IN THE MATTER OF AN ARBITRATION

(Under the *Labour Relations Act, 1995*)

BETWEEN:

WINDSOR REGIONAL HOSPITAL

(the "Hospital")

and

ONTARIO NURSES ASSOCIATION

(the "ONA")

AND IN THE MATTER OF an arbitration of the grievance #202501482 dated January 30, 2025 of AC, one of 19 Individual, Group and Union Grievances under ONA Consolidated Grievance #202406923 concerning medical evidence issues under the collective agreement between the parties.

BEFORE: George T. Surdykowski – Sole Arbitrator

APPEARANCES:

For the Hospital: Jodi Gallagher Healy, Counsel (Hicks Morley LLP)
Andrew Schjerning, Counsel (Hicks Morley LLP)
Francine Herlehy, Director, Labour Relations and Human Resources
Kelly Dorie, HR Business Partner, Labour Relations
Krista Miller, Employee Health Coordinator, Employee Health
Michael Broderick, Manager, Employee Health, Safety & Security

For ONA: Philip Abbink, Counsel (Cavalluzzo LLP)
David McQuillan, Counsel (Cavalluzzo LLP)
Carol Leclair (Bargaining Unit President)
Caroline Cohen (Grievance Chair)
Kimberley Evans (Labour Relations Officer)

Zoom hearing held on April 29, 2026.

AWARD

IDENTITY ANONYMIZATION

1. Because this grievance concerns only the grievor's private personal health information I accepted the parties' agreement to anonymize the identities of the grievor and medical health professionals involved in order to protect the grievor's privacy rights to the greatest possible extent.

THE GRIEVANCE

2. The grievance alleges that the Hospital "has violated the Collective Agreement, Articles 1, 3, 12, 18 and any other relevant provisions including but not limited to exercising its management rights in an unreasonable manner when requesting additional medical information for a short-term leave due to illness". The parties agreed that the issues raised by the grievance are limited to those described in the Agreed Statement of Facts.

THE AGREED STATEMENT OF FACTS (Anonymized)

3. The parties filed an Agreed Statement of Fact with the referenced documents attached which I have anonymized as follows:

> 1. The grievor is a full-time employee of Windsor Regional Hospital (the "Employer" or the "Hospital") and a member of a bargaining unit of Registered Nurses employed by the Employer and represented by the Ontario Nurses Association (the "Union" or "ONA").
>
> 2. The grievor works as a full-time-time Occupational Health Nurse in the Employee Health Office serving both campuses of the Hospital. The grievor's position is sedentary in nature and is often a position that nurses will be assigned when under physical restrictions that prevent a nurse from providing direct patient care. (Tab 1)
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> 3. Based on the grievor's most recent date of hire in 2021, [they] fall under the 1992 HOODIP requirements. (Tab 2)
>
> 4. On November 8, 2024, the grievor advised Karen Watson ("Ms. Watson"), Coordinator in the Employee Health Office that [they] would be undergoing surgery on November 21, 2024. Ms. Watson drafted an Employee Referral Form to provide Acclaim Ability Management ("Acclaim"), to manage the grievor's medical leave. (Tab 3)
>
> 5. On November 14, 2024, Colleen Landry ("Ms. Landry"), an Ability Management Consultant for Acclaim sent an email to the grievor, asking [them] to complete the attached Attending Physician Statement ("APS") form and return it to her. (Tab 4)

6. On November 14, 2024, Ms. Landry sent an email to Ms. Watson and Krista Miller ("Ms. Miller"), Coordinator in the Employee Health Office, advising them that the grievor was scheduled for a surgical procedure on November 21, 2024. She wrote (Tab 5):

> *It may be laparoscopic or it could be open as well. The surgeon will decide the day of.*
>
> *This could affect [their] RTW date but [they are] aware that [they don't] need to be leaping over small buildings before returning to work, given that [their] job is sedentary in nature.*

7. On November 28, 2024, the grievor emailed Ms. Landry to advise that [they] had a follow-up appointment with their surgeon on December 19, 2024, and would have them complete the APS at that time. The grievor provided a picture of what appeared to be an appointment card showing that [they] would have a follow up appointment with the surgeon three (3) weeks post-surgery. The grievor later advised that [they] would follow-up with [their] family doctor for an appointment. (Tab 6)

8. On December 2, 2024, the grievor emailed Ms. Landry to advise that [they] had an appointment with [their] family doctor on December 10, 2024, and that this was the soonest that [they] could book the appointment. (Tab 8)

9. On December 2, 2024, Ms. Landry wrote to Ms. Watson, Ms. Miller, and Francine Herlehy ("Ms. Herlehy"), Director of Labour Relations and Human Resources and the Director of Employee Health advising (Tab 8):

> *As per [their] request, I have included Francine in correspondences. I just wanted to provide you with a quick update. [They] had advised that [they] would be seeing [their] surgeon on Dec 19 and that the APS would be completed then. I asked that [they] attempt to have it completed sooner, as that would be almost 4 weeks post op without having received anything more then [sic] a doctor's note. [They were] able to obtain an appointment with [their] family doctor to have the APS completed on Dec 10. It was the earliest [they] could get, so I will accept it. Once the APS is received, I will send along the support documents.*

10. On December 10, 2024, the grievor's physician completed an APS form. In this APS form, the grievor's physician wrote that the grievor required a medical leave of absence due to an "abdominal injury and vascular condition," the duration of which remained to be determined. The grievor's physician indicated that the grievor would be reassessed in one (1) month. The grievor's restrictions were difficulty concentrating and making decisions and limited stamina along with other symptoms (Tabs 6 & 9):

> *She has gastrointestinal and vascular symptoms causing pain, difficulty in concentration and making decisions, limited stamina. All these symptoms render [them] unable to perform the duties of an Employee Health Nurse.*

11. The grievor did not sign "Section B" of the APS form submitted on December 10, 2024. Section B of the APS form is the "Employee Consent" section. The grievor left Section B blank when submitting the APS form to Acclaim.

12. On December 12, 2024, Ms. Landry wrote to Ms. Watson, Ms. Miller, and Ms. Herlehy

advising them that the grievor "had a more complicated surgery than initially expected and the recovery has been challenging as well." The grievor was approved for a medical leave of absence from November [21], 2024, until January 3, 2025, with updated medical information due to Acclaim by December 31, 2024 (Tab 8).

