Order.
4. Grievance 21197 – Terms of Order
 - i. The Board reserves on issuing an order with respect to grievance 21197 on the understanding that AHS has until April 7, 2022 to respond to UNA's request for disclosure. Subsequent to April 7, 2022, UNA may apply for an order addressing

grievance 21197 on the understanding that if it is directed to arbitration, the Board will seek to have an expeditious hearing date.

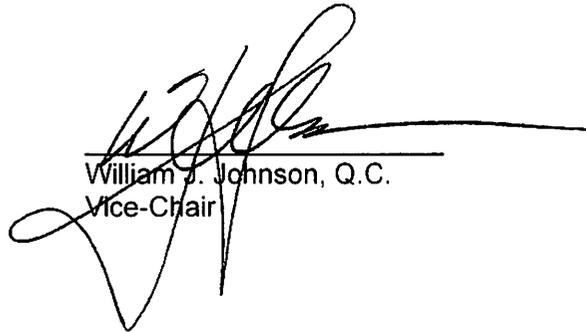
5. Possible Mediation

- i. If the parties so chose, they may enter into mediation to resolve any of the grievances without advancing to arbitration as per the terms of this order.

6. Human Rights Complaints

- i. For those individual grievances that are concurrent with human rights complaints, the human rights complaints are (subject to section 21 of the *Alberta Human Rights Act*) stayed pending the outcome of the individual grievances. Pursuant to section 21 of the *Alberta Human Rights Act*, the Director of the Alberta Human Rights Commission may still dismiss such complaints.

ISSUED and DATED at the City of Edmonton, in the Province of Alberta this 30th day of March 2022 by the Alberta Labour Relations Board and signed by its Vice-Chair.



William J. Johnson, Q.C.
Vice-Chair

SCHEDULE "A"

Religious Accommodation (123 files)

220005	211716	211610	211770	211617
212129	211717	211611	211771	211618
212061	211728	211612	211736	211600
212062	211729	211595	211738	211601
212016	211693	211596	211739	211602
212017	211694	211578	211742	211604
211927	211696	211387	211743	211605
211944	211704	211346	211747	211606
211905	211706	211351	211748	211607
211921	211708	211341	211715	211609
211870	211711	211343	211786	211630
211871	211714	211317	211787	211634
211866	211667	211319	211751	211637
211853	211668	211320	211754	211621
211856	211673	211305	211755	211624
211857	211675	211651	211759	211625
211842	211676	211701	211761	211626
211833	211678	211639	211767	211614
211834	211679	211806	211643	211660
211839	211682	211810	211647	211662
211840	211684	211802	211648	211641
211815	211688	211776	211649	211642
211819	211691	211784	211650	211804
211820	211658	211785	211656	211805
211827				
211829				
220016				

Religious and Medical Accommodation (5 files)

220052	212113	211639	211640	211655
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Medical Accommodation (15 files)

212115	212101	212047	211922	211838
211718	211672	211674	211680	211651
211562	211536	211521	211437	211273

Non-Compliance with COVID Immunization Policy - Unpaid LOA Grievances (147 files)

220305	220290	220198	220077	220061
220063	220050	220044	220045	220033

220036	212139	212141	212146	212125
212127	212130	212133	212134	212107
212108	212110	212111	212112	212116
212118	212119	212121	212122	212082
212083	212084	212085	212086	212088
212089	212090	212091	212092	212093
212096	212098	212051	212052	212053
212054	212055	212059	212063	212064
212065	212066	212067	212069	212070
212074	212076	212077	212078	212080
212081	212018	212021	212023	212025
212027	212028	212029	212030	212031
212033	212034	212036	212037	212039
212041	212043	212044	212045	212046
211987	211988	211990	211992	211993
211994	211995	211996	211998	211999
212000	212001	212002	212003	212004
212005	212006	212007	211956	211958
211961	211962	211964	211966	211968
211970	211976	211977	211979	211980
211981	211982	211984	211926	211929
211931	211933	211934	211935	211936
211937	211938	211940	211945	211946
211948	211949	211950	211951	211908
211912	211917	211894	211900	211903
211886	211888	211816	211809	211757
211744	211699	211442	211441	211419
211318				

SCHEDULE "B"

	HRC #	Grievance #
1.	N2022/02/0621	211604/212133
2.	N2022/01/0560	211624/211967/212074
3.	N2022/01/0577	211617
4.	N2022/01/0578	211767
5.	N2022/01/0528	211648/211987