UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 02

MONTEFIORE NYACK HOSPITAL
Employer

and **Case 02-RC-349294**

THE NEW YORK STATE NURSES ASSOCIATION
Petitioner

DECISION AND DIRECTION OF ELECTION

Montefiore Nyack Hospital (Employer) is a non-profit acute care hospital. The New York State Nurses Association (Petitioner) represents a bargaining unit of registered nurses (RNs or staff RNs). The Petitioner seeks a self-determination election to add a group of approximately 16 Registered Nurse Care Managers (RN Care Managers), the petitioned-for voting group in this proceeding, to the existing registered nurse bargaining unit.

The Employer maintains that the RN Care Manager classification does not share a community of interest with the existing bargaining unit, making a self-determination election inappropriate. The Employer maintains that the petitioned-for voting group has historically been excluded from the existing unit and that the only appropriate unit must also include Social Worker Care Managers, and further that the RN Care Managers are managers and supervisors within the meaning of Section 2(11) of the National Labor Relations Act (the Act). The Employer also contends that the Petition in this matter is barred from further processing because the National Labor Relations Board's (the Board) structure is unconstitutional.

A hearing officer of the Board held a hearing via videoconference on September 11 and 12, 2024.[1] All parties appeared at the hearing and subsequently filed briefs. At the onset of the hearing,

[1] In its post-hearing brief, the Employer argues that the petition must be dismissed based on my refusal to grant its request to postpone the hearing to September 12, 2024. The Notice of Representation Hearing, issued on August 29, 2024, scheduled the hearing to take place on September 9, 2024. The Employer requested that the hearing be postponed to September 12. Finding that the Employer did not present extraordinary circumstances to permit postponing the hearing more than two business days, pursuant to Section 102.63(a)(1) of the Board's Rules and Procedures I issued an Order rescheduling the hearing to Tuesday, September 11. The Employer sought reconsideration of its request for three-day postponement, which I denied. On September 6, the Employer filed Request for Special Permission to Appeal the Regional Director's denial of its full postponement request. The Board has not ruled on the request. The hearing opened as scheduled on September 11. Although the attorney who filed the motion for postponement was unavailable on September 11, another attorney from the same firm represented the Employer at the hearing, including calling and examining witnesses, cross-examining witnesses called by the

prior to the calling of the first witness, the Petitioner moved to amend the petition, to clarify that it sought a self-determination election for RN care managers, whereas the original petition sought a broader group of "care managers." Over the Employer's objection, I granted the Petitioner's motion to amend, and the hearing officer granted the Employer leave to amend its Statement of Position. The Employer contends that I erred in permitting the Union to amend the Petition. Specifically, the Employer contends that it was prejudiced because the amendment fundamentally altered the nature of the Petition and the issues to be litigated under the Board's *Specialty Healthcare* framework. As discussed below, the Board's *Specialty Healthcare* framework, as reinstated in *American Steel Construction, Inc*., 372 NLRB No. 23 (2022), does not govern here. I affirm my decision to permit the amendment and find that the Employer was not prejudiced by the amendment because it was provided an opportunity to amend its Statement of Position and present evidence on the issues raised by the amendment.

As explained below, based on the record and relevant Board law, I find that the petitioned-for voting group shares a community of interest with the existing RN unit, the historical exclusion of care managers from the existing bargaining unit does not bar the Petition, and that the RN Care Managers are not managerial employees or supervisors under the Act. I deny the Employer's request to dismiss this Petition based on the Board's structure. Accordingly, I will direct an election.

I. RECORD EVIDENCE

A. The Employer's General Structure

The Employer operates an acute care hospital in Nyack, New York. Chief Executive Officer and President Mark Geller oversees all clinical operations at the hospital and Highland Medical, a hospital-owned medical group, which together comprise thirty-two separate departments. Anthony Matejicka is the chief medical officer, and he reports to Geller.

B. Representational History and the Existing Unit

Since at least 1995, the Petitioner has represented a unit of full-time, regular part-time and per diem registered professional nurses employed by the Employer, including every person lawfully authorized by permit to practice as a registered professional nurse and every person employed in a position which requires a registered professional nurse, excluding numerous job classifications, including "case managers," and all supervisory, managerial and administrative employees. The current collective-bargaining agreement between the parties is effective from January 1, 2024, through December 31, 2026.

