



Court File No.: VLC-S-S-252688
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

In the matter of a statutory appeal pursuant to
section 40 of the *Health Professions Act*, R.S.B.C. 1996, C. 183

B E T W E E N:

AMY HAMM

PETITIONER

AND:

BRITISH COLUMBIA COLLEGE OF NURSES AND MIDWIVES

RESPONDENT

NOTICE OF APPLICATION

Name of Applicant: Egale Canada

To: Amy Hamm
c/o Libertas Law
Attn: Lisa D.S. Bildy
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And to: British Columbia College of Nurses and Midwives
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TAKE NOTICE that an application will be made by the applicant to the presiding judge at the courthouse at 800 Smithe Street, Vancouver, B.C., on July 29, 2026 at 9:45 a.m. for the order(s) set out in Part I below.

The applicant estimates that the application will take no longer than 30 minutes.

[] This matter is within the jurisdiction of an associate judge.

[X] This matter is not within the jurisdiction of an associate judge.

PART 1: ORDER(S) SOUGHT

1. Egale Canada is granted intervener status in this petition proceeding.
2. Egale Canada may file written submissions not exceeding fifteen (15) pages in length.
3. Egale Canada may make oral submissions not exceeding twenty (20) minutes at the hearing of the petition.
4. Egale Canada will not be entitled to costs from any party nor will it be liable for costs to any party.

PART 2: FACTUAL BASIS

1. Amy Hamm (the “Petitioner”) is a registered nurse with the British Columbia College of Nurses and Midwives (the “College”).
2. Between approximately July 2018 and March 2021, the Petitioner made online comments about transgender (“trans”)¹ people (“anti-trans public comments”) while identifying herself as a nurse or nurse educator.
3. Two complaints were filed with the College relating to the Petitioner’s anti-trans public comments. After an investigation, the matter was ultimately referred for a Discipline Hearing under s. 38 of the *Health Professions Act*, RSBC 1996, c 183.
4. The Discipline Hearing took place over 22 days between September 2022 and March 2024. The Discipline Panel issued its 115-page decision on March 13, 2025 (the “Decision”).
5. In the Decision, the Discipline Panel concluded that the Petitioner committed unprofessional conduct by posting online statements which it found to be discriminatory and/or derogatory to transgender people and which identify her as a nurse or nurse educator. These statements included comments that deny the existence and identities of transgender people and misgender them.
6. The Petitioner commenced this Petition, alleging that the Discipline Panel erred in both its legal and factual findings. In particular, the Petitioner alleges that the Discipline Panel incorrectly defined the terms “discriminatory” and “derogatory”, erred in balancing her rights to freedom of speech and erred in accepting “the multidimensional nature of sex as presented by [the College’s] experts”.
7. The applicant, Egale Canada, seeks leave to intervene.

¹ Transgender or “trans” people include those whose gender identity does not correspond with the gender socially expected based on their sex assigned at birth. It is an umbrella term for a wide range of gender identities and expressions, where a person's internal sense of their gender does not align with their assigned sex.

8. Egale Canada (“Egale”) is a non-profit organization established in 1986 that advances equality and justice for 2SLGBTQI (“two spirit, lesbian, gay, bisexual, transgender, queer, and intersex”) people across Canada.²
9. Egale’s mission is to improve the lives of 2SLGBTQI people in Canada and to enhance the global response to 2SLGBTQI issues. It seeks to achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education, awareness and legal advocacy. Egale’s vision is a Canada, and ultimately a world, without discrimination, homophobia, biphobia, transphobia, or other forms of oppression, so that every person can achieve their full potential, free from hatred or bias on the basis of their sexual orientation or gender identity.³
10. Egale also has a profile within the international community as Canada’s national 2SLGBTQI advocacy group. Over the past two decades, Egale has advanced 2SLGBTQI advocacy to the United Nations, the Organization of American States, the United States Armed Forces, the Vatican and many other related groups.⁴
11. Egale has a wealth of experience representing the rights and interests of 2SLGBTQI people in constitutional and public interest litigation. Egale has been granted leave to intervene in 51 cases before Canadian courts and tribunals affecting 2SLGBTQI rights, including 18 appeals before the Supreme Court of Canada.⁵ This includes intervening in cases that engage the intersection of freedom of expression and the rights of 2SLGBTQI communities,⁶ as well as those involving equality rights under section 15 of the *Charter*.⁷ Egale’s submissions have been cited with approval in a number of judgments – including judgments of the Supreme Court – which underscores their relevance and usefulness.⁸ Egale has consistently worked cooperatively with parties and other interveners to avoid duplicative submissions.⁹
12. Egale has been actively involved at the intersection of healthcare and the rights of members of 2SLGBTQI communities, including leading research projects aimed at identifying ways to improve access to care for 2SLGBTQI communities; initiating litigation to defend access to gender affirming care for youth in Alberta; and making submissions to the House Standing Committee on Health, the UN High Commissioner, and the Government of Alberta.¹⁰
13. In sum, Egale has extensive experience and expertise in constitutional and public interest litigation relating to 2SLGBTQI people, as well as research and policy development. Egale

² Affidavit of Helen Kennedy (“Kennedy Affidavit”), para 3.