13. On December 12, 2024, Ms. Landry sent a letter to the grievor, confirming that their leave of absence was approved until January 3, 2025, and that if the grievor was not able to return to work by that date, updated medical documentation was due by December 31, 2024 (Tab 10).

14. On December 12, 2024, Ms. Landry recorded a case progress note on the grievor's file (Tab 11):

> *EE advised that [the are] still recovering from the surgery and that [they] did end up having open abdo surgery. [They] had an infection in the incision which was treated with antibiotics and has improved now. [They have] been having BP issues and heart palpitations. [They have] been referred to a Cardiologist and [have] been prescribed to have a Holter Monitor for 7 days. [They] had blood work done today as well. EE is to monitor [their] BP 3x/day and indicated that [they have] a long family history of BP and cardiac issues, and the doctor does not want to take any chances. [They are] on BP meds already and one of them has been increased in hopes of [their] BP improving. EE doesn't have an appt scheduled yet as [they] wanted to receive the results from the blood work and Holter Monitor before scheduling. EE will call HCP office to schedule an appt and will advise AMC of apt date and any changes.*
>
> *ADJUDICATION Support from Nov 21 to Jan 3 Doc note due Dec 31 RATIONALE EE underwent a surgical procedure to remove [their] Gallbladder and bile duct, however it was an open abdominal surgery which necessitates a longer recovery. EE has had some post op complications with [their] BP and cardiac events. [Their] doctor is closely monitoring [them] and having [them] undergo more tests to see what is going on. [They] will be meeting with a Cardiologist to review the results. It is reasonable to support EE's absence during the acute recovery phase as well during the diagnostic testing period to obtain more info and manage [their] symptoms for a RTW in the new year. MDG: Cholecystectomy Max recovery is 56 days Factors Influencing Duration Factors influencing the length of disability include the type of procedure chosen (laparoscopic surgery, open surgery), any comorbid conditions (e.g., diabetes, obesity), the development of complications, and the individual's general health.*

15. On December 31, 2024, the grievor sent the following email to Ms. Landry (Tab 6): [14]

> *I had my appointment with surgeon as scheduled and it went well. Healing nicely and gave me new med for my nausea and heartburn. Advised my loose bowel movements will improve with time.*
>
> *Saw family doctor for follow up. Hol[t]er monitor was worn for 7 days and I returned it last Friday. I had about 7 episodes of my cardiac symptoms. Seeing cardiologist Jan 14th. Family doctor is adjusting my blood pressure meds. Just picked up the completed form which I am attaching. I have a follow up appointment with family doctor on Jan 27th.*

16. On January 2, 2025, Ms. Landry sent the grievor an email, in which she wrote (Tab 6):

> *I called and left you a message but have changed my mind since I left the voice mail. I have supported your absence until January 17 and am requesting the Cardiologist write a note at your January 14 appt indicating if you are able to RTW or not. If not, why not. I know that you are adjusting your BP meds, however depending on the side effects, you might not need to remain off work completely for that. People adjust meds all the time, and remain at work. It is reasonable to support your absence until you are cleared by the Cardiologist, but not sure we need to wait for your Fam doc to do that. Please ensure the note is sent to me asap after your appt with the Cardio on Jan 14.*

17. On January 2, 2025, Ms. Landry wrote to Ms. Watson, Ms. Miller and Ms. Herlehy, advising them that the grievor was approved for an extension to her medical leave of absence from until January 17, 2025, with updated medical due by January 14, 2025 (Tab 13). Ms. Landry sent a letter the same day to the grievor advising of same (also Tab 13).

18. On January 2, 2025, Ms. Landry recorded a case progress note on the grievor's file (Tab 11):

> *MEDICAL REVIEW DDTD: Nov 21 NOI: Vascular condition EE in active Tx: Yes ARTW: Reassess in 1 month, then discuss Tx plan: medication, waiting to see Specialist EE unfit to work: [They have] vascular symptoms affecting [their] ability to concentrate and make decisions. Stamina is still limited. All these symptoms render [them] unable to perform the duties of an Employment Health Nurse. Reassess: approx 1 mo Signed: [family doctor] - Dec 30. IBE from EE Appt with surgeon went well. [They are] healed from the surgery and [have] been released from the care of SP. EE received new meds for [their] nausea and heartburn. Loose bowel movements will improve with time. Holter monitor was worn for 7 days, returned Dec 27. Had 7 episodes of cardiac symptoms. Seeing Cardio Jan 14. Fam doc is adjusting blood pressure meds. FU appt with Fam Doc Jan 27.*

19. On January 14, 2025, the grievor emailed Ms. Landry, writing that [they] went to see [their] cardiologist and that [they] provided [them] with an Acclaim form requesting additional medical information. The grievor explained that the cardiologist was not able to complete the form at the appointment but that [they] would call when it was completed. The grievor advised Ms. Landry that [they were] booked for another test the following week because [their] monitor still showed irregularities (Tab 14).

20. On January 15, 2025, Ms. Landry stated: "Thanks for the update. By chance, did the Cardiologist provide you with a note, at least? If so, please forward it to me." The grievor replied on January 16, 2025 that the cardiologist had not provided a note. The grievor stated: "Very frustrating as I know what it's like waiting for it to be completed for the employ [*sic*]!" In response, Ms. Landry stated: "Great, thanks for your efforts [grievor's name]. Hopefully the form can be completed by early next week, and please make sure the specialist at least writes a note after reviewing the stress test results at your appt on Thursday. Thanks for getting that all to me." The grievor and Ms. Landry's full back and forth by email is attached Tab 14).

21. On January 15, 2025, Ms. Landry recorded a case progress note in the grievor's file (Tab 11):

IBE from EE Just wanted to give you an update. Went to see cardiologist and I provided [them] with the form. [The cardiologist] was not able to complete at the appointment and said the office will call me once completed. I am booked for a stress test next Thursday as my monitor did show some irregularities. [They are] doing med adjustment for my blood pressure as it was still high. 170/85. I will be off until my stress test pending my results. I did inform secretary if [they] can do form ASAP as work is requesting it and [they] said they will call me once completed. OBE to EE Asked if SP provided a note at least. If so, to provide it to me. Inquired when [their] next appt is scheduled for to f/u on the stress test results. Reminded to f/u with HCP to get forms completed as ER will be looking for an update.

