

Article 4

Article 4 - Union Recognition

Related Articles: 1.02, 6.01, 6.02

Interpretation Guidelines:

Article 4.01 - Union Recognition

1. The Unions who are part of the Nurses' Bargaining Association are the exclusive bargaining agents for all employees working in PCA worksites who are included in the bargaining unit. That means that **the Employer cannot negotiate terms and conditions of employment with individual nurses without the involvement of the Union.**
2. **Individual agreements** are commonly referred to as a "sweetheart deal" and are not recognized as legitimate agreements. An example of an individual agreement is where an Employer gives a position to a nurse without going through the proper posting and selection procedure.

Article 4.02 - Scope of the Agreement

The PCA applies to nurses who belong to any of the Unions (e.g. BCNU, HSA and UPN) who are part of the NBA.

The **Labour Relations Code** sets out the following definition of people who are excluded from Union membership:

- (a) A person who performs the functions of a manager or superintendent; **or**
- (b) A person who is employed in a confidential capacity in matters relating to labour relations or personnel.

The Labour Relations Board (LRB) considers the employee's role in carrying out the following duties as factors in deciding whether a person is functioning as a manager:

- (a) discipline and discharge;
- (b) labour relations input;
- (c) hiring, promotion and demotion.

However each case is decided on its own facts and **the Employer has to prove the excluded managers actually perform the managerial functions** that may be set out in their job description. Typically exclusion disputes arise in new certifications and where the Employer creates new positions.

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Please contact your Labour Relations Officer if you have any questions or concerns about whether an existing or new position should be within the bargaining unit.

Additional References:

Legislation:

Labour Relations Code - Sections 1 (definition of bargaining agent, employee and employer), Section 48 (Parties bound by a collective agreement), Section 49 (Terms of collective agreement to be carried out), Section 139 (Jurisdiction of the Board to decide certain questions)

LRB Decision:

Highland Valley Copper (BCLRB No: 289/98) - This decision crystallizes the Board's policy on managerial exclusions and supervisory units.