

November 7, 2022

Attn: BCNU Executive

We write further to the meeting that we had last Wednesday after we were denied the right to speak at the BCNU's convention. It was nice to finally get the opportunity to ask questions in person to which we have been trying to get answers for almost a full year now.

We, along with over 2000 other nurses in this province, have been out of work for almost a full year. Some of our number have had to move to other provinces for work, some of our number are currently on government welfare, and all of our number have had to eat into (or exhaust) savings and retirement funds that had been built up over a career of dedicated service. In light of that, it is of concern that we had to go to such lengths just to have our voices heard.

During our meeting we canvassed a wide range of topics. As-above, we have been trying to get answers for almost a year. Accordingly, there was much to discuss.

At our meeting it was acknowledged that the BCNU needed to address its lines of communication – we wholeheartedly agree. New systems need to be put in place to maintain transparent and efficient communication from the bottom up and the top down. There were several statements made by various BCNU Executives that a new line of communication should be established and agreed upon immediately. We look forward to hearing back from the Executive what it proposes in this regard.

As we noted, the meeting last week was born out of desperation. We are not sure why we had to literally show up at the BCNU convention just to be heard, but we did. We raised our concerns and we appreciate the BCNU Executive listening to them, acknowledging certain shortfalls and making certain commitments.

Given how long it took for us to actually get this sort of meeting; we feel it necessary to reiterate our concerns in writing. Accordingly, we have attached to this correspondence a written summary of the meeting we had last Wednesday. This written summary is broken down into the different topics we covered. Some of these topics were covered in more detail than others. Included in this written summary are specific questions we raised *during* the meeting and summaries of the immediate responses we had to those questions. We have also included new follow up questions that flow from the discussions had last Wednesday.

For ease of reference, these topics include:

1. BCNU's role in maintaining and promoting the socio-economic wellbeing of its members;
2. Grievances and allocation of funds for grievances;
3. Current efforts to file an industry wide application dispute;
4. Conflicts of interest between the current BCNU 'interim' CEO and his legal firm;
5. Ongoing 'critical analysis' of the grievances filed regarding terminated nurses;
6. A bottleneck of communication at the highest levels of the BCNU;
7. Existing vaccination policies and BCNU's failure to raise them with regard to COVID;
8. General communication problems with the BCNU;
9. The proliferation of a culture of fear around the COVID issue; and
10. General questions regarding the BCNU finances.

This situation is critically urgent and we request, as members in good standing, that the BCNU treat this ongoing issue with the urgency it deserves. Accordingly, please do provide us with responses to our various questions as soon as possible.

Moreover, given the clear and unequivocal acknowledgement that there has been a failure in communication by the BCNU, we request that an immediate communication channel be created and maintained so that we do not experience another 10 months of communication blackout.

We would appreciate and require a response by the end of business day on Monday, November 14, 2022.

Thank you,

BCNU Members

Summary of Meeting on November 2, 2022 at 12:30 in the Tennyson Room of the Hyatt Regency Hotel during the BCNU Annual Convention

BNCU Council and Staff in Attendance:

- Athena Hunt, Executive Liaison
- Courtney Mcgillion, Director of Communications
- Jim Gould, Interim CEO
- Deb Charrois, Director of Legal and Labour Relations
- Sharon Sponton, Treasurer
- Shalane Wesnoski, Regional Council Member for West Kootenays
- Aman Grewal, President
- Amy Powers, Executive Assistant
- Chris Rickinson, Director of Occupational Health and Safety
- Moninder Singh, COO

BCNU Members

Celina Gold
Aurora Bisson-Montpetit
Michelle Jenkins
Corinne Mori
Tatsiana Dudkina
Natalie Munro
Shannon Seid
Zuzana Hivesova
Miya Regier
Ricky
Flo
Mag

BCNU members sought the opportunity to speak with BCNU leadership during the 2022 Annual Convention, to have our questions answered and our voices heard. Many members remain without work or working menial jobs while they await arbitration of their grievances; this situation has always been urgent for these nurses, and after a year of no news pertaining to their grievances, personal circumstances are becoming dire. This is a collective summary of the meeting, identifying areas that require clarification and follow up to commitments made to us during this meeting. The BC Nurses' Union **protects and advances the health, safety, social and economic well-being of our members, our profession and our communities**. We submit this document for your review and request correction on any errors.

Item #1 – BCNU's Role: Socio-Economic Wellbeing/Financial Position

BCNU 2021 Financial Statements:

" BCNU was established to promote and protect the socio-economic wellbeing of its members and their communities." **We asked the Executive Council if they believed that BCNU had protected the socio-economic wellbeing of its members**. Aman Grewal, BCNU President, stated that BCNU had provided this for all its members and is fighting for us through grievances and arbitrations. She deferred to Deb (legal) or Jim (CEO) who service the grievance department as she stated is not involved in this area.

BCNU members present were asked the same question; did they feel that BCNU has protected the socio-economic factors that are needed for their survival? The answer was a resounding "No" and some disclosed they were currently on welfare to meet their daily needs. The group of terminated

nurses who were present - and whose experiences generally reflect those of all terminated nurses - have seen their socio-economic situations prejudiced to an extreme degree.

