

O.C. 143/2003

A.R. 80/2003

March 31, 2003

The Lieutenant Governor in Council makes the Regional Health Authority Collective Bargaining Regulation set out in the attached Appendix.

For Information only

Recommended by: Minister of Human Resources and Employment

Authority: Labour Relations Code (section 162.1)

## **A P P E N D I X**

### **Labour Relations Code**

### **REGIONAL HEALTH AUTHORITY**

### **COLLECTIVE BARGAINING REGULATION**

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## *Definitions*

### **1 In this Regulation,**

- (a) "Act" means the *Labour Relations Code*;
- (b) "community health agreement" means a collective agreement that applies to employees in a community health bargaining unit established
  - (i) by a certificate issued by the Board, or
  - (ii) by the collective agreement;
- (c) "contested" means that no single trade union or group of trade unions affiliated with the same parent trade union represents a qualifying majority of employees in the region-wide functional bargaining unit;
- (d) "eligible type of collective agreement" means the following types of collective agreement:
  - (i) a community health agreement;
  - (ii) a mental health agreement;
  - (iii) a facilities agreement;
- (e) "facilities agreement" means a collective agreement other than a community health agreement or mental health agreement;
- (f) "mental health agreement" means a collective agreement that applies to employees who were employed by the Alberta Mental Health Board prior to March 31, 2003;
- (g) "qualifying majority" means at least 80% of the employees in a region-wide functional bargaining unit;
- (h) "region-wide functional bargaining unit" means a bargaining unit referred to in section 2;

(i) "uncontested (multiple locals)" means that a qualifying majority of employees in the region-wide bargaining unit is represented by a group of trade unions affiliated with the same parent trade union but no single affiliated trade union represents a qualifying majority;

(j) "uncontested (single trade union)" means that a qualifying majority of employees in a region-wide functional bargaining unit is represented by one trade union.

### *Region-wide functional bargaining units*

**2 Bargaining units for employees of a regional health authority shall consist of all employees in the health region who are represented by a bargaining agent and are employed in one of the following functional groups:**

- (a) direct nursing care or nursing instruction;
- (b) auxiliary nursing care;
- (c) paramedical professional or technical services;
- (d) general support services.

### *Designation of bargaining agents and agreements*

**3 The Board shall designate one bargaining agent and one receiving collective agreement for employees in each region-wide functional bargaining unit in accordance with this Regulation.**

### *Selection of eligible type of agreement*

**4(1) The Board shall, in accordance with this section, determine the eligible type of collective**

**agreement from which a receiving collective agreement for each region-wide functional bargaining unit will be selected.**

(2) The Board may require a regional health authority to provide to the Board, in a form acceptable to and within a time prescribed by the Board, a return showing the names of or numbers of its employees in the health region who are bound by a subsisting collective agreement on April 1, 2003.

(3) Where a regional health authority fails to provide the return, the Board may use any information as to numbers of employees that it considers appropriate for the purposes of this section.

(4) The Board shall determine the numbers of employees in the health region who are bound by each eligible type of agreement on April 1, 2003.

(5) The Board shall identify the eligible type of collective agreement that is applicable to the largest number of employees in each region-wide functional bargaining unit on April 1, 2003 and shall designate that agreement as the eligible type of collective agreement from which the receiving collective agreement will be selected.

(6) For purposes of this section, a person is an employee bound by an eligible type of collective agreement if the person

(a) is employed in a bargaining unit governed by such an agreement on April 1, 2003, and

(b) worked in that bargaining unit at any time in the period from March 1 to March 31, 2003.

*Determination of bargaining units*

**5 The Board shall, with respect to each region-wide functional bargaining unit, determine whether the unit is uncontested (single trade union), uncontested (multiple locals) or contested.**

*Determination re uncontested (single trade union) cases*

**6(1) Where a region-wide functional bargaining unit is determined to be of the uncontested (single trade union) type,**

- (a) the Board shall designate the trade union or local representing a qualifying majority of the employees in the bargaining unit as bargaining agent,
  - (b) if a qualifying majority of employees in the bargaining unit is governed by one collective agreement, the Board shall designate that collective agreement as the receiving collective agreement for employees in the bargaining unit, and
  - (c) if no single collective agreement governs a qualifying majority of employees in the bargaining unit, the Board shall select the collective agreement that will be the receiving collective agreement by means of a vote among employees in the bargaining unit as to which collective agreement they desire.
- (2)** For the purposes of a vote referred to in subsection (1), the collective agreements are the 2 collective agreements applicable to the largest number of employees in the bargaining unit.
- (3)** The Board shall designate the collective agreement selected by a majority of employees who vote as the receiving collective agreement for the employees in the bargaining unit.
- (4)** The collective agreement that is designated by the Board under subsection (3) must be a collective agreement of the type designated by the Board as an eligible type of collective agreement for that region-wide functional bargaining unit under section 4(5).

