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CANADA

Employee Relations Services
Public Service Commission
rwp.complaint@gov.ab.ca
800 - 10405 Jasper Avenue NW
Edmonton, Alberta T5J 4R7

RE: FORMAL COMPLAINT

Dear Sir / Madam,

I am legal representation for a growing group of GoA employees who have reported to me that they have been the victim of systemic harassment in the workplace. This letter is a **formal complaint** for the purposes of an investigation as a consequence to the Public Service Commissioner's announcement of mandatory full vaccination for all Government of Alberta (GoA) Public Service (APS) employees by November 30, 2021, and that requested exemptions (due October 29th) for medical (physical or mental disability) and religious beliefs will be exceptionally rare and unlikely approved.

Please recognize this letter as an official complaint as per the GoA "Respectful Workplace Policy". These government officials, complainants in this instance, are concerned about retaliation, so they have retained my legal services to communicate to you on their behalf. Therefore, I respectfully request that you immediately invoke Section 6 of the Respectful Workplace Policy for the continued protection for all my clients during your investigation and resolution process.

This complaint is not centered on the creation of the involuntary GoA employee vaccine mandate, nor whether vaccines are good or bad. Rather, this particular complaint focuses on the improper administration and enforcement of this policy by the GoA Public Service Commission plus the GoA's Human Resources Department(s) which encourages objectionable or unwelcome conduct that is currently causing humiliation, degradation, and embarrassment, through intimidation to take a vaccine or suffer personal financial, reputation and career consequences.

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Specifically, in the GoA *Respectful Workplace Policy*, employees are expected to be protected from inappropriate behavior and management duress:

- Page 2: *“The Government of Alberta will not tolerate harassment or violence in the workplace from anyone and is committed to eliminating and doing everything reasonably practicable to prevent this inappropriate and unacceptable behaviour.”*
- Page 4: *“Workplace harassment is objectionable or unwelcome conduct by an employee, that the employee knew or ought reasonably to have known would harm or cause offence, humiliation, degradation, or embarrassment, or which generally causes a hostile, intimidating, or abusive work environment or otherwise adversely affects the health and safety of an employee. Workplace harassment includes bullying, which is a form of harassment. Harassment can also be a form of discrimination when it relates to a person’s race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, sexual orientation or political affiliation, or any other protected ground of discrimination included in the Alberta Human Rights Act or Collective Agreement. While harassment often involves a pattern of behaviour, in some circumstances, a single incident may be severe enough to constitute harassment...”*

My clients are adhering to their duty to report this occurrence and wish to respectfully request and immediate investigation as per your guidelines which state:

- *“...All employees who experience or witness behaviour that appears to be contrary to this Policy are expected to report that behaviour in a timely way...”*
- *“...The employer will appropriately investigate any allegations of violence and harassment and take appropriate corrective action to address this conduct in accordance with this Policy...”*

There are many sources confirming that this new policy is contrary to existing Government of Alberta (GoA) legislation, direction, expectation and education regarding the protection of an employee’s rights plus privacy as well as the strict adherence to diversity and inclusion. All Alberta Public Servants complete online training regarding respect in the workplace, yet such harassment and discrimination is now being displayed towards the unvaccinated. GoA employees who are exercising their freedom of choice to administer alternative strategies to protect themselves and others from COVID19 are being isolated, ostracized and penalized.

My clients wish to respectfully assert their right not to be bullied nor discriminated against because of their lawful personal choices.

My clients are deeply offended they need to justify any exemption to this harsh and oppressive policy because of their spiritual relationship with (for example: Christ, God), especially to a human resources decision maker who may not share similar spiritual interpretations and

revelations. What authority do they have to evaluate the legitimacy of the employee's religious values, perspective or foundational beliefs?