In February, 2022, Jim Gould responded to one of our members via letter stating, “the Union has no reasonable recourse...other than to file a grievance with the employer for each and every termination. We could spend a significant amount of money in litigation....based on conversations with colleagues in the legal field...members’ dues would be ill spent. Should a defensible window open...it will be given due diligence. Until that time...Union staff is dedicated to...filing grievances”.

The Defense Fund has been increasing significantly every year and in 2021 stands at over **\$59,000,000**.

As per the Treasurer, there have been no significant expenditures in 2022. Its designated use is for expenses related to job action, whether it is BCNU’s or another unions’ job action. These expenses would cover strategic workers to allow essential service levels, paying for people who work at worksite job action committees, provincial, regional, anything to do with job action. Very little has been used in recent years as we have not had job action. The CEO confirmed that without strike notice we cannot engage in job action and cannot spend those funds as their specified use is to achieve a collective agreement. We note that it is the union who must initiate job action and this has not occurred.

The only suggested job action in the last year was in relation to an August news bulletin where union members were encouraged to support BCGEU at the liquor distribution centre. There has never been any mention of BCNU job action to support BCNU’s own members. This raised, and raises, concerns with regard to several issues. The most concerning, however, is that there seems to have been no meaningful push by the BCNU to assist the terminated nurses through collective action.

Strike notice can only occur when there is no collective agreement. As per Labour Code, bargaining must commence and an agreement cannot be reached. There is a legal test that requires:

- Bargaining in good faith
- You must reach an impasse and utilize best efforts to move past that impasse
- If unsuccessful, the union would could issue a strike notice but that can be opposed by the other party
- Then all members have to vote for strike action and a majority vote is needed to initiate

BCNU stated bargaining had not started. **We asked for dates**. The union has not received confirmation yet. The bargaining team is meeting next week and the plan is to start bargaining in December.

Questions:

- 1) In 2017, the Defense Fund had \$13,573,305. In 2021, that same fund now had \$59,653,927. Policy and Procedure Manual 4.0.08 Defense Fund states “the goal of Council is to build and maintain the defense fund at not less than **\$25,000,000**”. As this fund has an excess of **\$35,000,000** from the recommendations, and has not had any expenditures for several years, we submit the following:

Will BCNU use these excess funds to protect and assist the socio-economic wellbeing of its members who have experienced financial hardship due to the delayed response in processing grievances in a timely manner incurring financial hardship on its terminated members? Will BCNU use these excess funds to provide financial assistance for specialty training, retraining, educational opportunities for all members?

- 2) If BCNU is unwilling to use excess defense funds to provide financial relief for those who are experiencing financial hardship due to BCNU’s prolonged delay of grievance processing, what is the

purpose for stockpiling these funds as there has been no draw for years? Are the funds being used as collateral?

- 3) Would BCNU be willing to employ terminated nurses who are actively supporting membership with: compiling evidence, emotional and psychological support, communicating to government officials, policy education, and learning applicable laws that further ensure member rights? Currently we are doing this for free.
- 4) Terminated nurses have experienced significant psychological trauma due to the employment violations we have experienced. Would BCNU provide counselling to every terminated, and soon to be terminated member? Currently terminated nurses are without benefits and are unable to see dentists, have physiotherapy, get eyeglasses; would BCNU provide benefits to the terminated and soon to be terminated?
- 5) When was the last job action that required draws from the Defense Fund?
- 6) Could we be provided with a statement showing this balance?

Item #2 – Grievances and Allocation of Funds for Grievances

Grievances currently filed are approximately 2100 for the year, with about 730 reflecting the terminated members. **FOI's obtained by five BC Health Authorities stated nurse terminations to be over 2000. If over 2000 nurses were terminated, why were there only 730 termination grievances? This indicates over 60% of terminated nurses did not file a grievance, what would explain that?**

Response: Maybe these nurses had left the province? The current Legal Director started working for BCNU in February, 2022. At that time, there was a backlog of over 2000 grievances and she is attempting to get them through in a timely manner.

Which fund is used to finance grievances? The "Operating" fund.

What were the costs designated for grievances this year? Numbers were not available at the meeting. There are different routes for grievances. Unresolved Step 2 proceeds to the Grievance Assessment Committee, there is a vote to proceed to third party and then Full or Expedited Arbitration. Expedited go through LRO's and Full Arbitrations are what our grievances are.

Questions:

- 1) Who was in the role of Director of Legal and Labor Relations prior to Ms. Charrois?
- 2) How long was this position vacant before she started working in this position?
- 3) How many grievances were outstanding when she began working?
- 4) How many grievances have been processed since she commenced her position?
- 5) How many of the processed grievances were terminated nurses?
- 6) How many grievances are there currently unprocessed?
- 7) How many grievances have been processed in the last two years?

