

## #10 BARGAINING UNITS FOR HOSPITALS AND NURSING HOMES

### I. INTRODUCTION

The Labour Relations Board maintains standard bargaining units for employees of hospitals and nursing homes. This Bulletin describes these standard units. These standard units do not apply to the broader healthcare industry such as senior citizens' lodges, private laboratories, ambulance services, group homes and group shelters. In these cases, the Board normally applies the principles in Information Bulletin #9 unless otherwise convinced by the parties. *See: Bulletin 9; AUPE v. Good Samaritan Society [1997] Alta. L.R.B.R. 88.*

The *Labour Relations (Regional Health Authorities Restructuring) Amendment Act, 2003* and *Regulation* altered the standard bargaining units the Board historically deemed appropriate where the employer is a Regional Health Authority (RHA).

Further changes were made in 2009 when the Province of Alberta became a single health region known as Alberta Health Services (AHS). AHS replaced the former RHAs, the Alberta Mental Health Board, the Alberta Cancer Board, and the Alberta Alcohol and Drug Abuse Commission. Mandated changes in labour relations in healthcare resulted in four province-wide bargaining units. AHS also assumed responsibility for emergency medical services.

On October 30, 2020, section 1(1)(l)(iii) of the *Labour Relations Code*, which excluded nurse practitioners from the definition of employee, was repealed. At the same time, the *Regional Health Authority Collective Bargaining Regulation* was amended to establish a fifth functional bargaining unit for employees of a regional health authority described as "advanced nursing care or nursing instruction provided by a nurse practitioner."

This Bulletin addresses:

1. applications for certification,
2. bargaining units where AHS is the employer, and
3. bargaining units where the employer is not AHS.

### II. APPLICATIONS FOR CERTIFICATION

Any union applying for certification for these employers applies for the standard bargaining unit. The following pages contain descriptions of these standard units. *See: Section 34(1); Bulletin 8.*

### III. STANDARD UNITS FOR ALBERTA HEALTH SERVICES

Where the employer is AHS, section 2 of the *Regional Health Authority Collective Bargaining Regulation* identifies five region-wide functional bargaining units:

- direct nursing care or nursing instruction,
- auxiliary nursing care,
- paramedical professional or technical services,
- general support services; and
- advanced nursing care or nursing instruction performed by a nurse practitioner.

The basis of these unit descriptions is job function, and the Board's assignment of an employee to a bargaining unit depends upon the person's actual function, not upon occupational title. This approach varies with respect to the last functional bargaining unit set out above, as section 2(1)(e) of the *Regulation* requires that the functions at issue be performed by a nurse practitioner.

The standard unit descriptions the Board uses for AHS operations appear below. The quotation contains the standard unit description. A brief description of the categories of employees **normally** found in the unit follows.

#### **Boundaries of the Unit**

The Regulation requires all units to be province-wide. See: *Regional Health Authority Collective Bargaining Regulation; Section 2.*

#### *Direct Nursing Care or Nursing Instruction*

“All employees when employed in direct nursing care or nursing instruction.”

This unit includes all those employees for whom nursing training is a prerequisite. It applies to those employed in nursing care or instruction in nursing care. The unit could contain graduate and registered nurses, psychiatric nurses and nursing instructors when instructing.

#### *Auxiliary Nursing Care*

“All employees when employed in auxiliary nursing care.”

This unit includes all those employees providing nursing care but not to the level of registered or graduate nurses. Persons employed as licensed practical nurses, registered nursing assistants, nursing assistants, and nursing aides are within this unit. It also includes people working in such categories as nursing orderlies.

#### *Paramedical Professional or Technical Services*

“All employees when employed in a paramedical professional or technical capacity.”

This unit includes all employees providing professional paramedical services. Persons working as dietitians, pharmacists, social workers, physiotherapists, occupational therapists, laboratory scientists, and psychologists fall within this unit. This unit also includes all employees directly related to or engaged in providing qualified technical services. Persons working as combined laboratory and x-ray technologists, dietary technologists, cardiology technicians, ophthalmic

technicians, and pharmacy technicians are within this unit. Administrative employees such as health information management professionals and medical photographers are also included. This unit also includes technologist categories. Some of these are medical radiation technologists, medical laboratory technologists, respiratory therapists and e.e.g. technologists.

#### *General Support Services*

“All employees when employed in general support services.”

This unit includes all employees whose prime function is general support activities. Persons employed in activities such as clerical, office administration, trades, food services, housekeeping, laundry and custodial services are in this unit.

Non-unionized groups of employees remain as named exclusions on Board certificates. Where a trade union already represents some of the employees in the province. The Board will accept certification applications or applications for reconsideration for any (or all) of the remaining non-union sites. Revocation applications must be for the entire unit.

