

United Nurses of Alberta Zoom discussion with Nurse Practitioners

February 10, 2021

Transcript

David Harrigan, UNA Director of Labour Relations:

Nurse Practitioners been working in Alberta since the 1980, though at the time the title was rare and not protected. Some employers called them Nurse Practitioners, but also called other things and CARNA called them "Expanded scope." Where they worked they tended to be consider as exempt or management.

The Labour Relations Board always had 4 functional bargaining units as it applies to Regional Health Authorities and Nursing Homes. Direct Nursing Care and Nursing Instruction, Auxiliary Nursing Care, Paramedical Professional and Technical.

In 1999, there was a hearing at the Labour Relations Board with respect to three employees at Calgary Regional Health Authority. All three were advanced practice nurses - one was called a Nurse consultant, psychiatry, one was educational specialist, and one a Nurse Practitioner.

The LRB ruled that the Education Specialist was in Health Sciences Association of Alberta. The Nurse consultant and the Nurse Practitioner were part of UNA.

So UNA represented Nurse Practitioners.

In 2003, three things happened - first, the government changed the law so that Nurse Practitioners were no longer considered employees - therefore could not unionize. So those Nurse Practitioners were taken out of UNA and no Nurse Practitioner was able to unionize.

The second thing is that Nurse Practitioner was made a protected term.

The third change was that the government made the four functional bargaining units regulation - so it was no longer a policy of the Labour Relations Board - but rather a legal requirement for RHAs and Nursing homes.

At the time, UNA made no Charter Challenge to having NPs excluded. Back then the Supreme Court had issued a couple of decisions that said collective bargaining was not a protected right under the charter.

But a few years ago, SCC issued a new and major decision that indicated that in fact "freedom of association" also included freedom to a meaningful bargain process - they were clear that it did not necessarily mean Wagner-style Collective bargaining as we know it - but employees

needed some manner to have meaningful input.

That came out in 2015 - so any group could have challenged the law since then.

UNA's approach to organizing is different from some unions. Some unions have an organizing department and actively seek out groups - our approach is different - we don't approach groups - if we are contacted we assess whether there is significant interest - if there are people willing help with the organizing, will there be people to stand as Local leaders, etc.

A few years back some Nurse Practitioners did approach UNA. Eventually Jessica Wakeford was willing to go out - she had attempted on many occasions to deal with her compensation - Alberta Health Services essentially did nothing. So UNA made its application - Nurse Practitioner Rochelle joined the application.

The matter went to the LRB - they bifurcated the hearing - split it into 2 (1) Charter question and (2) if a breach - which unit do they fall in.

Ruling it breached the Charter - the LRB gave the government one year to decide what to do – that's common in charter breaches. The government could have done a number of things - they could have done nothing, and the LRB would determine which of the 4 bargaining units Nurse Practitioners fell in; could have created new bargaining unit; could have created an entirely new process that provided Nurse Practitioners meaningful input without unionization.

What they did was create a new bargaining unit. In some ways that seems odd - 5 bargaining units 4 of them have at least 20,000 members and one with less than 350. But for Nurse Practitioners it may be an excellent move - what it means is that regardless of who the bargaining agent is, your concerns will not be drowned out or lost in a unit of 30,000 RNs.

Let me clear up some misconceptions first -

- 1) The issue of bargaining units applies employer by employer. An organization cannot make an application saying "We want to be certified for all Nurse Practitioners in the Province" - it is one employer at a time.
- 2) The functional bargaining units ONLY apply to operators of approved hospital and nursing homes - not other employers. For employers such as Primary Care Networks - LRB would most likely want an all employee unit. For self employed Nurse Practitioners, unionizing is not possible
- 3) Even for Alberta Health Services, there is no requirement for NPs to choose a bargaining agent. If a majority of Nurse Practitioners do not want to unionize, they don't have to - much like some nursing homes where the RN staff is not organized.