- 8) At the beginning of the meeting, Aman Grewal stated the BCNU protects the socio-economic wellbeing of all its members through the grievance and arbitration process, although she did also state that she does not have much to do with grievances. As the Legal Director has stated that it has been very difficult to move grievances through since she started her position, and the President does not have much to do with grievances, who is directly responsible to ensure that the legal mechanism of grievances and arbitrations is operational and fulfilled?
- 9) There is no "Operations" fund. In each year from 2015 to now, how much has the union spent on Grievances each year?
 - a. In which expense category is this information tracked?
 - b. What union resources are utilized?...legal team....contracted LRO's....Which BCNU staff are attached to this expense besides BCNU LRO's?
 - c. Are BCNU LRO's expensed as excluded union staff or "operational"?
 - d. Please provide a clear description of which category grievances are expensed in. Please ensure that there is an amount provided for the year 2022 even though it will end by October 31, 2022 instead of December 31.
- 10) What category is the BCNU using with regard to the nurses who have been terminated and/or suspended due to vaccine mandates? (Individual, et al, Union, SEPD, Dismissal or Suspension, IWAD)
 - a. How many are in each?
- 11) BCNU has developed a PDF that clearly states the timelines that each type of grievance is to be processed by. Our grievances are 9 months past the required timeframe. **Why is BCNU not following its own guidelines?** As grievances are the main mechanism that BCNU utilizes to enforce the collective agreement, and whether intentional or not, BCNU is not fulfilling its job duties. How is it willing to compensate the members who are suffering hardship due to union not fulfilling its duty?
- 12) How many staff are numbered in the Excluded? How many staff are included in the Elected Council? Please provide the staffing numbers for each year from 2015 to current year.
- 13) Please provide of list of the names of the Council Members from 2015 to 2022.

Item #3 - Current IWAD

We are told the legal department has filed an Industry Wide Application Dispute for all the terminated nurses.

After some further back and forth during the meeting it was clarified that an Industry Wide Application Dispute for all of the terminated nurses **has not** been filed. Rather, the BCNU is still in the process of working on it with an external legal team.

The response provided to us is that BCNU is waiting for the letter to go to HEABC and from there it gets filed. HEABC knows the letter is coming as BCNU has talked to them about it. BCNU has other grievances related to nurses with valid exemptions that were denied. BCNU has requested information

from the PHO offices for numbers on nurses who received exemptions for health-related reasons. It was not clear to us during this meeting whether this requested information has actually been received by the BCNU and was simply not available during our meeting, or whether it has not been received by the BCNU.

Questions:

- 1) Has the external legal team completed the IWAD except for the medical exemption information?
- 2) Has BCNU decided not to file the IWAD until the PHO provides the requested information?
- 3) How long has BCNU been waiting for the information from the PHO?
- 4) How long will BCNU wait to file the IWAD if the PHO does not provide the requested information? What process will BCNU use to exert pressure on the PHO to provide the requested documents?
- 5) What is BCNU expecting for a timeline to reach a decision on the IWAD once it is submitted?
- 6) What are the contents of the IWAD? Please provide us a copy.
- 7) As Bonnie Henry has already stated in the Public Health Order, no one has received a medical exemption, why is the legal team waiting to file the IWAD waiting for information that has already been published publicly?
- 8) As a general query, why is an IWAD only being filed a full calendar year after the suspensions and terminations took place?

Item #4 – Conflict of Interest

This is an incredibly concerning topic for us in our capacity as suspended and terminated nurses; but also generally as members of the BCNU. We rely on our union to uphold our rights and vigorously advocate for those rights when they are infringed upon. We also understand that a fundamentally important part of vigorous advocacy requires a clear, level headed, and utterly objective approach to any problem.

Over the last year we have seen little to no movement on our grievances (this was confirmed expressly during the meeting), little to no public engagement beyond some advertisements talking about how short staffed our healthcare system is (but no mention of all of the experienced nurses currently, and involuntarily relegated, on the sidelines), and no substantive action on how best to address the truly terrifying attrition rate in our profession.

These issues require swift and decisive action. Moreover, it is abundantly clear that the problems facing the BCNU are profound in scope and existential in nature. The BCNU has the resources to address these people, but does not appear to have the capacity to do so.

Which legal firm is retained by BCNU for legal counsel? Hamilton, Howell, Bain and Gould (HHBG).

During the meeting we were also told generally that there might be another external legal firm assisting with certain matters; however, we were not provided with the name of that firm nor were we provided with any additional information with regard to the scope of its apparent/potential involvement.

Is Jim Gould still currently a partner in that firm? He answered “Yes, although I am currently on leave”.

Question to the Executive requesting confirmation if Cody Hedman had taken another position or was he still working for BCNU? As far as BCNU is aware, Mr. Hedman is still currently a BCNU employee.

We clarified, “So Cody Hedman has not formally resigned?” Jim Gould, CEO, responded, “Given the clear conflict that exists even that I’m in the interim role right now, and he is still listed as the current CEO on leave, I should not be a part of this conversation”.

We agreed and requested he leave the room.

We addressed the BCNU Executive Council and stated, “Jim Gould remaining in the role of CEO was a clear conflict of interest. He is in charge of day to day operations, which would involve him referring work to his legal firm of which he financially benefits from those referrals. We formally request that BCNU immediately replace the CEO position with someone else.”

