

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION SIX**

SOUTH HILLS HEALTH SYSTEM

Employer

and

**Case 6-RC-11774**

JEFFERSON HOSPITAL NURSES  
ASSOCIATION/PSEA HEALTH CARE

Petitioner

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Julie R. Stern, a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Regional Director.<sup>1</sup>

Upon the entire record in this case,<sup>2</sup> the Regional Director finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.

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<sup>1</sup> Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by March 16, 2000.

<sup>2</sup> The Employer and the Petitioner timely filed briefs in this matter which have been duly considered by the undersigned.

The Employer argued both at the hearing and in its post-hearing brief that the petition must be dismissed in that the Petitioner is not a labor organization within the meaning of Section 2(5) of the Act. Notwithstanding the Employer's assertion, the record evidence establishes, and I find, that the Petitioner constitutes a labor organization within the meaning of Section 2(5) of the Act. Although the Employer does not dispute that PSEA Health Care is a labor organization within the meaning of Section 2(5) of the Act, the Employer contends that the Jefferson Hospital Nurses Association is not an affiliate of PSEA Health Care. Contrary to the Employer's assertion in this regard, I find that the Jefferson Hospital Nurses Association is an affiliate of PSEA Health Care. The record establishes that the Jefferson Hospital Nurses Association is an organization in which employees participate and which exists for the purpose of dealing with the Employer on behalf of employees. Consistent with PSEA Health Care's practice, the Jefferson Hospital Nurses Association will adopt a constitution and bylaws and elect officers upon certification. Its members will then be "joint" members of the local and PSEA Health Care. As a practical matter, designation of the parent organization is a valid designation of its local affiliate. See, e.g., Up-To-Date Laundry, Inc., 124 NLRB 247 (1959). Moreover it is well established that structural formal ties, such as the existence of a constitution and by-laws, are not prerequisites to labor organization status within the broad meaning given that phrase in Section 2(5) of the Act. Yale New Haven Hospital, 309 NLRB 363 (1992); Armco, Inc., 271 NLRB 350 (1984); Yale University, 184 NLRB 860 (1970).

Furthermore, the Employer in its post-hearing brief argues that the petition must be dismissed or, in the alternative, amended to change the name of the Petitioner because the Petitioner's use of the name "Jefferson Hospital Nurses Association" infringes the Employer's trademark rights in the name "Jefferson Hospital". The Employer further argues that I am prohibited from issuing any decision or certifying any organization using the name "Jefferson Hospital" as such conduct would constitute an open and knowing contribution to the Petitioner's attempt to misappropriate the Employer's trademark. The issue of trademark infringement is not litigable in this proceeding. In this regard, I note that at the hearing, not only was this issue not

litigated, but also, that the Employer's counsel conceded the Board was not in a position to address this issue.<sup>3</sup> Accordingly, I reject the Employer's arguments that the petition must be dismissed.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(l) and Section 2(6) and (7) of the Act.

The Petitioner seeks to represent a unit of all full-time and regular part-time registered nurses<sup>4</sup> employed by the Employer at its Jefferson Hospital and Jefferson Surgery Center facilities located in Jefferson Hills, Pennsylvania; at its Homestead Health Center facility, which includes the Willis Nursing Center, the Emergency Room and Family Medicine, located in Homestead, Pennsylvania; at its Counseling Center located in Brentwood, Pennsylvania; and at the Clairton Works of USX located in Clairton, Pennsylvania; excluding registered nurses employed at its Home Health Agency and Family Hospice, charge nurses, team leaders, office clerical employees and guards, other professional employees and other supervisors as defined in the Act and all other employees.<sup>5</sup> The parties have stipulated that the above-described unit is

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<sup>3</sup> Not only has the Employer's counsel conceded this issue at the hearing, but also in its post-hearing brief, the Employer's counsel has cited no authority that the Board could consider this issue. Moreover, the Employer's counsel has cited no authority that supports the position that the use of a trademark in the circumstances present herein, i.e. as part of a name of a labor organization representing employees employed by the entity purportedly with rights to the trademark, constitutes a violation of trademark laws.

<sup>4</sup> The parties are in agreement that the following job classifications are included in the unit: Registered Nurse, Case Manager, Registered Nurse Assessment Coordinator (RNAC), Medical Compliance Auditor (Audit), Clinical Nurse Specialist (Oncology), Spec. Clinical System, Therapist Nursing (Chem Abu), Infection Control RN, RN Pre-Admission, Discharge Planner, Specialist Performance Improvement, Nurse Practitioner, Mental Health RN and Specialist Health Education.

