

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

HCM, INCORPORATED, d/b/a CEDAR FALLS
HEALTH CARE CENTER¹

Employer

And

UNITED FOOD AND COMMERCIAL WORKERS
DISTRICT LOCAL UNION 431

Petitioner

Case 18-RC-16994

DECISION AND DIRECTION OF ELECTION

Petitioner seeks an election in a unit of the Employer's certified nurses aides (CNAs), certified medication aides (CMAs), licensed practical nurses (LPNs), dietary aide cook, dietary aides, housekeeping, laundry, and medical secretary. Contrary to the Petitioner, the Employer contends that LPNs are supervisors within the meaning of Section 2(11) and should be excluded. After reviewing the record, I conclude that the LPNs are employees and not supervisors within the meaning of the Act.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

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.²

¹ The Employer's name appears as amended at the hearing.

3. The labor organization involved claims 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. In order to understand my conclusions regarding the unit placement of the classification in dispute in this proceeding, I will summarize the record regarding the Employer's operation and the LPN job classification. I will then discuss specifically the evidence regarding the LPNs' role in assigning and directing work, in granting employees time off and dealing with employee absences, in evaluating employees, and in disciplining employees. I will then summarize the evidence with regard to other factors cited by the Employer in support of its position that LPNs are supervisors within the meaning of the Act. Finally, I will explain my conclusion that the Employer has failed to meet its burden of establishing the supervisory status of its LPNs.

The Employer's Operation

The Employer operates a long-term care facility licensed by the State of Iowa. The facility's current census is 57 patients; its capacity is approximately 80 patients. The facility consists of four wings: A, B, C, and D. There are two nursing stations, one for the A/B wings and one for the C/D wings. Each wing has approximately 18 to 20 patients. While the A, B, C,

² The Employer, HCM, Inc., d/b/a Cedar Falls Health Care Center, is a Mississippi corporation engaged in the operation of a nursing home located in Cedar Falls, Iowa. During the past calendar year, a representative period, the Employer received gross revenues in excess of \$100,000 and purchased and received goods, materials and services valued in excess of \$50,000 from firms located inside the State of Iowa, which firms in turn purchased and received those goods and materials and services from firms located outside the State of Iowa.

and D wings provide an intermediate level of care, the D wing also provides a higher level of care for patients in eight “skilled beds.”

The nursing services department consists of five RNs (including agreed upon supervisors), seven LPNs, approximately eleven CNAs, and other nursing aides such as CMAs, environmental aides, restorative aides, and shower aides. Two of the facility’s RNs act as staff nurses. The Director of Nursing (DON), Shirley Allee, oversees the nursing services department. LPNs report directly to Allee. Also reporting to Allee are the care plan coordinator and the staff development coordinator, both RNs. Allee, herself an RN, assumed her position on February 28, 2002 and reports to the facility’s administrator, Gloria Heathman. Allee’s duties include monitoring patient care, responding to after-hour questions and emergencies, and supervising, evaluating, disciplining, and firing employees. Allee usually works from about 8 a.m. to 6 p.m., Monday through Friday. Allee wears a beeper and is available 24 hours a day for questions and emergencies. Allee also shares “weekend call” with the care plan coordinator and staffing development coordinator.

The facility operates three shifts, seven days a week. The shifts are as follows: first shift is from 6 a.m. to 2 p.m.; second shift is from 2 p.m. to 10 p.m.; and third shift is from 10 p.m. to 6 a.m. For the A/B wings, the first and second shifts are staffed by one LPN, at least two CNAs, and a shower aide on certain days. For the C/D wings, the first shift consists of one LPN, one aide for each wing, and a shower aide. For C/D wings’ second shift, there is either an RN or an LPN, two CNAs and a shower aide on certain days. There is a total of one LPN and two to three CNAs for the third shift, and those employees are responsible for both the A/B and C/D wings.

