



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 [RSBC 1996] Chapter 183

BETWEEN:

AMY HAMM

PETITIONER

AND:

BRITISH COLUMBIA COLLEGE OF NURSES AND MIDWIVES

RESPONDENT

FRESH AS AMENDED NOTICE OF APPLICATION

Name of Applicant: Vancouver Lesbian Collective (“VLC”)

To: Amy Hamm
c/o Lisa Bildy
Libertas Law
341 Talbot Street
London, ON N6A 2R5
Lawyer for the Petitioner

And to: British Columbia College of Nurses and Midwives
c/o Brent Olthuis KC and Dahlia Shubaibar
Olthuis | Van Ert
1915 – 1030 West Georgia Street
Vancouver, BC V6E 2Y3
The Respondent

TAKE NOTICE that an application will be made by the applicant before Justice Jacqueline Hughes, assigned Judicial Management Judge in this petition, at the Vancouver Law Courts, 800

Smithe Street, Vancouver, British Columbia on the chambers list on July 29, 2026 at 10:00 am for the orders set out in Part 1 below.

The applicant estimates that the application will take 45 minutes.

This matter is within the jurisdiction of an associate judge.

Part 1: ORDERS SOUGHT

1. The Vancouver Lesbian Collective (“VLC”) be granted intervenor status in this petition.
2. VLC may file written submissions not exceeding 20 pages in length.
3. VLC may make oral submissions at the hearing of the Petition.
4. The Style of Cause be amended to add Vancouver Lesbian Collective as “Intervenor.”
5. VLC will receive copies of all pleadings, submissions and documents exchanged by the parties.
6. VLC will not be entitled to costs from any party and will not be liable for costs to any party.
7. Such further and other relief as this Court deems just.

PART 2: FACTUAL BASIS

Overview

1. The Petitioner, Amy Eileen Hamm, is a registered nurse and passionate advocate for sex-based rights for women. She has been outspoken about how transgender activism can have an adverse impact on women’s spaces, sports, and safety.
2. On March 13, 2025, the Panel in the matter of *British Columbia College of Nurses and Midwives v Amy Eileen Hamm* concluded that many of Ms. Hamm’s comments, all of which were made outside of her professional activities as a nurse, were discriminatory and derogatory towards transgender people. The Panel concluded that some of Ms. Hamm’s comments amounted to unprofessional conduct pursuant to the *Health Professions Act*.
3. This case raises numerous questions of public importance about equality on the basis of sex under section 15(1) of the *Charter*, the scope of 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 may be perceived as discriminatory when advocating outside of her professional activities.

About the Proposed Intervenor, Vancouver Lesbian Collective

4. VLC is a Vancouver-based voluntary association of lesbians founded in 2015. VLC advocates for the rights of lesbians. VLC defends lesbians' political, bodily, and sexual boundaries and pursues women's liberation from patriarchy.

Affidavit of Jacqueline Gullion, para 5.

5. VLC has a public facing presence through a [website](#), an [instagram account](#) (@vancouverlesbiancollective) and [an X account](#) (@vanlesbians).

Affidavit of Jacqueline Gullion, para 6.

6. VLC believes that being female is a biologically integrated fact with social implications that impact innumerable aspects of women's physiology, life course, and social status.

Affidavit of Jacqueline Gullion, para 8.

7. VLC defines "lesbian" as someone who is biologically female and same-sex attracted.

Affidavit of Jacqueline Gullion, para 9.

8. 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. VLC also believes that the material realities of biological sex shape women's experiences throughout their lives, including socialization in childhood, expectations placed on women in terms of interests, comportment, appearance, and manner of being, women's expected roles in the family, women's disproportionate share of caregiving and domestic labour, women's on average lower income and wealth, and constraints placed on women's sexuality and public lives.

Affidavit of Jacqueline Gullion, para 10.

9. Lesbians have faced particular disadvantages in Canadian society including: 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 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.

Affidavit of Jacqueline Gullion, para 11.

10. As a result of this history, VLC believes that lesbians benefit from being able to form lesbian-only associations.

Affidavit of Jacqueline Gullion, para 12.

11. 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. It also means that “lesbian” can be any self-identified woman attracted to any other self-identified woman even if one or both of these individuals is male. This is contrary to how VLC understands lesbianism.

Affidavit of Jacqueline Gullion, paras 13-14.

12. VLC formed to provide lesbians with a space that recognizes the significance of biological sex to lesbians.

Affidavit of Jacqueline Gullion, para 15.

Part 3: LEGAL BASIS

13. This Application to intervene is based on the discretionary inherent jurisdiction of the court to permit intervenors.