22. On January 23, 2025, the grievor provided an APS form indicating that [they] remained unable to work due to "systemic cardiovascular" medical reasons and would be able to return to work in 90 days. On the APS form, the grievor's physician wrote that the grievor should "avoid activities that require sudden bursts of activity. Avoid activities that require straining." (Tab 15)

23. On January 24, 2024, the grievor sent an email to Ms. Landry, writing (Tab 14):

I had my stress test yesterday and it went okay. I was very hypertensive so he put me on another blood pressure med and now on 4 of them. [They do] not want me to rtw until blood pressure gets under control. I know on form [they indicate] anticipated rtw 90 days but my intentions are to return sooner. I told [them] my work is not strenuous physically but I guess can be mentally in certain times. [They want] to see how this med works on me and if I start having severe side effects to see [them] sooner.

If you require anything further please let me know.

24. Ms. Landry sent an email responding to the grievor. Ms. Landry wrote (Tab 14):

Hmm I'll need to send in some clarification questions to [them], because as you mentioned, you work a sedentary job, so the restrictions [they] listed don't pertain to your job. I'll need to know why you aren't able to work at this time.

You know as well as I do that people change medication all the time and don't go off work to do so. I know that Krista/Karen will request clarification so I will do so before they ask.

Could you provide the contact info of your doctor so that I can fax a couple of questions to [them] please? Or at least the name, and I can google their fax and phone number.

25. On January 24, 2025, the grievor responded to Ms. Landry, writing (Tab 14):

Sure you can send to [them] for clarification. Well I want to make sure my blood pressure is better controlled as it is significantly elevated and do not want to keep on calling in sick due to my symptoms. The cardiologist is [deleted] and his fax # is [deleted].

26. On January 27, 2025, Ms. Landry emailed Ms. Watson, Ms. Miller, and Ms. Herlehy, advising them that she had received the APS form from the grievor's physician. Ms. Landry stated (Tab 16):

> *I have received the document back from the specialist that has been seeing [the grievor]. It indicates that [they are] to remain off work for another 90 days, however [their] R/L are listed as:*
>
> > *Avoid activities that require sudden burst of activity.*
> >
> > *Avoid activities that require straining.*
>
> *I emailed back and forth with [the grievor] to remind [them] that [their] job is sedentary in nature, so there should be no reason for [them] to continue to be off work. [The grievor] advised that [their] treatment has been escalated and that [their] condition is not currently under control, which is why the doctor suggested extending [their] absence. [The grievor] doesn't feel that 90 days is necessary, and that [they] will hopefully be able to RTW sooner.*
>
> *Regardless, nothing about the medical form indicates a necessity to remain off work completely. I have faxed the specialist for clarification. It is due back Feb 3.*

27. On January 27, 2025, Ms. Landry faxed a letter to the grievor's physician. The letter contained the following questions (Tab 17):

> *It was indicated that your patients' restrictions are currently: avoid activities that require sudden bursts of activity. Avoid activities that require straining. Your patient's job duties are sedentary in nature. What is the medical reasoning to justify [their] continued absence from work?*
>
> *What are the medical contraindications to your patient returning to work in a sedentary capacity immediately?*
>
> *How has [their] medical treatment been escalated and how does this treatment affect [their] ability to work?*
>
> *Please indicate the medical reasoning why [they] would need to remain off work for 90 days and not a shorter duration.*
>
> *If you feel that your patient could return to work immediately but would benefit from a gradual return to work, please propose a plan.*

28. Acclaim requested that the grievor's physician provide a response to its January 27 letter by February 3, 2025 (Tab 17).

29. On January 27, 2025, Ms. Landry sent the grievor a copy of the letter that she had sent to the grievor's cardiologist that day (Tab 18).

30. On January 27 and 28, 2025, Ms. Watson attempted to contact the grievor about choosing [their] weeks of vacation on the vacation planner for the Health Office. Ms. Herlehy, who managed the Health Office at that time, had asked Ms. Watson to begin the vacation selection process for the three ONA members working in the Health Office. The grievor replied to Ms. Watson's email on January 28, 2025 providing [their] vacation picks (Tab 19).

31. On January 30, 2025, the Union filed a grievance on behalf of the grievor (202501482). On this grievance form, the Union stated that (Tab 20):

> *I am grieving that the Employer has violated the Collective Agreement Articles 1, 3, 12, 18 and any other relevant provision including but not limited to exercising its management rights in an unreasonable manner when requesting additional medical information for a short-term leave due to illness.*

32. On February 5, 2025, Ms. Miller emailed Ms. Landry, asking whether Acclaim had received the clarification from the grievor's specialist that was due by February 3, 2025. Ms. Landry replied that she had not received a response from the specialist, noting that specialists were "notoriously slow at completing forms." Ms. Landry noted that the grievor had already followed up with the specialist's office to "push a bit to have it completed asap." (Tab 21)

33. On February 14, 2025, Ms. Landry advised Ms. Miller, Ms. Watson, and Ms. Herlehy, that the grievor had informed Acclaim that she had scheduled an appointment with [their] family physician on February 19, 2025 because the specialist was not responding (Tab 21).

34. On February 18, 2025, Ms. Watson emailed Ms. Landry, writing (Tab 21):

> *While I understand that [the grievor] does not feel that [they require] another 90 days absence, per your email below, that is the current recommendation from the specialist. I would prefer to make arrangements now regarding staffing if [they are] expected to be off work for an additional 3 months. Also, I'm assuming that [their] own family physician cannot override a specialist. Are you still following up with documentation from the specialist?*

35. The grievor was one of three (3) ONA members working in the Health Office. One of the other ONA members was scheduled on vacation for approximately one (1) week in March, which would have left one (1) ONA member to cover all ONA work in the Department and only two (2) employees to perform the work of three (3) employees if the grievor was not going to be returning to work in the near future. Ms. Watson was making inquiries to determine staff coverage needs.

36. On February 19, 2025, the grievor provided Ms. Landry with a medical form completed by [their] family physician on February 18, 2025 and advised Ms. Landry that [they] had indicated to [their] family doctor to send [them] back to work but [the physician] did not do that (Tab 22).

37. On February 20, 2025, Ms. Landry emailed Ms. Watson, Ms. Miller, and Ms. Herlehy, advising them that the grievor's medical leave of absence was approved until March 21, 2025, with updated medical due March 19, 2025. Ms. Landry wrote that she had not heard from the grievor's specialist but had heard from [their] family doctor, who did not want to override the specialist's assessment (Tab 21).