- 4) If UNA organizes NPs it would likely first be at Alberta Health Services, then Covenant Health - but it would NOT be our view that we would replace Nurse Practitioner Association of Alberta. You need an Association. I think you need a union to deal with Alberta Health Services and your terms and conditions of employment - but you also need an Association to deal with other matters - issues like scope of practice, funding models, how to deal with self-employed Nurse Practitioners. That is the sort of thing Associations deal with. We are a union - we deal with negotiating and application and enforcement of Collective Agreements.
- 5) 40% will not result in a certificate being issued. 40% will lead to a secret ballot vote.
- 6) Negotiations and contract administration and enforcement are complex and expensive matters. UNA's budget for contract admin is \$1 million a year. Union dues don't just start rolling in because a group is certified. They must first negotiate a Collective Agreement. That takes time, expertise and money. You need an infrastructure -we have that - we have 40 Labour Relations professionals, an entire finance and IT department. Building that from scratch is a tremendously expensive endeavor.

I will answer some questions that have been emailed.

Some of them are practice questions - such as "What does UNA see are the core difference between NPs and RNs with prescribing ability – I don't want to get into that because we are not looking at becoming your agent for practice matters - but rather on employment matters.

Questions – Meeting with NP's February 10, 2021

To what extent will Nurse Practitioners, if they join UNA, be expected to support the agenda for Registered Nurses, such as participating in strike action?

Nurse Practitioners would be in a separate bargaining unit, so strike action would only apply to NPs if they voted to strike.

How will UNA balance their bargaining pressure? You continue to press for higher salaries for RNs, if that will negatively affect the NPs.

Nurse Practitioners and Registered Nurses would be at two separate bargaining tables and we will be looking for appropriate salaries for each.

What will the anticipated NP union dues be set at?

UNA union dues are set at 1.5% of an Employee's salary.

How will UNA seek fair and equitable represented Nurse Practitioner practice opportunities in non-Alberta Health Services workplaces-such as PCNs, independent practice, ARP, joint academic and clinical appointments?

That is the role of an association and that is why it is important to have an association to advocate for NPs professional issues. If UNA is the certified bargaining agent for NPs with AHS, then we would negotiate with AHS and we would not have any input into academic clinical appointments.

Currently many RNs act as managers for NPs in AHS. Given the advanced knowledge and scope required for NP practice, the RN managers do not have the appropriate knowledge or skills to appraise NP practice. How will UNA address this issue?

UNA would have to negotiate with AHS on how the performance appraisals would be done. Performance appraisals are part of the collective agreements. It will be determined by the NPs in that bargaining unit.

What is the process involved in NPs becoming unionized?

NPs would be asked to sign membership cards or a petition saying that they want UNA to be the bargaining agent for NPs at AHS. UNA would submit these signatures to the Labour Relations Board. If we have less than 40 per cent of NPs signed up then the LRB would dismiss the application. If we have more than 40 per cent then the LRB would then organize a secret ballot vote by NPs to choose whether they want to be represented by UNA.

Given the current pandemic and political climate, how long do you estimate this process will take?

Once an application to the LRB is made it is generally resolved within 1 or 2 months. The LRB tries to be speedy.

Which NPs in Alberta will be included in this process? Any idea regarding numbers?

Certification is employer by employer. If enough NPs decide they want UNA to represent them as a bargaining agent, UNA will likely try to first organize NPs employed by AHS, and then Covenant Health.

Is AHS involved in the process or have any input?

AHS would only be involved in terms of providing a list of Employees to the Labour Relations Board.

How will NPs be kept informed about the process?

If UNA were going to organize, we would make sure that we have enough NPs committed to helping. Once we have the contact information, we would keep everyone informed regularly.

If a NP is involved in a disciplinary matter, who represents the NP?

There are two forms of discipline. One from the Employer and the other from CARNA.

You can request UNA to represent you at CARNA.

UNA would be your automatic representative with your Employer. Usually UNA Locals are involved in this process and the UNA Labour Relations Office assigned to a local typically is involved. If we are not able to resolve the dispute, it can then go to arbitration. If it goes to arbitration, UNA has a number of staff who are qualified and trained to act as counsel. Arbitrations can be quite expensive, so it is a lot easier to have your own staff who can act as counsel.

A number of NPs have had discussions with members from different provinces who are under the union. They feel underrepresented and not supported in decisions. They feel like they are being lumped in with RN stream and members of the union do not have a clear idea of NPs and NP practices?

