



UNIFOR
theUnion | lesyndicat

National Office
115 Gordon Baker Road
Toronto, ON M2H 0A8

Bureau National
115 chemin Gordon Baker
Toronto (Ontario) M2H 0A8

Jerry Dias
National President
Président national

Renaud Gagné
Quebec Director
Directeur Québécois

Lana Payne
National Secretary-Treasurer
Secrétaire-trésorière nationale

May 3, 2021

The Honourable Peter Bethlenfalvy

President of the Treasury Board Secretariat
Whitney Block, Room 4320, 4th Floor
99 Wellesley St. W.
Toronto, ON M7A 1W3

Via Email Minister.tbs@ontario.ca and
PSPSFGA@ontario.ca

Dear Hon. Bethlenfalvy,

Re: Request for Exemption pursuant to ss. 6(2) and 27 of the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*

We are counsel to Unifor. Unifor represents a significant number of workers in the broader public sector in the province of Ontario. Unifor is the exclusive bargaining agent of approximately 18,155 employees who are affected by the *Protecting a Sustainable Public Sector for Future Generations Act, 2019* (“Act” or “Bill 124”), including: 11,901 members working in healthcare, 3,123 in post-secondary education, 792 in school boards, 2,104 in social services and 235 working at TVO/TFO.

The Act applies to Ornge (formerly Ontario Air Ambulance Corporation) and the employees of Ornge by operation of s. 5(1)6. We are writing to request you enact a regulation pursuant to s. 27 and/or s. 6(2) of the Act to exempt Unifor’s collective agreement with, and/or employees of, Ornge from application of the Act. This request is made without prejudice to any legal challenge being brought by Unifor with respect to the Act.

Pursuant to ss. 6(2) and 27 of the Act, the Minister may exempt any collective agreement and/or employees or classes of employees from application of the Act. Unifor seeks such an exemption for the reasons further set out below. Unifor submits that exempting paramedics employed at Ornge from the application of the Act by regulation is consistent with the Act’s purpose and with ensuring that increases in public sector compensation reflect responsible fiscal management and protect the sustainability of public services. Unifor submits the

exemption is required to facilitate the government's policy objectives of "ending hallway healthcare, putting patients first and ensuring sustainable services for future generations".¹ The *Act* is further unnecessary to achieve the government's objectives of ensuring that increases in public sector compensation reflect the fiscal situation of the province in light of the application of the *Ambulance Services Collective Bargaining Act* and the *Hospital Labour Disputes Arbitration Act* in this sector. Unifor and Orange are best positioned to identify and collectively bargain issues, including compensation, which will help protect the retention of paramedics within Orange and protect the integrity of the Ontario health-care and emergency medical systems as a whole.

THE EMERGENCY MEDICAL SERVICES (EMS) SECTOR IN ONTARIO

Ontario's Emergency Health Services (EHS) system is a series of interrelated land and air emergency medical services and programs designed to provide timely emergency response and pre-hospital care. The Ministry of Health oversees the system.

According to the Ministry of Health:²

Each year, approximately 1.5 million 911 calls come to our ambulance dispatch centres, and land ambulances are dispatched to respond to both 911 and other calls for service. Over 8,800 paramedics and 1,100 ambulance communications officers work to provide front-line life-saving care to Ontarians. 50 municipal ambulance services, six First Nations ambulance services, 22 ambulance communications centres and Orange air ambulance deliver these services to Ontarians across the province.

The *Ambulance Act* provides the framework for the operation and delivery of pre-hospital care in Ontario, including the certification of ambulance service operators (land and air) and regulation of paramedics. Regional base hospitals provide the clinical oversight of the system.

