

Citation: *CHL Inc. and Hayes v Vitalité*, 2025 NBKB 228

Court File No.: SJC-155-2025
SJC-235-2025
SJC-236-2025

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

BETWEEN:

CANADIAN HEALTH LABS INC.

PLAINTIFF

– and –

**REGIONAL HEALTH AUTHORITY A/RÉGIE RÉGIONALE
DE LA SANTÉ A O/A VITALITÉ HEALTH NETWORK**

DEFENDANT

Court File No.: SJM-104-2025
SJM-105-2025
SJM-106-2025

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

**IN THE MATTER OF A REFERRAL UNDER SECTION 65(1)(a) OF THE *RIGHT TO
INFORMATION AND PROTECTION OF PRIVACY ACT*, S.N.B. 2009, c. R-10.6**

BETWEEN:

MATTHEW T. HAYES

APPLICANT

– and –

**REGIONAL HEALTH AUTHORITY A – VITALITÉ
HEALTH NETWORK**

RESPONDENT

DECISION

BEFORE: Justice Maya Hamou

DATE OF HEARING: September 15, 2025

DATE OF DECISION: October 14, 2025*

APPEARANCES: Philippe M. Frenette and Matthew T. Hayes, K.C., counsel for the plaintiff and the applicant;
Vincent Charest and Daniel J. Surette, K.C., counsel for the defendant and respondent.

* In accordance with paragraph 24(1)(b) of the *OLA-NB*, since the hearing was conducted in both English and French, the decision shall be published in both English and French.

OVERVIEW

1. The present decision deals with six matters: three actions and three applications. The facts underlying the actions and the applications are of little importance, other than a few contextual details.
2. Firstly, Canadian Health Labs Inc. (hereinafter “CHL”) is suing Regional Health Authority A, operating under the name of Vitalité Health Network (hereinafter “Vitalité”), with respect to three contracts (Court file numbers SJC-155-2025, SJC-235-2025, and SJC-236-2025). CHL’s filed pleadings were in English and Vitalité’s filed pleadings were in French.
3. Secondly, Matthew T. Hayes filed applications (Court file numbers SJM-104-2025, SJM-105-2025, and SJM-106-2025) following requests for access to information made to Vitalité under the *Right to Information and Protection of Privacy Act*, S.N.B. 2009, c. R-10.6. Pleadings filed in these applications were in English. Vitalité gave notice of its intention to respond to the applications in French.
4. The issue raised in the present decision is common to all six matters. CHL and Mr. Hayes request that Vitalité respond in English, the language chosen by the plaintiff and the applicant in these civil proceedings. Vitalité opposes this request and asserts its right to use the French language before the courts.
5. At a case management conference, Justice Stephenson, on his own motion, raised the issue of the application to Vitalité of section 22 of the *Official Languages Act*, S.N.B. 2002, c. O-0.5 (the “*OLA-NB*”). Justice Stephenson issued two orders imposing deadlines for the filing of written submissions by the parties addressing the issue.
6. Section 22 of the *OLA-NB* provides that where the Crown or an institution is involved in civil proceedings, the Crown or the institution concerned shall use the official language chosen by the other party. This obligation extends to oral and written pleadings and to any process issuing from a court. The parties agree that, pursuant to section 21 of the *OLA-NB*, witnesses retain the right to testify in the language of their choice. The question is whether Vitalité has an obligation to participate in the civil proceedings in question in the official language chosen by CHL and Mr. Hayes.
7. To answer this question, the Court must determine whether Vitalité is an “institution” within the meaning of section 22 of the *OLA-NB*. An examination of section 22 and the definition of “institution” in section 1 of the *OLA-NB*, according to the ordinary and grammatical meaning of the words used, leads to the conclusion that Vitalité is an institution that is required to use

the official language chosen by the other party. For its part, Vitalité claims that this reading of section 22 of the *OLA-NB* is erroneous, given the context of language rights and the consideration of the *OLA-NB* as a whole.

