

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

LOURDES MEDICAL CENTER OF BURLINGTON COUNTY

Employer

and

Case 4–UC–398

JNESO DISTRICT COUNCIL 1, IUOE¹

Petitioner

REGIONAL DIRECTOR’S DECISION AND ORDER

I. INTRODUCTION

The Employer, Lourdes Medical Center of Burlington County (LMCBC), operates an acute-care hospital in Rancocas, New Jersey. LMCBC is a subsidiary of Our Lady of Lourdes Health Care Services, Inc. (LHS). The Petitioner currently represents a unit of about 315 Registered Nurses (RNs) employed by LMCBC at the hospital, and LMCBC and the Petitioner have a collective-bargaining agreement covering the unit employees that is effective from April 15, 2002, through February 29, 2004.²

LHS owns a second hospital, Our Lady of Lourdes Medical Center (OLLMC), which is located in Camden, New Jersey, about 16 miles from LMCBC. OLLMC also operates four cardiac catheterization laboratories in Camden. The laboratories are staffed, in part, by about 45 RNs who work for OLLMC and are not represented by any labor organization.

In July 2003, LMCBC opened a cardiac catheterization laboratory (the Laboratory) at its hospital and entered into a contract with OLLMC to operate it. The Laboratory is open on a part-time basis and is staffed by RNs who are employed by OLLMC and normally work at OLLMC’s laboratories in Camden.

The Petitioner has filed a petition pursuant to Section 9(b) of the Act seeking to clarify the existing bargaining unit at LMCBC to add those RNs employed by OLLMC who work in the Laboratory. The Petitioner contends that LMCBC and OLLMC are a single employer and that the

¹ The Petitioner’s name was amended at the hearing.

² At the time the parties executed the contract, the Employer’s hospital was called Rancocas Hospital.

Laboratory RNs are an accretion to the existing unit of RNs at LMCBC. LMCBC asserts that the petition was not filed in a timely manner, that LMCBC and OLLMC are not a single employer, and that the RNs who work in the Laboratory do not constitute an accretion to the RN unit at LMCBC.

A Hearing Officer held a hearing in this matter on September 15, 2003, and the parties filed briefs. Thereafter, the Petitioner filed a request to reopen the hearing to introduce new evidence, and on October 30 I issued an Order Reopening Hearing for the purpose of obtaining additional evidence concerning: (1) the relationship between LHS, OLLMC, and LMCBC; and (2) the frequency with which RNs employed by OLLMC work in the Laboratory. Following additional days of hearing on December 11 and 12, 2003, the parties submitted supplemental briefs.

I have considered the evidence and arguments presented by the parties. As explained in greater detail below, I find that the petition was timely filed and that LMCBC, OLLMC, and LHS constitute a single employer. I also find, however, that the RNs who work in the Laboratory are not an accretion to the existing unit at LMCBC and I am therefore denying the Petitioner's request to clarify the unit.

In this Decision, I will first set forth the legal standards, relevant facts, and analysis concerning the issue of the timeliness of the petition. I will then deal with the issues of single employer status and accretion in turn.

II. TIMELINESS OF THE PETITION

A. Legal Standard

Unit clarification is appropriate for resolving the unit placement of individuals in newly created classifications or in classifications which have undergone recent changes in duties or responsibilities. It is not appropriate for upsetting an agreement or an established practice of parties regarding the placement of existing classifications. *Robert Wood Johnson University Hospital*, 328 NLRB 912, 913 (1999); *Union Electric Co.*, 217 NLRB 666, 667 (1975). Where a group of employees has been included in or excluded from the bargaining unit, the Board as a general rule will not permit one of them, by means of a unit clarification proceeding, to effect a change in the definition of the bargaining unit. *Monongahela Power Company*, 198 NLRB 1183 (1972); *Wallace-Murray Corporation*, 192 NLRB 1090 (1971).

B. Facts

The current collective-bargaining agreement covering the RNs at LMCBC was negotiated between January and March 2002. At the onset of negotiations, John Nespoli, LMCBC's Chief Administrative Officer, discussed a number of new services planned for LMCBC, including the Cardiac Catherization Laboratory. The Petitioner did not at that time request that RNs who would be assigned to the Laboratory be added to its existing bargaining unit nor express an intention to file a unit clarification petition seeking their inclusion, and the parties did not discuss the issue any further. The

Petitioner's representative, Pierre Joanis, testified that a request to include the Laboratory RNs in the existing unit would have been premature since the Laboratory was not in operation at the time of bargaining. In fact, the Laboratory did not open until July 2003, 15 months after bargaining concluded.