In the late 1990s, the province transitioned key elements of funding and control of ambulance services to the municipalities. The provincial government provides funding to the municipalities through the Land Ambulance Services Grant (LASG) through a 50/50 cost sharing agreement, while additional funding support is provided to northern and rural municipalities through the

¹ Premier's Council on Improving Healthcare and Ending Hallway Medicine, 1st Interim Report: *Hallway Health Care: A System Under Strain* (January 2019) <https://www.ontario.ca/document/healthy-ontario-building-sustainable-health-care-system>; 2nd Report: *A Healthy Ontario: Building a Sustainable Health Care System* (June 2019) <https://www.ontario.ca/document/hallway-health-care-system-under-strain>

In its 2019 Discussion Paper entitled *Emergency Health Services Modernization* the Ontario Ministry of Health stated: "As the Ministry of Health works with our system partners to end hallway health care, **it will be important to involve the organizations that deliver pre-hospital care in meeting that goal.**" https://www.health.gov.on.ca/en/pro/programs/phehs_consultations/docs/dp_emergency_health_services_modernization.pdf

² Ontario Ministry of Health, Discussion Paper: *Emergency Health Services Modernization* (November 2019) at footnote 1

Municipal Partnership Fund. The province also provides 100 percent of funding for certified First Nations paramedic services, air ambulance services (Ornge) and approved costs of ambulance dispatch centres and base hospitals.

Most municipalities provide ambulance services directly, but a small number contract out the service to a third-party provider. Out of the 22 dispatch centres responsible for dispatching Ontario's land ambulances, half are run by the Ministry of Health, while the rest are operated by municipalities, hospitals or locally-based ambulance communications services.

There are three types of paramedics who provide ambulance services:

- Primary Care Paramedics (PCP): who perform basic and some advanced life support procedures.
- Advanced Care Paramedics (ACP): who perform basic and all advanced life support procedures.
- Critical Care Paramedics (CCP): who are additionally trained and provide inter-facility transfers of critically ill patients. Only Ornge and Toronto EMS have these classifications.

ORNGE

Ornge is a particularly unique service provider. Ornge (and formerly Ontario Air Ambulance Corporation) has been the statutory provider of air ambulance services across the province since 2005. It operates as a not-for-profit organization and under a Performance Agreement with the Ministry of Health. It coordinates all aspects of Ontario's air ambulance system, the critical care land transport program, paediatric transport program and the authorization of air and land ambulance transfers between hospitals.

Ornge owns a fleet of aircraft (fixed wing and rotor wing) and land ambulances, and employs Pilots, Paramedics, Dispatchers, Aircraft Maintenance Engineers, and support staff which provide the aforementioned services to Ontario residents. It has the largest air ambulance and critical care ambulance fleet in Canada, operating out of 12 bases across Ontario, and performs approximately 20,000 patient-related transports per year. Ornge serves more than 13 million people over one million square kilometres of land.

Unifor represents approximately 200 paramedics at Ornge. Given the specialized nature of their work and unique working conditions, Ornge paramedics require additional sets of skills (compared to land ambulance paramedics), making them some of the most highly skilled emergency medical personnel in the province. In addition to employing Primary Care Paramedics (PCPs) and Advanced Care Paramedics (ACPs), Ornge is one of only two ambulance services, along with the Toronto EMS, that employs Critical Care Paramedics (CCPs). Ornge also has a sub-group of CCPs that specialize in Paediatric Transport.

In his October 31, 2017 interest arbitration award³ between Unifor and Ornge, Arbitrator Tom Hodges acknowledged that this is a unique bargaining unit:

The Union represents a bargaining unit of the highly qualified paramedics working in the most unique conditions in Canada. They respond to demanding medical emergencies and often in the most difficult of situations and locations.

...

Unlike other paramedics, Ornge paramedics perform their duties in a unique airborne workplace. They cannot refuse duty while caring for a child being transferred to Toronto's Children's Hospital or when they are tired after being on duty over 16 hours. They cannot refuse to take new assignments which can reasonably be projected to keep them on duty over 14 hours, while other rested employees are available. They are not permitted to challenge or object to assignments. They are entitled to a safe workplace free of consecutive shifts of excessive hours. Providing such protection in collective agreements must be carefully considered.