8. Firstly, Vitalité maintains that its linguistic obligations under the *OLA-NB* are limited to the delivery of health services and do not apply to its interventions before the courts. In support of its argument, Vitalité cites sections 33 and 34 of the *OLA-NB*, which apply to health services. According to this Court's analysis, the language of operations of the regional health authorities in the *OLA-NB* is anchored in these provisions. Without this anchor, the language of operations of the regional health authorities, set out in section 19 of the *Regional Health Authorities Act*, R.S.N.B. 2011, c. 217 (the "*Authorities Act*"), could not be maintained, given the primacy of the *OLA-NB* over other legislation (subsection 3(1) of the *OLA-NB*). The Court dismisses Vitalité's argument and concludes that sections 33 and 34 of the *OLA-NB* do not limit the linguistic obligations that apply to Vitalité. In any event, even if the scope of the *OLA-NB* were limited to sections 27 and 28, the wording of section 27 is broad enough to require Vitalité to communicate with members of the public in the official language of their choice in the context of health services or in any other communications.
9. Secondly, Vitalité claims to be a distinct educational institution and a distinct cultural institution. These distinct institutions are excluded from the definition of "institution" in section 1 of the *OLA-NB* and are consequently excluded from the application of the general provisions of the *OLA-NB*. The terms "distinct educational institutions and distinct cultural institutions" are a reminder of the collective rights and distinct institutions referred to in section 16.1 of the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule "B" to the *Canada Act 1982* (U.K.), 1982, c. 11 (the "*Charter*"). The case law of the Supreme Court of Canada and New Brunswick courts on language rights does not support Vitalité's interpretation. Moreover, the Court cannot accept the mere suggestion that Vitalité is a distinct institution within the meaning of section 4 of the *OLA-NB* and section 16.1 of the *Charter*. And even less so when considering that this interpretation creates an internal conflict in the *OLA-NB*.
10. Thirdly, Vitalité raises subsection 19(2) of the *Charter* (which includes wording similar to that of section 17 of the *OLA-NB*), which provides that any person has the right to use either English or French in any court. According to Vitalité, its designation in section 17 of the *Authorities Act* as a body corporate with the rights, powers and privileges of a natural person means that it can avail itself of the right conferred by subsection 19(2) of the *Charter*. This

interpretation ignores the full text of section 17 of the *Authorities Act* and disregards the governmental nature of the regional health authorities created by the government for the purpose of delivering health services.

11. The Court dismisses the arguments raised by Vitalité to avoid its obligation under section 22 of the *OLA-NB* to respond to CHL and Mr. Hayes in the language of their choice. These arguments require legislative gymnastics that go far beyond the broad, liberal and purposive interpretation of language rights, that disregard the text of the *OLA-NB* and, more importantly, that lose sight of the language of the preamble to the *OLA-NB* that targets the rights of members of the public (*The Right Honourable Prime Minister of Canada et al. v La Société de l'Acadie du Nouveau-Brunswick and The Attorney General for New Brunswick*, 2024 NBCA 70, at para 96 (“*Canada v SANB*”).
12. The Court finds that Vitalité is subject to section 22 of the *OLA-NB* and is required to use the official language chosen by CHL and Mr. Hayes in the actions and applications currently before the Court.
13. It should be noted that the relevant sections of the acts referenced are reproduced in this decision. Although this approach makes the text harder to read, the specific wording of each section is important to understand this Court’s conclusions.

ISSUES

14. What analytical framework applies to language rights?
15. Is Vitalité an institution within the meaning of section 22 of the *OLA-NB*?
16. Do sections 33 and 34 of the *OLA-NB* limit the *OLA-NB*’s application to Vitalité to sections 27 and 28 of the *OLA-NB*?
17. Is Vitalité a distinct educational institution and a distinct cultural institution within the meaning of section 4 of the *OLA-NB*, and therefore an institution excluded from the definition of “institution” and the general provisions of the *OLA-NB*?
18. What is the effect of subsection 19(2) of the *Charter* on the official language used by Vitalité in court proceedings?

ANALYSIS

Analytical framework for language rights

19. First, the framework for analyzing the issue before the Court must be identified. In a recent decision on language rights, the Court of Appeal of New Brunswick reiterated the principles of interpretation that apply to language rights (*Minister of Justice and Public Safety v Forum des maires de la Péninsule acadienne Inc.*, 2025 NBCA 99 (*NB v Forum des maires*), at para 71; *Canada v SANB*, at paras 69 and 70; and *Charlebois v Saint John (City)*, 2005 SCC 74, at paras 23 and 24). The Court of Appeal of New Brunswick reiterated that these rights must be construed liberally and purposively, in a manner that is consistent with the preservation and development of official language communities in Canada, while reiterating that ordinary rules of interpretation continue to apply. This means that the courts must not create new rights that exceed or conflict with the true purpose of the legislation under the guise of a broad, liberal and teleological interpretation.

