




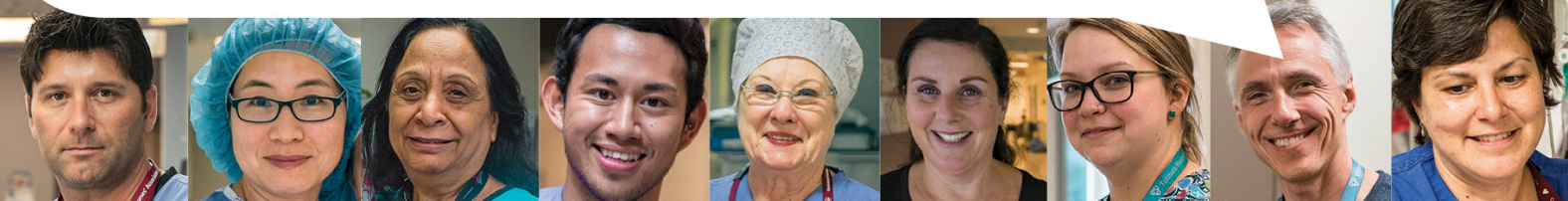
# Human Rights and Equity Teleconnect

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Ontario Nurses' Association



# Overview – Today's Teleconnect

- ONA is proud to join others across Canada in celebrating Black History Month
- In December 1995, Parliament of Canada officially recognized February as Black History Month, after motion introduced by the first Black Canadian woman elected to Parliament, the Honourable Jean Augustine
- This month we honour and reflect on the contributions, challenges and victories of Black nurses in Canada

# Historical Contributions and Challenges

- Black nurses have played a pivotal role in the history of nursing in Canada
- Creation of Black Cross Nurses in WW1
- Admission of Black students to Canadian nursing schools not until 1940s
- The Canadian Nursing Association announces a “no discrimination” policy in 1951

# Historical Contributions and Challenges

- Nurses from Caribbean seeking to practice in Canada faced discriminatory immigration policies in 1950s
- These policies later overturned
- Numbers of Black nurses & students in nursing schools, and Black nursing instructors slowly increased through the 1960-1970s, resulting in a welcome change to the face of the profession

# Pioneering Black Canadian Nurses

- **Bernice Redmon** – first Black nurse to practice public health and first Black woman appointed to the Victorian Order of Nurses in Canada \*
- **Ruth Bailey and Gwynnth Barton** – first graduates of the Halifax Children's Hospital in 1948
- **Clotilda Yakimchuk** - first Black graduate of the Nova Scotia Hospital School of Nursing, and in 2003 received the Order of Canada for her contributions to nursing and community involvement

# Notable ONA Litigation

- Sudbury District Health Unit (Makotoko Grievance)
- Clarke Institute of Psychiatry (Grievances of Daniel and Felicia Adusei)
- Northwestern General Hospital
- Rouge Valley Health System – Criminal Reference Check



# Sudbury District Health Unit - Makotoko

- ONA filed a grievance in 1979 on behalf of Josie Makotoko alleging discrimination
- Grievor educated in South Africa and gained significant work experience while living there, then additional experience in the UK before moving to Canada
- Grievance alleged she was not promoted to senior health nurse despite years of experience due to racial discrimination
- Parties settled and agreed she would be promoted

# Sudbury District Health Unit - Makotoko

- In 1985 ONA filed a second grievance, alleging that the grievor continued to be discriminated against, was not given more responsibility in line with her role, and was unjustly disciplined
- Arbitrator ruled that the discipline be rescinded and ordered that a communication consultant be brought to the workplace to help fix relationship



# Northwestern General Hospital

- In the early 1990s, a group of seven Black nurses at Toronto's Northwestern General Hospital (now Humber River Regional Hospital) took their claims of discrimination and exclusion to the Ontario Human Rights Commission (OHRC).
- ONA filed grievances on behalf of some of the complainants and actively participated before the Human Rights Commission
- The complaints alleged discrimination and harassment in employment on the basis of race, and reprisal by the hospital and certain members of management and staff
- Examples: Firings, forced resignations, or harassed because of their race

# Northwestern General Hospital

- In a landmark settlement, the hospital agreed to pay the nurses a total of \$320,000
- Other individual remedies included:
  - Purging of employee files any document pertaining to the allegations of the complainants
  - Transferring into full-time positions with retroactive seniority
  - Orientation and opportunities to participate in leadership training programs

# Northwestern General Hospital

- **Systemic Remedies** were also achieved with the hospital agreeing to:
  - Create a “Vice-President of Ethno-Racial Equality” position
  - Create a Human Rights Committee to develop and implement an “Anti-Racism Action Plan”
  - Develop and approve “Interim Anti-Racism Measures”
  - Conduct an “Employment Systems Review” to identify barriers in policies, practices and procedures