The *Protecting a Sustainable Public Sector for Future Generations Act, 2019* ("Act" or "Bill 124") applies wage restraints inconsistently to the emergency medical services / ambulance sector in Ontario. Under the Act, Ornge paramedics are subject to the 1% wage and total compensation restraints while the rest of the sector is exempt (save for a small handful of paramedic units operating out of hospitals), despite providing the same type of services in some of the most challenging conditions in the province.

COVID-19 – PANDEMIC

Throughout the first, second and now third wave of the COVID-19 pandemic in Ontario, Ornge paramedics have been providing critical services to thousands of gravely ill Ontarians. Premier Ford has referred to Ornge paramedics as "heroes".⁴

In February 2021, Ornge officially began Operation Remote Immunity. As part of the mission, vaccination teams under the direction of Ornge would travel to 31 northern, remote Nishnawbe Aski Nation communities and Moosonee over three months to deliver and administer the Moderna vaccine to residents.⁵

Ornge pilots and paramedics have also been working tirelessly to ensure that patients across Ontario can be safely transported to potentially life-saving treatment. In recent months, as medical professionals have been working tirelessly to keep up with record-high COVID-19 cases in Ontario, paramedics with Ornge air ambulance have been working around the clock to

³ Unreported decision - Ornge v Unifor Local 2002 (Hodges)(Oct 31, 2017) attached as Appendix "A"

⁴ <https://globalnews.ca/video/7526516/coronavirus-ford-ontario-officials-tour-ornge-facility-observe-logistics-for-vaccine-distribution>

⁵ <https://www.ornge.ca/news-articles/2021/february/vaccination-efforts-accelerate-across-ontario%E2%80%99s-northern-fly-in-communities>

transfer critical COVID-19 patients across the province in order to help manage strained Intensive Care Unit capacity.⁶ Dr. Chris Simpson, an executive Vice-President with Ontario Health praised the work being done by the Ornge paramedics, especially during the third wave of the pandemic, stating it was “Just heroic, you know, 24-7.”

As COVID-19 continues to spread, Ontario’s air ambulance and critical care transport service has been adapting to the healthcare sector’s ever-changing needs. In Ontario’s rural and remote regions, communities often do not have access to the same medical resources as more populous urban areas. In these regions, even one patient with COVID-19 poses a considerable risk to small hospitals and clinics, many of which do not have the ventilators needed for treatment. Many of these communities are also a substantial distance from major regional hospitals and tertiary care centres and some of the remote Indigenous communities are only accessible by air. Ornge makes an immense impact in these areas, transporting hundreds of sick patients across Ontario, many of which require specialized care.⁷

Despite the enormous contribution Ornge paramedics make to the health and wellbeing of Ontario residents on an everyday basis, and in particular in these unprecedented and extraordinary times, the *Act* prevents these heroes from bargaining appropriate wage increases and working conditions with the result that the wage rates of Ornge paramedics will lag behind their counterparts.

BARGAINING IN ONTARIO’S EMERGENCY MEDICAL SERVICES (EMS) SECTOR

Unionized employees in the emergency medical services (EMS) sector in Ontario are governed under the *Ambulance Services Collective Bargaining Act* (“ASCBA”) or the *Hospital Labour Disputes Arbitration Act* (“HLDAA”). Where ambulance services are maintained by municipalities and contractors, the ASCBA requires the parties to negotiate essential ambulance services agreements prior to a work stoppage. The ASCBA applies to air ambulance services and Ornge. The ASCBA states that a party may apply to the Ontario Labour Relations Board for a declaration that the essential ambulance services agreement deprives it of a meaningful strike or lockout. In making its determination, the Board may consider a number of options including amending the essential ambulance services agreement, directing the parties to continue negotiations or directing the parties to confer with a mediator. The Board may also order that the matters in dispute be submitted for binding arbitration.

