

dialogue

February 14, 2008

A bi-weekly update on issues
affecting health care in Ontario

Amended legislation covers wide range of change in health care – OLRB

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A landmark labour board decision last month will likely have repercussions on the rights of health care workers to carry their collective agreements with them when transferring to new employers with their former work.

The Ontario Labour Relations Board ruled January 10th that the Public Sector Labour Relations Transition Act (PSLRTA) applies in the case of the Ottawa Fertility Clinic, which had transferred in June 2006 from The Ottawa Hospital (TOH) to a private stand-alone facility run by a group of doctors.

The original clinic was a division of TOH, offering a range of reproductive medicine services delivered on a fee-for-service basis by a group of physicians. These physicians were not hospital employees, but the clinic was served by other professional and support staff from the hospital which were represented by the Ontario Nurses Association (ONA), the Canadian Union of Public Employees (CUPE) and OPSEU. In addition to the staff, the hospital also contributed space and equipment in return for 50 per cent of the revenue billed from the clinic.

Needing more space, the doctors eventually moved the clinic to a stand-alone facility, purchasing from the hospital the clinic's equipment.

Some of the former fertility clinic staff migrated to take 21 of 52 new jobs at the re-opened private facility. The remaining workers from the clinic exercised their seniority rights at TOH

and took different jobs within the hospital. The 21 who did transfer with their work were treated as new employees, carrying no entitlements.

ONA, CUPE and OPSEU argued that ending assisted fertility treatment at TOH and transferring those same services to The Ottawa Fertility Centre Inc. — with the same physicians, staff and patients — fell within the broad definition of “health service integration” under PSLRTA.

In the ruling, Mary Ellen Cummings of the Ontario Labour Relations Board, wrote “in my view, ‘health services integration’ is defined so broadly that it will capture a wide range of changes in the provision of health services.” She went on to state “the PSLRTA was designed to provide mechanisms to manage the labour relations consequences of the changes in the delivery of health care as they arise in a wide range of contexts.”

The Board recognized that the refusal of the new employer to recognize a union's bargaining rights was sufficient labour relations harm to cause the labour board to apply the act.

While the ruling does not spell out a remedy, the parties will be getting together to negotiate next steps as the three unions claim their bargaining rights.

Introduced in 1997, PSLRTA establishes a framework for ensuring successor rights and the continuation of collective agreements following a restructuring. It also provides a process for resolving the first post-

restructuring collective agreement. When the province introduced its LHIN legislation, Bill 36 amended PSLRTA to make it permanent and expand its scope to cover a wider range of restructuring initiatives within the health sector, including partial integrations between health service providers.

After amalgamation of the Community Care Access Centres in January, 2007, PSLRTA was used to facilitate run-off votes to determine representation.

Given the fertility clinic ruling, labour will be further testing the PSLRTA application as health services continue to be shuffled under the LHINs and other government initiatives.

News in Brief

EORLA releases review of business plan

The third party review of the Eastern Ontario Regional Lab Association (EORLA) business plan was posted publicly by the Champlain LHIN. OPSEU had previously been denied access to the document and was appealing through the Freedom of Information Office. The review suggests that merging 16 hospital labs into one super system may cumulatively save \$14 million after 10 years, or perhaps cost \$11 million more than the status quo. The plan also calls for one central microbiology lab, a reduction in overall full-time equivalents, and, of course, new management positions.