Two of the facility’s RNs, Kathy Bond and Laura Debolt, act as staff nurses in the D wing during the second shift. State law requires that patients in “skilled beds” be cared for by an

RN at least eight hours a day. During the first and third shifts, these patients are cared for by the LPNs. DON Allee testified that these RNs and the LPNs share the same title of “staff nurse,” and are at all times acting in the capacity of charge nurses. She further testified that there is no difference in how the staff nurses do their jobs. For each shift and wing, there is a staff nurse who acts as a charge nurse. In the record are two job descriptions, one for staff nurse, as well as one for “L.P.N./L.V.N.—Charge Nurse.” While there is significant overlap between the descriptions, the latter description specifically states that the LPN reports to the director of nursing and also sets forth the qualifications, duties, and responsibilities of the LPN. However, testimony presented by the Employer is clear that LPNs do not perform all of the functions set out in the job descriptions, and instead some of the duties have been assumed by the care plan and the staffing development coordinators. For example, no party contends that LPNs have the authority to hire, fire or suspend employees. To the extent that the job descriptions in evidence suggest otherwise, the Employer’s administrator was clear that the descriptions are incorrect. There is also no evidence that LPNs interview applicants, or effectively recommend the hiring, firing or suspension of employees.

The DON was unable to estimate how much time LPNs spend engaged in direct patient care. Of the LPNs who testified, only one was asked this question. The LPN estimated that she spent 6-7 hours in direct patient care, with the rest of her time spent charting and filling out other (unspecified) paperwork.

Petitioner and the Employer agree that the following classifications should be excluded from the unit because they are supervisors with the meaning of the Act: administrator, director of nursing, care plan coordinator, staff development coordinator, activities director, dietary supervisor, laundry supervisor, and maintenance supervisor. The parties also agree that the

accounts receivable bookkeeper and accounts payable clerk should be excluded as confidential employees, and that the social worker should be excluded as a professional employee. Finally, the parties also agree to exclude the registered nurses.

Assigning and Directing Work (Care Plans)

The care plan coordinator, Penny Clark, creates the initial care plans for the patients. The care plan outlines the needs of the patient including types of assistance needed, restrictions, and daily activities. According to the testimony of DON Allee, LPNs or RNs may change the care plan if there is a change in the needs of the patient. At one point Allee suggested that the LPN or RN writes the change into the care plan and communicates the change to Clark. However, later in her testimony, Allee stated that if Clark thinks that a change to the care plan is inappropriate, she has the authority to overrule the change. An LPN testified that while the LPNs can give suggestions about changes to the care plan, they cannot actually make changes to it themselves.

According to evidence presented by both the Employer and the Petitioner, LPNs monitor patient care and make sure that duties are fulfilled by nursing staff employees. LPN Bentley testified that the care plan provides her with information on how to perform her job with each patient. Bentley further testified that the care plan specifically includes how the patient transfers, how and what the patient eats, what types of assistance the patient needs, and other details. DON Allee also testified that the facility maintains written policies which provide procedures for daily activities including providing proper oral care to patients, bed-making, and using equipment in assisting patients. In addition, LPN Lunde testified that she makes sure that state regulations and policies are being followed when checking the work of the CNAs. The Employer's evidence shows that patient care plans, the facility's own written policies, and state regulations provide direction and guidance for all nursing staff employees in how to perform their duties. Thus,

there is no evidence that LPNs decide what care is to be provided, or how the care is to be provided. Rather, LPNs make sure that CNAs have completed tasks. This would include directing CNAs in the care of the patients, using the guidelines provided by the care plans, the Employer's own written policies, and state regulations.

Staffing Development Coordinator Bonnie Happel schedules employees' work hours, and at the same time assigns nursing department employees to whatever wing they are to work. There is no evidence that LPNs have a role in the initial assignment of employees to particular wings. One LPN testified that she has reassigned CNAs to different areas if she knows that individuals do not work well together, although the frequency of this type of reassignment is not clear. Presumably on those days when there is one CNA assigned to each wing that type of problem would not exist. Each schedule covers two weeks and is posted on the bulletin board and is distributed to each employee.

