

Introduction

The BC Nurses Union takes pride in educating members and providing a variety of resources that we hope will enable BCNU Stewards and Members to fully utilize the rights and benefits of the Provincial Collective Agreement.

THIS MANUAL IS FOR YOU

HOW TO USE IT

This manual has been created with the goal of containing as much information as possible to assist both Stewards and Labour Relations Officers. So as a result it is a big document to carry around. However the good news is that **you can also access the Contract Interpretation Manual through the BCNU website: www.bcnu.org.**

In this manual you will find current Union interpretation of individual articles of the Provincial Collective Agreement as well as references to other resources that include leading Arbitration cases applicable to the particular article(s).

Key points to remember when using this manual:

- **Use the CHECK LISTS provided at the TOOLS tab at the back of the manual - make yourself extra copies- these lists help reduce "missing information" worries**
- **When checking the manual for an interpretation collect a few relevant facts about the issue first e.g. employee status - Is the member a regular full time, part-time or casual status employee?)**
- **Check and review the "related articles" listed in the shaded area at the beginning of each article. These cross referenced articles may directly impact each other and are always worth reading as they increase understanding. Arbitrators often say that articles have to be read in context with other provisions of the collective agreement.**
- **Read the entire article, it is a common error to read only the paragraph or phrase related to an issue (managers often read only selected parts of an article, resulting in misunderstanding, the interpretation of the language)**
- **Keep in mind a collective agreement is a document created between the Employers and the union to facilitate and improve employment relationships.**
- **Read the definitions in Article 1. Managers and BCNU members often overlook article 1.02 of the PCA, these definitions clarify terms such as "definition of a day" that has been misunderstood in the past.**
- **Don't forget to check the many appendices and memoranda at the back of the Provincial Collective Agreement. You will find information regarding Long Term Disability, Pension, Early Safe Return to Work, Occupational Health and Safety, and many memoranda that may impact the provisions in the main part of the PCA.**

Introduction

- As you will have noticed this is a very big document, so if you should stop being a BCNU Steward, please pass it along to the Steward taking your place.

BECOME FAMILIAR WITH THE COLLECTIVE AGREEMENT:

The collective agreement is intended to reflect the understanding reached at the bargaining table through negotiations.

Keep in mind that the Purpose of the Agreement as set out in Article 2 is:

“.....to maintain a harmonious and mutually beneficial relationship between the Employer and employees...”

Grievances arise because:

1. Sometimes negotiators fail to agree on language which accurately reflects the intent of the parties.
2. Sometimes arbitrators or government impose language and as a result the Employer and the Union have a different understanding of the intended meaning. For example: Article 27.05 (B) (3) Overtime for regular part-time employees was legislated language. Article 11.04 (F) was imposed through arbitration.
3. Sometimes language is changed in one part of the Collective Agreement and that change is not reflected in the other Articles which may be impacted by the changed language.
4. Sometimes the Employer and the Union have totally opposing views on both the intent and the meaning of the provisions in question.

When reading the collective agreement articles it is helpful to ask yourself questions such as the following:

What was the Union trying to achieve while negotiating the language?

Where is the subject index?

What's in the Appendices?

What is the difference between the scheduling provisions in Article 25 for programs that run 24/7 and those programs that are Monday to Friday day shift only?

How is a community based service defined?

Where in the contract is there language specific to community based service?

The contract is a living document that grows and changes with each new set of bargaining and arbitration decision.

Introduction

Remember: Become familiar with the whole contract. While a clause may seem perfectly clear, its meaning may be altered considerably when read in conjunction with another clause.

