

30-Jun-26

REGISTRY

No. VLC-S-S-252688

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF A STATUTORY APPEAL

PURSUANT TO: Section 40 of the
HEALTH PROFESSIONS ACT [RSBC 1996] Chapter 183

BETWEEN:

AMY HAMM

PETITIONER

AND:

BRITISH COLUMBIA COLLEGE OF NURSES AND MIDWIVES

AFFIDAVIT OF JACQUELINE GULLION

(in support of the Application for Leave to Intervene)

I, JACQUELINE GULLION, of the City of Kelowna in the Province of British Columbia,
AFFIRM AS FOLLOWS:

1. I have been an active member of the Vancouver Lesbian Collective (VLC) since 2020 and I am part of the Collective, a non-hierarchical body that makes all decisions for the organization, including developing our policy positions and managing our public campaigns.
2. VLC seeks leave to intervene in the petition of *Amy Hamm v. British Columbia College of Nurses and Midwives* and I am authorized to affirm this affidavit on its behalf.
3. I have acted as an unpaid feminist activist, feminist peer counsellor, and advocate for lesbians, women, and girls since 1998. I have spoken to dozens of audiences and to the

media on the topics of male violence against women, lesbians' and women's experience in a sexist society, feminist tactics for social transformation, and lesbians' contemporary concerns about LGBTQ+ politics. I believe my history of advocating for lesbian and feminist causes, my work experience at VLC, and my support of women who have suffered from male physical and sexual violence makes me well placed to address the issues in this affidavit.

About Vancouver Lesbian Collective

4. VLC is a Vancouver-based voluntary association of lesbians founded in 2015. We advocate for the rights of lesbians. We defend lesbians' political, bodily, and sexual boundaries and we pursue women's liberation from patriarchy. I believe that VLC is the only publicly identifiable lesbian-only group in English Canada.
5. We maintain a publicly available website (<https://www.vancouverlesbiancollective.com>), an instagram account (@vancouverlesbiancollective) and an X account (@vanlesbians).
6. VLC has developed, hosted, and promoted the following events and activities to further its purposes:
 - To support the rebuilding of lesbian-only spaces in Greater Vancouver, VLC hosts regular social and political events for lesbians only.
 - VLC has worked in coalition with other feminist groups in BC to advocate against women's poverty.
 - VLC has engaged in public online and in person advocacy campaigns on law and public policy that impacts lesbians and other women.
 - VLC organized and spoke at two public events called Feminists Speak Out. Both were attended by approximately 200 members of the public.
 - VLC has engaged in public information and education campaigns such as one publicizing the harmful effects of puberty blockers and cross-sex hormones on young women and lesbians.

7. Our members include lesbians from a range of backgrounds and occupations, including those who have been subject to employer attempts to curtail either their external advocacy on behalf of women and lesbians or their employment activities because they engaged in external advocacy on behalf of women including lesbians.

VLC's unique perspective on biological sex

8. VLC understands that being female is a biologically integrated fact that impacts innumerable aspects of our physiology, life course, and social status.
9. VLC defines "lesbian" as someone who is biologically female and same-sex attracted. This definition is fundamental to lesbian identity, sexuality and experience.
10. VLC understands sex role conditioning as a lifelong process linked to biological sex. Women (including lesbians) share the following characteristics: menstruation, the capacity for pregnancy, childbirth and lactation, menopause, on average weaker physical strength and smaller stature as compared to men, and vulnerability to male violence. These material realities of biological sex shape our experiences throughout our lives, including our socialization in childhood, expectations placed on us in terms of interests, comportment, appearance, and manner of being, our expected roles in the family, our disproportionate share of caregiving and domestic labour, our on average lower income and wealth, and constraints placed on our sexuality and public lives.
11. Lesbians have faced particular disadvantages in Canadian society on the basis of both our sex and sexuality. Historically, lesbians in Canada have experienced: pressure to remain "closeted" or face social and familial ostracization, targeted physical and sexual violence, harassment, criminalization, loss of employment, coerced consent to heterosexual marriage, and losses of our parental rights. Because women have earned less than men on average, and historically have had limited financial and property rights, past lesbian couples struggled to establish independent households and were doubly affected by women's exclusion from employment and economic opportunities. Some of these realities still impact lesbians today.