Granting Employees Time Off and Dealing With Absences

Employees who know in advance that they need time off make their requests to Happel. However, it appears that LPNs have the authority to give CNAs permission to leave early from work. While there are no specific examples in the record where such requests have been granted, it appears that they would be granted only if necessary work were completed or adequate coverage existed. If an employee calls in sick or does not show up for work during the first or second shifts at a time when Happel is working, she makes arrangements for covering the shifts. However, if this occurs when Happel is not working, the LPN is responsible for calling in another employee; reassigning work; or calling the DON, administrator, or other on-call coordinator. DON Allee testified that if needed, the LPN consults an alphabetical list of aides and begins calling individuals to see if they are willing and able to come in. The decision of who

to call is based on who is already working, the shift, and the charge nurse's own personal knowledge of the aides' schedules. Allee testified that the LPN can only request that someone come in and does not have the authority to order him or her to work. Allee also testified that the LPN is not required to call someone else in, but has discretion as to whether to do so. The LPN has the option of asking an employee on a previous shift in her wing to work overtime to help cover the shift, but again the LPN cannot require the employee to work overtime. There are no specific examples of when this has occurred. The LPN can also adjust assignments among those one or two CNAs already working that shift on the wing, although the record is not clear how this works, since there is one CNA assigned to each wing (unless there is a shower aide working that day – who would be assigned the absent employees duties). If the LPN cannot cover the shift, he or she can contact the DON, administrator, or on call coordinator to cover the shift themselves or to assist in finding someone, and there is record evidence that LPNs have called the DON and/or administrator for assistance. LPN Grandon testified that she often consults with the other LPNs and the CNAs in determining how the work should be divided. The Employer acknowledges that state regulations regarding the required number of staff members and the facility's own staffing ratio policy guides the LPN in determining whether to call in employees. LPN Lunde testified that while she spends approximately 30 minutes or more on finding replacement workers, two to three times a week, the majority of her time is spent giving nursing care.

In addition to making sure that shifts are covered, DON Allee testified that LPNs also fill out the break and mealtime schedule at the beginning of each shift for the wing. Allee further testified that the LPN in assigning breaks and meal times must schedule around the patients' meal times and allow for one staff member to always be on the floor to answer call lights and

continue care. CNAs receive a ten to fifteen-minute break twice a day and 30 minutes of unpaid, uninterrupted mealtime. LPNs can reassign breaks or grant a longer break or mealtime if needed. If there is an emergency, the LPN can interrupt the CNA's mealtime or authorize that the employee be paid for the time. DON Allee testified that interrupting a CNA's mealtime rarely occurs.

DON Allee testified that all employees punch a time clock. Allee further testified that if an employee forgets to punch in or out or if there are problems with the time clock, the LPN usually signs a "Correction to Hours Worked" form for the employee which is then sent to the business office. Allee testified that the forms are filled out by the employee and are signed by both the employee and supervisor. LPN Grandon testified that she does not automatically sign the slip, but asks the employee what happened and if it sounds right, signs the form. LPN Bentley testified that in addition to LPNs signing these forms, she has witnessed CMAs signing the forms as well. Bentley was unable to specifically name these individuals.

Performance Evaluations

DON Allee testified that following the 90 day probationary period, an initial review of the new employee is conducted. According to Allee, if there are problems with a new employee, LPNs communicate this to her and document the problems in an employee log. No logs concerning new employee performance are in evidence. Allee further testified that she relies on the information provided by the LPNs in determining whether a new employee is working out. Allee testified that she conducts the review with the employee and the LPNs are not present for the review. Allee's testimony did not provide any specific examples of an instance in which an employee's status was changed as a result of information or a recommendation provided by an LPN.

With regard to annual evaluations, DON Allee testified that LPNs complete performance appraisals for CNAs, which she reviews to determine whether or not she agrees with them. However, the Employer's administrator contradicted Allee, and testified that while LPNs have evaluated nursing staff in the past, the staffing development coordinator now conducts the annual reviews. LPN Grandon testified that since returning to work in January, 2002, she has not written any evaluations. LPN McBride testified that during the year and a half that she has worked for the Employer, she has never completed an evaluation. It is clear that the staffing development coordinator assigns a score which is used to determine wage increases. Like with initial evaluations, Allee, and not the LPNs, reviews the annual evaluation with the employee. While the administrator testified that the staffing development coordinator seeks input from the DON and LPNs when completing performance evaluations, no specifics were provided regarding the nature or impact of the input. LPN Van Dorn testified that she has been asked whether an employee is doing a good job or not. LPN Lunde also testified that the DON has once asked her for input with regard to a certain CNA, but she did not fill out an evaluation form herself.