The staff RNs in the existing bargaining unit are responsible for direct patient care for each patient. They are required to hold an RN license. The Employer assigns staff RNs to work in specific units within the hospital, and they report to RN managers in the respective units. Those units include the extended the critical care unit (CCU), medical intensive care unit (MICU), surgical intensive care unit (SICU), and medical-surgical unit (med-surg). Jennifer Shannon is the

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Petitioner, introducing exhibits, and asserting and arguing objections. I deny Employer's motion to dismiss the petition on grounds that I did not order a longer postponement.

manager for ECU, MICU and SICU, and Patricia Clark is the manager for med-surg. Shannon and Clark report to Kathy Lunney, vice president and chief nursing officer. Lunney reports to Geller.

The parties' collective-bargaining agreement sets terms and conditions of employment for the staff RNs; that agreement describes numerous types of work shifts, which differ according to the unit. Testimony revealed that most staff RNs work twelve-hour shifts, although others work eight- and ten-hour shifts. Staff RN Mordechai Hagler testified that he wears a uniform.

C. Registered Nurse Care Managers

The Care Management department is responsible for coordinating patients' care during their hospital stay, while also planning for post-discharge care with the goal of improving outcomes and reducing costs for the patient and the hospital. Mary Jones is the senior director of the Care Management Department; Jones reports directly to Matejicka. Tarique Stewart, supervisor of care management, and Veronica Scott-Bliss, manager of utilization review, report directly to Jones. RN Care Managers and Social Worker Care Managers (SW care managers) also report to Jones. At the time of the hearing, the Employer employed sixteen RN Care Managers and two SW Care Managers.[2] The department also includes two care management assistants (CMAs), one clerical coordinator and one administrative assistant. The Care Management department holds monthly meetings, which all departmental staff attend.

RN Care Managers, with interdisciplinary teams, are responsible for ensuring efficient quality care for patients during their hospital stay and for creating and implementing post-discharge care plans. Each RN Care Manager must hold an active RN license. The job description states that a minimum of three to five years of relevant clinical medical surgical, ICU, or emergency room experience is preferred, and record testimony showed that RN Care Managers have significant prior experience as RNs. Jones testified that this clinical knowledge is necessary for RN Care Managers to perform their work.

According to the job description, RN Care Managers' duties include assessing patients based on established criteria to determine the appropriateness of admission, continued stay, potential for discharge, planning interventions, and level of care. RN Care Managers also monitor the appropriateness and quality of patients' care during the hospital stay, and "enforce the proper application of hospital policies and procedures regarding appropriateness and timeliness of care given." Finally, RN Care Managers develop a physician-directed plan of care for post-hospital services in collaboration with the health care team, patient and family.

An RN Care Manager conducts an initial assessment of the patient within seventy-two hours of admission. In this assessment, the RN care manager gathers information about the event that caused the hospital stay, the patient's care history, and any durable equipment the patient needed prior to the admission. The assessment helps determine the patient's post-discharge needs and placement.

RN Care Managers monitor patients' care to ensure that their care matches their diagnosis, which in turn ensures that the hospital and patients do not incur unnecessary costs. Each diagnosis

[2] There were the six open SW care manager positions at the time hearing.

corresponds to an estimated duration of stay in the hospital, and insurance companies may deny payment for stays beyond the estimated length. When a patient's length of stay exceeds the estimated length, the RN Care Manager will raise the issue with the care team, so the diagnosis can be reviewed and changed if necessary.

RN Care Managers work in assigned units. The Employer assigns one RN Care Manager to each unit with twenty beds or fewer, and two RN Care Managers to larger units. For units with two RN Care Managers, the Employer assigns patients to each RN Care Manager by room. RN Care Managers work from a care management office located on each unit. Throughout the day, the RN Care Manager communicates and consults with the staff RN and physicians about patients' status and issues that might impact their discharge. RN Care Managers use "EPIC," the hospital's electronic case management system, to document their patient contact and communicate with floor nurses and doctors.

RN Care Managers attend daily interdisciplinary rounds, during which the care team, led by a staff RN, meets with each patient in the unit. The care team includes the staff RN, the hospitalist, specialists, physical therapist, nutritionist, and a pharmacy representative. During rounds, the RN Care Managers discuss issues related to the patient's eventual discharge, such as the type of facility to which the patient will be discharged and any current care that would prevent discharge to that facility. For example, the RN Care Manager might suggest that a patient be removed from one-on-one care, where that is a prerequisite for transfer to a specific facility. The care team discusses these suggestions, and the physician makes all decisions regarding care.