12. As a result of this history and of being a small group in society, VLC believes that lesbians benefit from being able to form lesbian-only associations like ours for the purpose of socializing, campaigning, and forming relationships.
13. Many LGBTQ+ organizations have incorporated a new concept of “gender identity” into their advocacy and services. Under this concept, every individual has an internal sense of whether they are a man, woman, both or neither. A person’s identified gender may or may not be the same as their biological sex. This means that a person can self-identify as a “man” or a “woman” regardless of their biological sex. This concept concerns VLC because once gender identity becomes hegemonic within these organizations, “lesbian” is no longer a cohesive or clear concept since it can include anyone of either sex who is attracted to anyone of either sex. This is contrary to how VLC understands lesbianism.
14. Some people who understand themselves as having a gender identity refer to themselves as transgender. A person identifying as transgender usually has a gender identity that is different from their biological sex. Some organizations include males as lesbians if they identify as transgender. Under this definition, “lesbian” is any self-identified woman attracted to any other self-identified woman even if one or both of these individuals are male. Again, this is contrary to how VLC understands lesbianism.
15. VLC formed to create a social and political space that recognizes the significance of biological sex to lesbians and offers lesbians a sex and sexuality-specific alternative to LGBTQ+ organizations in Vancouver.

Why the issues in this appeal are important to VLC

16. On March 13, 2025, the Panel in the matter of *British Columbia College of Nurses and Midwives v Amy Eileen Hamm* determined that Ms. Hamm, a registered nurse, committed unprofessional conduct pursuant to the *Health Professions Act* for statements she made online about women and women’s spaces. The Panel reviewed over 300 pages of

comments that Ms. Hamm posted on the online social media site Twitter as well as articles written by Ms. Hamm for the media site called Feminist Current.

17. All the statements reviewed by the Panel were statements or writings that Ms. Hamm made outside of her professional nursing activities.
18. The Panel concluded that many of Ms. Hamm's comments were discriminatory and derogatory towards transgender people and that she had committed unprofessional conduct in relation to three articles and one podcast that undermined the integrity of the nursing profession.
19. VLC is concerned that the Panel's conclusions undermine hard-fought accommodations that promote substantive equality for women and lesbians that have been achieved in Canada. In addition, VLC is concerned that the Panel's conclusions will chill its ability to even *advocate* in favour of equality rights for women and lesbians.
20. VLC is particularly concerned with the following excerpts from the Panel's decision:
 - a) Paragraph 167: *"'gender' is a deeply held belief which is critical to a person's well-being which reflects how they see themselves and how they expect others to see them."*
 - b) Paragraph 237: *"...the Panel considered the Respondent's evidence that she was not seeking to discriminate against transgender persons but rather to advocate for the sex-based equality rights of cisgender women and girls. [...] The Panel accepted the Respondent's evidence of her intentions but noted statements may be discriminatory and harmful in effect even if not intended to be so. [...]"*
 - c) Paragraph 250: *"The statement that sex is distinct from gender as a material biological reality is true but other claims such as there are only two sexes, humans cannot change their sex, and sex chromosomes are immutable are either oversimplifications or not true given that sex is multidimensional."*

- d) P. 93 of the appendix: *“The suggestion that women cannot defend their legal rights or the definition of womanhood if anyone can self-identify as a woman is critical of the right of transgender persons to express their identity authentically and transition to a sex that reflects their sense of identity.”*
- e) P. 100 of the appendix: *“It is discriminatory and derogatory to suggest that transgender women should not be in the same spaces as cisgender women.”*

21. These findings from the panel are concerning to VLC because:

- a) Our group associates together based on our female sex and the experience of being a woman and a lesbian. These are not belief systems but immutable characteristics.
- b) VLC relies on the protections under section 15(1) of the Charter of Rights and Freedoms: equality on the basis of sex and sexual orientation to advance substantive equality rights for women and lesbians. We also rely on Section 15(2) of the Charter and section 41 of the BC Human Rights Code, which provide exemptions for single sex associations. We are concerned that these protections become meaningless if biological sex is made irrelevant or if it becomes discriminatory to exclude a male person based on their belief system.
- c) These issues will impact the activities of VLC and its members, specifically those related to the right to freedom of thought, belief, opinion and expression set out at section 2(b) of the Charter, the right to freedom of association as set out in section 2(d) of the Charter, and the extent of a professional’s duty to avoid speech that engages in good faith with current issues regarding the definitions of human rights and discrimination when advocating outside of her professional activities.