38. On February 20, 2025, Ms. Landry emailed the grievor, asking [them] to ask [their] specialist to write out a return-to-work plan with a return to work full duties date and to provide that plan by March 19, 2025. Ms. Landry stated: "It was mentioned that your medication was increased, and you had mentioned that you were on several different meds. Could you please email me back the name and dosage of the meds that you are currently prescribed, so that we can have it on file as proof of appropriate treatment." (Tab 22)

39. Ms. Landry attached a support letter to the February 20, 2025, email to the grievor. The support letter provided that the grievor's short-term disability benefits had been approved from January 17, 2025, to March 21, 2025, with updated medical due on March 19, 2025 (Tab 22).

40. On February 20, 2025, Ms. Landry recorded a case progress note on the grievor's file (Tab 11):

> *MEDICAL REVIEW R/L are physical. EE's job is sedentary. Med reason for not RTW? - Pt has hypertension and medication was adjusted recently. [They are] prone to experience cardiac irregularity. Even though [they have] a sedentary job, [they are] not under optimal control yet. [They are] still at risk. Med contraindications to RTW? – [Their] medical condition is not under optimal control. [They experience] some side effects from [their] medications. Tx escalated? - Pt feels fatigued, light headedness, difficulties to concentration. [They] still feels ? ??....adversely affect [Their] ability to work Med reasoning why [they] would need to remain off work for 90 days and not a shorter period. - Apparently Dr S recommended [they] rest from work until reassessment on March 18. GRTW? - Pt should rest from work until [they see] Dr. S on March 18. Signed: [deleted] - Fam Med - Feb 18.*
>
> *ADJUDICATION Support extended to March 21 Doc note due March 19 RATIONALE EE's meds are still being adjusted and increased. [They are] still quite symptomatic and [their] BP is still high and irregular. It would be a risk for [them] to RTW at this time. [They are] being seen by the specialist mid March and it is important for [them] to be cleared by the SP to RTW, as [their] Fam Doc will not. It is reasonable to support [their] continued absence while [they adjust] to meds and waits to be seen by the SP.*

41. On March 18, 2025, the grievor met with [their] cardiologist, who approved [them] to return to work. The grievor's cardiologist provided a form stating that the grievor was ready to return to work with a full workload as of March 24, 2025 (Tab 23).

42. The grievor remained on paid sick leave until [they] exhausted [their] short-term disability benefits on March 5, 2025. The grievor returned to work at regular duties and full-time hours on March 24, 2025.

43. This grievance raises the following issues:

> (a) The Hospital's alleged practice of refusing to accept medical documentation provided in support of a medical leave of absence and short-term disability benefits. Specifically, ONA alleges that in January 2025, Acclaim rejected the assessment made by the grievor's specialist that the grievor required an additional 90 days of medical leave.
>
> (b) The Hospital's alleged practice of pressuring employees to return to work before they are deemed ready to return to work by their medical practitioners. Specifically, ONA alleges that Acclaim disregarded the clinical assessment made by the grievor's specialist that [they were] unable to work and attempted to convince the grievor to return to work before the return to work date recommended by [their] specialist. ONA further alleges that when the grievor's specialist was unresponsive, Acclaim pressured the grievor to ask [their] primary care physician to override the recommendation of the grievor's specialist, which the primary care physician refused to do.

(c) The Hospital's alleged practice of asking for excessive levels of detail when requesting medical information to justify a short leave of absence and the payment of short-term disability benefits. Specifically, ONA alleges that Acclaim sent a letter directly to the grievor's specialist, challenging the specialist's clinical assessment and asking for additional medical information in excess of its entitlement to the grievor's personal health information, including information about the specialist's medical reasoning and about how the grievor's treatment had been escalated.

44. It is the Hospital's position that it has not breached the Collective Agreement as alleged. The Hospital further denies the characterization of ONA's allegations.

SUBMISSIONS (Highly Abbreviated)

ONA

4. Mr. Abbink described the issues raised by the grievance in paragraph 43 of the Agreed Statement of Facts as being whether:

- the Hospital's practice is to inappropriately refuse to accept medical documentation provided in support of a medical leave of absence short-term disability benefits claims, and pressuring employees to return to work before they are deemed ready to do so by their medical practitioners; and more specifically, that the January 2025 rejection of the grievor's cardiologist's assessment that the grievor required an additional 90 days of medical leave by the Hospital's agent Acclaim Ability Management Inc. was improper;

- the Hospital's practice is to inappropriately ask for excessive levels of medical information detail to justify a short leave of absence and the payment of short-term disability benefits; and more specifically, that Acclaim's January 27, 2025 direct communication with the grievor's specialist was inappropriate and exceeded the Hospital's entitlement to the grievor's personal health information.

5. Mr. Abbink reviewed the facts ONA relies on in support of its claims in summary form, including Article 12 of the ONA and Hospital Central Agreement which expired on March 31, 2025 and under which this grievance was filed. Among other things, Article 12 operates to incorporate the 1980 and 1992 HOODIPs into the collective agreement binding on the parties.

6. Mr. Abbink submits that Acclaim inappropriately rejected the grievor's cardiologist's January 2025 assessment that notwithstanding the sedentary nature of their job the grievor required an additional 90 days' medical leave, and further, that Acclaim's January 27, 2025 direct communication with the cardiologist was itself inappropriate, and in any event inappropriately challenged the cardiologist's clinical assessment. Mr. Abbink submits that asking for an explanation of their assessment that the grievor's medical contraindications prevented

them from returning to work to their sedentary job, and that asking the cardiologist to describe how the grievor's treatment had been escalated and how that affected her ability to return to work, and for a medical reasoning explanation were all inappropriate.

7. Mr. Abbink referenced the 1992 HOODIP brochure which describes the medical leave of absence benefits available to bargaining unit employees, and specifically the "Proof of Total Disability" summary. He submits that the outline of the grievor's total disability, their vascular condition and stamina, and decision-making functional limitations listed in the November 21, 2024 APS completed by the grievor's family doctor indicates that the doctor understood the nature of the grievor's position. He points to the December 10, 2024 APS the family doctor completed grievor's which showed the grievor had (open) abdominal surgery and had a vascular condition causing pain, difficulty in concentration and decision-making, and limited stamina which meant she was unable to perform the duties and responsibilities of their job.

8. Mr. Abbink submits that the APS form completed by their cardiologist which the grievor provided Acclaim on January 23, 2025 to extend their medical leave of absence, and which he observes was for an extension of the initial leave and indicates the cardiologist was aware of the nature of the grievor's job, was sufficient for the purpose but that notwithstanding that Acclaim didn't need more in the circumstances Acclaim unnecessarily and disrespectfully challenged the cardiologist's assessment.