³ Kennedy Affidavit, para 4.

⁴ Kennedy Affidavit, para 7.

⁵ Kennedy Affidavit, Schedule “A” - Egale’s Interventions.

⁶ Kennedy Affidavit, para 11.

⁷ Kennedy Affidavit, para 12.

⁸ Kennedy Affidavit, para 16.

⁹ See e.g., Kennedy Affidavit, paras 9-12, 16.

¹⁰ Kennedy Affidavit, paras 21-22.

also has expertise on issues relating to discrimination, harassment, hate speech, and health as it relates to 2SLGBTQI people.

PART 3: LEGAL BASIS

A. The Test for Intervener Status

14. To be granted intervener status under this court's inherent jurisdiction, an applicant must show either a direct interest in the outcome of the proceedings, or – if the matter raises public law issues – that it can bring a different and useful perspective to the Court (*Galloway v AB*, 2021 BCSC 646 (CanLII) at para 18; *British Columbia v. Imperial Tobacco Canada Ltd*, 2016 BCCA 203 (Chambers) rev'd on other grounds, 2016 BCCA 363).
15. There are two threshold considerations as to whether to grant leave to intervene: the nature of the proposed intervener and the nature of the issue: *Philip Morris* at para. 9. As the Chambers Judge wrote in *Gibraltar Mines I* at para. 15:

In addressing intervention applications, courts have regard to the nature of the applicant, directness of the applicant's interest in the matter, and nature of the issue to which the intervention is directed [citations omitted]. In *Equustek*, Groberman J.A. stated:

[11] I would describe these as threshold considerations. Interventions will generally not be allowed unless the applicant group has legitimacy, is genuinely concerned about the issues on the appeal, and can state issues that are suitable for intervention. Beyond these threshold considerations, it must be recognized that an order allowing intervention is discretionary, and the Court must be convinced that interventions will be of assistance to it.

16. An intervener's role is not to support the position of a particular party or to make submissions on the outcome of the proceeding. Rather, the role of an intervener is to make principled submissions on pertinent points of law: *Friedmann v. MacGarvie*, 2012 BCCA 109 at para. 28.
17. Submissions from interveners should not broaden the issues between the parties, expanding the scope of the litigation: *Imperial Tobacco* at para. 10.

B. Egale Canada Meets the Test of Intervener Status

18. Egale seeks intervener status on the basis that the matter raises public law issues and that it will bring a different and useful perspective to the Court on the issues to be determined.
19. The nature of Egale as a proposed intervener supports granting it intervener status. Egale is a Canadian non-profit with a mandate and genuine interest that is squarely engaged by the issues in this case. Egale has a proven track record of contributing as intervener in 46

cases across Canada, granting it legitimacy as an organization to represent the interests of the transgender community in this Petition.

20. Egale is uniquely positioned to make useful and different submissions from the parties and other interveners on the issues raised on the Application. As a representative of 2SLGBTQI communities, Egale has a significant interest in protecting trans people from discrimination and harm by regulated health professionals, especially given the history of health professions in stigmatizing and pathologizing 2SLGBTQI people.
21. The nature of the issues in this case also support granting Egale intervener status. This Petition engages the limits to freedom of expression under the *Charter* and the scope of a regulator's ability to protect its profession and the public interest, which is clearly public interest in nature. Further, the issues raised in this Petition transcend the interests of the parties. The determination of this Petition will impact 2SLGBTQI people and their ability to access healthcare free from discrimination and stigmatization. It will affect their ability to seek accountability from health regulatory colleges for misinformation, discriminatory and derogatory speech.
22. Egale has the requisite expertise and experience to assist the Court by providing guidance on the historic and current marginalization of the 2SGLBTQI community, the barriers faced by these communities in accessing healthcare, and how public discriminatory comments by regulated health professionals impact the community, as well as the legal issues engaged by such comments.
23. Egale Canada wishes to intervene in this proceeding to provide the Court with focused submissions, as follows:
 - a. **Submission 1:** Trans people face a “unique position of disadvantage”¹¹ and experience “extreme social stigma and prejudice”¹² in our society.¹³ As courts and tribunals across the country have recognized, including the Supreme Court of Canada, trans people often find their very existence subject to “hostility”¹⁴ and “public debate and condemnation”¹⁵ and are often stereotyped as “diseased or confused simply because they identify as transgender”.¹⁶ Trans individuals – who remain one of the most marginalized groups in our society¹⁷ – are at heightened risk of targeted violence and harassment, face inequitable access to healthcare and other essential public services, and experience higher rates of poor mental health and suicidal ideation.¹⁸ This is essential context for any regulator of health professionals to consider in its decision-making when assessing the negative impact caused by a registrant's public anti-trans comments.

