



Strike by another Union or Employer Lockout

As a member of the Nova Scotia Nurses' Union, what do you do if another union takes job action or goes on strike? As members of the NSNU, what are your roles, responsibilities and rights when your co-workers in another bargaining unit head to the picket line?

If strike or job action occurs, the NSNU will be in communication with you during these difficult times. We will utilize our Union Calling broadcast system. We will update the NSNU website (www.nsnu.ns.ca) as often as necessary. Staff and provincially elected representatives will be available to keep you informed.

If you have questions or concerns, we recommend that you first contact your Local Executive members for guidance and advice. Your Local leadership will have access to information via a newly established email (strikeaction@nsnu.ns.ca) to answer questions they may have difficulty addressing. However, we encourage you to call the Provincial Office at 1-800-469-1474 if you are still unclear about any aspect of this situation.

NSNU's Position on Strikes by Another Union

The NSNU supports other unions where it becomes necessary for them to take strike action to achieve fairness for their members. We are also mindful that, if the time should come where we would need to take similar action to support our just demands, we will need the support of our co-worker in other unions, just as they need our support today.

The NSNU takes the position that our nurses will not work, and cannot legally be compelled to work, on a unit that was not staffed by NSNU members immediately prior to the strike or lockout.

Further, NSNU nurses will not perform the work of CCAs, porters, dietary, or any other position that provides auxiliary health, administrative or support services except where the nurse, in her/his professional judgment, deems it necessary to maintain the patient's immediate health and safety.

The FAQ information below is an attempt to answer some of your questions.

How can I show support for my striking co-workers?

The NSNSU strongly encourages members to support these striking workers by picketing with them on off duty hours, lobbying with politicians as requested by the union on strike and by providing morale and financial support.

The important fact to keep in mind is that the more support a Union has while on strike, usually the more successful and shorter is the strike. What we all want is to see everyone back to work with a fair collective agreement in place.

Can my employer force me to do the job of a striking worker and will there be any disciplinary consequences if I refuse?

In the event of a strike or lockout of another Union in your place of employment, you should continue to work and to perform only your job functions and none of the functions of those striking, except where in your professional judgement it is necessary to maintain the patient's immediate health and safety. The **Trade Union Act** gives you the right to refuse these job functions, which is called "struck work". The relevant section of the **Act** reads:

"No Employer and no person acting on behalf of an Employer shall: suspend, discharge or impose any financial or other penalty on an employee or take any other disciplinary action against an employee, by reason of his refusal to perform all or some of the duties and responsibilities of another employee who is participating in a strike that is not prohibited by this Act."

This means that if you are a Registered Nurse, for example, you cannot suffer any disciplinary consequences for refusing to perform the work of, for example, a striking Licensed Practical Nurse, or a "CCA".

Similarly, if you are a Licensed Practical Nurse, you cannot suffer any disciplinary consequences for refusing to do the work normally performed by a striking CCA or other auxiliary health, administrative or support service worker.

How do I decide what is “struck work” when I am able to, and sometimes do, perform the same duties as my striking co-worker?

RNs and LPNs have a broad scope of practice and extensive education that enables them to perform many of the duties of other auxiliary health, administrative or support service workers. Nurses may find themselves in the situation where they are being asked to perform struck work which they are qualified to do and may have performed in the past.

The Labour Relations Board (LRB) recognizes that an overlap may exist between the job duties of Registered Nurses and Licensed Practical Nurses and other health care workers- but you may still refuse to do struck work. According to the LRB:

“The mere fact that a person’s regular or normal duties to his employer overlap the duties of an employee on a lawful strike does not mean, in our opinion, that he would be unprotected by [the Trade Union Act] if he refused to do the work of the striking employee.”

There is no clear answer to this issue. Nurses will have to use their own professional judgment in each situation and determine whether performing the struck work is necessary to maintain the patient’s immediate health and safety.

The NSNU will defend your right to maintain the benefits and protections of the **Trade Union Act** through the grievance and arbitration process and through complaints to the Labour Relations Board regarding unfair labour practices if your Employer asks you to perform struck work.

What if I am a casual nurse – do I have to work during a strike by another union?

Casual nurses must work the shifts that they have already committed to working. After that, casual nurses are under no obligation to accept further shifts during the strike by another union, if they do not wish to work.

What about my duty to practice safely?

As self-regulating professionals you have a duty to the patients in your care. The Canadian Nurses' Association Code of Ethics recognizes that it is not unethical for Registered Nurses to either participate in job action themselves, or to work in environments where job action occurs. As a nurse, however, you have an overriding professional duty to practice safely and safeguard the health and safety of people in your care during a job action.

During a strike, it is not unexpected that you will find yourself working on a unit that is short staffed. Your professional obligation is to alert your supervisor if you have concerns about your ability to maintain professional and ethical standards or to ensure the safety of patients in your care. This obligation is to be balanced against your responsibility to not abandon patients you have engaged with or have accepted as an assignment unless you have:

- arranged for suitable alternative or replacement services; or
- allowed your employer a reasonable opportunity to provide alternative or replacement services; and
- provided an appropriate report and/or ensuring that necessary documentation is completed and communicated.

The NSNU will support you if you feel that you are being asked to care for more patients than you can safely care for.

Can I be reassigned to another unit?

Yes. During the strike your employer may reassign you to another unit or facility. Your employer may not, however, reassign you to a unit or facility that was not staffed by NSNU nurses prior to the strike.

If you are reassigned to another unit, the employer is responsible for providing appropriate orientation if you feel it is necessary.

Can the employer cancel my vacation?

The Employer should not be cancelling your vacation in an effort to have you perform struck work. If an employer cancels your vacation, contact your LRR who will ensure all other options have been exhausted.

Can I be "laid-off" if another union is on strike or if there is a lockout?

The hospitals/homes and community agencies that are "on-notice" of impending strike by a union will be making contingency plans which should be discussed with BUGLM or local Executives. Obviously, this may lead to a lack of work for other health care personnel. In that event, the Employer / client can issue you a lay-off notice. Most of our Agreements state what the notice period of lay-off normally is, "except in cases of labour dispute." Labour dispute for this purpose usually means the actual period of the strike or lockout.

If I am laid off due to a strike, can I apply for E.I. benefits?

If you are on lay-off and not on strike, you may apply for Employment Insurance benefits during the period of your lay-off. Contact someone from Employment Insurance to assist you with your claim.

Who is responsible to get me across the picket line?

If you feel threatened, endangered, harassed or if you anticipate that there might be some difficulty getting across the line, it is your responsibility to contact your manager to request assistance. In the advent of a strike or lockout, it is expected that managers will be familiarized with their responsibilities to their employees in arranging safe passage across the line. If you can't contact a manager, NSNU will have a contingency plan set up for contacting local executive members to deal with problems or questions which might arise.