*Determination re uncontested (multiple locals) cases*

**7(1) Where a region-wide functional bargaining unit is determined to be of the uncontested (multiple locals) type,**

(a) the Board shall designate the affiliated trade unions of the parent trade union that together represent a qualifying majority of employees in the bargaining unit as a group of trade unions and shall name the trade unions in the group as joint bargaining agents, and

(b) the Board shall select the collective agreement that will be the receiving collective agreement by means of a vote among employees in the bargaining unit as to which collective agreement they desire.

(2) For the purposes of a vote referred to in subsection (1), the collective agreements are the 2 collective agreements applicable to the largest number of employees in the bargaining unit.

(3) The Board shall designate the collective agreement selected by a majority of employees who vote as the receiving collective agreement for the employees in the bargaining unit.

(4) The collective agreement that is designated by the Board under subsection (3) must be a collective agreement of the type designated by the Board as an eligible type of collective agreement for that region-wide functional bargaining unit under section 4(5).

(5) Where the Board names a group of trade unions as joint bargaining agents under subsection (1)(a) the Act applies to the joint bargaining agents with respect to the settlement of disputes and the administration of the collective agreement as if they were a single trade union.

*Determination re contested cases*

**8(1) For the purposes of this section, the Board shall consider trade unions affiliated with the same parent trade union to be a single trade union.**

(2) Where a region-wide functional bargaining unit is determined to be of the contested type, the Board shall determine which trade unions are eligible trade unions to be selected by employees in the bargaining unit as their bargaining agent.

(3) For the purposes of subsection (2), a trade union is eligible to be selected by employees in the bargaining unit as their bargaining agent if, on April 1, 2003, it represents more than 20% of employees in the region-wide functional bargaining unit.

(4) The Board shall require each eligible trade union to nominate the collective agreement that it proposes to be the receiving collective agreement if it is selected as the employee bargaining agent.

(5) An eligible trade union shall nominate its proposed receiving collective agreement from between the 2 collective agreements, if 2 agreements exist, to which the eligible trade union is a party and that are applicable to the largest number of employees in the bargaining unit.

(6) If an eligible trade union fails to nominate a proposed receiving collective agreement, the Board shall designate the collective agreement to which the eligible trade union is a party and that is applicable to the largest number of employees in the bargaining unit as that eligible trade union's proposed receiving collective agreement.

(7) After all eligible trade unions have nominated their proposed receiving collective agreement, the Board shall determine the employee bargaining agent and receiving collective agreement by means of a vote among employees in the bargaining unit.

(8) The Board shall designate the trade union selected by a majority of employees who vote as the bargaining agent for employees in the bargaining unit.

(9) The Board shall designate the successful trade union's proposed receiving collective agreement as the receiving collective agreement for employees in the bargaining unit.

(10) The collective agreement that is designated by the Board under subsection (9) must be a collective agreement of the type designated by the Board as an eligible type of collective agreement for that region-wide functional bargaining unit under section 4(5).

(11) Where the successful trade union consists of 2 or more trade unions considered to be a single trade union under subsection (1), the Board shall designate the trade unions as a group of trade unions and shall name the trade unions in the group as joint bargaining agents.

(12) Where the Board names a group of trade unions as joint bargaining agents under subsection (11), the Act applies to the joint bargaining agents with respect to the settlement of disputes and the administration of the collective agreement as if they were a single trade union.

### *Special exercise of Board powers*

## **9 In exercising its powers under section 46 or 48 of the Act for purposes of this Regulation, the Board may**

(a) declare which trade union or group of trade unions is the bargaining agent on behalf of employees in a region-wide functional bargaining unit,

(b) declare whether an employer, trade union or group of trade unions is bound by proceedings under the Act and the extent to which those proceedings are binding upon it, and

(c) issue, amend or revoke any certificate issued to any trade union

before the regional health authority and the bargaining agent have negotiated amendments to the receiving collective agreement as required under section 11.