Discipline

The testimony is unclear as to whether and to what extent LPNs discipline aides.

The Employer presented evidence regarding two types of documentation used when LPNs encounter problems with employees: an employee log and a discipline write-up. First, Administrator Heathman testified that if there is a problem with an employee, the LPN talks with the employee and keeps an employee log where the incident is documented. The Employer's evidence included copies of two employee logs. One employee log was completed by LPN Van Dorn and the other by LPN McBride. Both logs are entitled "Employee Log" and the word "discipline" does not appear. There is a line for the employee's name and there are columns for

the employee's action, the supervisor's action, and the dates each occurred. Van Dorn's employee log is dated June 2, 2002 and concerns an employee who took a 30 minute break instead of a 15 minute one. McBride's June 13, 2002 employee log documents an employee who refused to follow orders concerning a patient's diet. While both logs document incidents of wrongdoing of employees and what was said by the LPNs as a result, neither recommends any form of discipline. McBride's log includes a section written by Administrator Heathman who also discussed the incident with the employee. Neither log includes a space for the LPN's signature, although both LPNs signed the logs. There is no evidence that the employees involved saw the logs, or that discipline resulted from these logs.

The administrator also testified that LPNs can write up employees and turn the write-up into the DON. The Employer's specific evidence is copies of two write-ups entitled "Employee Performance Expectation Disciplinary Action." Both were completed by LPN McBride on June 25, 2001 and August 1, 2001. The June 25 write-up addressed an employee who left the building for his break without permission. The August 1 write-up concerned an employee's failure to follow safety rules which resulted in the fall of a patient. The write-ups include spaces for the employee's name; number; department; the type of action, including oral warning, written warning, and discharge; the number of prior warnings in the last 12 months; the state policy or rule violated; the date of the violation; the details of the incident; future performance expectations; employee comments; and spaces for the employee's, supervisor's, and administrator's signatures. On both write-ups, McBride checked "written warning." However, McBride testified that she did not consider filling these out to be discipline. Rather, according to her testimony, she takes the step of writing up the incidents— and then the DON decides where to go with them. She also testified that she gave the warnings to the DON (and apparently not to

the employees involved), and that the DON took over the process. Administrator Heathman signed both write-ups and testified that she does so in order to have a full understanding of what is going on in the facility. McBride does not know what the DON did in either case, and LPNs do not have access to employee personnel files. As a result, when LPNs submit write ups or logs to the Director of Nursing, they have no idea what an employee's disciplinary history is.

DON Allee testified that LPNs may discipline employees, and need no approval from her to do so. However, Allee also testified that LPNs can suspend employees, a claim contradicted by the Employer's administrator. When asked whether the DON reinvestigates written warnings given by LPNs, Administrator Heathman responded it depends on "what the circumstances are...if she doesn't understand clearly what happened then she may do further investigation. It's kind of at her discretion." There are no warnings in the record or described in the testimony that were written by LPNs and given directly to employees without them first going through the DON. In addition, while Administrator Heathman testified that there is a progressive discipline policy set forth in the employee handbook submitted as evidence, the record does not disclose any specific instances in which discipline resulted from this policy. On the contrary, in evidence is McBride's June 25 write-up which documents an employee repeatedly leaving the facility without permission. According to the discipline policy, such employee behavior is considered a "Category I Offense" that would make the employee subject to immediate suspension without pay pending an investigation. However, there is no evidence that the employee was ever subject to the discipline outlined in the discipline policy. In fact, LPN McBride testified that she was not aware if the DON even talked to the employee.

The record is clear, and all witnesses agree, that LPNs can verbally correct, counsel and/or coach employees on the proper completion of their jobs. There is no evidence that these

verbal exchanges are part of any file, or are even made known to the DON or administrator on a consistent basis.