Pursuant to the ASCBA, the Board of Arbitration is subject to statutory criteria that ensure consideration of financial sustainability and the government’s funding and fiscal circumstances. In awarding terms of a collective agreement, interest arbitrators must consider the following criteria set out in s. 21(2):

- (a) The employer’s ability to pay, in light of its fiscal situation;

⁶ <https://globalnews.ca/news/7784713/covid-ornge-ontario-hospitals-patient-transportation/>

⁷ https://www.globalheroes.com/health-equity-in-motion/?fbclid=IwAR15Iocr37r5hft0rlp_c9zQl5S0FeYSF3j4_AqZL0pitKaQZ0geWPCi_c

- (b) The extent to which services would have to be reduced in light of the decision, if current funding and taxation levels are not increased;
- (c) The economic situation in Ontario and in the municipality where employees in the bargaining unit provide services;
- (d) A comparison, as between the employees in the bargaining unit and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed;
- (e) The employer's ability to attract and retain qualified employees;
- (f) The purposes of the *Public Sector Dispute Resolution Act, 1997*;
- (g) A comparison of the cost of providing ambulance services through members of the bargaining unit with the cost of providing those services through;
 - i. in the case of a public sector employer, employees who work for private sector providers of ambulance services, or
 - ii. in the case of a private sector employer, employees who work for other private sector providers of ambulance services.

The *ASCBA* does not apply to ambulance services operated by one of Ontario's hospitals. In this case, employees are covered by the *HLDA*. Other unionized health care workers covered under *HLDA* include those working in hospitals, long-term care and retirement homes. *HLDA* prevents these employees from engaging in strike action and where parties are unable to freely conclude a collective agreement in bargaining, they must proceed to binding interest arbitration.

Pursuant to *HLDA*, the Board of Arbitration is subject to statutory criteria that ensure consideration of financial sustainability and the government's funding and fiscal circumstances. In awarding terms of a collective agreement, interest arbitrators must consider the following criteria set out in s. 9(1.1):

1. The employer's ability to pay in light of its fiscal situation;
2. The extent to which services may have to be reduced, in light of the decision or award, if current funding and taxation levels are not increased;
3. The economic situation in Ontario and in the municipality where the hospital is located;
4. A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed; and
5. The employer's ability to attract and retain qualified employees.

As noted above, in awarding terms of a collective agreement, both *ASCBA* and *HLDA* mandate interest arbitrators to consider "a comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed".

Wage rates for paramedics vary slightly across the province, but as the Table below illustrates, average annual percentage wage increases over the past 5 years in this sector and amongst Unifor paramedic units have ranged from 1.68%-2.47%. This is over the 1% statutorily

mandated wage caps under the *Act* that will now be imposed on Ornge over the 3 year moderation period but is not applicable to other paramedic providers in Ontario.

Year	2018	2019	2020	2021	2022
Average % wage increase (includes settlements and arbitration awards) across the sector	1.74%	1.78%	1.82%	1.68%	1.76%
Average % wage increase (includes settlements and arbitration awards) for Unifor paramedic units	2.47%	2.13%	1.77%	1.83%	1.75%

Further, the Table below illustrates that, at the time the *Act* received Royal Assent in 2019, the top wage rates for Ornge Critical Care Paramedics were already below the average top wage rate for CCPs across the sector.

Classification	Average Top Wage Rate across the sector (2019)	Ornge Top Wage Rate (2019)
Primary Care Paramedic (PCP) - 58 collective agreements	\$39.41	\$40.91
Advanced Care Paramedic (ACP) - 33 collective agreements	\$43.76	\$48.02
Critical Care Paramedic (CCP) - 2 collective agreements	\$55.01	\$54.02

Additionally, when we compare the 2019 Ornge top wage rates to the top wage rates of Toronto EMS paramedics (the group found to be most comparable to Ornge paramedics by arbitrator Hodges⁸), the wage rates of Ornge paramedics in both the Primary Care and Critical Care classifications lagged behind their direct comparator even in 2019. These differences in wage rates will further be exaggerated over the coming years as the *Act's* 1% wage and total compensation restraints apply only to Ornge and not Toronto EMS or the majority of other paramedic operators in the province.