***Beaudoin v. British Columbia*, 2021 BCSC 226, para. 9.**

14. There are three broad threshold considerations that apply to an application to intervene: (1) the nature of the group seeking to intervene; (2) the directness of the group's interest in the matter; and (c) the suitability of the issues in the appeal to an intervention.
O'Neill v British Columbia (Minister of Health), 2025 BCSC 601, at para. 9.
15. Once the Court is satisfied of the threshold conditions, it must also be convinced that the intervenor party will be of assistance to it.
O'Neill v British Columbia (Minister of Health), 2025 BCSC 601, at para. 10.
16. An Applicant seeking leave to intervene must show either that it has a direct interest in the outcome of the proceeding or that it represents a public interest in a public law issue.
O'Neill v British Columbia (Minister of Health), 2025 BCSC 601, at para. 11.
17. A direct interest arises when the legal rights of the proposed intervenor will be affected.
O'Neill v British Columbia (Minister of Health), 2025 BCSC 601, at para. 12.
18. When a proposed intervenor does not have a direct interest, it may still be granted intervenor status where it represents a public interest in a public law issue. The following criteria apply to intervenor status under the public interest route:
 - a) Does the proposed intervenor have a broad representative base?
 - b) Does the case legitimately engage the proposed intervenor's interests in the public law issue raised?
 - c) Does the proposed intervenor have a unique and different perspective that will assist the Court in the resolution of the issues?
 - d) Does the proposed intervenor seek to expand the scope of the matter by raising issues not raised by the parties?*O'Neill v British Columbia (Minister of Health)*, 2025 BCSC 601, at para. 13.
19. In deciding whether to grant public interest intervenor status, the Court is concerned with ensuring that important points of view are heard. Such interventions must be able to present a perspective that is not already before the Court without expanding the litigation by raising matters that are not already part of it.
O'Neill v British Columbia (Minister of Health), 2025 BCSC 601, at para. 13.

VLC has a direct interest in the outcome of this matter

20. VLC is concerned that the Panel's conclusions will undermine hard-fought accommodations that promote substantive equality for women and lesbians. VLC is further concerned that the Panel's conclusions will chill its ability to advocate in favour of equality rights for women and lesbians.

Affidavit of Jacqueline Gullion, para 19.

21. 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."*

British Columbia College of Nurses and Midwives v. Amy Eileen Hamm, Reasons for Decision on Verdict (Decision issued: March 13, 2025)

Affidavit of Jacqueline Gullion, para 20.

22. These findings concern VLC because:

- VLC's members associate based on their female sex and the experience of being a woman and a lesbian. These are not belief systems but immutable characteristics.
- The protections meant to advance women under section 15(2) of the *Charter* and section 41 of the BC Human Rights Code become meaningless if biological sex is irrelevant.
- The Panel's finding impacts VLC's rights to freedom of thought, belief, opinion and expression 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 may be considered discriminatory even while outside of her professional activities.

Affidavit of Jacqueline Gullion, para 21.

23. The Panel would force VLC to include as a "lesbian" any male who on the basis only that he sees himself as a lesbian and expects other to see him as a lesbian. VLC could lose its ability to control its membership and define who is a lesbian. VLC could become legally required to accommodate males who see themselves as lesbians and expect VLC to see them as lesbians.

Affidavit of Jacqueline Gullion, para 23.

24. VLC believes that its views on biological sex, lesbians, women, and women's single sex spaces reflect jurisprudence and the law on substantive equality rights and that its views are shared by many others in British Columbia. Diversity of thought, belief, and expression alongside the protection of equality rights are traditionally considered to have foundational roles in a liberal democracy.

Affidavit of Jacqueline Gullion, para 22.

25. The Panel's reasoning chills VLC's ability to advocate in favour of its mandate: even suggesting that a male cannot be a lesbian would be considered discriminatory and denigrating treatment according to the Panel.

Affidavit of Jacqueline Gullion, paras 22 & 24.

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.

Affidavit of Jacqueline Gullion, para 26.

How VLC's perspective on biological sex will assist the court

27. VLC will submit that the Panel's conclusions are at odds with the prevailing law in similar legal jurisdictions. In the United Kingdom, the belief that sex is biological and immutable is a protected belief under the *Equality Act*. 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.

Affidavit of Jacqueline Gullion, para 27.

***Forstater v. CGD Europe and Others*, [2021] UKEAT 0105/20/JOJ**

28. VLC believes that public debate about biological sex, same-sex attraction, and sex-based rights for women is healthy and worthwhile in a free and democratic society. VLC has a unique perspective by virtue of being women and lesbians that it can contribute to this petition.

Affidavit of Jacqueline Gullion, para 28.

29. If granted leave to intervene, VLC's submissions will focus on how the Panel's conclusions uniquely impact lesbians and chills VLC's ability to advocate in favour of its mandate:
- In a patriarchal society, lesbians face unique disadvantages by virtue of both sex and 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 who is a lesbian.
 - This will erode lesbians' ability to pursue substantive equality accommodations meant to address persistent systemic disadvantages experienced by lesbians.
 - Lesbians will be forced to return to a historical context where they 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.

30. VLC's submissions will assist the Court on issues of public importance that will not unreasonably expand the scope of this petition. VLC will work to ensure that its submissions do not duplicate those of the other parties.

Costs

31. The usual rule is that intervenors 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.

32. There is no reason to depart from the usual rule in the present case. VLC therefore seeks an order that costs be neither awarded for or against it with respect to this application for leave to intervene and with respect to the petition.

Part 4: Material to be Relied Upon

1. Affidavit of Jacqueline Gullion, affirmed on June 29, 2026.
2. Other materials including case law, legislation and other documents as relied upon by counsel and admitted by the court.

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 on 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).

Frances Shapiro Munn

Dated: June 30, 2026

Signature of the lawyer for the applicant

Frances Shapiro Munn

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:

.....
.....
.....

Date:

.....

Signature of ☐ Judge ☐ Associate Judge

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

[X] add/change parties