Other Evidence

DON Allee testified that CNAs complete 100 hours in course work and are required to pass a competency and skills test. LPNs are required to complete an additional year of schooling at a community college and must take a state board exam for licensure. According to the “Conditions of Employment” agreement for LPN McBride submitted by the Employer, nurses are required to complete a supervisory course. However, the exhibit also shows that this course is required by the State of Iowa. McBride testified that the course consists of several sessions that address how to deal with different situations that might arise on the job. Sessions included “leadership skills and supervision” and “values as a basis of leadership styles.” LPN Bentley testified that she never took this course.

Administrator Heathman testified that CNAs and LPNs are paid hourly, but receive different benefits and pay. CNAs begin at \$7 per hour based on experience, while LPNs start at \$11 per hour. RNs and LPNs receive \$10,000 in life insurance benefits. Other staff members are entitled to \$5,000 in benefits. With regard to medical insurance, LPNs are eligible after one month, while CNAs are eligible after three months. In addition, LPNs receive two weeks vacation after working for one year and CNAs receive one week of vacation. The benefits available to LPNs are the same as those available to department heads.

DON Allee and Administrator Heathman testified that they regard LPNs as supervisors. LPN Van Dorn testified that she has on an occasion told an employee who would not follow her directions that she was a supervisor, but further testified that she views herself as only in charge

of a particular shift. However, LPN Sue McBride testified that she referred to herself as a supervisor in a discipline write-up.

The Employer also placed in evidence a document titled “Chain of Command”. It states that the administrator is in charge, that when she is not in the building and not available by telephone or beeper, then the DON is in charge. It further states that when both of them are not available by telephone or a beeper, then the staff development coordinator and care plan coordinator are in charge, or, last on the list, the “certified unit charge nurse” (what this position is is unknown). The document goes on to state that during weekends, one department supervisor will be in the building for a few hours, that an RN is always designated to be on call, and that the charge nurse may seek assistance from the supervisor in the building. There is no question, that at times (parts of the second shift, all of the third shift, and most (but not all) weekend hours, the charge nurse is the person of highest authority in the building – although a RN is on call, as is the administrator, DON, or one of the two coordinators.

Conclusion

Based on the record, I conclude that the Employer has failed to meet its burden in demonstrating that LPNs are supervisors within the meaning of Section 2(11) of the Act. NLRB v. Kentucky River Community Care, 121 S. Ct. 1861 (2001). In reaching this conclusion, I initially note that the Employer does not contend, and the record does not establish, that LPNs have the authority to hire, suspend, lay off, recall, promote, discharge, reward or adjust grievances of employees. At issue are the LPNs’ abilities to assign and direct work, grant time off and deal with absences, evaluate the performance of employees, and discipline employees.

With regard to assigning and directing the work of nursing staff employees, I conclude that the actions of the LPNs are routine in nature and do not require the use of independent

judgment. While it is clear that LPNs monitor patient care and make sure that duties are fulfilled, their judgment and discretion are circumscribed by the detailed orders and procedures set forth in the patient care plans, written policies of the Employer, and state regulations. Kentucky River, 121 S. Ct. 1861, 1867; Chevron Shipping Co., 317 NLRB 379, 381 (1995). In addition, I conclude that the record fails to establish that LPNs exercise independent judgment and discretion in dealing with absences and granting time off to employees. First, in dealing with absences, LPNs are guided by staffing ratios dictated by the Employer and the state. Also, while LPNs may seek volunteers from a list of employees to cover a shift, they have no authority to require employees to come in to work. Harborside Healthcare, Inc. 330 NLRB 1334 (2000). Second, the record indicates that the staff development coordinator schedules employees and handles all advance requests for time off. The record lacks any specific examples where an LPN granted time off to an employee in any context. Pine Manor, Inc., 238 NLRB 1654, 1655 (1978). With regard to performance evaluations, I conclude that the LPNs' role in the Employer's evaluation process does not establish that they have supervisory authority because they provide only limited input (which is not even specifically described in the record), do not complete evaluations, and do not assign numerical scores which lead to wage increases. Coventry Health Continuum, 332 NLRB No. 13 (2000). Finally, with regard to discipline, the Employer has failed to meet its burden of proof as the evidence is inconclusive and at times, inconsistent. The record indicates that LPNs may not fire or suspend employees. While LPNs keep an employee log and write up incidents, these are turned over to the DON and it is unclear whether any discipline follows as a result. In addition, the DON has the ability to reinvestigate based on the circumstances. Therefore, it appears that LPNs do little more than report employee infractions to management, which makes the final decision whether discipline and/or follow up

