

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13

HEALTH PROFESSIONALS, LTD.¹

Employer

and

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) COUNCIL
31 AFL-CIO

Petitioner

Case 13-RC-20509
13-RC-20511

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record² in this proceeding, the undersigned 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

3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:⁴

Case 13-RC-20509:

If a majority of the employees in the professional voting group (b), *infra*, indicate a choice to be included in a unit with the non-professional employees, the following employees will constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time Registered Nurses, Staff Assistants and Medical Records Directors employed by the Employer at the Illinois Youth Center Chicago, currently located at 136 N. Western Avenue, Chicago, Illinois; but excluding all confidential employees, guards, and supervisors as defined in the Act.

If, on the other hand, a majority of the employees in the professional voting group (b), *infra*, do not vote for inclusion, the following two groups of employees will constitute separate units appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

(a) All full-time and regular part-time non-professional employees employed by the Employer at the Illinois Youth Center Chicago, currently located at 136 N. Western Avenue,

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Chicago, Illinois, including Staff Assistants and Medical Records Directors; but excluding all confidential employees, guards, professional employees, and supervisors as defined in the Act.

(b) All full-time and regular part-time Registered Nurses employed by the Employer at the Illinois Youth Center Chicago, currently located at 136 N. Western Avenue, Chicago, Illinois; but excluding all confidential employees, guards, and supervisors as defined in the Act.

Case 13-RC-20511:

If a majority of the employees in the professional voting group (b), *infra*, indicate a choice to be included in a unit with the non-professional employees, the following employees will constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time Registered Nurses, Psychologists, Social Workers, Dental Assistants, Staff Assistants and Licensed Practical Nurses employed by the Employer at the Illinois Youth Center Valley View, currently located at 34W826 Villa Maria Road, St. Charles, Illinois; but excluding all confidential employees, guards, and supervisors as defined in the Act.

If, on the other hand, a majority of the employees in the professional voting group (b), *infra*, do not vote for inclusion, the following two groups of employees will constitute separate units appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

(a) All full-time and regular part-time non-professional employees employed by the Employer at the Illinois Youth Center Valley View, currently located at 34W826 Villa Maria Road, St. Charles, Illinois, including Social Workers, Dental Assistants, Staff Assistants and Licensed Practical Nurses; but excluding all confidential employees, guards, professional employees, and supervisors as defined in the Act.

(b) All full-time and regular part-time Registered Nurses and Psychologists employed by the Employer at the Illinois Youth Center Valley View, currently located at 34W826 Villa Maria Road, St. Charles, Illinois; but excluding all confidential employees, guards, and supervisors as defined in the Act.

DIRECTION OF ELECTION*

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, 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, 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, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.

In each case separate elections shall be conducted in voting groups (a) and (b) described above.

The employees in the non-professional voting group (a) in each case shall vote whether or not they desire to be represented for collective bargaining purposes by American Federation of State, County and Municipal Employees (AFSCME) Council 31 AFL-CIO.

The employees in the professional voting group (b) in each case will be asked two questions on their ballots:

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(1) Do you desire to be included in the same unit as non-professional employees of Health Professionals, Ltd., for collective bargaining purposes?

(2) Do you desire to be represented for collective bargaining purposes by American Federation of State, County and Municipal Employees (AFSCME) Council 31 AFL-CIO?

If a majority of the employees in voting group (b) vote "yes" to the first question, indicating a choice to be included in a unit with the non-professional employees, the group will be so included. The votes on the second question will then be counted with the votes of the non-professional voting group (a) to decide the representative for the entire unit. If, on the other hand, a majority of the professional employees in voting group (b) do not vote for inclusion, these employees will not be included with the non-professional employees, and their votes on the second question will be separately counted to decide whether they want to be represented in a separate professional unit.⁵

LIST OF VOTERS

In order to insure 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); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359, fn. 17 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision 2 copies of an election eligibility list, containing the names and addresses of all of the eligible voters, shall be filed by the Employer with the undersigned Regional Director who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in **Suite 800, 200 West Adams Street, Chicago, Illinois 60606** on or before January 5, 2001. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

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, Franklin Court Building, 1099-14th Street, N.W., Washington, D.C. 20570**. This request must be received by the Board in Washington by January 12, 2001.

DATED December 29, 2000 at Chicago, Illinois.

/s/Gail R. Moran

Acting Regional Director, Region 13

*/ The National Labor Relations Board provides the following rule with respect to the posting of election notices:

(a) Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Director in the mail. In all cases, the notices shall remain posted until the end of the election.

(b) The term "working day" shall mean an entire 24-hour period excluding Saturdays, Sundays, and holidays.

(c) A party shall be estopped from objection to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Director at least 5 working days prior to the commencement of the election that it has not received copies of the election notice.

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1/ The names of the parties appear as amended at the hearing.

2/ The arguments advanced by the parties at the hearing have been carefully considered.

3/ The Employer is a corporation engaged in operating providing health care services

4/ There are approximately ten employees in the combined unit in each case.

5/ The Employer contends that the Board should depart from its usual voting procedure in mixed units of professionals and non-professionals, which is described above. The Employer contends that the normal procedure will “dilute” the votes of the non-professional employees, who are greatly outnumbered by professional employees. The Board recently rejected similar arguments in *Pratt & Whitney*, 327 NLRB No. 199, slip op. at 6 n.14 (March 31, 1999). Moreover, with respect to the Valley View employees at issue in Case 13-RC-20911, the facts do not support the Employer’s argument. The record demonstrates that there are approximately five non-professional employees, and four or five professional employees at that facility. For these reasons, I do not find it appropriate to deviate from the normal voting procedure in these cases.

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Procedural Issues

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