<sup>5</sup>The unit description reflects amendments made by the Petitioner at the hearing, as well as stipulations by the parties that the registered nurses employed at the Counseling Center and at the USX Clairton Works are included in the unit, and that seven charge nurses and 17 team leaders are excluded from the unit. With respect to the charge nurses and team leaders, the parties have stipulated, and I find, that they are supervisors within the meaning of Section 2(11) of the Act in that they assign and responsibly direct employees and effectively recommend discipline of employees. The charge nurses at Jefferson Hospital are Margaret Thatcher, Dina Sheriff and Sherry Freet; the charge nurses at Homestead Health Center are Allen Freund, Barb Balistere, Angelica Kinkaid and Ellen Snyder. The team leaders are Patricia Luptak, Brenda Veschio, Nancy Cardinale, Karen Saylor, Barbara Lape, Cynthia Ragan, Karen Seibel, Deborah Simonetta, John Gess, Jeffrey Hayes, Jacqueline Kozlowski, Brett Morgan, Michele Jones, Jamie Trunzo, Brad Manown, Eileen Winkler and Nancy Hodgson.

appropriate within the Board's Final Rule on Collective Bargaining Units in the Health Care Industry.<sup>6</sup> There are approximately 400 employees in the petitioned-for unit. There is no history of collective bargaining for any of the employees involved herein.

The Employer, the South Hills Health System, a Pennsylvania not-for-profit corporation, is engaged in the operation of an acute care hospital and related facilities, and has its primary location in Jefferson Hills, Pennsylvania.<sup>7</sup> The petitioned-for registered nurses work in four locations on the Jefferson Hills campus: at the Jefferson Hospital, which is a 377-bed acute care hospital; at the South Hills Medical Building, which is a physician office building; at the James Bibro Pavilion, which houses administrative offices; and at the Jefferson Surgery Center, which provides outpatient surgery services.<sup>8</sup> Further, petitioned-for registered nurses work at the Employer's Homestead Health Center located in Homestead, Pennsylvania. At the Homestead facility, the registered nurses work in the Willis Nursing Center, the Emergency Room and Family Medicine. In addition, at least one petitioned-for registered nurse works at the Employer's Counseling Center located in Brentwood, Pennsylvania, which provides outpatient family and individual counseling as well as employee assistance programs to other businesses. Finally, two petitioned-for registered nurses work at USX Clairton Works, where the Employer, under a multi-year contract with USX Clairton Works, provides employee health services, such as pre-employment testing, physical examinations and outpatient type services.<sup>9</sup>

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<sup>6</sup> The Rule is set forth at 29 CFR Part 103, 54 Federal Register No. 76, pp. 16347-16348, 284 NLRB 1579, 1596-1597 (1987), approved by the Supreme Court in American Hospital Association v. NLRB, 499 U.S. 606 (1991).

<sup>7</sup> The parties have stipulated, and I find, that the Employer is a health care institution within the meaning of Section 2(14) of the Act.

<sup>8</sup> The South Hills Medical Building and the James Bibro Pavilion are considered as part of Jefferson Hospital and the parties have stipulated that the designation of Jefferson Hospital in the unit description includes the South Hills Medical Building and the James Bibro Pavilion.

<sup>9</sup> Administratively, the South Hills Health System is divided into several subsidiaries, which include Jefferson Health Services and Jefferson Diversified Health Services Corporation. Jefferson Health Services operates Jefferson Hospital, the Homestead Health Center, the Counseling Center and provides the services at the USX Clairton Works. Jefferson Diversified Health Services Corporation operates the Jefferson Surgery Center.

Accordingly, I find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time registered nurses employed by the Employer at its Jefferson Hospital and Jefferson Surgery Center facilities located in Jefferson Hills, Pennsylvania; at its Homestead Health Center facility, which includes the Willis Nursing Center, the Emergency Room and Family Medicine, located in Homestead, Pennsylvania; at its Counseling Center located in Brentwood, Pennsylvania; and at the Clairton Works of USX located in Clairton, Pennsylvania; excluding registered nurses employed at its Home Health Agency and Family Hospice, charge nurses, team leaders, office clerical employees and guards, other professional employees and other supervisors as defined in the Act and all other employees.

#### **DIRECTION OF ELECTION**

An election by secret ballot will be conducted by the undersigned Regional Director among the employees in the unit set forth above at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.<sup>10</sup> Eligible to vote are those employees in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period and employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date,

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<sup>10</sup> Pursuant to Section 103.20 of the Board's Rules and Regulations, official Notices of Election shall be posted by the Employer in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. As soon as the election arrangements are finalized, the Employer will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed. The Board has interpreted Section 103.20(c) as requiring an employer to notify the Regional Office at least five (5) full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice.

and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.<sup>11</sup> Those eligible shall vote whether or not they desire to be represented for collective bargaining by Jefferson Hospital Nurses Association/PSEA Health Care.

Dated at Pittsburgh, Pennsylvania, this 2<sup>nd</sup> day of March 2000.

/s/Gerald Kobell

Gerald Kobell  
Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD  
Room 1501, 1000 Liberty Avenue  
Pittsburgh, PA 15222

177-3925-6000  
177-3950-4500  
177-3950-5400

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<sup>11</sup> In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc. 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that the election eligibility list, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, Room 1501, 1000 Liberty Avenue, Pittsburgh, PA 15222, on or before March 9, 2000. No extension of time to file this list may be granted, except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.