

Ontario Nurses' Association Launching Charter Challenge to Hospital Labour Disputes Arbitration Act

May 15, 2026

The [*Hospital Labour Disputes Arbitration Act*](#) (“*HLDAA*”) applies when a hospital (including a long-term care home and some other healthcare institutions)¹ and the union representing its employees cannot reach an agreement during collective bargaining. *HLDAA* provides for interest arbitration as a final dispute resolution mechanism, as opposed to strike or lock-out.

Recently, the Ontario Nurses’ Association (“*ONA*”) announced a challenge to *HLDAA* on the basis the restriction on the right to strike violates freedom of association under section 2(d) the *Canadian Charter of Rights and Freedoms* (“*Charter*”).

Freedom of Association

In 2015, the Supreme Court of Canada interpreted “freedom of association” under section 2(d) as guaranteeing a *meaningful process of collective bargaining* which may include the right to strike when negotiations break down.² Like all *Charter* rights, freedom of association is subject to “reasonable limits.” The Supreme Court found the right to strike can be limited if the legislation provides for an alternative mechanism to resolve a bargaining impasse, such as interest arbitration.

ONA’s Charter Challenge

ONA represents approximately 68,000 nurses and health-care professionals in hospitals and other healthcare settings. *ONA* has [announced](#) a plan to challenge *HLDAA*, arguing *HLDAA*’s prohibition on striking deprives hospital workers of a meaningful process of collective bargaining. The “tipping point” involved an arbitration decision which did not accept *ONA*’s proposal regarding minimum nurse-to-patient ratios.

Ontario Hospital Association Response

The Ontario Hospital Association (“*OHA*”) has urged *ONA* to abandon its challenge, on the basis that *HLDAA* is necessary to protect patients from unnecessary risk. Patients do not choose when they need

¹ Under *HLDAA* “hospital” means “any hospital, sanitarium, sanatorium, long-term care home or other institution operated for the observation, care or treatment of persons afflicted with or suffering from any physical or mental illness, disease or injury or for the observation, care or treatment of convalescent or chronically ill persons, whether or not it is granted aid out of moneys appropriated by the Legislature and whether or not it is operated for private gain.”

² *Saskatchewan Federation of Labour v Saskatchewan*, [2015 SCC 4](#).

care, and a hospital must always be there for them. Labour disruption of any magnitude in a hospital puts patients at risk.³

What's Next

ONA will make an application to the Ontario court asking the court to declare HLDAA unconstitutional and of no force or effect. The Government of Ontario will defend HLDAA, arguing the legislation:

- has a pressing and substantial objective (*i.e.*, to protect the health and safety of the public by ensuring continuity of hospital and long-term care home services),
- is minimally impairing to meet that objective, and
- is proportionate (*i.e.*, the beneficial effects of HLDAA are proportionate to the impact on the *Charter* right in question).

There are strong arguments that HLDAA is constitutional: hospitals and long-term care homes provide an essential service, a work stoppage of nurses would have serious effects on the health and safety of patients, and HLDAA provides for interest arbitration as a dispute resolution mechanism. We will keep readers apprised.

For more information or for assistance, contact your Sherrard Kuzz LLP lawyer, or info@sherrardkuzz.com.

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³ Kirk LeMessurier, Chief of Communications and Public Affairs at the OHA, see [Ontario Nurses' Association launching constitutional challenge over lack of right to strike](#).