Classification	City of Toronto Top Wage Rate (2019)	Ornge Top Wage Rate (2019)
Primary Care Paramedic (PCP)	\$42.09	\$40.91
Advanced Care Paramedic (ACP)	\$46.41	\$48.02
Critical Care Paramedic (CPC)	\$55.99	\$54.02

⁸ In *Ornge v Unifor Local 2002* (Unreported)(Oct 31, 2017) attached as Appendix "A" arbitrator Hodges stated: "When considering the qualifications of Ornge paramedics, and the extensive data on paramedics wage rates in the province, the most appropriate comparator at this time is Toronto Ambulance. Only Toronto Ambulance has the highest paramedic qualification level, Critical Care Paramedics (CCP), similar to those of Ornge."

In the last 5 years, general wage increases (established through interest arbitration and negotiations) for Unifor's Ornge paramedics have been as follows:

- Nov 1, 2015: 1.5% across the board
- Nov 1, 2016: 1.6% across the board
- Nov 1, 2017: 1.6% across the board
- Jan 1, 2018: additional 2% for CCP only
- Nov 1, 2018: 4% for PCP & ACP
2% for CCP
- July 1, 2019: 1.85% across the board

Unifor Local 2002 and Ornge are currently in bargaining for a new collective agreement. The *Act* will now ensure that Ornge's highly skilled paramedics will receive lower wage increases than other paramedics in the province such as those working at Toronto EMS. As Toronto EMS paramedics are municipally employed, they are excluded from the application of the *Act*. The *Act's* 1% wage restraints will also ensure that Unifor is unable to negotiate general wage increases in line with increases it bargained in the past for this group and in recognition given by prior arbitrators to the highly skilled nature of Unifor paramedics' work.

Ornge is one of only a few paramedic services to be included in the *Act*. Other paramedics across the province have bargained and ratified fair collective agreements including Unifor members at Superior North Emergency Medical Services in Thunder Bay who recently negotiated 8.5% in wage increases over a four-year term.

Unifor also represents a paramedic bargaining unit whose members are employed by the District of Sault Ste. Marie Social Services Administration Board. These members are also not subject to the *Act's* restraints. In July 2020, Unifor Local 1359 and the District of Sault Ste. Marie reached a Memorandum of Settlement for a collective agreement with a term from April 1, 2020-March 31, 2023. The parties bargained wage increases of 1.3%, 1.5% and 1.75% along with increases in shift premiums, travel allowance, uniform and safety footwear allowance, vacation, health benefits and other items.

The *Act* however prevents Unifor from obtaining comparable achievements and competitive terms and conditions for Ornge paramedics to similarly situated employees in the marketplace.

WHY EXEMPTION IS NEEDED

Ornge is one of only a small number of paramedic units to which the *Act* applies

Most EMS services in Ontario are not covered by the wage restraint legislation but Ornge is. This creates the unintended consequence of Ornge not being able to compete to retain

paramedics. An inconsistent approach, and moreover an approach that exacerbates staffing problems in this sector, is not in the public interest.

The *Act* applies wage restraints inconsistently to the emergency medical services / ambulance sector in Ontario. Under the *Act*, Ornge paramedics are subject to the 1% wage and total compensation restraints while the rest of the sector is exempt (save for a small handful of paramedic units operating out of hospitals), despite providing the same type of services in some of the most challenging conditions in the province.