Given BCNU’s Code of Conduct policy, the Executive Council had a duty to enforce policies that guide the Code of Conduct for Elected Officers. A Conflict of Interest is defined as a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity. Jim Gould, as acting CEO, was in a position to derive personal benefit from his position. As there is no Code of Conduct for Excluded Staff, we expect this policy to apply to any person in BCNU leadership. The Executive Council neglected to enforce this policy, and the extended term that Jim Gould was positioned in the CEO capacity could have compromised union integrity.

The Legal Officer stated Jim Gould or his firm does not deal with grievances as another firm handles grievances. **As acting CEO, Jim manages day to day operations in which referrals are sent to a legal firm in which he is still noted as a partner on the firm’s website. He is noted to be on leave, but he is still an acting partner and still benefits from all financial transactions incurred.**

Jim Gould is returned to the room and he confirms that legal billing is by the 6 minute segment. Mr. Gould stated “oh god, yeah it’s terrible” as his firm collects the fees.

Policy and Procedures

2.0.1 Code of Conduct - Elected Officials

“To establish the expected behavior of Elected Officers, and thereby ensure that BCNU’s affairs are managed with the highest moral, legal and ethical standards.”

Procedure #6 states:

“Elected Officers will not place themselves in any position in which there is a conflict of interest between their official capacity and any personal, or professional interests.”

“Elected Officers are obliged, in their official capacity and as individuals, to do their best to fulfill the intent of this policy. It is expected that every Elected Officer will have a working knowledge of permissible activities and will seek guidance on any matter on which there is a question.”

The Executive Council stated they would take that under consideration.

Questions:

- 1) Please provide evidence that the Executive Council sought independent legal advice on the issue of

Jim Gould filling the interim CEO position, what conflicts of interest would arise from the financial benefit flowing to a partner of a law firm in charge of day-to-day operations of the BCNU, and what mitigating steps have been taken.

- 2) Please provide a statement as to why Jim Gould knew that he was in a conflict of interest and so needed to leave the room for the discussion, but the Executive Council did not recognize the conflict? Does the Executive Council not understand its legal obligation to ensure the highest moral, legal and ethical standards?
- 3) Please provide a copy of Jim Gould's Employment Contract.
- 4) Who is the other firm that deals with the grievances?
- 5) How are legal fees expensed in the financial statements as it is not clearly identified?
- 6) Please breakdown total legal costs in the years 2015- 2021, and please give the current expenditures for the year 2022. Please differentiate between the legal expenses incurred by HHBG, and those that were incurred by the unknown legal team.

It became clear to us during our meeting that this is not an issue that had even been considered by the BCNU executive. It is also clear to us that the wider membership of the BCNU has no idea that this sort of conflicting relationship exists between the BCNU. Our interim Chief Executive Officer has a direct financial interest, and therefore clear and express competing loyalties, to another entity that not only benefits from legal turmoil engaging the BCNU, but also *protracted legal turmoil*.

We posit that an objective outside observer, and the wider membership at large, would agree that this is a clear conflict of interest and one that can only be remedied in a single way - **Immediately remove Jim Gould as CEO. Begin the transition of working with another legal firm for collective bargaining.**

Item #5 – Critical Analysis

Written communication from LRO's to terminated nurses state, BCNU is conducting a critical analysis of the evidence with the legal team. HHBG is reviewing all grievances to identify the best ones as examples.

Questions:

- 1) We request evidence to support the assurance that legal is compiling strong scientific, legal, medical or ethical arguments to defend its members. We request a review of the material.

Item #6 – Bottleneck

We have determined that BCNU Executive Council and union personnel are not receiving any of the information stream from Jim Gould, CEO. **When BCNU personnel are asked for progress, timeframes, updates, BCNU personnel respond with, "We don't know". "Jim Gould is the one who is talking to the government and the rest of the Council does not know what is being said in those conversations".**

We have identified a bottleneck where Jim Gould is not sharing the information that he is privy too, essentially creating an information vacuum (this is especially troubling given the aforementioned clear conflict of interest that exists). This lack of transparency is affecting the flow of information that the Council is able to use, and effectively keeping BCNU members ignorant.

Today, BCNU asked its members in session if they would agree to allow terminated nurses to address the members as a whole. The members were told convention costs \$1400/min and that BCNU had important business to cover. We asked for 10 minutes to speak with them, and even though we had communicated we would do this at lunch when people could choose if they wanted to stay or not, and the convention room was already paid for, it was voted down (Note that Jim Gould had arranged for us to meet at the Pinnacle Hotel, away from the other membership, for a noon meeting. Clearly money was not the issue).

BCNU reinforced again, that we have no value. The money we have paid in union dues does not give us even 10 minutes to speak with our fellow members. We did not get paid to come. We did not have our expenses covered. We did not get a free sandwich or a coffee. But we came. We came at our own expense because we know what this union is supposed to represent and we are here to remind you what that role is.... BECAUSE IT'S NOT HAPPENING.

