

Unions' Framework Agreement of August 5, 2014

Employer Comments: August 20, 2014

It is important at the outset to emphasize, as we did in our meeting of August 5, that our role in these discussions is not to make a decision about the proposed structure being put forward by the unions. Ultimately, this will be a decision for government to make; however, government will likely seek the input of the employers regarding the unions' proposals. Therefore, it is in the spirit of transparency that we will provide you with the input we would also provide government, if it is to ask for our opinion on the Framework Agreement of August 5.

We recognize the significant work done by each of the individual unions in working to reach the compromises required for the Framework Agreement. That said, it is our understanding that, contrary to the recital to the Framework Agreement, the Minister of Health and Wellness did not challenge the unions to propose a collective bargaining model "based on the principle that each Union continues to represent its own members." Rather, the Minister expressed a desire to find a cooperative solution with the unions, provided that such a solution also addressed the employer's issues.

By concentrating on creating a proposed structure in which each union would continue to represent its current constituency, the unions may have failed to consider potential solutions to the current health sector bargaining structure.

From the employers' perspective, the proposal is flawed in five fundamental ways:

1. **The question of the appropriate bargaining unit for LPNs.** From our perspective, the question is with which bargaining unit the LPNs have the greatest community of interest. We see the greatest community of interest lying with the RNs in the Nursing unit. Best practice would suggest that the LPNs should be placed in the appropriate bargaining unit, rather than simply placing them in the unit which currently contains the greatest proportion of LPNs (Framework Agreement, paras. 7 and 8).
2. **Bargaining unit composition generally.** Although the LPNs are the most obvious problem regarding the composition of the four health sector bargaining units, we generally disagree with the process proposed in paras. 7 and 8 of placing classifications in bargaining units based on current majority placement. We feel that the bargaining units should be defined and composed of classifications based on their community of interest, not on accidents of history (which would simply enshrine existing problems).

3. **Enshrining current collective agreements.** Paragraphs 24, 32 and 41 all suggest that the unions' collective goal is to enshrine the current differences between their collective agreements with the new provincial employer. Therefore, while there would only be one collective agreement, it would comprise substantially different terms relating to different employees based on prior collective agreements. In other words, while there may only be one cover, it would, for all intents and purposes, remain multiple collective agreements. Moreover, there are fundamentally different ways of dealing with issues in the collective agreements that would become nonsensical in one collective agreement (e.g., security against lay-offs vs no contracting out that would lead to lay-offs, education premiums vs. special unit premiums, STI vs. accrued sick leave, the Long Assignment/Short Assignment, etc.).
4. **Dysfunctional bargaining.** Paragraphs 24 and 32 also signal that the bargaining process itself would become dysfunctional. Each union may see its own approach to hot button topics as correct, and the other unions' approaches as concessionary. These provisions would require the employer to engage, by default, in multi-party bargaining (albeit, at one table). Although para. 31 of the Framework Agreement provides that majority rule will prevail for the bargaining association, there is no way to trigger a vote or require the association to take a "majority position." Moreover, in the Service bargaining unit, the three unions currently have close to an equal three way representation of members. The potential for deadlock is even greater in that unit. Finally, while para. 33 requires members of the bargaining committee to support and not undermine decisions made in bargaining, there is nothing to hold union leadership accountable.
5. **Mobility issues.** Paras. 37 through 42 address some issues arising from mobility of work in a new, single employer. The document does not address the temporary, short-term, even day to day movement of employees between facilities. Para. 41, however, suggests a strong impediment to mobility.