Legislative exemptions not consistently applied in the same sector will have negative unintended consequences not only for Ornge, with staffing problems, but for public safety. Treating differently paramedics in similar organizations creates inconsistencies and disadvantages within the sector. A patchwork of inclusion and exclusion will result in differential treatment among the EMS providers providing similar care to patients in the same sector. This is not in the interest of Ontarians, and in particular the most vulnerable 'critical care' patients Ornge services. The *Act* did not intend to affect Ornge's ability to retain paramedics, but it will have that unintended consequence if the *Act* differentiates between EMS providers. Unifor is requesting an exemption for its collective agreement with Ornge and/or Ornge paramedics from application of the *Act*. In this way the government policy objective of ending hallway medicine could be better achieved in a fair and equitable manner so that Ornge is treated the same as their EMS counterparts and in a manner that "protects the sustainability of public services".

Retention Problems and Viability of Sector

ASCBA and *HLDA* mandate interest arbitrators consider other factors, such as a workplace's ability to "attract and retain qualified employees". This factor is especially relevant for the health care and EMS sector bargaining in 2021 in the context of longstanding staff shortages exacerbated by the COVID-19 pandemic. The *Act* prevents these factors from being considered in both collective bargaining and at interest arbitration.

At the time Bill 124 was first introduced in June 2019, Ontario was already experiencing a health care crisis. The crisis has only gotten worse with the COVID-19 pandemic and since the law obtained Royal Assent in November. A January 2019 Report of the Premier's Council entitled *Hallway Health Care: A System under Strain*⁹ sets out the systemic problems in the province's hospitals including lack of beds, unsafe and extremely long wait times for care, staffing shortages and health care provider burnout. One of the key findings of this Report was that the Ontario health care system was facing capacity pressures and it did not have the appropriate mix of services, beds (staffing) or tools to be ready for the projected increase and capacity pressures in the short and long-term. The Report noted that solving hallway health care would not just require adding more beds but would require increasing staffing levels.

⁹ At footnote 1

In its 2019 Discussion Paper entitled *Emergency Health Services Modernization*¹⁰, the Ontario Ministry of Health stated:

As the Ministry of Health works with our system partners to end hallway health care, it will be important to involve the organizations that deliver pre-hospital care in meeting that goal. Ontarians require timely access to Emergency Health Services in a system where these services are effective and integrated. Whether it is a patient waiting on a stretcher to be triaged in the emergency department, a senior waiting for transport to an MRI or an accident victim needing lifesaving emergency services by land or air ambulance, high functioning emergency health services in our communities are vital.

In *Under Pressure: A Statistical Report on Paramedic Services in Ontario (2020)*¹¹, the author concluded that emergency medical services in Ontario were a ‘system in crisis’. The Report found that the total volume of emergency calls in Ontario was rising, with the highest rate of growth taking place in the category of calls that demanded the most urgent response while the number of scheduled hours for ambulances was not keeping pace with the increasing call volume. Paramedics were also found to be experiencing increasing delays when it comes to transferring patients to the care of hospitals. As a result of these twin pressures of increasing call volume and offload delays, the Report noted that too often, ambulance coverage in Ontario was “critically low, putting the health and safety of Ontario residents at risk”. The Report further noted that also as a result, paramedics were being called upon to miss breaks and work increasing rates of overtime in order to provide desperately needed services which has also led to an increase in workplace illnesses and injuries.

Collective bargaining for paramedic compensation and improved working conditions is an important element of addressing retention and associated quality of care and public safety issues in the health-care and EMS sectors. Allowing Unifor to negotiate fair wage rates and shape working conditions without restraint through free collective bargaining will encourage these highly specialized and experienced paramedics to stay with Ornge which will in turn ensure the health-care and EMS sectors that are under threat are not further compromised.

If Ornge paramedics are not excluded from application of the *Act*, this will have the unintended effect of making retention of staff more difficult for Ornge and the working conditions for those who stay worse. Depressed wages and benefits will impair the ability of Ornge to attract highly specialized paramedics and will further contribute to the health care and EMS crisis in Ontario.