To create a discharge plan, the RN Care Manager considers the patient's pre-admission needs, diagnosis, and anticipated needs upon discharge, applying established guidelines. Members of the care team furnish the information that the RN Care Managers use to create this plan. The physical therapist determines the level of care the patient needs post-discharge. If the physical therapist recommends discharge to a facility, the RN Care Manager generates a list of available facilities, using CarePort care coordination software. The RN Care Manager then presents this list to the patient, with a letter explaining what to expect. The patient chooses a facility, and the RN Care Manager arranges the referral and discharge. The patient's physician determines the date of discharge. RN Care Managers interact with patients and their families throughout the day, to discuss discharge options and post-discharge safety, give updates on insurance authorization, or to secure signatures.

The RN Care Managers also complete the HC-PRI, a patient review instrument, for all patients discharged from the hospital to a skilled nursing facility in New York State. The State requires RN Care Managers to be HC-PRI certified.

The RN Care Manager is also responsible for ensuring that the patient's medical needs will be met after discharge. For example, if the patient needs oxygen, the RN Care Manager ensures that any post-discharge facility will provide oxygen, or if the patient is being discharged to home, orders oxygen and arranges for home care if needed. If a physical therapist determines the patient will need durable medical equipment upon discharge, the RN Care Manager orders it. The RN Care Managers also arrange for transportation to a different facility, if necessary.

The RN Care Managers make requests for insurance authorizations through the CarePort platform; the relevant CMA receives notification of these requests via email. The CMAs then communicate with the insurance company to obtain authorization. Occasionally, the RN Care Manager and CMA also discuss these tasks by phone or email. The CMAs do not have the ability to refuse to complete an assignment.

The RN Care Managers must be aware of whether insurance will cover the patient's needs, and, if not, who will pay. If insurance will not cover a specific cost, such as transportation or durable medical equipment, the RN Care Manager looks for alternative payors. If no other funds are available, hospital resources may be used, subject to approval by a supervisor.

RN Care Managers generally work eight-hour shifts, Monday through Friday, although the two RN Care Managers who work in the emergency room work three 12-hour shifts a week. RN Care Managers are salaried, with a salary range between $124,000 and $130,000 per year. RN care managers wear lab coats over their regular clothes.

Weekend work differs from work performed during the week. RN Care Managers who work during the weekends effectuate discharges that have been planned for the weekend; they do not work on discharge plans. Generally, rounds do not take place on weekends or holidays. When the Employer is fully staffed, RN Care Managers work one weekend every eight weeks.

According to their job description, RN Care Managers can effectively recommend to the department chair that staff be disciplined when care is below the standard level. Jones testified that if an RN Care Manager reports an issue to her, they do not recommend a level of discipline. Jones escalates the issue to the chief medical officer. Jones herself is not involved in any resulting discipline or informed of the specific disciplinary action taken. RN Care Manager Tanya Spencer testified that she has never recommended discipline.

RN Care Managers may participate in a hospital-wide program, which allows them to recommend that colleagues receive a "kudo." Jones and Stewart forward these recommendations to the human resources department. The rewards are typically gift cards to Dunkin Donuts or the hospital cafeteria, or clothing with the hospital's insignia; the Employer distributes these during monthly staff meetings. The record does not reflect the value of any of the respective awards or how the Employer chooses which individuals receive them.

D. Social Worker Care Managers

The SW Care Managers work with patients where the primary focus is a psychosocial issue, such as guardianship or alcohol and substance abuse.

The SW Care Manager job description states that they "create[] optimal outcomes for the patient and family by managing complex psychosocial and economic co-morbidities" and collaborate with RN Care Managers, physicians and management on patients' care plans through to the discharge planning process. SW Care Managers serve as the lead in legal guardianship, adoptions, and psychiatric referrals, and work with agencies in the community regarding services to patients and families. If a patient is placed on a psychiatric hold, SW Care Managers typically attend those court hearings. SW Care Managers are required to hold a master's degree in social

work, and current licensure (LMSW or LCSW) or certification. Witnesses frequently referred to SW Care Managers as social workers.

While no SW Care Managers testified at the hearing, Jones generally stated that SW Care Managers can and do perform the same work as RN Care Managers, except for completing the PRI screen. However, the record contains no specific examples of the SW Care Managers' work or daily routine. Each SW Care Manager covers multiple units, and they work from an office on the first floor, where there are no patient units. SW Care Managers do not generally attend rounds. Staff RN Mordechai Hagler testified that he typically only sees SW Care Managers on the floor during weekends, when the entire care team is not present, and his interactions with them are limited to administrative issues, such as discharge paperwork and ambulance arrival times.