9. In short argues Mr. Abbink, notwithstanding that the grievor was responsive throughout, Hospital's agent Acclaim's repeated demands for unnecessary additional medical information placed undue pressure on the grievor. He argues that Acclaim had all the medical information it reasonably required for its sick leave management purposes before January 27, 2025, such that its approach then and on February 20, 2025 was inconsistent with the conservative "least intrusive" for the purpose approach established by the medical information disclosure jurisprudence.

10. Mr. Abbink argues that the broad language of the 1992 HOODIP is insufficient to overcome the established "least amount necessary" limitations for the purpose on medical information disclosure principles.

11. Mr. Abbink cited extensively from the following arbitration decisions in support of ONA's submissions:

- *Hamilton Health Sciences v. Ontario Nurses' Association*, 2007 CanLII 73923 (ON LA – Surdykowski) – "*Hamilton Health Sciences #1*";
- *Providence Care, Mental Health Services v. Ontario Public Service Employees Union, Local 431*, 2011 CanLII 6863 (ON LA – Surdykowski);

- *Canadian Bank Note Company, Limited v. International Union of Operating Engineers, Local 772*, 2012 CanLII 41234 (ON LA – Surdykowski);
- *Complex Services Inc. v. Ontario Public Service Employees Union, Local 278,* 2012 CanLII 8645 (ON LA – Surdykowski); and,
- *Ontario Energy Board v. Society of United Professionals*, 2020 CanLII 44569 (ON LA – Surdykowski).
- *Central Care Corporation v. Christian Labour Association of Canada*, 2011 CanLII 12007 (ON LA – Knopf);
- *Revera Long Term Care Inc. v. Ontario Nurses' Association*, 2011 Can LII (ON LA – Surdykowski);
- *Hamilton Health Sciences v. Ontario Nurses' Association*, 2013 CanLII 36061 (ON LA – McNamee) – "*Hamilton Health Sciences #2*";
- *The Corporation of the City of Sault Ste. Marie v. Sault Ste. Marie Professional Firefighters Association (Local 529),* 2014 CanLII 70259 (ON LA – Surdykowski);
- *Columbia Forest Products v. USW, Local 1-2010*, (2017) 283 L.A.C. (4th) 367 (Gedalof);
- *Hamilton Health Sciences v. Ontario Public Service Employees Union*, 2021 Can LII 13253 (ON LA – Steinberg) – "*Hamilton Health Sciences #3*";
- *Unilever Canada Inc. v. United Food and Commercial Workers Union, Locals 174 and 633,* 2022 CanLII 6822 (ON LA – C. Johnston); and,
- *Cypress Health Region v. SEIU-West*, 2022 CanLII 6822 (SK LA – Ish).

The Hospital

12. The Hospital generally agrees with the legal principles established by the caselaw cited by ONA regarding the disclosure of confidential medical information for sick leave benefits purposes, but denies the characterization and substance of ONA's allegations in this case.

13. The Hospital does not dispute that as its agent Acclaim stands in the same rights, duties and responsibilities shoes. But with extensive reference to the Agreed Statement of Facts, Ms. Gallagher Healy submits that Acclaim and the Hospital acted in a measured and appropriate way in accordance with the provisions of the 1992 HOODIP and the principles established by the jurisprudence. She notes the differences between the 1980 and 1992 HOODIPs identified in paragraph 56 of *Hamilton Health Sciences #1* in that respect.

14. Noting that ONA's complaints focus on communications on and after January 27, 2025, Ms. Gallagher Healy argues that ONA's complaint in this case does not raise a first instance issue, but rather a later in time question when it is well established an employer's entitlement to more detailed medical information to justify a continuing absence or claim for sick leave benefits is not as strictly limited in a non-first instance situation.

15. More specifically she argues, the Hospital was entitled to more information than was originally provided to satisfy itself that the grievor's continued absence to the extent suggested by her doctors was justified, having regard to the grievor's largely sedentary, not physically demanding communications role in the Hospital's Employee Health Office. Ms. Gallagher Healy submits that the communications complained of by ONA were not "repeated" and were reasonable and appropriate in the demonstrably non-first instance circumstances, and having regard to the 1992 HOODIP provisions, particularly with respect to the 90-day extension of absence suggested by the cardiologist in their January 23, 2025 APS, after an already 2-month long absence from work.

16. Ms. Gallagher Healy submits there is no evidence that either the grievor's family doctor or their cardiologist was sufficiently aware of the details of the grievor's job to make the return to work assessments they did, while the Hospital and Acclaim did, which reasonably raised the tailored questions posed by Acclaim. Further, she argues that despite its legitimate need for the information requested on and after January 27, 2025, Acclaim was patient, accommodating and responsive to the grievor and her situation, and that there was nothing disrespectful in any of Acclaim's communication with the grievor or either of her doctors. Ms. Gallagher Healy submits that, on the contrary, Acclaim's communications were polite, professional and reasonable, including the use of due dates, and that the grievor was never left out of the communications loop.

17. Ms. Gallagher Healy submits this is not a case where the employer challenged to employee's functional limitations, but a situation where it was reasonable for Acclaim to ask clarification questions about the cardiologist's assessment that after a 2-months long absence the grievor would still unable to return to work in her sedentary job even with the identified limitations for a further 90 days – a length of time even the grievor disagreed with. Ms. Gallagher Healy denies that there was undue pressure applied to the grievor, notes that the grievor cooperated and made no complaint about Acclaim's requests for information prior to Grievance filed on January 30, 2025.

18. Like Mr. Abbink, Ms. Gallagher Healy referred extensively to excerpts from the jurisprudence. In addition to *Hamilton Health Sciences #1; Providence Care, Mental Health Services; Canadian Bank Note; Complex Services Inc.;* and *Ontario Energy Board* decisions cited by ONA, Ms. Gallagher Healy referred to *Canadian Union of Public Employees, Local 550 v. Bathurst (City)*, 2024 CanLII 36366 (NB LA – Doucet) in support of the Hospital's submissions.

ONA Reply

19. In response to the Hospital's submissions Mr. Abbink submits that the grievor's situations does not present a single continuous sick leave claim, but an initial surgery related claim and a subsequent non-surgery related claim, which he says explains why the grievor received a more than the 15 weeks of short-term sick benefits provided by the 1992 HOODIP. Mr. Abbink says ONA's grievance focuses on the "second" leave, the beginning of which is properly considered as a second first instance claim. That is, ONA disagrees with the Hospital's characterization of the leave of absence, but agrees that the focus of the grievance is on what ONA asserts is the second of a two-part leave with a new first instance when the reason for the grievor's absence from surgery and post-surgery complications to cardiac and blood pressure issues.