Imposing wage restraints in only a small subset of the ambulance sector limits incentive for paramedics to work in these workplaces and in areas of the province where they are most needed. A paramedic could be paid higher, with better benefits, by leaving Ornge and not serving the smaller communities, and going to larger centres and municipal EMS services not restricted by the *Act*.

¹⁰ At footnote 1

¹¹ *Under Pressure: A Statistical Report on Paramedic Services in Ontario* by Chandra Pasma (CUPE)(March 2020)
https://cupe.ca/sites/cupe/files/paramedic_report_final.pdf

Impact on Patient Safety

Unifor is gravely concerned about the impact the *Act* will have on the quality and availability of air ambulance and critical care services and the corresponding impact on public health and safety, particularly in remote communities. In *Under Pressure: A Statistical Report on Paramedic Services in Ontario*¹², the author concluded that the EMS sector was strained to the breaking point and that EMS services in Ontario were under enormous pressure, putting public safety at risk, and compromising the health and safety of paramedics. This statistical analysis was completed prior to the COVID-19 pandemic. Limiting Ornge's ability to address staffing and scheduling issues among others, through the fundamental incentive of compensation, broadly defined, will deepen staffing shortages, worsen working conditions and negatively impact on patient safety and outcomes.

As aforementioned, throughout the COVID-19 pandemic, Ornge paramedics have been playing a vital role in transporting hundreds of critically ill patients across Ontario. Ornge paramedics have also played an important part in the ability of Ontarians living in remote communities to access COVID-19 vaccines. As also stated above, collective bargaining for paramedic compensation is an important element of addressing retention and associated quality of care and public safety issues in the health-care system and EMS sector. Allowing Unifor to negotiate fair wage rates and shape working conditions without restraint through free collective bargaining will encourage these highly specialized and experienced paramedics to stay employed with Ornge which will in turn ensure the health-care and EMS systems that are under threat are not further compromised.

ASCBA meets objectives of the Act

Unifor submits that the purposes of the *Act* "to ensure that increases in public sector compensation reflect the fiscal situation of the province, are consistent with the principles of responsible fiscal management and protect the sustainability of public services" are already met in the ambulance sector because it is governed by *HLDA* and *ASCBA*. *HLDA* and *ASCBA* impose an interest arbitration mechanism for resolving collective bargaining impasses in the ambulance sector. In resolving disputes between the parties and awarding the terms of a collective agreement, interest arbitrators are statutorily mandated to consider the government of Ontario's economic situation and employer's financial ability to pay, which are entirely consistent and overlapping with the purposes of the *Act*. The application of the *Act* in the ambulance sector is therefore unnecessary and will only serve to deepen the existing crisis in the health care and EMS sectors in Ontario.

Impact on Bargaining

In the last 5 years, general wage increases (established through interest arbitration and negotiations) for Unifor's Ornge members have been 1.5%, 1.6%, 1.6%, 4%, 1.85% (2015-2019).

¹² At footnote 11

The last round of collective bargaining between Ornge and Unifor Local 2002 was extremely difficult and the parties could not agree on many key issues that ultimately had to be resolved through interest arbitration. One of these key issues was wages. Arbitrator Hodges found that the only comparable paramedic bargaining unit was that of Toronto EMS, as they were the only other paramedic bargaining unit in the province which included the highest paramedic qualification level, Critical Care Paramedics, as does Ornge. The arbitrator ultimately awarded wage increases for Ornge to generally align with that appropriate wage comparator.

The *Act* will now ensure that Ornge's highly skilled paramedics will receive lower wage increases than other paramedics in the province such as those working at Toronto EMS. As Toronto EMS paramedics are municipally employed, they are excluded from the application of the *Act*. The *Act's* 1% wage restraints will also ensure that Unifor is unable to negotiate general wage increases in line with increases it bargained in the past for this group and in recognition given by prior arbitrators to the highly skilled nature of the Ornge paramedics work. The *Act* now makes it impossible for Unifor to not only negotiate increases comparable to other paramedics for its Ornge bargaining unit but also the additional increases necessary to compensate them for their additional skills and qualifications.