C. Analysis

Since the Cardiac Catherization Laboratory did not exist at the time bargaining occurred, there was no established practice regarding the unit placement of Laboratory RNs, and the parties did not reach an agreement on the status of the RNs during bargaining. Thus, the petition does not seek to overturn an established practice or agreement regarding unit placement but is an attempt to clarify the status of a classification created after bargaining concluded. I therefore find that the petition in this case was timely filed. See *Bethlehem Steel Corporation*, 329 NLRB 245 (1999).

III. SINGLE EMPLOYER STATUS

The Employer contends that the RNs employed in the Laboratory can not be included in the same unit with the other RNs working at LMCBC because the Laboratory RNs are employed by a separate company, OLLMC. The Petitioner contends that LMCBC and OLLMC are a single employer and thus there is no impediment to treating the Laboratory RNs as an accretion to the existing unit.

A. Legal Standards

Where two or more nominally independent entities constitute one integrated enterprise, they are deemed to be a single employer. Factors considered in determining single employer status include common ownership, common management, centralized control of labor relations, and interrelation of operations. *Mercy General Health Partners Amicare Homecare*, 331 NLRB 783, 784-785 (2000); *Dow Chemical Co.*, 326 NLRB 288 (1998). Common ownership, while significant, does not by itself establish a single employer relationship, and a single employer will be found only where one entity exercises actual or active control over the day-to-day operations or labor relations of the other. *Mercy Hospital of Buffalo*, 336 NLRB 1282, 1283-1284 (2001); *Mercy General Health Partners Amicare Homecare*, supra. The fundamental inquiry in assessing single employer status is whether there exists overall control of critical matters at the policy level. *Proctor Express Inc. Of New Jersey*, 322 NLRB 281, 289-290 (1996), enfd. 135 F.3d 766 (3d Cir. 1997); *Pathology Institute, Inc.*, 320 NLRB 1050, 1063 (1996), enfd. 116 F.3d 482 (9th Cir. 1997), cert. den. 522 U.S. 1028 (1997). The party asserting the existence of a single employer relationship has the burden of proof on this issue. *Dow Chemical Co.* supra at 288, fn. 4.

B. Facts

LHS purchased LMCBC in 1998 and presently owns LMCBC, OLLMC, and a third entity known as Lourdes Ancillary Services, Inc. LHS also controls a foundation which solicits funds for its three operating entities.

OLLMC is a teaching hospital with specialties in cardiology, renal and neo-natal care, and rehabilitation services. OLLMC has about 2400 employees including about 650 RNs. LMCBC is a community hospital with a specialty in providing mental health services. LMCBC employs about 1000 employees including about 360 RNs.

Alexander Hatala is the President and Chief Executive Officer of LHS. He also serves as the President and Chairman of the Board of Trustees for both LMCBC and OLLMC. Thomas Regner is the Vice President for Fiscal Affairs at LHS, LMCBC, and OLLMC. Elizabeth Corey is on the Board of Trustees for both hospitals, but no other trustee serves on both Boards.

John Nespoli is LMCBC's Chief Administrative Officer, and Mark Bateman occupies the same position at OLLMC. Neither Nespoli nor Bateman exercises any authority outside their respective institutions. Nespoli and Bateman report to LHS President Hatala.

Hatala, Nespoli, Bateman, LHS corporate Secretary John Capelli, and LHS Vice-President for Business Development John Wyand form a "President's Council" which meets every other week at OLLMC to review operations at the entities owned by LHS. Hatala, Nespoli, and Bateman are also part of a "Management Council" which meets once a month at LMCBC to receive reports from managers on the operations of LHS-controlled facilities.

Nespoli is responsible for LMCBC's day-to-day operations, while Bateman is in charge of day-to-day operations at OLLMC. Managers from LMCBC and OLLMC sometimes consult or advise each other about pending issues. An educator employed by OLLMC trained LMCBC personnel in the techniques associated with a change in the operation of LMCBC's maternity unit. On one occasion, an OLLMC manager filled in while LMCBC's Vice-President of Patient Care Services was on vacation. LMCBC has contracted with OLLMC to operate LMCBC's Dialysis Laboratory, and OLLMC managers are responsible for overseeing this function at LMCBC.