*Conduct of votes*

**10 The Board shall conduct all votes for the purposes of this Regulation and, for those purposes the Board may**

- (a) by rule or otherwise prescribe all procedural matters respecting votes,
- (b) make rules that are not inconsistent with this Regulation respecting eligibility of employees to vote in any vote, and
- (c) determine questions of voter eligibility in a vote.

*Duty to bargain*

**11 Within 30 days after the Board has designated a bargaining agent and a receiving collective agreement in respect of each region-wide functional bargaining unit, the regional health authority and the bargaining agent shall meet and commence to bargain collectively in good faith and make every reasonable effort to negotiate amendments to the receiving collective agreement so that the resulting amended agreement contains terms and conditions of employment for all employees in the region-wide functional bargaining unit.**

*Joint bargaining agents - rules and procedures*

**12(1) Where the Board has named the trade unions in a group of trade unions as joint bargaining agents for employees in a region-wide functional bargaining unit, the trade unions in the group shall forthwith establish rules and procedures for the administration of the certificate, collective bargaining in respect of that certificate and the administration of any collective agreements entered into with the regional health authority.(2) If a group of trade unions fails to establish adequate rules and procedures as required under subsection (1), the Board may, on application, establish those rules and procedures and the rules and procedures so established are binding on each trade union within the group of trade unions.**

#### *Complaints*

**13 A trade union, a group of trade unions or a regional health authority may make a complaint in writing to the Board that there has been a failure to comply with section 11, and the Board may hear and adjudicate such a complaint as if it were a complaint in respect of non-compliance with section 60 of the Act.**

#### *Appointment of special officer*

**14 At any time after bargaining has commenced under section 11, either or both parties to bargaining may make a request to the Board for assistance in the negotiation process, and the Board may appoint any person as an officer of the Board to inquire into the dispute and endeavour to effect a settlement.**

*Board may make award*

**15(1) Where the parties are unwilling or unable to negotiate an amended receiving collective agreement as required by section 11, the Board shall make an award with respect to all issues in dispute, and that award shall be binding on the parties to the dispute and shall be included in the terms of the receiving collective agreement.**

(2) In making an award under subsection (1), the Board may adopt any procedure that it considers appropriate and, in addition to its powers under the Act, it may exercise any of the powers of a compulsory arbitration board under Part 2, Division 16 of the Act.

*Effect of agreement*

**16 Where the parties negotiate amendments to the receiving collective agreement as contemplated under section 11 or where the Board makes an award under section 15, the resulting agreement is a collective agreement that is in force for the purposes of the Act.**

*General power*

**17 In exercising its powers and carrying out its duties under this Regulation, the Board may conduct any inquiries, make any rules, require the provision of any information and determine any questions that it considers necessary.**

*Extension of time*

**18 Where this Regulation or an order of the Board requires that anything be done within a certain period of time the Board may, on application or of its own motion and whether before or after the expiry of the period, extend the period where the Board considers it appropriate to do so.**

*Severance and termination pay*

**19(1) In this section, "change in governance or restructuring" with respect to a prescribed entity includes**

(a) a change in the boundaries of the prescribed authority,

(b) a prescribed entity's ceasing to exist,

(c) a transfer of the responsibility for all or part of the operations of a prescribed entity from one prescribed entity to another, or

(d) a merger or amalgamation of 2 or more prescribed entities.

**(2)** This section applies only in respect of employees who are represented by a bargaining agent.

**(3)** Notwithstanding any other enactment or the terms of a collective agreement, where there is a change in governance or a restructuring of one or more prescribed entities, no employee of any of the entities is entitled to severance pay or termination pay or other compensation if the employee's position is substantially the same after the change in governance or restructuring as it was before it.

**(4)** Nothing in this section precludes an employer from voluntarily giving an employee or former employee severance pay or termination pay or other compensation.

*Transitional - existing agreements*

**20 A collective agreement that is in force on April 1, 2003 continues in force and binds the regional health authority, the bargaining agent or agents and the employees until a receiving collective agreement comes into force by virtue of the operation of section 16.**

*Board's duty*

**21 The Board shall exercise its powers and carry out its duties under this Regulation as soon as is practically possible.**

*Expiry*

**22 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on March 31, 2008.**

*Coming into force*

**23 This Regulation comes into force on April 1, 2003.**