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January 25, 2018

Via Fax: 780-422-0970
(Original to follow in mail)

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

Attention: Tannis Brown, Director of Settlement

Dear Madam:

POSTED	
ES-00005	
File No.	Support Doc No.
01/25/18	B5
Date	Posted By

Re: An application brought by Alberta Union of Provincial Employees (AUPE) affecting Capital Care Group Inc. - Board File No. ES-00005.

Re: A cross-application brought by Capital Care Group Inc. affecting Alberta Union of Provincial Employees - Board File No. ES-00005.

As the Board is aware, I remain the primary representative for AUPE with respect to the above-noted matters. This is AUPE's response to the Capital Care Group Inc.'s ("the Employer's") amendment to the Employer's cross-application as well as a request for further particulars.

AUPE continues to deny that the Employer's assertion that AUPE has contravened Sections 95.4(4) and 95.42(2) of the *Labour Relations Code* (the "Code") has any basis. Rather, it is AUPE's view that the Employer has engaged in a pattern of unproductive tactics and continues to provide only selective and self-serving information to the Board.

Particulars

1. AUPE agrees only with paragraphs 1, 2, and 5 of the Employer's January 11, 2018 amendment to its December 18th, 17 cross-application.

G. Smith President	J. Heistad Executive Secretary-Treasurer	M. Dempsey Vice-President	R. Feland Vice-President	B. Gostola Vice-President	J. Hart Vice-President	S. Slade Vice-President	K. Weiers Vice-President
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2. While AUPE is not opposed to the Commissioner issuing an interpretative decision with respect to the interplay between the provisions of the *Code* related to essential services agreements and other legislation applicable to the broader Health Care sector, AUPE denies it is being obstructionist in these negotiations.
3. Rather it is the Employer that seeks, through its proposals and positioning, the inclusion of overly broad provisions into an ESA between the parties, including but not limited to:

1.07 Both Parties acknowledge that the requirements set forth in the Protection of Persons In Care Act (PPIC), the Continuing Care Health Service Standards (CCHSS), the Nursing Homes Act, the Nursing Homes Operation Regulation, the Supportive Living Accommodation Licensing Act, Supportive Living Accommodation Licensing Regulation, Long term Care Accommodation Standards, and other relevant legislation, laws, regulations, and/or contractual obligations remain in effect during any strike or lockout.

...

4.07 For this agreement, Essential Services include the following:

- (a) All activities performed by a Licenced Practical Nurse (LPN).*
- (b) All activities performed by a Health Care Aide or Therapy Assistant that support a Resident's activities of daily living (ADL's), medical care, rehabilitation or other therapy, and/or social interactions.*

4. The Employer clearly seeks the right to continue its operations at regular levels in the event of a work stoppage. With respect, this is not the purpose of the exercise, nor the intent of the *Code*.
5. Rather, and as this Board and the Commissioner well knows, the level of work to be performed in the event of a strike or lockout is:

Essential services

95.1 For the purposes of this Division, essential services are those services

- (a) the interruption of which would endanger the life, personal safety or health of the public...

6. While admittedly AUPE has not (and cannot reasonably be expected to have) extensively researched or even identified all of the above referenced "legislation, laws, regulations, and/or contractual obligations" that the Employer asserts override the essential services provisions of the *Code*, a preliminary perusal of the

legislation and regulations that the Employer does actually expressly name reveals *very few* specific provisions which may arguably provide guidance for these negotiations or move us productively towards the conclusion of an appropriate ESA.

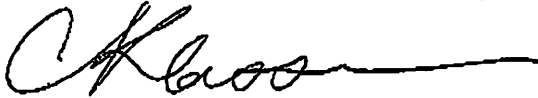
7. Rather than undertaking the necessary but admittedly onerous exercise of determining which services to residents reasonably constitute services that, if disrupted, would endanger the life, personal safety or health of the residents, the Employer seeks to circumvent these negotiations by its insistence that all duties of our bargaining unit members are essential services.
8. Similarly, instead than pointing out the specific provisions of the legislation, laws, regulations, and contractual obligations that the Employer may assert are relevant to considered in an ESA and should be adhered to in the event of a labour dispute for joint consideration and rational debate; it asks the Umpire and/or Commissioner to condone an "all in" approach as it seeks to obtain blanket coverage ensuring normal operational levels in the event of a labour disruption.
9. The Employer's goals are clearly in contravention of the *Code*, contrary to applicable case law, and to continue to press this over-reaching position is nothing but more evidence of bargaining in bad faith.
10. AUPE reminds the Employer that the Parties have an obligation to break down to the best of our abilities the components of the work of the bargaining unit, and to jointly and in good faith identify what duties constitute essential services during a strike or lock-out.
11. AUPE confirms its intention to continue to meet with the Employer and Umpire Kanee in the future with dates as can be scheduled; and we affirm that AUPE will continue to demonstrate best efforts to work constructively towards achieving an essential services agreement.

Remedy Requested:

12. AUPE maintains its request for relief from the Commissioner as outlined in its application of December 1, 2017.
13. AUPE respectfully requests that the Commissioner dismisses the Employer's initial and amended cross-application(s) as without merit.
14. AUPE also now seeks an order from the Commissioner directing the Employer to disclose and significantly particularize its concerns and proposals; and to specify which provisions it relies on with respect to what it currently references

sweepingly as "legislation, laws, regulations, and/or contractual obligations" that it suggests must hold supremacy in this context. This relief is sought so that the union has an opportunity to subject the Employer's position to reasonable scrutiny and to curb the Employer's ongoing propensity to engage in surface bargaining.

Yours truly,



Cherie Langlois-Klassen
Union Representative (counsel)
Disputes and Arbitrations
AUPE

CLK/rg/AULReP

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Craig Neuman, Q.C., (Neuman Thompson) by Email Only
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