LMCBC employees are permitted to bid on open positions at OLLMC, and OLLMC employees can bid on open positions at LMCBC. Employees from one facility are given preference over non-employees in filling positions at the other facility, but employees at the facility where the position is located have first preference. About 12 employees permanently transfer between OLLMC and LMCBC annually, and since 2001 six RNs have transferred between the two entities. LHS personnel recently attended meetings with laid-off employees at LMCBC to inform them of openings at OLLMC.

On one occasion, OLLMC security guards helped monitor a rally conducted by the Petitioner at LMCBC's premises. There is no other evidence of the temporary transfer of employees between the facilities. On occasion, employees from both facilities are invited to attend functions arranged by LHS.

LHS provides a number of services for its subsidiaries. Specifically, LHS has retained an attorney who handles matters involving LHS and its subsidiaries. LHS also maintains a Risk Management Department that negotiates insurance policies for its subsidiaries. In some instances, the same insurance policy covers both LMCBC and OLLMC. LHS provides workers compensation coverage for both LMCBC and OLLMC. All of LHS' wholly-owned subsidiaries share a Mission Statement and an Internet website.

LHS prepares the payroll and budget and performs the billing and collections work for all of its subsidiaries. LHS personnel also handle marketing, business planning, and supply purchasing for the subsidiaries. The conflict of interest rules which govern the activities of subsidiary personnel were established by LHS. LHS personnel provide training to employees of both LMCBC and OLLMC, and LHS assists its subsidiaries with information technology matters.

At the time LMCBC was purchased, LHS did not have a personnel function, and Janet Moran was employed as OLLMC's Vice-President of Human Resources. Following the purchase, Moran became Vice-President of Human Resources for LHS. Human Resources employees from both OLLMC and LMCBC were transferred to LHS to staff a new Human Resources Department, which occupies office space at OLLMC. The Human Resources Department creates the personnel policies of OLLMC and LMCBC, for which Moran has ultimate responsibility. In some cases, the same policy applies at both institutions, while other policies are applicable at only one of the facilities.³ LHS employees also decide what salary grade should be assigned to job classifications of unrepresented employees at both OLLMC and LMCBC, based on an annual review of wage rates paid comparable employees by other employers.

There are groups of represented employees at both OLLMC and LMCBC, and the individuals who handle the collective-bargaining negotiations involving these employees are employed directly by the two institutions. Moran, however, determines the parameters within which LMCBC representatives negotiate. She also reviews the initial proposals made by LMCBC representatives, and she must approve any contract before it is signed.

Day-to-day administration of labor relations at the two facilities is handled separately. Director of Human Relations Dennis Sparks is responsible for administering labor policy for LMCBC. Two labor specialists employed directly by OLLMC administer labor policy there. They share office space with Moran, and Moran speaks with Sparks by telephone on a daily basis and periodically confers with him about questions of contract administration. On two occasions, Moran became directly involved in

³ For example, the following policies, among others, apply to both facilities: Attendance, Bereavement, Conflict Resolution, Dress Code, Equal Employment Opportunity, Health Insurance, Hours of Work, Pre-Employment Drug Testing, Retirement-Pension, and Workplace Violence. Other policies apply only at individual facilities, including, among others, On Call Pay, Shift Differential, Leaves of Absence, Time and Attendance, and Personnel File Review.

discussions with the Petitioner concerning grievances filed by LMCBC's RNs because the issues were particularly important.

Hospitals in New Jersey must obtain certificates of need from the state which permit them to offer services. LMCBC and OLLMC have separate certificates.

C. Analysis

I find that LHS, OLLMC, and LMCBC constitute a single employer. The three entities are commonly owned, as OLLMC and LMCBC are subsidiaries of LHS. At higher levels, there is also common management. Hatala serves as the President and Chief Executive Officer of all three companies and regularly monitors the operations of OLLMC and LMCBC. Additionally, Regner is the Vice-President of Fiscal Affairs for all three entities, and the Management Council and President's Council review and deal with matters involving all LHS subsidiaries. Moreover, LHS' active role in managing its subsidiaries' operations is further evidenced by its preparation of their budgets and business plans.