69. In *Beaulac*, the Supreme Court determined that **language rights must be construed liberally and purposively, in a manner that is consistent with the preservation and development of official language communities in Canada** (at para. 25). This approach was confirmed in *DesRochers v. Canada (Industry)*, 2009 SCC 8, [2009] 1 S.C.R. 194, where the Supreme Court reiterated the need to give true meaning to the concept of equality in language rights, thereby favouring substantive equality over formal equality. In unanimous reasons written by Charron J., the Supreme Court clearly stated that the exercise of language rights “is not to be considered a request for accommodation” (at para. 31).

70. Nonetheless, **purposive interpretation of language rights does not mean the ordinary rules of interpretation do not apply: *Charlebois v. Saint John (City)*, 2005 SCC 74, [2005] 3 S.C.R. 563, at para. 23. When a constitutional provision is interpreted purposively, the analysis must begin by considering the text of the provision, and this analysis must not be used to confer on *Charter* rights an interpretation that overshoots or otherwise goes against the actual purpose of the right: 9147-0732 *Québec inc.*, at paras. 8 and 10. Moreover, in *Mowat*, this Court reaffirmed the principle of the primacy of the written constitutional text which provides a foundation for the exercise by courts of constitutional judicial review (at para. 57). In interpreting language rights conferred by the *Charter*, courts must also keep in mind that in adopting a generous, broad and liberal interpretation, they must not create new rights** (see *Caron v. Alberta*, 2015 SCC 56, [2015] 3 S.C.R. 511; *Canadian Food Inspection Agency v. Forum des maires de la Péninsule acadienne*, 2004 FCA 263, [2004] F.C.J. No. 1235 (QL), leave to appeal to the S.C.C. withdrawn and declared of no force and effect, [2004] C.S.C.R. No. 449 (QL); *R. v. Blais*, 2003 SCC 44, [2003] 2 S.C.R. 236).

[Emphasis added]

Right to choose and obligation of the Crown to use the language of the parties (sections 17 and 22 of the *OLA-NB*)

20. Section 22 of the *OLA-NB* requires “the Crown or the institution” to use the official language chosen by the other party in any oral or written pleadings or any process issuing from a court. Although this section is found under the heading “Administration of justice”, as the subheading indicates, it concerns the obligation of the Crown or an institution to use the language of the parties.

Obligation on the Crown to use language of the parties

22 Where the Crown in right of the Province or an institution is a party to civil proceedings before a court, the Crown or the institution concerned shall use, in any oral or written pleadings or any process issuing from a court, the official language chosen by the other party.

21. Section 22 of the *OLA-NB* is, so to speak, an exception to the rule that every person may use the official language of his or her choice in any matter before the courts in any oral or written pleadings or any process issuing from a court, a rule set out in section 17 of the *OLA-NB*.

Right to use language of choice

17 Every person has the right to use the official language of his or her choice in any matter before the courts, including all proceedings, or in any pleading or process issuing from a court.

22. It should be noted that the application of section 22 of the *OLA-NB* has already been the subject of judicial interpretation in *Charlebois v Saint John (City)*, 2005 SCC 74, where the majority of the Supreme Court of Canada upheld the detailed analysis conducted by Daigle J. of the Court of Appeal of New Brunswick. In one of the proceedings, seeking various declarations against the City of Saint John, Mr. Charlebois chose to proceed in French. In defence, the City of Saint John presented its documents in English. In addressing a preliminary objection, all levels of court, up to the Supreme Court of Canada, ruled on the question of whether the municipality was required to proceed in the language chosen by Mr. Charlebois. The trial judge, the unanimous Court of Appeal and the majority of the Supreme Court of Canada concluded that the City of Saint John was not an institution within the meaning of section 22 of the *OLA-NB*.

23. The analysis conducted in that decision by Daigle J. of the Court of Appeal of New Brunswick focused on the contextual and teleological analysis of the provisions dealing with municipalities according to their ordinary and grammatical meaning and in the overall context

including the history of section 22, the purpose of the *OLA-NB*, the scheme of the Act and the intention of the Legislature.