¹¹ *Hansman*, *supra* note 1 at para. 85.

¹² *XY v. Ontario (Government and Consumer Services)*, 2012 HRTO 726 (“XY”), at para. 164.

¹³ *Hansman*, *supra* note 1 at para. 85.

¹⁴ *XY*, *supra* note 24 at para. 166.

¹⁵ *Hansman*, *supra* note 1 at para. 85; *Oger v. Whatcott (No. 7)*, 2019 BCHRT 58, para. 61.

¹⁶ *Hansman*, *supra* note 1 at para. 85.

¹⁷ *Hansman*, *supra* note 1 at para. 89, *Oger*, *supra* note 27 at para. 62.

¹⁸ *Hansman*, *supra* note 1 at para. 86.

- b. **Submission 2:** Denial of the existence and/or identity of transgender people, including by denying that gender dysphoria exists and by intentionally misgendering trans people, is both “derogatory” and “discriminatory”. Such comments reinforce existing barriers to accessing healthcare for trans individuals. The ability of trans individuals to access healthcare – free from discrimination, stigma, transphobic misinformation, and increased risk of physical and psychological harm – is crucial not only to achieving the promise of substantive equality under s. 15 of the *Charter*, but also to protecting trans people’s fundamental entitlement to life, liberty and security of the person under s. 7.
 - c. **Submission 3:** When conducting a *Doré* proportionality analysis, any impact on the Petitioner’s freedom of expression under s. 2(b) must be balanced against the countervailing ss. 7 and 15 *Charter* interests of trans people, which are also engaged by the regulator’s decision. Trans patients have “a right to equitable access to lawful and provincially funded health care services” which engages s. 7 of the *Charter* in the *Doré* analysis.¹⁹ When considering a balancing of rights involving medical practitioners and patients, the interests of patients must come first.²⁰ The proportionality analysis must also account for the s. 15 equality interests of trans people, including the “values of equality and human rights.”²¹ A regulator is entitled to “consider preventing potential harms to the LGBTQ community in making a decision it is otherwise entitled to make.”²²
24. Egale has taken steps to coordinate its submissions with other proposed interveners and will therefore neither duplicate the arguments of others nor expand the issues between the parties. Egale is uniquely positioned to make these submissions given its expertise and experience in this area. Egale does not seek leave to make submissions with respect to the outcome of the Decision.
25. Egale asks this Court to grant its application for leave to intervene.

C. Costs

26. The usual rule is that interveners are not entitled to, or liable for, costs associated with a proceeding: *Faculty Association of the University of British Columbia v. University of British Columbia*, 2009 BCCA 56 at para. 4 (In Chambers). There is no reason to depart from the usual rule in the present case. Egale seeks an order that costs be awarded neither for nor against it with respect to both this application for leave to intervene and the Petition.

PART 4: MATERIAL TO BE RELIED ON

- 1. Affidavit No. 1 of Helen Kennedy, affirmed June 23, 2026;
- 2. Such other material as counsel may advise and this Honourable Court may permit.

¹⁹ *Christian Medical and Dental Society of Canada v. College of Physicians and Surgeons of Ontario*, [2019 ONCA 393](#) at [para. 166](#).

²⁰ *Ibid* at [para. 167](#).

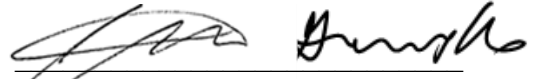
²¹ *Trinity Western University v. Law Society of Upper Canada*, 2018 SCC 33, at [para. 21](#).

²² *Ibid* at [para. 25](#)

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Dated: June 23, 2026


John McIntyre and Gregory Ko
 Counsel for the Applicant,
 Egale Canada

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To be completed by the court only:

Order made

☐ in the terms requested in paragraphs of Part 1 of this notice of application

☐ with the following variations and additional terms:

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.....

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Date:

.....
Signature of ☐ Judge ☐ Associate Judge

Appendix**THIS APPLICATION INVOLVES THE FOLLOWING:**

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other

- ☐ experts
- ☒ none of the above