Significantly, LHS' Human Relations Department establishes labor relations policy for both OLLMC and LMCBC, and LHS personnel are involved in administering the policy. LHS Vice-President of Human Resources Moran will, for instance, become involved in grievance discussions if they are viewed as sufficiently important, and LHS employees set wage rates for unrepresented employees of both LMCBC and OLLMC. There has also been some transfer of personnel between the subsidiaries, although not an extensive amount, and laid off employees at LMCBC were offered the opportunity to bid on open OLLMC jobs.

There is some interrelation between the three entities, as demonstrated by the various services performed by LHS for the subsidiaries, including legal and insurance services. They also share a website. Additionally, OLLMC manages LMCBC's Dialysis and Cardiac Catheterization Laboratories.

It is true that day-to-day management and administration of labor policy at LMCBC and OLLMC is largely separate, but the Board has found single employer status despite the absence of centralized control over day-to-day activities. *Beverly Enterprises*, 326 NLRB 153, 176 (1998); *Hotel and Restaurant Employees Union Local 274 (Warwick Caterers)*, 282 NLRB 939, 943 (1987). The fact that day-to-day management is handled at the local level is not controlling. *Task Force Security and Investigations, Inc.*, 323 NLRB 674, 677 (1997). Rather, as previously noted, the critical question is whether control of critical labor relations matters at a policy level is centralized, and in this case it is. *Pathology Institute, Inc.*, supra, 320 NLRB at 1063-1065. Inasmuch as LHS, OLLMC, and LMCBC are commonly owned and managed, have some interrelated operations, and have centrally determined labor policies, I conclude that LHS, OLLMC, and LMCBC constitute a single employer and should be treated as a single entity.

IV. ACCRETION

A. Legal Standards

Although RNs at both institutions are employed by the same entity, it does not mean they must be included in the same unit. See, *Hotel and Restaurant Employees Local 274 (Hospitality Catering, Inc.)*, supra at 940. Rather, the RNs employed in LMCBC's Cardiac Catheterization Laboratory will be included in the existing unit of RNs at LMCBC only if they are an accretion to that unit. *Village Nurses Association of Central Illinois*, 324 NLRB 55 (1997); *Professional Eye Care*, 289 NLRB 738, 745-746 (1988), enfd. 923 F. 2d 862 (9th Cir. 1991).

The Board has followed a restrictive policy in finding accretions to existing units in order to preserve the right of employees to choose their own bargaining representative. *Archer Daniels Midland Co.*, 333 NLRB 673, 675 (2001); *Towne Ford Sales*, 270 NLRB 311 (1984), enfd. 759 F.2d 1477 (9th Cir. 1985). Thus, in *Melbet Jewelry Co.*, 180 NLRB 107 (1969), the Board emphasized that it will not, under the guise of accretion, compel a group of employees to be included in an overall unit, "without allowing those employees the opportunity of expressing their preference in a secret election or by some other evidence that they wish to authorize the Union to represent them." The Board will not find an accretion when the employee group seeking accretion would constitute a separate appropriate bargaining unit. *Passavant Health Center*, 313 NLRB 1216 (1994). Rather, the Board will permit accretion to promote labor relations stability only if new employees have such strong common interests with members of an existing bargaining unit that the new employees would have been included in the unit or covered by the contract. *United Parcel Service*, 303 NLRB 326, 327 (1991), enfd. 17 F.3d 1518 (D.C. Cir. 1994), cert. denied, 513 U.S. 1076 (1995). See also *Archer Daniels Midland Co.*, supra. When determining if new employees have a community of interest with employees of an existing bargaining unit, the Board considers: the integration of operations; centralization of management and administrative control; geographical proximity; similarity of working conditions, skills, and functions; collective-bargaining history; and the interchange of employees. *Archer Daniels Midland Co.*, supra; *Silver Court Nursing Center, Inc.*, 313 NLRB 1141, 1142 (1994). The factors normally viewed as most important are employee interchange and common day-to-day supervision. *Super Valu Stores*, 283 NLRB 134, 136 (1987).

The Board's Health Care Rule, 29 CFR Section 103.30 (the Rule), seeks to avoid the proliferation of hospital bargaining units and to limit the possible units to a reasonable, finite number of congenial groups that each display a community of interests within themselves and a disparity of interests from other groups.⁴ See 52 Fed. Reg. 25146, 284 NLRB at 1522; 53 Fed. Reg. 33905, 284 NLRB at 1536. The Rule provides that, except in "extraordinary circumstances"⁵ or where there are existing

⁴ The Rule is set forth at 54 Fed Reg. 16336 et seq., 284 NLRB 1580 (1989). The proposed rules and related commentary are set forth at 284 NLRB 1515 et seq.