We are professionals; we come in good faith, sisters, part of this membership, and part of this family. We have been communicating for months with no response and this was our last resort. We tried to speak with our members today and were blocked, this is unacceptable. (BCNU had placed security at every entrance to the convention. We were followed in the restaurant, we were followed to the bathroom, and we were actively blocked from participating and mingling with other BCNU members).

We have documentation that BCNU had stopped communicating with us in July. That is what BCNU defines as transparency. Support is not occurring from this union. We ask BCNU to remember that these nurses have been without income for a year. EI was denied. When BCNU requested its members to go support other unions at the liquor distribution centre job action, how does BCNU think that came across to its own ignored members?

BCNU instructs us to write our MLA's but the union has meetings with the government and there is never any public statement concerning the return of terminated nurses. Nurses have emailed Bonnie Henry, Adrian Dix, BCNU, MLA's. We have been paying union dues for decades and BCNU says its supports us while we starve. There have been no public statements about terminated nurses since September of 2021. BCNU promotes international nurses while its own trained, experienced members are cleaning houses. BCNU says every nurse counts. Well, not since our terminations one year ago.

#7 – Amended Flu Policy IWAD

What is the justification for not implementing the amended flu policy that BCNU fought and won in 2019?

In September, 2021, Ms. Grewal made public statements in support of nurses' own choices around COVID vaccination and acknowledged the amended flu policy. (She also made statements that the healthcare was already in distress and this decision would put further stress on an already over loaded healthcare system). Public statements changed after September, 2021, and BCNU no longer made any public statements regarding terminated nurses, ignored policies, and the breach of the collective agreement. (Instead, we have letters from Jim Gould that BCNU is trying to win over public support to win this battle).

Aman Grewal, President, stated"And just for full disclosure, I was off on medical leave the end of September and was only back briefly in December."

Ms. Grewal's stated the flu policy was different than the PHO. The flu policy is an employer policy so it

must be attacked in a different way. There are arbitrations around how employer policies are handled. The PHO is completely different.

As the PHO did not specify employees needed to be terminated, and this was a decision imposed on employers via HEABC, this was an obvious breach of the collective agreement. BCNU has already successfully challenged the Public Health Office and Bonnie Henry, when the flu policy was overturned. To us, it did not sound like the President understood this.

BCNU Bulletin December 2019

Flu Policy Amended: Mandatory Vaccinations for Health Care Workers No Longer Required

The new agreement, reach through collaborative efforts with HEABC, will mean an end to the punitive nature of the previous policy and is consistent with the flu prevention efforts released by the Office of the Provincial Health Officer.

BCNU will continue to work with the employer to encourage vaccination as a strategy to reduce flu transmission and promote the use of PPE when appropriate. The amendment to the influenza prevention policy ensure that nurses will no longer face discipline for not getting vaccinated or wearing a mask.

...In 2015, BCNU filed an IWAD after health authorities refused to revoke their mandatory “vaccinate or mask” policy.

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BCNU News Bulletin September 15, 2021

Clarification: Union Response to Mandatory Vaccination Announcement

BCNU has always advocated for vaccination as it provides an important layer of protection against communicable disease. We appreciate that a very high percentage of our membership is vaccinated and nurses value the importance of a science-based approach to public health. Of the small percentage of members who are unvaccinated, BCNU is looking for health employers to extend other precautionary measure such as rapid testing, strict adherence to PPE and redeployment....

BCNU strong supports vaccination and evidence based decision making.....

We highlight that upon the release of this statement, the BCNU President resigned, the Vice-President went on medical leave, the CEO went on leave within a few months, Legal was replaced and we observed a change in the BCNU's position and public communication.

In regards to BCNU statement, “We appreciate that a very high percentage of our membership is vaccinated and nurses value the importance of a science-based approach to public health”. Please note that the Ontario Nurses Association challenged the mandatory influenza policy prior to BCNU and two arbitrators ruled in favor of ONA.

Decision in this link...https://www.ona.org/wp-content/uploads/ona_kaplanarbitrationdecision_vaccinateormask_stmichaelsoha_20180906.pdf “

“There is scant scientific evidence concerning asymptomatic transmission, and, also, scant scientific evidence of the use of masks in reducing the transmission of the virus to patients”

“Illogical and Unsustainable Influenza is highly contagious. Hospital patients are highly vulnerable. These are reasons to encourage vaccination— generally regarded as safe and almost always providing some

degree of protection. However, both vaccinated and unvaccinated HCWs can transmit it and asymptomatic transmission can occur. If donning a surgical or procedural mask provided protection, the conclusion should be inevitable that everyone should mask— at least until a vaccine with one hundred percent effectiveness, or close to it, becomes available. That is not, however, required illustrating how illogical the VOM policy actually is.”

“The suggestion that unvaccinated HCWs place patients at great influenza peril is, as Dr. De Serres testified, exaggerated.”

“...a reduction in all-cause mortality cannot be attributed to a higher vaccination rate.”

“St. Michael’s had to establish that vaccination reduced transmission and/or that unvaccinated HCWs put patients at a greater risk of contracting influenza. It has not met this evidentiary burden.”