In other provinces where NPs are represented by nurses unions, the NPs are in the same bargaining unit as RNs. This would not be the case in Alberta, where NPs would be in their own separate bargaining union and be entitled to vote on their own collective agreements.

Why does UNA want to represent us? How are you going to pay attention to the NP's needs and represent us a little bit better than what is done with CNS's.

UNA would be willing and interested to represent NPs if there is interest by NPs for us to represent you. UNA believes we have the skills, staff and organization effectively represent NPs as their bargaining agent.

What has UNA done for the past 10 years for NP advancement and scope of practice?

UNA currently does not represent NPs, so we have not advocated for NP specific issues. UNA represents the nurses and we take representation very seriously.

If UNA is selected, will NPs be part of the UNA bargaining process.

If UNA becomes the bargaining agent for NPs, their Negotiating Committee will be made up of only NPs, and experienced, qualified UNA staff negotiators would be involved.

NP's will determine the proposals and making the final decision about their collective agreement.

NPs and their roles and responsibilities are as diverse as those of physicians. There is some confusion in terms of does this dilute or NP responsibilities, does it enhance?

Current schedules that apply to RNs are absolutely not what would apply to NPs.

Scheduling is all based on negotiations. NPs in the bargaining unit would be the ones bringing forward the hours of work scheduled, etc.

Could the NPs say they want the money to go to a certain money to a practice association at an AGM?

It would have to be passed at an AGM by the whole membership.

What would the terms and conditions of employment be for NPs and what would the Collective Agreement look like?

Only NP's would decide. Other members of UNA who are not NPs would not get to vote on the NP Collective Agreement.

Over the last 8 years AHS and the Ministry of Health have neglected contracts with NP's – we have had persistent freezing of salaries. Entry level NPs that make less then RNs. How would UNA approach taking NPs from where we are right now and bringing forward proposals?

UNA would have the NPs elect a bargaining committee made up of NPs. NPs would submit what they believed they would like in a contract. The Negotiating Committee would then make a recommendation to the NPs. The NPs would have to decide what they want for salary, benefits, schedules. NP's would make those decisions.

The other side is the governance of UNA. We have a local structure across the province.

UNA has 160 Locals and that is where the decisions are made in terms of elected officials, budgets of the organization. UNA has quarterly meetings of our Local leaders. We have 5 districts across the province. Districts have quarterly meetings of local leaders and then we have a province-wide AGM each year.

Would there be a separate board for NP's.

No.

Given where we are with current government is there a possibility that a simple pen stroke such as the Labour Code could be stated that NPs are not an advanced practice nursing and we can then be applied to the Certificate of UNA?

Governments can change regulations with a stroke of a pen. If they changed and struck out the regulation that said that NP's have their own functional bargaining unit, then NP's would be in a situation as before.

NPs are less than 1% of the total union.

Long-term care nurses are also in the minority in the province in terms of our membership and UNA has long championed and advocated for long-term care. Being a small part doesn't mean your issues aren't supported by a much larger voice.

Should we be worried about punitive action by AHS?

You don't need to be. You should not discuss unionization on work time.

Historically has that been an issue in other places? Always that concern. With us being a small group, what if there is punitive damage? Has that happened with other groups?

In healthcare, the reality is that the Employer's are pretty used to the fact that people like to organize into unions. We have not seen any punitive action.

What are the next steps now?

What we need to have is an expression of interest by NPs and willingness to assist in going forward. If there is a desire for NPs to join our union, then UNA will support. The ball is now in the court of NP's.

If people are interested in helping or trying to get NP's under UNA if they should e-mail NP@una.ca.

When the Labour Board decision was still before the LRB and was pending it meant from an AHS perspective they weren't allowed to make any changes as that would be considered bargaining in bad faith. Now part 1 is completed and starting part 2 are we still protected.

It is not correct to say that AHS was prohibited from making any changes. As far as the LRB is concerned there is no part 2. There was a part 1 and the decision was made.

If UNA represents NPs AHS what about Covenant Health or other employees remain unorganized.

Will need to be Employer by Employer basis.