20. Mr. Abbink argues that there is a significant difference between an employer asking broad description of an employee's treatment plan which is acceptable, and the details of a treatment plan including types and dosages of prescribed medications which is not. He similarly submits that the Hospital could legitimately have asked for clarification as to why the grievor's restrictions were inconsistent with the duties and responsibilities of their sedentary position, but not for the details of their treatment plan.

DECISION

The Principles of Required Private Medical Information Disclosure for Leave of Absence and Sick Leave Benefits Purposes

21. The parties agree on the generally applicable principles as developed in the cited arbitral jurisprudence, as they should because these are well established. As usual in such cases, the focus of the parties' disagreement is on the application of those principles in this case.

22. Although the focus of the cited caselaw is on "first instance" absence from work situations, it includes commentary on non-first instance situations. The principles are so well established that quoting great swatches of quotes from the caselaw would serve no useful purpose. It is sufficient to summarize the established principles as follows:

- The plain and ordinary meaning of "first instance" in the context of absence from work situations is "at the beginning of an absence from work".

- The confidentiality of personal medical information and the medical health professional-patient relationship is such a significant individual privacy right that it is paramount.

- The limitations on the bargaining unit employee right to keep personal medical information private are not absolute. Whether and the extent to which confidential private medical information must be disclosed depends on the circumstances, including the

applicable statutes (in this jurisdiction including the *Personal Health Information Protection Act* and the *Occupational Health and Safety Act*, for example), the provisions of the collective agreement, and the legitimate purposes for which an intrusion into a bargaining unit employee's privacy rights is justified.

- In every case, whether in the first instance or otherwise, a conservative approach to the disclosure of private medical information is appropriate. Whether or not an employee can be required to disclose confidential medical information is assessed by applying a "least amount necessary for the legitimate purpose" objective test which balances the employee's privacy interest with the employer's legitimate workplace management interests, with the employee's privacy paramount in the event of any doubt.

- A bargaining unit employee is obliged to provide appropriate notice of and a legitimate excuse for an absence from work in accordance with the collective agreement or legitimate workplace rules. Similarly, a bargaining unit employee is entitled to collective agreement sick leave benefits only to the extent provided by the collective agreement and must provide objectively satisfactory proof for the purpose in order to access such benefits.

- In every case, whether in the first instance or otherwise, the employer must obtain the employee's informed consent to the disclosure of their confidential medical information by their treating physician or other medical health professional. A separate informed consent is required for every contact with or disclosure by an employee's treating medical health professional. An employer may not require an employee to consent to without further notice forward-looking or multiple contacts with their medical health professional(s) for access to private medical information purposes.

- Informed consent means that an employee is entitled to be informed of the identity of the medical health professional the employer is seeking their consent to contact for the purpose of disclosing their confidential medical information; the specific medical information they are agreeing can be released to the employer by signing the consent; and why the employer is seeking access to that information. The employee must be kept fully in the communications loop with respect to requests for the release to the employer of their private medical information.

- In every case, first instance or otherwise, the employer must have an objectively reasonable basis for seeking an employee's confidential medical information from the employee or their treating medical health professional, or for asking for additional or more explicit such information. On the other hand, a bargaining unit employee who refuses to consent to an objectively reasonable request for their confidential medical

information for absence from work justification or sick leave benefits purposes, whether or not in the first instance, may be disciplined for cause or denied sick leave benefits.

- In the absence of a collective agreement provision that requires more or reasonable cause to doubt its *bona fides*, a document signed by an appropriate medical health professional which certifies that an employee is unable to work due to a generally described illness or injury (i.e. the nature of the illness or injury), is under the medical health professional's care (continuous if necessary) and is complying with an appropriate treatment plan, and estimates the expected duration of the absence satisfies the employee's first instance medical information disclosure obligations. Such a "certificate" constitutes *prima facie* first instance proof sufficient to justify the absence and qualify the employee for available sick leave benefits.

- An employer has no first instance right to a bargaining unit employee's diagnosis, symptoms, details of a treatment plan or medications, or prognosis other than the expected date that the employee will be able to return to work with or without specified restrictions, or to a list of medical appointments. If the document that certifies the absence does not provide it, the employer may ask for the date the medical health professional first saw the employee for the illness or injury. The employer may not require disclosure of subsequent or scheduled medical appointments.

- Subsequent to the first instance the employer may ask an employee to disclose additional medical information if it is reasonably required for a legitimate purpose, to justify a continued longer than originally estimated absence, or for return to work accommodation purposes (generally not a first instance issue), for example. The longer the absence, the more disclosure of medical information may be required in what some of the cases refer to as the disclosure continuum. But the conservative least intrusive for the legitimate purpose test for disclosure remains the same.

The Principles Applied

(a) The Facts That Provide Context and Complete the Picture

23. The Hospital has contracted out its absence and disability management duties and responsibilities to Acclaim which the Hospital acknowledges stands in the shoes of the Hospital for all purposes in that respect.

24. The grievor is a Registered Nurse employed as a full-time Occupational Health Nurse in the Hospital's Employee Health Office. This is a sedentary position.

25. It is agreed that the 1992 HOODIP (the "1992 Plan") applies to the grievor in this case. The 1992 Plan provides sick pay benefits to eligible employees. Under the 1992 Plan:

- "Actively working" and "Actively at Work" mean "the performance for a Participating Employer of the regular duties of the person's own occupation …"

- "Total Disability and Totally Disabled" means the employee has a medically determinable physical or mental impairment due to injury or illness which prevents them from performing the regular duties of their occupation immediately preceding the start of the disability.

- In order to be entitled to 1992 Plan benefits an employee must supply proof of Total Disability satisfactory to the Employer when they have been absent from work for 3 or more days. Such proof is subject to periodic subsequent review and may be required at any time in order to qualify for benefits.

- An employee is not considered totally disabled unless they are under the active, continuous medically appropriate care of a physician and are following the treatment plan prescribed by the physician for their disability.

- An employee is not considered Totally Disabled due to a psychological disorder unless they are under the active and continuous care of a physician or other professional satisfactory to the Employer and are following the treatment prescribed by the physician or other professional for that disability.