“As one study indicated, mandatory influenza vaccination of HCWs is of “uncertain clinical impact.” In another study, a hospital achieved a 97% influenza vaccination rate but experienced no reduction in sick leave. Another study noted, “we cannot say for certain whether there was a change due to influenza vaccination.” Anecdotal evidence was presented that influenza outbreaks can occur in highly vaccinated and isolated populations. Needless to say, there are other studies indicating the exact opposite. On balance, though, the case establishing a link between vaccination and prevention of nosocomial influenza was not made.”

“ONA has already successfully argued against VOM policies, proving they are fundamentally flawed, and we are deeply disappointed that taxpayers' money has been wasted on having to do so all over again. Our collective agreement already protects our patients if the Medical Officer of Health determines there is an influenza outbreak by ensuring that comprehensive measures are put in place to reduce the risk of transmission to patients.”

Even though the Amended Flu Policy was in relation to Influenza and not Covid specifically, they are both respiratory viruses, infection control is the same, and that worldwide, Covid infection was monitored through Influenza Surveillance systems. Interior Health has internal emails that Covid is now “normalized”. They are categorized under the same umbrella.

We provide statistics from five Freedom of Information requests submitted to each BC Health Authority. From the months November 30, 2021 to June 30, 2022, in 4 health authorities (Island Health stated they did not differentiate between Covid illness and other illness), after nurses were terminated, there were over 20,000 Covid Sick Calls in double vaccinated staff. But BCNU already knew that information.

Questions:

- 1) Why is BCNU attempting to use public opinion to uphold the collective agreement? Historically, popularity contests have never been a reason for BCNU to fight for member protection.
- 2) Christine Sorenson, previous President, resigned in September, 2021. Aman Grewal, Vice-President, was on medical leave until after December, 2021. Jim Gould, interim CEO did not step into this role until January, 2022. Legal, Deb Charrois, stepped into her position in February, 2022. In our emails with the union, we have evidence of Regional Representatives taking leaves and those positions filled with inexperienced staff, union stewards admitting that they were new to the role and “were learning as they went”. At BCNU, who was actively in charge between October 1, 2021 and December 31, 2021, when the terminations began?

- 3) Why is BCNU the only nursing union in Canada unable to use its legal policies to protect members and return unvaccinated nurses back to work? In BCNU's opinion, would this inability to protect its members be attributed to organizational failures and lack of strategic planning?
- 4) What event occurred in September, 2021, causing an exodus of BCNU leadership and changing the union's position on the enforcement of the amended flu policy?
- 5) Did BCNU ever receive funds from the BC Government to encourage members to get covid vaccinated?

Item #8 – Communication

The COO stated that at this time last year, most of the Executive currently sitting at the table, were not in these roles last year and there has been a significant staffing change. (During the most significant healthcare and nursing crisis ever experienced by this union). He acknowledges our complaint addressing the lack of communication, no established route of communication and no provision of timely communication which has obviously created anger, frustration and beyond that now.

Historically, any termination proceeded to full or expedited arbitration within 90 days. We are now going into a year. The Legal Director admits there are grievance files that have not moved in 90 days and agrees that this timeframe has not been met in a long time. **We conclude this is an organization deficiency.** The Legal Director states it is her job to push grievances forward and this is occurring slowly, however, covid terminations are still occurring as nurses return from leaves.

The COO stated that appropriate communication channels need to be created providing updates that are ongoing and consistent. He affirmed that even though we are terminated, we are still members with rights; we still should be receiving timely and appropriate communication. Just for acknowledgment and respect, there should be a communication channel setup before we leave today. **(This did not occur)**. He stated that with over 700 nurses with termination grievances, we have to develop a different communication method so members are not left in limbo.

After one year of unacceptable communication and action from BCNU, we require action at this point. One nurse can impact hundreds of patients. BCNU's unwillingness to take action to return terminated nurses back to work impacts the public's access to healthcare. Ultimately, it is BCNU who is responsible for the further implosion of the BC medical healthcare system causing BC residents to experience increased inability to access healthcare resources in which they are entitled to.

We inform the Executive of all the specialties, high level of education, years of experience that is sitting at the table, unused.

BCNU had a responsibility to lead the unions in challenging this political agenda. We were the most qualified with healthcare, medical background, and science education to challenge the politics. According to our documentation, statements from the CEO left the union determining its responsibility based on the support of public opinion. Our legal protection hinged on judgment if there was enough public support. This is an abandonment of professional responsibility. Not only have we have left our nurses exposed, we have left the 1000s of other people in other unions exposed as well, which impacts public service.

The Legal Director stated BCNU and legal counsel are connecting with the legal team that is representing the doctors' legal challenge against Bonnie Henry, to access research. The courts have recently took notice

of the pandemic and the vaccine makes it more difficult to present evidence, but that is something of the legal strategy moving forward and finding the right specialist or expert to speak is a bit of a challenge. (We have some of those expert connections).