# Northwestern General Hospital

- **Systemic Remedies** continued:
  - Education and training on anti-racism in employment for the Hospital Board, President, V-Ps, all managers and supervisors
  - Communication to all staff of the hospital of the Settlement and its terms
  - Reporting to the Commission, by the hospital, twice yearly for 3 consecutive years on the progress of its anti-racism initiatives

# Clarke Institute of Psychiatry

- ONA filed grievances on behalf of husband and wife, Daniel and Felicia Adusei (“the Aduseis”) in 1991
- Grievances alleged:
  - Discrimination on the basis of national origin, race, ethnic origin, country of origin and “other factors not pertinent to the employment relationship”
  - For improper placement on the salary grid without proper regard to the Aduseis’ previous nursing experience
  - Difficult, protracted hearing – 40 days in total

# Clarke Institute of Psychiatry

- The Aduseis immigrated to Canada in 1984 after obtaining their nursing certificates and working for a number of years in Ghana and Nigeria
- They worked for nursing agencies and as a graduate nurse in hospital settings while awaiting certification by the CNO
- Mr. Adusei was hired by the Clarke in June 1988, and Ms. Adusei in August 1989
- They were both placed at the start of the ONA salary grid

# Clarke Institute of Psychiatry

- Clarke's practice at that time was to give credit for "related clinical experience" from Canada, the U.K or the U.S. only
- In 1991, after grievances were filed, Clarke changed its practice and gave the grievors some credit for their non-Canadian experience
- ONA argued that the credit was improperly calculated and sought recognition retroactive to the grievors' date of hire



# Clarke Institute of Psychiatry

- ONA asserted that other Black nurses had been treated differently than white nurses with out-of-country experience and called evidence of dissimilar but preferential treatment of non-racialized nurses
- ONA also relied on expert testimony and report of **Dr. Frances Henry**, Social Anthropologist, on:
  - Various forms of discrimination
  - Discrimination in employment because of race; and
  - How to remedy institutional discrimination and racism

# Clarke Institute of Psychiatry

## Arbitration Board had to determine:

**Was there any discrimination against the Aduseis in terms of their salary/grid placement at the time of hire?**

- Whether discrimination is intentional or inadvertent does not matter
- The effect, not the intent, is the critical factor
- The legal test is whether the hospital's actions "imposed burdens, obligations or disadvantages or whittled access to opportunities, benefits and advantages on the basis of race..."

# Clarke Institute of Psychiatry

## The Board found that:

- Hospital did not understand its policies were discriminatory
- Hospital was inconsistently administering policies that were “vague”
- BUT, clear effect of general practices was discriminatory
- Therefore, Clarke discriminated against the Aduseis in terms of their grid placement

# Clarke Institute of Psychiatry

## What was determined to be the appropriate remedy?

- The Board declined to order any grid adjustment prior to August 1, 1990 because management was not made officially aware of the grievors' complaints until Fall of 1990
- But awarded the grievors damages pursuant to the *Human Rights Code* - \$6,000 each
- No systemic remedy against the hospital
- But encouraged it to ensure their institutional practices and policies are in keeping with the Code

# Rouge Valley Health System – Criminal Reference Check

- ONA filed a grievance in April 2013 challenging the hospital’s “Criminal Background Checks” policy
- Policy required all existing staff, including ONA members, to complete a combination of “Criminal Record Check” and “Vulnerable Sector Checks”
- ONA argued the policy is unreasonable and infringes on our members’ privacy rights
- ONA called evidence of impact of the hospital’s policy on individual RNs

# Rouge Valley Health System – Criminal Reference Check

- ONA filed a grievance in April 2013 challenging the hospital's grievor E.A. (RN since 1995 and member of a visible minority) testified:
  - E.A. described feeling humiliated and judged as a criminal when he was required to attend at the police station and provide his fingerprints
- Arbitrator ultimately finds the policy is unreasonable as it applies to existing RNs represented by ONA
- Arbitrator noted that evidence of E.A. was **extremely compelling** in showing how the policy can adversely impact black RNs

# ONA Resources

- From ONA's website: [www.ona.org](http://www.ona.org) under "Member Services" then scroll to "Human Rights and Equity"
- FAQs available:
  - "As a leader, how will I recognize incidents of racial discrimination and harassment?"
  - "What should I do if I am feeling discriminated against/harassed on the basis of my race?"



# ONA Resources

- Reach out to your Bargaining Unit President if you need support in the workplace
- Your collective agreement protects you and gives you the right to equal treatment and freedom from discrimination and harassment
- You can also contact the Human Rights and Equity team with any questions

**QUESTIONS?**



[www.ona.org](http://www.ona.org)

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