#### *Advanced Nursing Care or Nursing Instruction Performed by a Nurse Practitioner.*

“All nurse practitioners performing advanced nursing care or nursing instruction.”

The *Regulation* defines “nurse practitioner” as an individual employed and practising as a nurse practitioner in accordance with the *Health Professions Act*. This unit includes all employees who meet that definition and who are performing advanced nursing care or nursing instruction.

## **IV. STANDARD UNITS FOR NON-ALBERTA HEALTH SERVICES EMPLOYERS**

For hospitals and nursing homes where the employer is not AHS, the Board has identified five standard units:

- direct nursing care or nursing instruction;
- paramedical professional or technical services;
- auxiliary nursing care;
- general support services; and
- advanced nursing care or nursing instruction performed by a nurse practitioner.

In 2011 and 2021, after seeking submissions from the labour relations community, the Board changed the standard functional units for non-AHS employers to mirror those functional units established for AHS. In 2011, these changes resulted in combining the two standard paramedical units into one. In 2021, the changes resulted in adding a fifth functional unit for advanced nursing care or nursing instruction performed by a nurse practitioner. These changes affect new applications only, and do not impact existing units.

With the exception of the advanced nursing care or nursing instruction unit, where the *Regulation* requires that these functions be performed by a nurse practitioner, bargaining units are based on the functional role played by employees rather than just professional titles. The application of these units will be constant. However, when justified, the Board may vary the units somewhat. Historical

factors, the size of the institution, and the range of occupational classes used by an employer may justify a variation. See: *UNA v. Calgary General Hospital et al.* [1987] *Alta. L.R.B.R.* 553; *UNA v. AHA et al.* [1986] *Alta. L.R.B.R.* 610; *CUPE 189 v. Med. Hat General Hospital and HSAA* [1991] *Alta. L.R.B.R.* 239.

These standard units for non-AHS employers apply not only to privately owned operations, but also to several quasi-public employers such as Carewest, Caritas Health Group and Capital Care Group Inc.

### **Assignment of Employees to Bargaining Units**

Occupational terminology varies considerably throughout the healthcare industry. The duties and responsibilities of any given class also vary. Employers apply job titles and duties as needed, given the difference in institutional programs and size. The Board's assignment of an employee to a bargaining unit depends upon the person's actual function and, for the advanced nursing care or nursing instruction bargaining unit, the additional requirement that the functions at issue be performed by a nurse practitioner.

The Board is also familiar with the variety of professional qualifications and accreditation requirements in the industry. The Board has considered the community of interest created by such professional relationships in setting up the five standard units. However, with the exception of the advanced nursing care and nursing instruction bargaining unit noted above, the basis of these units is not professional accreditation. A person in one unit may have professional qualifications similar to those held by other persons in a different bargaining unit. This is because the Board includes a person in the appropriate unit according to their actual job duties. The Board only considers professional qualifications where there are prerequisites for the position, or unless otherwise required by the *Regulation*. See: *Bulletin 22*; *UNA v. AHA et al.* [1986] *Alta. L.R.B.R.* 610; *UNA 176 v. Central Park Lodges Ltd.* [1996] *Alta. L.R.B.R.* 428; *HSA v. Misericordia Hospital* [1995] *Alta. L.R.B.R.* 533; *AUPE and HSAA v. Capital Health Authority* [2006] *Alta. L.R.B.R.* 70.

### **Boundaries of the Unit**

In the non-AHS hospital and nursing-home industry, employers may operate more than one site. In these cases, unions apply for a standard bargaining unit at a site or combination of sites that makes sense to group together.

In a successorship or reconsideration matter affecting the continued appropriateness of the bargaining unit, the Board presumes a unit remains appropriate unless evidence to the contrary is presented. While it may determine that a unit remains appropriate, the Board may amend the unit description to reflect the new circumstances.

### **Bargaining Unit Descriptions**

The standard unit descriptions the Board uses for non-AHS hospital and nursing homes appear below. The quotation contains the standard unit description. A brief description of the categories of employees **normally** found in the unit follows. See: *Bulletins 9, 21*; *Discussion Paper: Geographic Boundaries* [1997] *Alta. L.R.B. DP-004*; *HSAA v. Calgary Regional Health Authority et al.* [1997] *Alta. L.R.B.R.* 549.

#### *Direct Nursing Care or Nursing Instruction*

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This unit includes all those employees for whom nursing training is a prerequisite. It applies to those employed in nursing care or instruction in nursing care. The unit could contain graduate and registered nurses, psychiatric nurses and nursing instructors when instructing.

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*See also:*

Information Bulletins 6, 8, 9 and 21 Rules of Procedure

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