⁵ The Board intended that the "extraordinary circumstances" exception would be limited to truly extraordinary situations and be construed narrowly so it could not be used as an excuse for unnecessary litigation or delay. See 52 Fed. Reg. 25145, 284 NLRB at 1521; 53 Fed. Reg. 33904, 33932, 284 NLRB at 1533, 1573; 54 Fed. Reg. 16344-16345, 284 NLRB at 1593. Accordingly, the party urging extraordinary circumstances bears a heavy burden to demonstrate that

non-conforming units, the following units are appropriate in an acute-care hospital: (1) all registered nurses; (2) all physicians; (3) all professionals except for registered nurses and physicians; (4) all technical employees; (5) all skilled maintenance employees; (6) all business office clerical employees; (7) all guards; and (8) all nonprofessional employees except for technical employees, skilled maintenance employees, business office clerical employees, and guards. The Board stated that where extraordinary circumstances exist, the unit will be determined through adjudication.

B. Facts

OLLMC operates the Laboratory pursuant to a contract with LMCBC. LMCBC owns the equipment in the Laboratory, but most of the supplies used by Laboratory personnel are provided by OLLMC. The Laboratory is managed by OLLMC Manager of Invasive Cardiology Roslyn Scriber, and the RNs who work in the Laboratory are employed by OLLMC. The RNs report to Scriber, who is responsible for hiring, firing, disciplining, and evaluating them. The RNs work at OLLMC facilities when not assigned to work at the Laboratory. Scriber has no responsibility for any of LMCBC's employees, and none of LMCBC's managers or supervisors exercise control over the Laboratory RNs. LMCBC's Vice-President of Operations, Ari Chompre, monitors Laboratory activities but has no responsibility for supervising the RNs who work there and refers any problems related to Laboratory operations to Scriber. Scriber is in telephonic communication with the Laboratory each day that it is open and is physically there once a week.

LMCBC notifies Scriber when procedures are scheduled in the Laboratory, and she arranges to have RNs present. Patients scheduled for tests in the Laboratory report to LMCBC's Same Day Surgery Unit, where they are admitted by RNs employed by LMCBC and represented by the Petitioner. The OLLMC RNs assigned to the Laboratory bring the patients from the Same Day Surgery Unit to the Laboratory upon admission and from the Laboratory to the Same Day Surgery Unit when the procedure is complete. The Laboratory is located in the central area of LMCBC's hospital near the Radiology Department, the Pharmacy, and a Heart Station. RNs represented by the Petitioner work in each of these nearby departments, but there is no evidence of contact between these employees and the Laboratory RNs.

The clinical procedures used in the Laboratory were developed by OLLMC and approved with minor modifications by LMCBC. The physicians who work in the Laboratory are "credentialed" by

its arguments are substantially different from those that the Board considered in the rulemaking proceedings. See *Boston Medical Center Corp.*, 330 NLRB 152, 167 fn. 35 (1999); *Dominican Santa Cruz Hospital*, 307 NLRB 506, 507 (1992); 53 Fed. Reg. 33933, 284 NLRB at 1574; 54 Fed. Reg. 16345, 284 NLRB at 1593. The Board indicated that in order to satisfy due process concerns, the Board would allow for litigation where the circumstances warrant, while at the same time precluding litigation where the arguments are merely repetitive of matters already considered. 54 Fed. Reg. 16345, 284 NLRB at 1593. The Board specifically stated that the following circumstances normally do not justify an exception to the Rule: diversity of the industry; increased functional integration of work contacts among employees; impact of nationwide hospital chains; recent changes within traditional employee groupings and professions; effects of various governmental and private cost-containment measures; and single institutions occupying more than one contiguous building.

LMCBC. The Laboratory contains lockers and a breakroom used only by Laboratory employees. It is locked when not in use, and the only LMCBC personnel with access are security guards.

The Laboratory RNs perform specialized functions different from those handled by RNs in the bargaining unit represented by the Petitioner. Employer witnesses estimated that it takes about 12 months for a Cardiac Catherization Laboratory RN to become fully trained. However, some of the RNs working in the unit represented by the Petitioner may have worked in cardiac catheterization laboratories elsewhere and would be qualified to work in LMCBC's laboratory.