We ask how BCNU can continue to stand in silence when it knows how many double vaccinated nurses are calling in sick with COVID? BCNU knows the staffing stresses firsthand, and does not call out the ineffectiveness of this political strategy, appearing as if BCNU is in agreement with the removal of nurses from the workplace, causing inadequate provision of healthcare service. We highlight the legal obligation of “duty of care; the responsibility or legal obligation of a person or organization to avoid acts or omissions that could likely cause harm to others. Standard of care: Standard of care is only relevant when a duty of care has been established. The standard of care speaks to what is reasonable in the circumstances”. BCNU’s failure of duty in fair representation to its members not only causes hardship, and in many cases, irrecoverable damage, but this delay in legal responsibility causes hardship on the public.

- The CEO has had many discussions with government and he does not share all of his discussions with Executive or Council because he feels it would be strategically stupid.
- If he shared this information with BCNU Executive and Council, government would not have frank and open discussions with him, they would stop talking to him and he wouldn't be given the opportunity to have strategic backroom discussions with the highest levels of government in BC. That is not uncommon and he does share what he is able.
- He does not want to disturb those relationships with very senior levels of government officials.
- There is only one issue that he has been raising at every single discussion in government since he started on January 7, 2022, and that is the terminated nurses.

You have been at this since January, 2022. We are over 10 months into this process. There has been no movement on this, at least not in any substantial or concrete way. Not in a way that we see anything except public statements from Adrian Dix and Bonnie Henry publicly stating that they will never hire back those who were terminated. At some point in time BCNU’s unwillingness to take definitive action has to be characterized for what it is, weakness. Even adopting the BCNU’s own position regarding its focus on future collective bargaining; there is no coherent strategic worth to projecting, both internally and externally, an image of a weak bargaining agent unable or unwilling to take decisive action.

We ask what evidence he is presenting to the government to support his advocacy.

The CEO states that the government is familiar with all of it and the government's position is unwavering. He noted that other provinces are changing their positions and he does address this with government. Current scientific and public support, as well as, emerging information is undermining the government's position. He acknowledges that we are the only province to maintain this position of refusing to return terminated nurses, but that regardless of who he speaks with...Adrian Dix, Steven Brown, Mark Armitage...their position is unwavering.

BCNU has not been publicly communicating about terminated nurses in any way. The public does not even know that we are still terminated. When BCNU is asked why it continues to silence and ignore us, we are told by BCNU staff that BCNU does not want to lose public support. We are told that if BCNU takes a public stand, BCNU would not only lose public support, but would also lose the

support of the nurses who are currently working. Is this standard practice for the CEO to retain all control of communication with government and then not be required to disclose the content of these conversations to the Executive Leadership and members? Legal states that this is often done, especially during bargaining years.

We requested clarification: Is the subject of terminated nurses a part of bargaining? Specifically pandemic, mandates, etc? Legal states “no” and clarified that Council has not even met with bargaining yet to work out what priorities will be addressed in bargaining.

This appears inconsistent with prior representations. Moreover, something as significant as terminated nurses and the numbers of nurses leaving the profession (numbers who took early retirement due to coercion) is unheard of. We state our concern that ONE person in BCNU is having conversations with the government, individually, and this information is not filtering down to even the Executive.

This is especially troubling when that individual is only appointed in an ‘interim’ role and, as above, has been operating in a clear conflict of interest for some time. By all accounts if our ‘interim’ CEO were to cease in that role (which, as above, needs to happen simply to maintain the objective integrity of the BCNU as a whole), then there would be absolutely means of transition in leadership. The BCNU would be back to square one.

Mr. Gould states that the relationships he enjoys with the government as the chief negotiator of BCNU are different and unique to the relationships that BCNU Executive Councilors and Council has with every level of government. There is nothing stopping elected individuals from having relationships with government, lobbying and connecting with members of government and this has been happening. Maybe not in respect to this particular issue, because the government has dug in, but there isn't just one relationship with government, there are multiple relationships with government.

We stated that we were hoping to see forward movement from BCNU on our behalf. After a year, we do not have much trust in BCNU and there has been no evidence to justify any trust in BCNU. As a result, we are educating ourselves and preparing to do whatever is necessary to get the protection that is our right. We came here, peacefully, stating that we would like to work with BCNU and try to bridge this fissure that has occurred. Today, our request to speak with the members was refused due to how BCNU presented this opportunity as if this matter was an issue that depending on a popular vote. There are legal rights and obligations that this union should be enforcing and this is not occurring, and you are hiding this from your membership. This is our last attempt to approach this group with the intention of retaining relationship. We are qualified, intelligent professions, and we significantly contribute. We are not people that you want to lose. We are here to remind you what your duty is, and that you must figure out how to make that work. We thank you for the time you took to speak with us.

Legal stated appreciation for the discussion.

We reiterated that today we came in peace and we are hoping for a reconnection, but we clearly state that we are suspicious and distrustful so we will give BCNU time to decide how they would like to address us and move forward. Did BCNU have any questions?

There were no questions.

Item #9 – Culture of Fear and Coercion

We inform BCNU of our personal conversation with other members who experienced significant

mental and emotional distress due to the coercive nature of the vaccination. Many chose to get vaccinated, in direct conflict with their own beliefs and medical concerns, to remain employed. These nurses also communicate how they cannot share their personal concerns due to the bullying and fear around this issue, constricting the ability to professionally discuss the problems encountered with the mandated use.