26. The 1992 Plan Brochure states that: "Proof of Total Disability (such as a doctor's certificate), that is satisfactory to your employer, is required if you are absent for three days or more, and is subject to a periodic review thereafter. Such proof may also be required at any time in order for you to qualify for benefits." In the event of a conflict the 1992 Plan provisions prevail over statements in the brochure.

27. I agree with ONA that the 1992 Plan requirement of "proof of Total Disability satisfactory to the Employer" does not alter the conservative least intrusive for the purpose test for required disclosure of employee private medical information. What is sufficient to satisfy the employer is determined by an objective, assessment of what is required for the employer's legitimate purposes, not a subjective one.

28. The grievor advised the Hospital of their November 21, 2024 scheduled surgery on November 8, 2024. On November 14, a week before the scheduled surgery Acclaim asked the

grievor for an APS. Although Acclaim knew it was unclear whether the surgery would be laparoscopic or open, and that the grievor's return to work date was also therefore unclear, I don't consider this early request for an APS problematic because the grievor would have been aware that a post-surgery APS would be required.

29. The grievor's first day of absence was the date of their surgery – November 21, 2024.

30. A week later, on November 28, 2024 the grievor advised Acclaim they had a follow-up appointment with the surgeon on December 19 and would have them complete an APS. On December 2, 2024, the grievor advised Acclaim of her December 10 soonest available follow-up appointment with their family doctor and that they will try to have an APS completed then. Although apparently unhappy about this "delay", Acclaim asked if they could have the APS completed sooner, but accepted the reality of scheduling post-surgery follow-up appointments as demonstrated by what I consider to be the subsequent timely receipt of an APS from the family doctor.

31. I consider it likely that Acclaim knew (and if not, ought to have known) that asking the grievor if they could obtain an APS sooner was not only unrealistic, but unnecessary and inappropriate in the circumstances. I am satisfied it likely caused the grievor unnecessary post-operative stress and anxiety which did nothing to hasten their return to work. However, ONA does not make an issue of this.

32. On December 10, 2024 the grievor provides Acclaim with an APS dated and completed by their family doctor that day.[1] The APS specified that the grievor's listed restrictions meant they were "unable to perform the duties of an Employment [sic] Health Nurse". The grievor also advised that they had been had been having blood pressure and heart palpitation issues, and that they had been referred to a cardiologist and placed on a 7-day Holter Monitor protocol. Acclaim approved the grievor's medical leave of absence for the period November 21, 2024 – January 3, 2025, with a medical information update dues by December 31, 2024.

33. On December 31, 2024 the grievor advised Acclaim their surgeon follow-up appointment had gone well, that their completed Holter Monitor protocol showed 7 cardiac episodes. The

[1] The grievor submitted the December 10, 2024 APS form to Acclaim without completing the Section B consent. ONA did not make an issue of the Hospital's receipt and review of this APS without the grievor's written consent. However, given the nature of this case, I consider it appropriate to observe that an RN, particularly one employed as an Occupational Health Nurse, would understand the significance of providing private medical information to their employer, or any third party. I consider it appropriate to conclude that by voluntarily providing the APS completed by their family doctor to Acclaim without expressing any objection, the grievor in fact consented to the disclosure of the medical information contained in the APS to the Hospital through Acclaim, notwithstanding that she didn't sign the Section B consent.

grievor reported that their family doctor was adjusting their blood pressure medications, and that they were scheduled to see their cardiologist on January 14, 2025, with a further follow-up with their family doctor scheduled for January 27, 2025.

34. On January 2, 2025 Acclaim approved the grievor's medical leave to January 17 (3 days after the cardiologist appointment), with a medical information update due January 14, 2025. Acclaim noted that the grievor's medical situation is more complex than expected.

35. Although one might say that when it comes to health everything is connected, here is no evidence of a connection between the grievor's blood pressure or cardiac issues and their gall bladder/bile duct issues or surgery. To me, a non-medical health professional, the evidence of the grievor's family history suggests that their cardiac and probably associated blood pressure issues suggests otherwise.

36. On January 14, 2025 the grievor advised Acclaim that they had seen the cardiologist as scheduled and that they had been booked for a stress test the following week and adjusted their blood pressure medication, but that the cardiologist had not completed the requested APS. The grievor had stressed that "work" was asking for the APS

37. In an exchange on January 15-16, 2025 Acclaim asked if the cardiologist had "at least" provided a note "by chance", notwithstanding that the answer should have been obvious. The grievor responded that there was no note and that they were themselves frustrated by the delay. Acclaim thanked the grievor for their efforts by asked that they "please make sure the specialist at least writes a note after reviewing the stress test results". Acclaim undoubtedly added to the grievor's stress and anxiety by unnecessarily pressuring them for a cardiologist note, when it should have been apparent that the grievor had made their best efforts to do so.

38. However, ONA makes no complaint about this. ONA's focus is on subsequent events, not on anything that occurred before January 23, 2025.

(b) <u>The Real Dispute</u>

39. On January 23, 2025 the grievor provided Acclaim with an APS completed by their cardiologist stating that the grievor remained unable to return to work due to "systemic cardiovascular" issues and was expected to be off for 90 days. The APS specified that the grievor should avoid sudden bursts of activity and "activities that require straining".

40. On January 24, 2025 the grievor advised Acclaim that although their stress test "went okay", they were hypertensive and on an additional blood pressure medication (making 4 in all), and that the cardiologist did not want them to return to work until their blood pressure was under

control. The grievor told that although the APS indicated they were not to return to work for 90 days they intended to return sooner. Acclaim responded that it had clarification questions for the cardiologist because the grievor's job is sedentary and the identified restrictions didn't "pertain" to the job, and that medication changes didn't cause absences from work. It should have been obvious from the grievor's report to Acclaim that they had explained to the cardiologist that their job was not physically strenuous, and that she intended to return to work sooner than suggested in their APS.

41. Not only was the grievor aware that Acclaim intended to ask the cardiologist for clarification of their January 23, 2025 APS, she specifically consented to Acclaim doing so in a January 24 email to Acclaim.

42. There is no suggestion that the grievor's absence was for anything other than legitimate medical reasons. And it is clear that the grievor cooperated with Acclaim in a timely and responsive way throughout, and that she was motivated to return to work as soon as possible. It is also clear that there was no complaint about Acclaim's (or the Hospital's) treatment of the grievor (by the grievor or ONA) until the grievance January 30, 2025, the scope of which was narrowed at the hearing, effectively limiting the grievance to a complaint that Acclaim's January 27, 2025 communication with the grievor's cardiologist unnecessarily and disrespectfully challenged the medical assessment in their January 23, 2025 APS., and that Acclaim's request that the grievor provide the names and dosages of their prescribed medications was inappropriate.