24. Thus, considering that an analysis specific to the regional health authorities is required to determine whether Vitalité must use the official language chosen by CHL and Mr. Hayes in the matters before the Court, the Court must first determine whether Vitalité is an “institution” within the meaning of the *OLA-NB* and, more specifically, within the meaning of section 22.
25. A reading of the definition of “institution” in section 1 of the *OLA-NB* reveals that the regional health authorities, including Vitalité, having been established by an act of the Legislature to perform a governmental function under the direction of a minister of the Crown, are institutions.

1. In this Act

“institution” means an institution of the Legislative Assembly or the Government of New Brunswick, the courts, any board, commission or council, **or other body** or office, **established to perform a governmental function by or pursuant to an Act of the Legislature** or by or under the authority of the Lieutenant-Governor in Council, a department of the Government of New Brunswick, a Crown corporation established by or pursuant to an Act of the Legislature or **any other body that is specified by an Act of the Legislature to be an agent of the Crown in right of the Province or to be subject to the direction of** the Lieutenant-Governor in Council or **a minister of the Crown**; (institution)

[Emphasis added]

26. Remember that subsection 92(7) of the *Constitution Act, 1867*, 30 & 31 Victoria, c. 3, the establishment, maintenance, and management of hospitals in and for the Province is a subject of exclusive Provincial Legislation.

Exclusive Powers of Provincial Legislatures

Subjects of exclusive Provincial Legislation

92 In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

[...]

7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.

27. This conclusion, regarding the exercise of provincial jurisdiction, is supported by a reading of the *Authorities Act*, where section 2 provides that the purpose of the Act is to provide for the delivery of health services.

2. The purpose of this Act is to provide for the delivery and administration of health services, including by establishing regional health authorities with responsibility for providing for the delivery and administration of health services in specified geographic areas and, when authorized, in other areas of the Province.

28. Furthermore, Part 2 of the *Authorities Act* deals with the powers and duties of the Minister, and thus denotes ministerial control over the regional health authorities. The Minister has a wide range of broad powers.

- The Minister may delegate any authority, power, duty or function to a regional health authority (section 5 of the *Authorities Act*).
- The Minister shall be responsible for the strategic direction of the health care system in the Province (section 5.1 of the *Authorities Act*).
- The Minister may establish, and may amend, a provincial health plan, which shall include the health services to be provided or made available by a regional health authority outside of its region (paragraph 6(1)(c) of the *Authorities Act*).
- The Minister may give directions to a regional health authority (subsection 8(1) of the *Authorities Act*).
- Despite any provision of the Act, if the Minister considers it in the public interest to do so, the Minister may do any other thing that the Minister considers necessary (paragraph 11(b) of the *Authorities Act*).
- The Minister may designate hospitals as university hospital centres (section 14 of the *Authorities Act*).

29. Section 22 and the definition of “institution” in the *OLA-NB* (supported by the text of the *Authorities Act*) lead to the conclusion that Vitalité is an institution subject to section 22 of the *OLA-NB*. In other words, in civil proceedings brought before a court, Vitalité must use the official language chosen by the other party in oral or written pleadings or in any process issuing from a court.

30. Vitalité argues that this interpretation does not consider the wording of the act as read in its entire context and in its grammatical and ordinary sense harmoniously with the scheme of the

act, the object of the act, and the intention of the legislator (*Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27, at para 21). The following sections of this decision therefore address the arguments of Vitalité regarding its interpretation of the *OLA-NB*, which would result in the inapplicability of section 22 of the *OLA-NB* to Vitalité.

Provision of health services (sections 33 and 34 of the *OLA-NB*)

31. Vitalité claims that sections 33 and 34 of the *OLA-NB*, by referring specifically to government institutions in the context of health services, and particularly subsection 33(1) of the *OLA-NB* limit the scope of application of the *OLA-NB* to Vitalité. Subsection 33(1) of the *OLA-NB* states that an institution in sections 27 and 28 of the *OLA-NB* includes the regional health authorities. According to Vitalité, this creates a conflict with an interpretation of the *OLA-NB* that “institutions” in section 22 of the *OLA-NB* include the regional health authorities.

33(1) For the purposes of the provision of health services in the Province and notwithstanding the definition of “institution” in section 1, **an institution in sections 27 and 28 refers to the network of health establishments, facilities and programs under the jurisdiction of the Department of Health or the regional health authorities under the Regional Health Authorities Act.**

[Emphasis added]

32. To assess this argument, the Court focuses on the nature of sections 27 and 28 of the *OLA-NB*, which address communication of the public with the government and its institutions, and the obligations of institutions. Of particular interest is the language of section 27 of the *OLA-NB*, which states that “[m]embers of the public have the right to communicate with any institution [...] in the official language of their choice.” This right is not circumscribed or limited; it is of a general nature with a broad scope of application.