My clients believe the forced "doctrine of the COVID19 vaccine" has become a government imposed system of harassment and discrimination. Through this policy, the employer is coercing and compelling employees, on threat of adverse employment action, to make the inherently personal choice of what medical treatments to take. Many GoA public servants have legitimate medical and religious exemptions that are private and personal. Canadian law has long recognized individuals' rights to personal autonomy and bodily integrity, which this policy directly violates. See *R. v. Morgentaler*, [1988 CanLII 90](#) (SCC), [1988] 1 SCR 30.

The policy appears designed to implement a government objective that all employees be vaccinated against COVID19 or else. In that case, the policy violates the *Canadian Charter of Rights and Freedoms'* protection for individuals' life, liberty and security of the person, protected under section 7. Chief justice Brian Dickson stated clearly in *R. v. Morgentaler* that "**security of the person includes the right to protect one's body from interference by others.**"

Section 15 of the Charter prohibits discrimination. The vaccine policy of the GoA is clearly intended to discriminate against those employees of the GoA who hold deeply held beliefs that being injected against one's will offends their religious, moral and ethical beliefs as well as discriminating against those employees who believe that the vaccines are unsafe from the standpoint of potentially causing "physical disability".

New court challenges have yet to be heard with respect to the GoA's alignment with the *Canadian Constitution, Human Rights Act, Privacy Act* nor *Health Act* and International Law. A number of Demand Letters have sent to the Government of Canada and the Government of Alberta. The policy appears designed to implement an employers objective that staff be vaccinated against COVID19. In that case, the policy violates the *Canadian Charter of Rights and Freedoms'* protection for individuals' life, liberty and security of the person, protected under section 7, 15, and potentially other pertinent sections.

It is my clients(s) view that the GoA vaccine mandate policy is a violation of the *Canadian Charter, Criminal Code* and Human Rights. Through this policy, the GoA are coercing and compelling their employees to consent under duress, on threat of adverse employment action, to make the inherently personal choice of what medical treatments to take. Leadership has no authority to order an unlawful act. Doing so is the minimum threshold for coercion and harassment.

It is my clients(s) view that the GoA vaccine mandate policy is particularly egregious in regard to forcing vaccination on employees which are still appropriately considered experimental, not having gone through long-term trials or being fully approved in Canada. There are many reports of adverse reactions reported daily, including death, which have occurred from individuals receiving COVID vaccines. Health Canada specifically has warning labels for the Pfizer, Moderna and Johnson and Johnson vaccines which include: myocarditis, pericarditis, Bells Palsy and thrombosis. Informed Consent under the CPSA Standards of Care requires that a patient be allowed to make up their own minds as to whether their own personal risk from acquiring

COVID 19 is greater or lesser than the risk THEY are willing to take from any acknowledged side effects. This is especially so in the context of injections that are given where the manufacturers and the Government agencies dispensing the injections are completely shielded from liability.

The following link highlights a more comprehensive list of COVID19 vaccine side effects <https://sharylattkisson.com/>

The policy clearly infringes the rights of individuals who have a religious or conscientious belief or medical condition that prevents them from taking the COVID19 vaccines. Although there is the suggestion exemptions may be entertained, it is clear that anyone who requests accommodation based on their (religious beliefs for example) will be scoffed at and not taken seriously. The employer has inferred that there will need to be “proof” from the specific faith community.

The necessity to defend an employee’s exemption based on medical or religious grounds, is itself a personal privacy violation, public ridicule and abusive interpretation of the rules for the protections afforded by the Alberta Human Rights Commission.

Section 7(1)(b) of the *Alberta Human Rights Act* references “*religious beliefs*”, not religion. Therefore, the beliefs are inherently personal and not communal. Whether or not a person has beliefs outside or inside of a faith organization or community, (whatever that might be) is not a determining factor of whether or not they can or cannot be discriminated against.

The following is a sequence of events and written procedures recently imposed by the GoA towards their employees (*my clients, your complainants*) which provide the context to the harassment and discrimination:

The new GoA Vaccination Policy clearly states: “...*Proof of full COVID-19 vaccination must be submitted by November 30, 2021. A negative COVID-19 test result will be required for unvaccinated employees, as of December 14, 2021.*”.

