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May 21, 2020

**Via Email**

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

**Attention: Tannis Brown, Director of Settlement**

**RE: An Unfair Labour Practice Complaint and Application for an Interim and a Permanent Order pursuant to article 3 (c), (d) and (e) of Ministerial Order No. 2020-26 and s.16 of the *Labour Relations Code* (the “Code”), brought by the Alberta Union of Provincial Employees (hereafter the “Union” or “AUPE”) affecting CBI Home Health (AB) Limited Partnership (hereafter the “Employer” or “Respondent” or “CBI”) alleging violations of articles 3 (a) (ii) of the Ministerial Order and an application for a Directive from the Board pursuant to s. 17.**

***APPLICATION FOR CEASE AND DESIST ORDER-URGENT MATTER***

***INTRODUCTION:***

*This is an urgent application on behalf of the Union pursuant to article 3 (c), (d) and (e) of Ministerial Order No. 2020-26 and section 16 (1) of the Code for relief in respect of imminent or present violations of Ministerial Orders 22-2020 and 26-2020. Due to the seriousness and urgency of the issues as well as the special need to avoid labour discord during the present pandemic we request an expedited hearing to be scheduled within the next 48 hours.*

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G. Smith President	J. Heistad Executive Secretary-Treasurer	M. Dempsey Vice-President	K. Barry Vice-President	B. Borodey Vice-President	B. Gostola Vice-President	S. Slade Vice-President	K. Weiers Vice-President
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## 1. The Applicant:

**Alberta Union of Provincial Employees (“Union”)**  
**10451 – 170 Street**  
**Edmonton, AB T5P 4S7**  
**Phone: (780) 930-5214, Fax: (780) 930-3392**  
**Contact Person: William Rigutto, Union Representative (counsel)**

## 2. The Respondent:

**Mr. Jaimin Patel**  
**Human Resources Specialist**  
**CBI Home Health – AB**  
**200 – 2912 Memorial Drive SE**  
**Calgary, Alberta T2A 6R1**  
**Ph: (403) 232-8770 ext. 23878; C: (403) 990-5316**  
**japatel@cbi.ca**

## 3. Sections of the *Code and the Ministerial Orders* relied upon for this Complaint:

In support of this application AUPE relies upon **sections 16, 17 (1) of the Code and Articles 3 (a) (ii), 3 (c), (d) and (e) of Ministerial Order No. 2020-26.**

## 4. Particulars of the Complaint:

1. The Union was certified by the Board to be the bargaining agent for all of the employees employed by CBI Home Health- Edmonton under the following Certificate: **23-2015.**
2. Agnes Dulin, Mary Jean Lethune, Teresa DeJesus, Rachel Darkoa and Zosima Gawaare are regular employees of CBI with regular lines in health care aid positions. Further to CMOH-10 they chose to work exclusively for their other concurrent employer during the life of the present Public Health Emergency.
3. CBI has refused to grant these employees an unpaid leave of absence with a guarantee that when the pandemic is over such employees would be entitled to return to their original status and lines and hours.
4. In fact CBI has explicitly stated that it is not obliged to comply with any part of **Article 3 (a) (ii) of MO-26-2020.** CBI has refused to comply with **Articles 3 (a) (ii)** in respect of Agnes Dulin, Mary Jean Lethune, Teresa DeJesus, Rachel Darkoa and Zosima Gawaare and any other of its employees. Instead CBI has advised

that when such employees return from the COVID wars that they will be rewarded instead with lost status and irregular casual hours.

5. This flagrant violation of MO-26-2020 has caused to these vital and already stressed health care workers an enormous amount of pressure and uncertainty while they put their physical health on the line each and every day.
6. Considering that the employer's action is outrageous and flagrant in its timing, design and violation of the Code and considering the immediate effect such actions are having on the morale of these health care workers, thereby jeopardizing the labour peace that is especially vital now in this time of pandemic, it is extremely urgent that an expedited hearing be held as soon as possible.

### 5. Remedies Sought:

**THE UNION IS SEEKING AN INTERIM RELIEF ORDER FORTHWITH. FURTHER THE UNION ASKS THAT THE BOARD FORTHWITH SCHEDULE A HEARING TO HEAR THE MERITS OF THE FULL APPLICATION WITHIN 48 HOURS OF THE FILING OF THIS APPLICATION.**

1. A Declaration that the Respondent has violated the aforementioned sections of **Ministerial Order 26-2020** and that such declaration be posted throughout the worksite in visible locations accessible to all employees, and also posted on the Respondent's websites;
2. An Order that the Respondent immediately cease and desist its violations of **Ministerial Order 26-2020**;
3. An Order and Directive that the Respondent immediately provide Agnes Dulin, Mary Jean Lethune, Teresa DeJesus, Rachel Darkoa and Zosima Gawaare and every one of its employees who choose to work during the pandemic exclusively for a concurrent employer with the following:
  - A. Place the employee on an unpaid leave of absence.
  - B. Issue the employee a Record of Employment.
  - C. Maintain the employee's group and pension benefits if any, and,
  - D. Allow the employee to return to work to the same position or positions previously held within a reasonable period of time after CMOH Order 10 is no longer in effect.
4. That the Board sends a copy of the above Declaration, Orders and Directives to each and every employee;

5. That the Board reserve jurisdiction and the rights of the Union and its members on any and all matters regarding the implementation of the above noted directives; and
6. Such further and other remedies as the Board may deem proper under the circumstances in order to make the affected Employees whole.

A copy of this application/complaint has been forwarded to all parties involved as set out in the contact information below.

Please address all responses to William Rigutto, Union Representative (Counsel) 780-982-1255 or by email at [b.rigutto@aupe.org](mailto:b.rigutto@aupe.org).

Sincerely,



Jim Petrie,  
Director of Labour Relations

/rg/AULReP

c.c. Mr. Jaimin Patel, CBI Home Health – AB  
William Rigutto, Union Representative (Counsel)