with the employee is warranted. Even though two of the reports in the record were marked “written warning” by an LPN, it is clear that even they were simply to bring to the Employer’s attention substandard performance and were in essence, devices for reporting. Williamette Industries, 336 NLRB No. 59 (2001); Beverly Health and Rehabilitation Services, Inc., 335 NLRB No. 54 slip. op. at p. 35 (2001); Ten Broeck Commons, 320 NLRB 806, 812 (1996).

The Employer cites two Board cases it contends are “remarkably similar” to the facts in this matter. The first case is Greenbrier Hotel, 216 NLRB 721 (1975). However, in finding ranking officers supervisors within the meaning of the Act, the Board cited two facts not present with regard to the LPNs in this case. These facts are that the ranking officers had no fixed assignments, but spent their time in the headquarters office (in contrast, LPNs spend six to seven hours performing patient care and some of this additional time filling out patient charts and other paperwork); and that ranking officers assigned specific jobs or reassigned jobs from the job scheduled (in contrast, there is no evidence LPNs reassign CNAs to different wings or initially assign CNAs to certain jobs—at most LPNs might transfer a CNA from one wing to another in the event of a staff shortage, which transfer the Employer acknowledges happens rarely). The second case is The Trustees of Noble Hospital, 218 NLRB 1441 (1975). However, in finding registered nurse supervisors to be supervisors within the meaning of the Act, the Board cited a number of facts not present with regard to the LPNs in this case, including that the RNs had the authority to discipline, and to effectively evaluate employees—both of which I have found to not be present in this matter. In fact, the LPNs employed by the Employer appear much closer to the head nurse position in The Trustees of Noble Hospital, whom the Board found to not be supervisors, in spite of the facts that the head nurses initialed time cards and participated in the evaluation process. Particularly relevant is the Board’s discussion of the role of head nurses in

disciplining employees. The Board noted that head nurses only report employee misconduct or inadequate performance and the actual decision to discipline is made by the director of nursing. 218 NLRB at 1443. Similarly, LPNs report to Director of Nursing Allee employee performance issues--either most recently in the form of a log that is clearly not a disciplinary form, or on a disciplinary form that the LPN does not give to the employees, but only to Allee, who determines whether and how to follow up.

6. 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 employees employed as licensed practical nurses, certified nurses aides, certified medication aides, environmental aides, shower aides, restorative aides, activities assistants, dietary cooks, dietary aides, housekeepers, laundry aides and medical secretaries; excluding the accounts receivable bookkeeper, accounts payable clerk, registered nurses, social workers, other professional employees, managers, guards and supervisors as defined in the Act, as amended.

DIRECTION OF ELECTION³

An election by secret ballot will be conducted by the undersigned among the employees in the unit 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 who were employed during the payroll period ending 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

³ 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. This request must be received by the Board in Washington by **July 17, 2002.**

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 persons 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.⁴

Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by the United Food and Commercial Workers District Local Union 431.

Signed at Minneapolis, Minnesota, this 3rd day of July, 2002.

/s/ Ronald M. Sharp

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⁴ To ensure that all eligible voters 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 that may be used to communicate with them. Excelsior Underwear Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969). Accordingly, it is directed that two copies of an election eligibility list containing the full names and addresses of all the 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. North Macon Health Care Facility, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. In order to be timely filed, this list must be received in the Minneapolis Regional Office, Suite 790, Towle Building, 330 Second Avenue South, Minneapolis, MN 55401-2221, on or before close of business **July 10, 2002**. No extension of time to file this list may be granted by the Regional Director except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.