Bill 1 – Health Authorities Act

Arbitration ends, December 13, 2014

Last week the Nova Scotia Nurses' Union participated in arbitration hearings relating to Bill 1: The Health Authorities Act. Arbitration was scheduled for December 9 - 14 following an unsuccessful mediation process.

On Tuesday, December 9th, legal counsels for NSNU, CUPE, Unifor, NSGEU and the Health Association of Nova Scotia (HANS) made opening arguments for what they perceived to be the best option for union representation within the guidelines of The Health Authorities Act.

The week saw passionate displays from participants, each strongly advocating for their positions and their membership. The NSNU participated in discussions relating to the nursing bargaining unit, and were present throughout the week to hear discussions around all health care bargaining units.

The unions' positions were as follows:

CUPE and Unifor maintained that a bargaining association model would be the most advantageous for all involved. The model they proposed differed from the model all four unions had agreed upon prior to the passing of The Health Authorities Act, as it would not allow all unions to maintain their membership. However, they argued that this model would create the least amount of upheaval for health care workers in the province. Both Unifor and CUPE opposed membership voting as an option for determining representation.

The NSGEU continued to call for a vote - a position they have been calling for since Bill 1 was introduced on September 29th. Their legal counsel argued that a vote was the only fair
way to determine union membership. The arbitrator, James Dorsey, noted that a vote could not ensure all unions continued to represent health care workers in the province, a necessary provision of the legislation. The NSGEU agreed that it would be impossible, but maintained that it was the best solution.

The NSNU adhered to the mandate from our members to continue representing those in our union. Under the legislation, the only solution that allows all NSNU members to stay within the union is for all LPNs to be reassigned to the nursing bargaining unit. Our legal counsel explained that the NSNU has a well established and recognized community of interest for RNs and LPNs in the province, and that we believe the “nursing led by nurses” model is in the best interest of Nova Scotia nurses.

The employer, the Health Association of Nova Scotia (HANS), argued on behalf of The Health Authorities Act as it is written, calling for all LPNs to be placed in the nursing bargaining unit, while health care, clerical and support bargaining units be assigned to separate Unions. They were opposed to a vote and the bargaining association model.

The Attorney General was present on Tuesday, December 9th and Wednesday, December 10th to discuss Charter challenges put forth by the other unions. However, they were unavailable for comment throughout the remainder of the week, and therefore Charter challenges were not discussed further. The NSNU did not submit a Charter challenge, as we have no legal grounds to do so within the legislation.

On Saturday, December 13th, one day ahead of schedule, final summations were made by the legal counsels from each of the four unions and the employer. Following summations, Mr. Dorsey announced that he would allow unions to provide submissions until December 22nd, at which point he will consider all of the arguments made and provide a ruling.
The date for Mr. Dorsey to rule on arbitration is January 19, 2015, as an extension has been granted by the Minister of Health and Wellness.

If you have questions about the arbitration process or the Health Authorities Act, you are encouraged to reach out at nursesinfo@nsnu.ca.

**Arbitration Process - Proceedings to Start**

Members of the Nova Scotia Nurses' Union who wish to attend the Arbitration sessions resulting from Bill 1, *The Health Authorities Act* slated for December 9-14 are encouraged to contact the NSNU at nursesinfo@nsnu.ca. The Arbitrator has selected The Quality Inn Halifax Airport Hotel as the venue for the arbitration and has allocated ten seats per Union per day for member participation. Thank you to all those who have already reached out to the NSNU via email and phone with your support.

Follow the arbitration process with our [Daily Reports](#).

**Mediation Update**

The NSNU can now report that mediation, which began on October 17 as a result of Bill 1, *The Health Authorities Act*, ended on November 17th with the majority of key issues unresolved.

Under the legislation nine district health authorities will merge into one as of April 1, 2015. The Bill will reduce the number of contracts to be negotiated and impose changes in representation. While in mediation the unions explored several options aimed at avoiding arbitration. However the parties, including the Employers, could not agree on a common solution.
There are still issues that have to be resolved in the arbitration process before an order will be issued by James Dorsey, the mediator/arbitrator chosen by the Unions and the Employers.