The new GoA Vaccination Policy clearly states: “...*Starting October 15, 2021, employees will be able to declare their COVID-19 vaccination status and submit proof of full vaccination (i.e. first and second dose, or approved single dose). Upon commencement of this policy, requests for exemption under the Alberta Human Rights Act must be submitted no later than **October 29, 2021**, to be eligible for an accommodation consideration.*”.

- Employees are being rushed into determining if and when they could apply for an exemption. Why such an imperative to express their religious beliefs when the remainder of the employees are not required to submit to an alternate accommodation (testing) until December 14th? Why have a deadline at all. An employee should be able to identify their religious beliefs at anytime rather than be subject to an ultimatum. Religious beliefs don’t typically have a start and stop date. What an employee believes in October is likely to remain the same in February.

The new GoA Vaccination Policy clearly states: “...*Requesting an exemption (coming soon)*...” That’s it. No other details as of the date of this complaint.

- It would appear the GoA is intentionally making it difficult for employees to make application for a religious exemption with sufficient time to digest the process, validate it through management, make written submission, have it reviewed by Human Resources, and receive an approve or denial – all by October 29th? There is also no indication of any appeal process.

The new GoA Vaccination Policy clearly states: “...*employee’s personal information will be treated confidentially, in the same manner as all other confidential employee details, always in accordance with the Freedom of Information and Protection of Privacy Act and the Health Information Act where applicable*”.

- Yet in the same policy, employees are required (non-voluntarily) to disclose their vaccination status, and or their religious beliefs, and or their medical illnesses or disabilities by a deadline that will be used to determine future “disciplinary action”.

The GoA Private Information Policy clearly states: “*While employers have the responsibility to monitor and manage workplace absences and comply with direction from the CMOH, the authority to collect and disclose personal medical information and lead procedures specific to the pandemic lies with AHS. For this reason, Managers must be careful what employee information they gather and distribute.*” “... *Information collected or received should only be necessary for tracking absences and in a manner that limits the number of people working with the information. This also applies in circumstances where an employee voluntarily discloses personal medical information or AHS contacts a Manager for a positive COVID-19 case in the workplace.*”

- Yet in the new vaccination policy this private medical and religious information about an employees will be collected, accumulated, shared and communicated for enforcement of non-compliance to this involuntary directive. The GoA is violating their own information privacy policy with respect to Human Rights Act exemption.

The GoA Diversity and Inclusion Policy clearly states: “*The Alberta Public Service is committed to advancing diversity and inclusion in the workplace and creating a positive workplace culture where our differences are celebrated, and all employees feel free to be their authentic selves. We are committed to removing barriers in the workplace for underrepresented employees to ensure we are reflective of the diverse Albertans we serve.*”.

- Yet not all public servants differences are being treated equally because the new vaccine mandate is one sided. Those who choose not to be vaccinated must undergo an intrusive disclosure of personal private medical or religious beliefs or submit to regular testing at their own expense - while all costs are covered for those who choose to be vaccinated.

The GoA Diversity and Inclusion Policy clearly states: *“Inclusion refers to active, intentional and ongoing actions to create a community and society where individuals feel like they belong and that their unique perspectives, backgrounds, skills and beliefs are respected, welcomed and valued.”*

- Yet many public servants perspectives and beliefs and being discarded as irrelevant because of the new vaccine mandate.

The new GoA Vaccination Policy clearly states: *“Alberta Public Service employees will need to get tested in the private sector, such as at a pharmacy – not through Alberta Health Services public COVID19 testing system – and cover any associated costs. Alternatively, you can get vaccinated for free.”*

- Consequently, some public servants are not being treated fairly and are being financially penalized by having to pay out of pocket for any alternative to the vaccine and potentially losing their income if forced to take a leave of absence because of the new vaccine mandate involuntary directive. This policy affects Alberta families not merely GoA employees because of an unnecessary imposed financial pressure.