Ways to Improve Our Knowledge of the Contract

- ◆ consult it often
- ◆ keep a copy handy at work
- ◆ don't rely on the speculation of others - always look it up
- ◆ don't rely on recollection - always look it up, reading a provision with fresh eyes each time a new situation comes up
- ◆ use the precise terms used by the collective agreement when describing what it says
- ◆ thoroughly familiarize yourself with the table of contents and always use the table of contents to find what you're looking for
- ◆ get to know where provisions are located (i.e. within each section & article)
- ◆ when looking something up, read the entire article
- ◆ when the revised CA is received, carefully review all the changes
- ◆ read entire sections from time to time

The rules of construction:

The following are general rules that are often used by Arbitrators as an aid in interpreting collective agreement language, particularly when the meaning isn't clear on a plain reading of the language:

1. All words used in the collective agreement are intended to have meaning;
2. The words of the disputed provision should be interpreted in the sentence, section and agreement as a whole;
3. Language differences between two provisions must be presumed to be meaningful; and
4. Where a dispute involves a monetary benefit the Union bears the onus to prove that clear language confers the benefit.

In a dispute, Arbitrators typically attempt to determine what the negotiating parties' mutually intended when they agreed to the language in the disputed provision.

Where an arbitrator entertains a bona fide doubt about the parties' mutual intention, the arbitrator is entitled to consider *extrinsic evidence* such as negotiating history, including discussions at the bargaining table and the past practice.

Five Steps of Contract Interpretation

Article:

1. What right does this article provide?
2. Whose right is it?
 - employees
 - employer
 - union/steward
3. What conditions must be met for the right to take effect?
4. How do you "show you've met the conditions? What resources are useful to assist your interpretation/strategy for dealing with the issue?
5. What other articles, legislation/regulations and/or policies affect the implementation of this article?

Article: 6.04(D) Conditions Governing Stewards

1. What right does the article provide?
 - of stewards to perform the duties and responsibilities of stewards
2. Whose right is it?
 - employees
 - employer
 - union/steward
3. What conditions must be met for the right to take effect?
 - the work must fall within the duties outlined in 6.04(C) and other related articles
 - steward must receive prior consent from their supervisor
 - steward must make every endeavour to complete business in as short a time as possible
 - stewards must advise their supervisor of their return
 - stewards shall not interrupt the normal operations of the worksite
4. How do you "show" you have met the conditions?
 - steward log
 - calendar
 - grievance files and notes
5. What resources are useful to assist your interpretation/strategy for dealing with the issue?
 - proof of past practice
 - examples of how union leave is dealt with at other worksites in your Health Authority
 - arbitrations on the issue

6. What other articles, legislation/regulations and or policies affect the implementation of the article?

- 6.04 (A) and (B) - Recognition of Stewards
- 6.04 (C) - Duties and Responsibilities
- 6.09 - New Employees
- 8 - Union/Management Committee
- 9 - Grievances
- 15.04 - Employer Terminations
- 16 - Employee Evaluation
- 31.01 - Joint OH&S Committee

Article: 6.04 (C) Stewards - Duties & Responsibilities

1. What right does this article provide?

Stewards to do Union work while on duty

2. Whose right is it?

- employer
- employee
- union/steward

3. What conditions must be met for the right to take effect?

Duties include:

- investigating urgent complaints
- investigating grievances
- assisting members in preparing and presenting grievances
- supervising ballot box, etc during ratification vote
- attending meetings called by management
- accompanying members to meetings with management where there might be discipline
- meeting and orienting new members
- sitting on union/management committee

4. How do you "show" you've met the conditions? What resources are useful to assist your interpretation/strategy for dealing with the issue?

- proof/description of your activities (e.g., steward log, calendar, union notices, etc.)

What resources are useful to assist your interpretation/strategy for dealing with the issue?

- proof of past practice
- examples of how union leave is dealt with at other worksites in your Health Authority
- arbitrations on the issue

5. What other articles, legislation/regulations and or policies affect the implementation of the article?

- Article 6.04(D) - Conditions Governing Stewards
- Article 6.07 - Personnel File
- Article 8 - Union/Management Committee
- Article 9 - Grievances
- Article 15.04 - Employer Terminations
- Article 32 - Occupational Health & Safety
- Article 59 - Profession Responsibility Clause

The interpretations in this manual are provided on a *without prejudice, errors and omissions basis* to any position Unions in the Nurses' Association of Bargaining Agents may take in any arbitral proceeding or any other forum.