The Laboratory is open on an as-needed basis, and Scriber estimated that it is used about three days per week for between two and five hours per day. LMCBC's records show that an average of about six tests were performed in the Laboratory every two weeks between July and December 2003. Three RNs are present for each test, which takes about 90 minutes. Only eight of the 45 RNs working in OLLMC's Camden cardiac catheterization laboratories have worked in the LMCBC Laboratory, and Scriber assigns them on a rotating basis. Between July and December 2003, the average number of hours worked by individual Laboratory RNs at LMCBC on a weekly basis never exceeded 11 hours per week. In some weeks, individual OLLMC RNs worked an average of slightly fewer than three hours at the Laboratory. The Laboratory RNs typically work between 30 and 40 hours in Camden during the weeks in which they also work at LMCBC's facility.

C. Analysis

I find that the Cardiac Catherization Laboratory RNs do not constitute an accretion to the existing unit represented by the Petitioner at LMCBC. The Laboratory RNs perform functions distinct from those handled by the RNs in the existing unit, and their activities are not functionally integrated with the work performed by unit employees. The Laboratory RNs work in a separate area of LMCBC's facility and have minimal contact with unit RNs while they are present on LMCBC's premises. Further, they spend the vast majority of their time working at OLLMC's Camden facilities and appear to have far more in common with the other RNs who work in the Camden laboratories than with the RNs in the bargaining unit represented by the Petitioner at LMCBC. Finally, and most significantly, the Laboratory RNs do not interchange with unit employees, and they are subject to separate day-to-day supervision. Accordingly, I find that the RNs who work in LMCBC's Cardiac Catheterization Laboratory do not have the overwhelming community of interest with employees in the existing unit normally required for a finding of accretion. *Archer Daniels Midland Co.*, supra; *Silver Court Nursing Center, Inc.*, supra; *Gitano Distribution Center*, 308 NLRB 1172, 1174 -1175(1992).

The Petitioner contends that the Board's Health Care Rule requires a different result. This contention is without merit. Although the Rule provides that, absent extraordinary circumstances or existing non-conforming units, all of the RNs employed at a single facility should be included in the same unit, the Rule has not prevented the Board from applying its traditional rules regarding accretion in a hospital setting. See *Staten Island University Hospital*, 308 NLRB 58 (1992).

Further, since the Cardiac Catheterization Laboratory RNs are based in Camden, spend the vast majority of their time at that location, and are supervised by Camden based managers, they have far more in common with OLLMC's unrepresented RNs than with the LMCBC bargaining unit. As they are primarily employees of another facility, excluding the Laboratory RNs from the unit of RNs at LMCBC's facility does not contravene the Rule favoring inclusion of all RNs at a single facility in one unit or produce excessive fragmentation of LMCBC's workforce into different units.⁶

Accordingly, I find that the Board's Health Care Rule does not compel the conclusion that the Cardiac Catheterization Laboratory RNs are an accretion to the existing unit of RNs at LMCBC's facility. I shall therefore dismiss the petition in this case.

V. CONCLUSIONS

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 in this case.
3. The Petitioner is a labor organization within the meaning of the Act.
4. The bargaining unit currently represented by the Petitioner shall not be clarified as requested by the Petitioner.

ORDER

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

⁶ Moreover, there are "extraordinary circumstances" which would justify a departure from the Rule. This case, in which unrepresented employees predominantly employed at one facility spend a small fraction of their time working at another location where employees are represented, is markedly different from situations contemplated by the Rule. Application of the Rule here would not significantly advance the Board's purpose of avoiding unit proliferation and would run strongly contrary to the Board's accretion policies, which seek to protect employees' Section 7 rights. Additionally, this situation is not among those listed by the Board as exempt from the extraordinary circumstances exception to the Rule.

VI. 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, 1099 14th Street, NW, Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EST on **March 2, 2004**.

Signed: February 17, 2004

at Philadelphia, PA

/s/

DOROTHY L. MOORE-DUNCAN
Regional Director, Region Four

Classification Index Numbers

177-1642

177-1650

385-7533

440-6725

H:\R04COM\Decision Writing\EMPLOYER- JOINT, SINGLE\ourdes medical center (single E, no accretion) 2-04.doc