COMMUNICATION WITH THE PUBLIC

Communications with government and its institutions

27 Members of the public have the right to communicate with any institution and to receive its services in the official language of their choice.

Obligations of institutions

28 An institution shall ensure that members of the public are able to communicate with and to receive its services in the official language of their choice.

[Emphasis added]

33. The Court also notes the language of subsection 33(2) and section 34 of the *OLA-NB*, which provides for the delivery of health services in both official languages in the Province, regardless of the language used in the daily operations of the hospital or facility.

33(2) When establishing a provincial health plan under the Regional Health Authorities Act, the Minister of Health shall,

(a) ensure that the principles upon which the provision of health services are to be based include the delivery of health services in both official languages in the Province, and

(b) consider the language of daily operations under section 34.

Effect of section 33

34 Subject to the obligation to serve members of the public in the official language of their choice, section 33 does not limit the use of one official language in the daily operations of a hospital or other facility as defined in the Regional Health Authorities Act.

[Emphasis added]

34. Sections 33 and 34 of the *OLA-NB* more or less reiterate the concepts addressed in section 19 of the *Authorities Act*. Section 19 of the *Authorities Act* addresses the language of operation of the regional health authorities, the language used for the delivery of services and the responsibility to improve the delivery of health services in the French language.

Language and health services

19(1) Regional Health Authority A/Régie régionale de la santé A shall operate in French and Regional Health Authority B/Régie régionale de la santé B shall operate in English.

19(2) Despite subsection (1), a regional health authority shall

a) respect the language of daily operations of the facilities under its responsibility, and

b) provide health services to members of the public in the official language of their choice through the regional health authority's health establishments, facilities and programs.

19(3) Each regional health authority has the responsibility to improve the delivery of health services in the French language.

[Emphasis added]

35. Given section 3 of the *OLA-NB*, which provides for the primacy of the *OLA-NB* over any other act, sections 33 and 34 of the *OLA-NB* refer to section 19 of the *Authorities Act* in order to entrench these concepts in the *OLA-NB*. The Court does not agree that the inclusion of sections 33 and 34 limits or restricts the applicability of the provisions of the *OLA-NB* to Vitalité.

Act prevails, exception

3(1) No act, or regulation under it, other than this Act, shall be interpreted so as to repeal, limit or contravene a provision of this Act and, in case of conflict, this Act prevails.

3(2) Subsection (1) does not apply to the Education Act or any other act, legislative provision or measure which promotes the equality of the two linguistic communities or establishes distinct educational institutions or distinct cultural institutions.

36. Although subsection 3(2) of the *OLA-NB* operates as an exception to the primacy of the *OLA-NB* with respect to any act, legislative provision or measure which promotes the equality of the two linguistic communities or establishes distinct educational institutions or distinct cultural institutions, section 2 of the *Authorities Act* does not support a conclusion that the regional health authorities were established with these objectives in mind.

37. The Court concludes that subsection 33(1) of the *OLA-NB* is instead intended to clarify the obligations of the regional health authorities under the *OLA-NB* and not to limit the provisions of the *OLA-NB* that apply to the regional health authorities. A reading of the *OLA-NB* and the *Authorities Act* leaves no doubt that the two regional health authorities, although they may operate internally in either French for Health Authority A or English for Health Authority B, must communicate with the public and ensure the provision of health services to members of the public in the official language of their choice, as set out in sections 27 and 28 of the *OLA-NB*.

38. This interpretation is supported by section 40 of the *Authorities Act*, which requires the regional health authorities to provide simultaneous translation services for board meetings that are open to the public or meetings conducted by the authority that are open to the public. This section of the *Authorities Act* supports the notion that members of the public have the right to communicate with Vitalité in the language of their choice, even when it does not relate directly to the delivery of health services.

Translation services

40 A regional health authority shall ensure that simultaneous translation services in both official languages are provided to members of the public who attend a board meeting that is open to the public or a meeting conducted by the authority that is open to the public.