A 45-day arbitration period began on November 18th with Dorsey who is expected to render his decisions by January 1, 2015.

As we proceed to the arbitration phase, is it important for NSNU members to understand how the legislation will affect them. We will maintain open lines of communication, and encourage any members who have questions or concerns to contact our organization.

**DHA Amalgamation**

**Background**

Last year the current governing Liberal Party campaigned on an election platform to restructure the health care system. Their objective was to reduce health-care spending. By amalgamating the District Health Authorities (DHAs) from nine to one plus the IWK, the government felt they could cut costs.

At that time, the Nova Scotia Nurses’ Union understood that the DHA amalgamation could have a significant impact on unions and encouraged our members to speak to their constituency candidates about the impact on nurses and other health care workers.

**What does the bill say?**

Bill 1 - An Act to Provide for Health Authorities and Community Health Boards was passed through the House of Assembly on Friday, October 3rd. Instead of nine health authorities and nine employers we will now bargain with one DHA and the IWK. The employers will be required to bargain together. The legislation also imposes a new collective bargaining structure on unions and the people they represent.

The Bill sets in place a mediator who will meet with the four health care unions and the employers to establish the bargaining units for each health authority, the bargaining agent to represent each unit, and the collective agreement or agreements that will remain in force as well as the integration of seniority lists. If mediation reaches an impasse, any remaining issues will go to arbitration.

The arbitration process is governed by strict conditions. If arbitration is required, it will establish nursing, health care, clerical and support bargaining units, and Licensed Practical Nurses will
belong to the nursing unit. Each of the four current health care unions will represent one of the four bargaining units in both the provincial health authority and the IWK. To be eligible to represent a bargaining unit, a union must currently represent members within the unit. This means that the NSNU will become the bargaining agent for all acute care RNs and LPNs in the province. It is unclear which union will represent each of the other units.

**How have the Unions responded?**

In June, NSNU, CUPE, NSGEU, and Unifor developed a proposal for a Bargaining Association that could have maintained the status quo by bringing unions to a joint table to bargain for the four classifications of workers. That proposal was not accepted by the employers or the government.

**Why voting for representation now is not an option?**

The Bargaining Association proposal the four health care unions presented to government was seen by NSNU, CUPE, NSGEU and Unifor as a solution that would maintain membership within unions and avoid distraction in the delivery of health care. Any other solution, including a vote, would create clear winners and losers.

The Legislation presented to the Unions on September 29 does not include a mechanism for voting. Under the new law, the only mechanism for the unions to determine ‘next steps’ is the mediation process.

It has been suggested by the Health and Wellness Minister that something akin to the bargaining association model proposed by the four health care unions is a potential outcome from the mediation process. At this time it is not entirely clear that the legislation allows for this and it is also possible that the employer side will not agree to it in mediation. Nevertheless, given the parameters of the legislation, the NSNU believes a bargaining association model is the only currently available option that will allow unions to continue to represent their current membership.

**What happens now?**

- Working with the unions and employers, the mediation/arbitration process will establish the labour relations parameters discussed above.
- Collective bargaining cannot commence again until the new system is in place next April. Strikes and lockouts are prohibited until April 1.
- **Your pension is not a contract issue, and will remain the same regardless of what happens from this point on. It is secure, well-funded, and entirely safe. Wages and other benefits are not being threatened.**
We are closely monitoring the situation and are actively engaged in representing the best interests of Nova Scotia’s nurses. We will continue to keep you informed.

Janet Hazelton,
President, Nova Scotia Nurses’ Union

Stay up to date

Stay informed via our website, Facebook and Twitter, Union Calling, your newsletters, and e-memos.

If you have not provided the Nurses’ Union with current contact information, we will not be able to correspond with you. If you wish to update your information please email verna.harrie@nsnu.ca or call 902-469-1474 / 1-800-469-1474.

For more information...

We want you to be informed. Send your questions to us via email we’ll respond directly – nursesinfo@nsnu.ca
Read more about the Health Care Unions’ proposal to the government