22. Like Amy Hamm, VLC and its members have experienced backlash for our positions. While some may disagree with Amy Hamm’s or VLC’s views on biological sex, lesbians, women, and women’s single sex spaces, these views come from our lived experience. VLC believes that these views reflect established jurisprudence and law on substantive equality rights. Further, VLC believes that its views are shared by many others in British Columbia and across Canada. Diversity of thought, belief, and expression alongside the protection

of equality rights are traditionally considered to have foundational roles in a liberal democracy.

The Panel's Conclusions Directly Impact VLC

23. The Panel's reasoning is particularly troubling for lesbians. In a historically patriarchal society where lesbians have faced double disadvantages for being women and for our sexuality, this Panel would force us to include as a "lesbian" any male on the basis only that he sees himself as a lesbian and expects us to see him as a lesbian. We could lose our ability to control our membership and define who we are. We could become legally required to accommodate males who see themselves as lesbians and expect us to see them as lesbians.
24. The Panel's reasoning chills our ability to advocate in favour of our mandate: even suggesting that a male cannot be a lesbian would be considered discriminatory and denigrating treatment.
25. VLC believes that professionals have a duty to avoid discriminatory behaviour while acting outside the scope of their professional duties. However, the Panel's decision puts us in a confounding position wherein stating, defining, or defending our sexuality may become "against the law" or at least potentially judged discriminatory. The Panel's decision has the potential to limit publicly identifiable lesbians in both professional and private life. It could undermine our rights by stifling our ability to engage on an issue of direct consequence to lesbians and by threatening our employment and professional standing.
26. If same-sex attraction becomes morally or legally unacceptable, lesbians risk a return to a historical context where lesbianism was treated and lived as a private or secret identity for fear of punishment. This goes against the progress we have made in Canada.
27. The Panel's conclusions are at odds with the prevailing law in similar legal jurisdictions. For instance, in the United Kingdom, the belief that sex is biological and immutable is a protected belief under the *Equality Act*. VLC understands that this means that a

professional in the United Kingdom cannot be dismissed or disciplined for publicly expressing the view that biological sex is real, important, immutable and different from gender identity. No such protections exist for professionals in Canada: in fact, the Panel's conclusion is just the opposite: a professional can and will be disciplined for expressing these beliefs.

28. Public debate on biological sex, same-sex attraction, and sex-based rights for women are freely held in other jurisdictions including in the United Kingdom. We believe that these debates are healthy and worthwhile in a free and democratic society and that our group has a unique perspective it can contribute to this debate.

How VLC's Proposed Submissions will Assist the Court

29. If granted leave to intervene, VLC's submissions will focus on how the Panel's conclusions uniquely impact lesbians and chills our ability to advocate in favour of our mandate:
- In a patriarchal society, lesbians face unique disadvantages by virtue of both our sex and our sexuality.
 - If anyone can be a lesbian based on how they see themselves and expect others to see them then lesbians will no longer be able to define how we see ourselves and define who is a member of our group.
 - This will erode our ability to pursue substantive equality accommodations meant to address persistent systemic disadvantages experienced by our group.
 - Lesbians will be forced to return to a historical context where we must live in secret or outside the view of public life.
 - "Sex" is expressly protected by section 15 of the *Charter* and must be defined as a biologically based right that includes certain immutable and common characteristics.

General Considerations

30. If it is granted leave to intervene, VLC will provide this Court with helpful and distinct submissions as set out above. VLC will work with counsel for the parties to ensure that its submissions are not duplicative.
31. In addition, VLC does not seek to expand the record or raise new issues. VLC will meet all deadlines, and will not cause prejudice or delay to the parties or the Court.
32. VLC is a member only organization with limited resources. It does not seek costs and requests that no costs be awarded against it.
33. I make this Affidavit in support of VLC's motion for intervention in this appeal and for no other or improper purpose.

AFFIRMED BEFORE ME in the City
of Kelowna, in the Province of British
Columbia, this 29th day of June,
2026

Commissioner for Taking Oaths in
British Columbia

Shahdin Farsai
Barrister and Solicitor
Glenmore Place
201 - 401 Glenmore Road
Kelowna, BC V1V 1Z6

JACQUELINE GULLION