Further, the *Act* will ensure that the important work performed by these Unifor members and the contribution these members make to the province of Ontario, especially during the ongoing COVID-19 pandemic, goes unrecognized. Recognition of this contribution is more important to our members at this time, than at any other time in the history of this workplace. The Ornge paramedics are among the highest skilled paramedics in the province currently working under the toughest working conditions. The Premier has referred to Ornge paramedics as "heroes" while the *Act* simultaneously interferes with their Constitutional rights to a meaningful process of collective bargaining.

Unifor Local 2002's collective agreement with Ornge expired on October 31, 2019. A further extension was bargained until July 31, 2020. Unifor and Ornge have been in negotiations under the restraints of the *Act* for close to a year to obtain a new collective bargaining agreement. The parties reached a tentative agreement earlier this month however, Unifor Ornge paramedics voted to reject the agreement by 56%.

In calling Ornge paramedics heroes, the government appears to have recognized the vital role Ornge paramedics serve in Ontario. However, by enacting the *Act* and capping compensation at 1% for Ornge paramedics, the government has not only ensured these 'vital' workers will experience real wage cuts but has also ensured that the pre-COVID-19 crisis in the health care and EMS sectors will both be exacerbated and continue to exist into the future.

The COVID-19 pandemic has put extraordinary strain on all health care workers, including all EMS workers and Ornge paramedics. The EMS workforce was already struggling with growing workload and understaffing. While in the normal course, Unifor would have been able to attempt to bargain compensation or other benefit improvements to respond to these problems, the restrictions in the *Act* have completely tied Unifor's hands and prevented it from negotiating responses to the pandemic. Despite the high demand for and need to significantly renegotiate the terms of work for Unifor's Ornge paramedics, the *Act* has prevented this from

happening because it has put a stranglehold on free collective bargaining. The 1% wage caps and total compensation caps do not leave any room for consideration of risk or the short supply of workers.

CONCLUSION

Application of the *Act* to Unifor's paramedic members at Ornge is arbitrary and will result in inequity in compensation for these employees as compared to their similarly situated comparators, contrary to the *ASCBA* and *HLDA*. There is no clear and demonstrated need to interfere in the collective bargaining of employees employed at Ornge – one of only a small few paramedic services impacted by the *Act*.

There is no justification for denying these employees the normative general wage increases (and other wage/benefit increases) found in the collective agreements of other paramedics in the sector that are excluded from application of the *Act*. The objectives of the legislation and of the government will not be met by curbing compensation increases in this small subset of the EMS sector.

Further, the *Act's* imposed limits on collective bargaining between Ornge and Unifor paramedics will have the unintended consequence of causing retention problems at Ornge and have negative consequences for the healthcare system and public safety as a whole. Ornge paramedics should be exempted from the *Act* to prevent an exacerbation of the health care worker shortage crisis and to protect the integrity of the health-care and EMS systems.

Additionally, the government's unilateral introduction and imposed limits on the increases to total compensation below the rate of inflation and inconsistent with compensation increases of comparable groups not covered by the *Act* substantially interferes with the meaningful process of collective bargaining and violates the s. 2(d) *Charter* right to freedom of association of Unifor's members employed at Ornge.

For all of the aforementioned reasons, we respectfully request that you enact a regulation to exempt Unifor's collective agreement and/or paramedics with Ornge from application of the *Act*.

Yours truly,



DIJANA SIMONOVIC
Lawyer, Unifor Legal Department

pc/cope343

cc: Katha Fortier, Anthony Dale, Andy Savela, Mike Yam, Jenna Meguid, Kelly-Ann Orr, Ashley Watkins

G:\Legal\Files\Ornge\14481