43. Although the reasons for the grievor's absence from work changed from surgery and recovery (including post-surgery complications) to cardiac and blood pressure issues, there was no break in the grievor's approved medical leave of absence which began on November 21, 2024 and ended on March 23, 2025 (a period of 17 weeks, 2 days). Notwithstanding the change in reasons, this was a single absence. I am satisfied that the grievor's medical leave did not become and was not a first instance situation when the reasons for the absence changed.

44. I am satisfied that the grievor's family doctor knew enough about their job to make an informed medical assessment of the grievor's ability to return to work, but that it was in any event appropriate for the family doctor to defer to the specialist cardiologist. I am satisfied that the cardiologist probably knew enough about the grievor's job to make a medical assessment of the grievor's ability to return to work. I find it inconceivable that a cardiologist , or any doctor, would not ask a patient what they do for a living when being consulted for a cardiac condition.

45. I am in any event satisfied that Acclaim's January 27, 2025 request for the cardiologist's clarification of their January 23, 2025 APS was not reasonable or appropriate in the circumstances, notwithstanding that the APS statements that the nature of the grievor's illness

was "systemic – cardiovascular"; that the treatment plan was "medication adjustments"; and that the grievor was to avoid activities that require sudden bursts of activity and activities that "require straining" read as a whole was could reasonably be considered insufficient to justify a further expected 3-month or 90-day period of absence.

46. However, Acclaim's own January 2, 2025 "Medical Review DDTD" shows that it was aware by no later than that date that it was aware of symptoms that would reasonably be expected to interfere with the grievor's ability to perform the duties and responsibilities of even her sedentary position (Agreed Statement of Facts paragraph 18). Further, Acclaim's own subsequent February 20, 2025 "Medical Review" note shows that it was aware that the grievor's symptoms and limitations made her return to work to even a sedentary position problematic notwithstanding that the grievor's cardiologist did not respond to Acclaim's clarification questions (Agreed Statement of Facts paragraph 40).[2] And although the grievor 's return to work was not delayed by a further 90 days from January 23, 2025, their return to work on March 24, 2025, some 60 days after the cardiologist's APS, was accepted by Acclaim and the Hospital. Although 30 days shy of 90, this was far longer than immediately which Acclaim seemed to consider appropriate.

47. Accordingly, and notwithstanding that the assessment in the January 23, 2025 APS that a further 90-day absence from work was required seems ultraconservative and was thinly justified by the particulars in the APS, I am satisfied that Acclaim's request for clarification was inappropriate in the circumstances:

- I am satisfied that Acclaim's first question; namely, how the restrictions listed in the January 23 APS interfered with the grievor's ability to return to work to her sedentary job at the Hospital, was inappropriate because it is apparent from its own records that Acclaim already had sufficient information to make that assessment. It was in any event inappropriate to ask for medical reasoning, in no small part because there is no evidence that anyone at Acclaim, including any consulting physician, who had not met or personally examined the grievor or was unaware the details of the grievor's medical history would be in any position to assess the quality of the grievor's cardiologist's medical reasoning.

- The next question: "What are the medical contraindications to … returning to work in a sedentary capacity immediately?" is repetitive of the first question, and was in any event unnecessary and therefore inappropriate in the circumstances.

[2] Although this is post-grievance evidence, by including it in their Agreed Statement of Facts the parties have made it part of this case. This evidence is in any event admissible because it tends to shed light on the issues in dispute (per *Cie minière Québec Cartier v. Quebec (Grievances arbitrator)*, 1995 CanLII 113 (SCC), [1995] 2 SCR 1095).

- I consider the third question (how has the grievor's medical treatment been escalated and how does this affect their ability to return to work) inappropriate because notwithstanding the grievor's use of the term it assumes an escalation not apparent (to me at least, unless it meant an increase in blood pressure medications). There was nothing on the face of the APS that suggested an "escalation" so there was nothing for the cardiologist to clarify. Asking whether, and if so how, the treatment plan described in the APS interfered with the grievor's ability to return to work would have been acceptable., but that was not the question asked.

- Notwithstanding that this was clearly the crux of Acclaim's concern, I consider the fourth question, asking for the medical reasoning for the assessment that justified a further 90 days' absence inappropriate, and *prima facie* disrespectful in tone. Asking the cardiologist to clarify why they considered a further 90-day absence necessary and whether the grievor could return to work immediately or by some specified date on a modified work hardening schedule with or without accommodation would have gotten to the actual concern in an appropriate way, but again, that was not the question asked. Words matter.

- I consider the last question about the next scheduled appointment unnecessary because a response would likely reveal nothing responsive to the concern, and the last question (anticipated return to work date), while not objectionable as such it was unnecessary given the previous questions.

48. In addition, by February 20, 2025 email Acclaim separately asked the grievor to not only ask their cardiologist for a return to work plan and return full duties return to work date by March 19, 2025, but also for the names and dosages of the medications they were currently prescribed "so that we can have it on file as proof of appropriate treatment". Although aggressive I do not consider the request for a return to work plan to be a step too far in the circumstances. However, the request for medication details was. Such a request is prohibited even the later stages of an employee's absence from work, unless the question reasonably arises in the context of return to work safety considerations, or for other reasonable cause. In this case, Acclaim's request was at best premature.

(c) Result

49. In the result, the grievance is allowed to the extent that:

(a) **I DECLARE THAT** the questions in Acclaim's January 27, 2025 request that the grievor's cardiologist clarify their January 23, 2025 APS inappropriate in the circumstances.

(b) **I DECLARE THAT** that Acclaim's request of the grievor for the for names and dosages of their prescribed medications was inappropriate in the circumstances.

50. The particulars of one case do not without more suggest a practice. I therefore cannot opine on that aspect of ONA's grievance in this case.

51. ONA agrees that the grievor received all of the 1992 HOODIP sick pay benefits they were entitled to. ONA's initial remedial request is limited to declaratory relief, without prejudice to its ability to seek further relief after a review of this Award.

52. I shall remain seized for the purposes of rectification, and to deal with any further remedial or other issues arising out of the Award.

ISSUED IN BAYFIELD, ONTARIO THIS 24th DAY OF MAY 2026.

George T. Surdykowski

George T. Surdykowski, Arbitrator