39. Finally, even if section 22 did not apply to Vitalité, and the application of the *OLA-NB* to Vitalité was limited to sections 27 and 28, it is incoherent to suggest that the obligation of institutions to communicate in the chosen official language ends at the conclusion of health services as such. The broad scope of the wording of section 27 of the *OLA-NB*, which allows members of the public to communicate with any institution and applies to Vitalité, precludes the narrow scope that Vitalité is seeking to give it.
40. For example, if we accept Vitalité's interpretation, a person who receives health services from Vitalité in English and who, in a case of medical negligence, files a suit in court in English, would see Vitalité, at its root a provincial institution, respond in French. Consider also the extension of this reasoning that applies to the two regional health authorities.

Distinct educational institution and distinct cultural institution (section 4 of the *OLA-NB*)

41. Vitalité claims that, under section 4 of the *OLA-NB*, it is not subject to the provisions of the *OLA-NB*; Vitalité maintains that it is a distinct educational institution and a distinct cultural institution. This argument does not hold up. Firstly, the legislator chose not to mention the regional health authorities among the distinct institutions referred to in section 4 of the *OLA-NB*, despite the specific reference in sections 33 and 34 of the *OLA-NB*.

Distinct institutions

4 Distinct educational institutions and distinct cultural institutions and, without limiting the generality of the foregoing, the school system in New Brunswick including the English and French sections of the Department of Education and Early Childhood Development including schools and their committees, councils and boards, community centres and universities and, where applicable, community colleges are not included in the definition of "institution" in section 1.

42. Secondly, language rights legislation and case law from the Supreme Court of Canada and New Brunswick courts do not support such an interpretation. The *Authorities Act* is not an act whose purpose is to promote the equality of the two linguistic communities or to establish distinct educational institutions or distinct cultural institutions. Some provisions of the *Authorities Act* include rights of a linguistic nature (see sections 19, 40, subsection 20(8) and

paragraph 71(1)(i) of the *Authorities Act*). Even though the promotion of the equality of the two linguistic communities may be an indirect consequence of the provisions of a linguistic nature in the *Authorities Act*, it is not the stated purpose of this act. Further, the Court cannot accept the suggestion that Vitalité is a distinct educational institution or a distinct cultural institution under section 4 of the *OLA-NB* on the basis of a few provisions of a linguistic nature in the *Authorities Act*.

43. Thirdly, and more importantly, if the Court accepts that Vitalité is included among the distinct institutions in section 4 of the *OLA-NB*, this creates an internal conflict that is irreconcilable with sections 33 and 34 of the *OLA-NB*.

Individual rights (subsection 19(2) of the *Charter*)

44. In addition to the *OLA-NB*, Vitalité relies on subsection 19(2) of the *Charter*, which provides that either English or French may be used by any person in any court of New Brunswick. Vitalité suggests that, by virtue of its legal status, it can assert the right to use the language of its choice before the courts.

Proceedings in New Brunswick courts

19(2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick

45. Subsection 19(2) of the *Charter* (with similar wording to section 17 of the *OLA-NB*) provides that either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick. Vitalité claims that due to the use of the words “any person” in subsection 19(2) of the *Charter*, and by its designation in section 17 of the *Authorities Act*, Vitalité may use the language of its choice.
46. Section 17 of the *Authorities Act* states that a regional health authority is a body corporate with the rights, powers and privileges of a natural person. That said, this designation is qualified and circumscribed for the purposes of Vitalité exercising its responsibilities, duties and powers under the *Authorities Act*. It is not, in itself, a section conferring constitutional rights on a government institution.

Legal status of regional health authority

17 A regional health authority is a body corporate and, subject to this Act and the regulations, has all the rights, powers and privileges of a natural

person of full capacity for the **purposes of carrying out and exercising its responsibilities, duties and powers under this Act.**

[Emphasis added]

47. The interpretation advanced by Vitalité disregards the very nature of Vitalité, which is at its root, a government-created vehicle for the delivery of health services. Moreover, this interpretation does not take into account the full text of section 17 of the *Authorities Act* that circumscribes this designation, which is intended to facilitate the exercise of its responsibilities, duties and powers.
48. Moreover, it should be noted that this legal designation is not unique to the regional health authorities, since the wording of this particular legal structure is found in many provincial statutes.

DISPOSITION

49. In the context of the actions and applications before the Cour, where Vitalité is a defendant and a respondent, Vitalité has an obligation under section 22 of the *OLA-NB* to use the official language chosen by CHL and Mr. Hayes in any oral or written pleadings and in any process issuing from a court.

Justice Maya Hamou
Court of King's Bench of New Brunswick