We have all experienced nurses confiding in us, the emotional distress experienced by this workplace environment, and the obvious discrimination occurring against the non-compliant.

We ask for an anonymous poll among BCNU members to determine better numbers of those who have experienced coercion, discrimination and bullying. Every nurse should have the opportunity to express concerns, seek support, and receive appropriate communication regarding this issue in a way that reflect the sensitivity of the issue and the fear that many members have stating their position publically. Individual nurses can actually communicate issues that affect the membership at large.

The COO responded that he believes we are correct that there is a silent group out there that does feel fear. There are a lot of nurses, BCNU is aware, that are vaccinated only out of fear of losing their homes or out of financial consideration, or their own considerations. What the nurses' group has said is absolutely true. The reason the COO was requesting a communication gateway is to ensure that the union is forwarding grievances appropriately; that we have a channel to express our expectations and that there is accountability. We can touch base monthly or whatever timeline that we feel acceptable.

We state the a possible solution is that BCNU immediately sends out an email to all its members for the purpose of creating a group within the membership who would like updates on all current provincial mandates, decisions, movement and internal BCNU response. BCNU has the connections to the members; this has to be initiated by BCNU. We need to know which members are concerned. We have been silenced by BCNU, we have been separated from each other, and we have been ignored. In good faith, we request BCNU initiate construction of a group within the membership to participate in the process and decisions that affect our employment.

The CEO stated he is open to future meetings and he is willing to commit to another meeting to determine who should be present, what can be asked, and the discussions around those questions.

We requested a picture with the Executive to show evidence that the meeting occurred. We did note that some Executive did not participate.

Questions:

- 1) Can the BCNU please provide the evidence that the CEO has, indeed, brought forward advocacy for the terminated nurses?
- 2) Will BCNU send out an email, before November 8, 2022, to all its members, requesting feedback from its membership? Suggested questions:
 - Do you have concerns that the mandatory vaccination has impacted current staffing levels?
 - Do you feel that you experienced coercion when the mandate policy was enforced?
 - Do you want increased discussion on the topic of mandated vaccination, evolving scientific and political updates, and employment legalities/repercussions?
 - In the last year, do you feel you need increased emotional support due to decisions of the BC

government and its impact in the workplace?

- Would you like to see a separate group created for those who would like to discuss their concerns in a safe environment?
- 3) BCNU and Mr. Gould are meeting with Adrian Dix this week. What is the agenda of the discussion? Who will be recording the minutes? **If the Executive Council refuses to remove Mr. Gould from position of CEO, until we are able to legally address this, we now formally request that all communication between Mr. Gould and anyone in the BC Government be witnessed and documented.**
 - 4) BCNU prides itself on its Human Rights and Discrimination policies. We request that nurses who believe in personal bodily autonomy, protection of personal medical information and informed consent along with those who abstained from the covid vaccine for religious reasons, in the context of the loss of employment experienced due to discrimination, be given the formal recognition and identification of a discriminated group with the same benefits and rights of the other recognized caucus groups.

General and Financial Questions

We recently received some disclosure of the BCNU's financial information; this disclosure was provided pursuant to our rights and entitlements as members in good standing of the BCNU. We have questions regarding what was disclosed to us:

- 1) Under The Employee Future Benefits, there was an increase from \$299,100 to \$648,400 in one year (2020-2021). Could BCNU please specify why employee benefits doubled in one year and what these funds were used for?
- 2) Under Net Assets, Unrestricted, the amount of \$1,853,332 is unchanged in every financial statement for at least the last 5 years. Can BCNU explain this?
- 3) Please specify exact number of members at December 31 for the following years: 2015 to 2021. Please state exact number of members as of October 31, 2022. Please state if any of these members are not paying union dues, and if so, how many?
- 4) Please provide the Investment policies, minutes and supporting documents from the Council of the Union from 2015 to 2022. This would include statements, motions, and reports. Please identify the Financial Management Advisers.
- 5) Please provide a statement as to why excess funds are held in the Defense Fund, unused, when these funds could be used to support nurses in practice, in survival, in actual defense?
- 6) Please disclose whose decision it was, or the specific process undertaken with individuals involved, to move Mr. Gould into the interim position of CEO?
- 7) Please address our request for the resignation of Mr. Gould and the severing of the HHBG legal firm from BCNU. We request a response by November 10, 2022.
- 8) Please construct a statement of how BCNU Council will address their cooperation in ignoring the obvious conflict of interest instituted with Mr. Gould's position as BCNU CEO. We note there is a Code of Conduct Policy that must be adhered to.

- 9) Is BCNU COO willing to schedule a zoom call with us before November 10, 2022 to create the communication channel setup?
- 10) Was BCNU staff and Executive Council mandated to get the covid vaccination? Which union represents this sector? What is this union's position on the mandates?
- 11) Please provide monthly financial statements from the years 2015 to current.
- 12) BCNU has not had an audited report for over 4 years. Please ensure that 2022's Consolidated Income Report is externally audited as verification of records has not occurred for several years.