The GoA COVID19 vaccine mandate and the alternatives for non-compliance are not consensual for employees of the GoA. The Public Service Commission is on record for saying “no one will be fired”. However, failing to comply with the non-negotiable terms and conditions of the GoA vaccine mandate for employees will lead to a mandatory leave without pay and thus a personal and family hardship.

- How can an involuntary leave without pay not be punitive?
- How can involuntary suspension of an employees income not be the same as termination of employment?
- How can an involuntary leave without pay not be considered disciplinary action?
- How can disciplinary action be administered without a tribunal or adjudication or system of fair justice?
- How is this NOT harassment and discrimination by any common-sense definition?

My clients are also affronted by the necessity to defend their religious beliefs as “applicable” for any exemption. That requirement by the GoA to quantify, qualify and justify their intimate religious relationship with their spiritual leader – stands on its own as human rights discriminatory, disrespectful of diversity, and employee non-inclusive. What is the Human Rights Commissioner’s view towards:

- An employer needing a letter from your original Country of origin to prove you are of the same ethnicity?
- An employer needing the results of a physical examination to prove gender?
- An employer requiring a report from a sexual partner to prove sexual orientation?

Although the majority of this formal complaint focused on my client's objection to the discriminatory tone and expectations of the GoA employee mandated vaccine policy dealing with religious exemptions, there are other legitimate exemptions addressed under the *Alberta Human Rights Act*. That being for what the GoA policy titled as a "medical" exemption. In reality, this would be protection for those who are not prepared to be vaccinated because of a physical or mental disability. The term "disability" is misunderstood.

To quote the Alberta Human Rights Commission website fact sheets: "...*Physical disability is defined in the Act as any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness. This includes, but is not limited to, epilepsy; paralysis; amputation; lack of physical coordination; visual, hearing and speech impediments; and physical reliance on a guide dog, service dog, or wheelchair or other remedial appliance or device.... Mental disability is defined in the Act as any mental disorder, developmental disorder or learning disorder, regardless of the cause or duration of the disorder.*"

- The emphasis here is "any degree of... illness or mental disorder".

My clients believe that their medical diagnosis, treatment, care and follow up is a privileged relationship and series of communications between them and their health professional representative. There is no need for any correlation between a person's illness and the GoA mandatory vaccine mandate policy. For example, my clients Doctor(s) or Phycologist(s) will determine the best quality of care and may or may not, in consultation with their patient, decide a vaccination or a medical test is a mitigating or aggravating factor toward their health and/or if a vaccination is an acceptable or non-acceptable risk factor for their themselves / patient.

Frankly, this level of detail in communication, diagnosis and treatment is none of the employer's business. The suggestion that the GoA will quantify (by measuring the applicability and severity of the illness) the request for exemption because of a physical or mental disability is appalling. My clients, as the employee's are only required to convey to their employer (based on the GoA's own policy about private medical information):

- That they have an illness.
- That they may or may not be able to perform their job function.
- That they may be absent form work.
- That they may or may not require a health accommodation.
- That they may or may not be recommended to receive a vaccination due to their illness.
- That they have a treatment plan.

This information alone should qualify as sufficient evidence that my client would qualify for an exemption to the GoA policy based on "medical" grounds.

Therefore, I respectfully requesting on behalf of my clients that you investigate these suspected violations of the *Alberta Human Rights Act*, as well as these reports of bullying and employer harassment - which are being justified as permissible through the GoA mandated vaccination policy.

Further, my clients are asking that you inform the GoA **Public Service Commission** of this complaint and direct them to suspend any deadline associated to this policy - until such time as a comprehensive investigation onto these harassing & discriminatory practices can be completed by an independent investigation entity.

Sincerely,

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Jeffrey R.W. Rath B.A. (Hons.), LL.B (Hons.)
Barrister & Solicitor