SW Care Managers complete initial assessments on patients, although these initial assessments differ from those taken by the RN Care Manager in that they focus more on psychosocial issues. SW Care Managers cannot be HC-PRI certified, and they therefore do not complete PRI screens. SW Care Managers perform two other types of screens: one that is paired with the PRI screen and the PASRR, which is an assessment tool for patients with psych histories.

SW Care Managers work similar schedules to RN care managers, but they rarely cover for RN Care Managers when they are out. SW care manager salaries are between $75,000 and $83,000 per year. Like RN Care Managers, SW Care Managers wear lab coats over their regular clothes.

II. ANALYSIS

A. The Board's Health Care Rule

The Board's 1989 Health Care Rule (Rule) provides that, except in extraordinary circumstances, there are eight types of units that will be recognized as appropriate for collective bargaining in acute-care hospitals. 29 C.F.R. § 103.30. The Board promulgated the Rule to avoid the proliferation of bargaining units in acute-care hospitals. See 52 Fed. Reg. 25146, 284 NLRB at 1522; 53 Fed. Reg. 33905, 284 NLRB at 1536. As applicable here, one of the Rule's eight appropriate units is "all registered nurses" and another is "all professional employees, except for registered nurses and physicians." 29 C.F.R. § 103.30(a).

The parties stipulated that the Employer is a non-profit acute care hospital within the meaning of Section 103.30(f)(2) of the Act. 29 C.F.R. § 103.30(f)(2). Thus, I find as a preliminary matter that the Employer is covered by the Rule, as interpreted and applied by the Board. I note that the existing registered nurse unit does not conform with Section 103.30(a) to the extent that this petition demonstrates it does not currently include "all registered nurses" employed by the Employer. Section 103.30(c) of the Rule provides that, when nonconforming units already exist, additional units will be found appropriate only if they conform "insofar as practicable" to one of the Rule's eight enumerated units. 29 C.F.R. § 103.30(c).

Petitioner seeks to add the unrepresented Resident Nurse Care Managers to the existing registered nurse unit. Assuming the Registered Nurse Care Managers are statutory employees, their addition to the existing registered nurse unit would result in one of the eight units enumerated in

Section 103.30(a).[3] Adding the petitioned-for voting group to the existing RN unit avoids any proliferation of units as it does not result in the creation of additional nonconforming units. *St. Vincent Medical Center*, 357 NLRB 854, 855 (2011).

The Employer, on the other hand, argues that the sole appropriate unit for the unrepresented employees would be an additional combined unit of registered nurses and professional employee social workers, which should not be fractured. While Section 103.30(c) applies by its terms only to a petition for additional units and here it is the Employer that argues for an additional unit, the unit the Employer proposed does not conform with any of the Rule's standardized units. However, I need not decide whether the Employer's proposed all Care Manager unit contravenes the Board's Health Care Rule as, for reasons detailed below, I find that a self-determination election among the RN Care Managers is appropriate under the principles stated in *St. Vincent Charity Medical Center*, 357 NLRB at 855-56 (exempting *Armour–Globe* self-determination elections from Section 103.30(c) of the Rule).

B. Appropriate Unit

The mechanism by which a union adds employees to an existing unit is known as a self-determination election. Under the Board's *Armour-Globe* doctrine, employees may vote whether they wish to be included in an already represented unit of employees if the employees to be added constitute an identifiable, distinct segment and share a community of interest with unit employees. *Walt Disney Parks & Resorts,* 373 NLRB No. 99, slip op. at 5 (2024), citing *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990).

The first factor under *Armour–Globe* is whether the voting group sought is an identifiable, distinct segment of the workforce. *Walt Disney Parks & Resorts,* 373 NLRB slip op. at 8. The Board generally finds that a group of employees is an identifiable and distinct segment where they perform the same distinct functions, are in the same job classification, are in the same administrative division, work at the same location, and have common supervision. Id.

Here, I find that the sixteen employees in the petitioned-for voting group constitute a distinct, identifiable segment of the Employer's unrepresented employees. The RN Care Managers are neither an arbitrary nor a random grouping of employees. They are in the same job classification and perform the same functions, using their medical knowledge and understanding of insurance coverage and reimbursement allowances to ensure efficient quality care for patients and create and implement post-discharge care plans. The record shows they work exclusively on the units, participating in rounds and interacting with the patient care teams. Further, they report to the same supervisor, share the same basic qualifications, and are organizationally included in the same administrative division.

In contrast, the two SW Care Managers are a different classification and perform different general functions. They work away from patient care areas and do not participate in daily rounds. I recognize that the two classifications share some job responsibilities and supervision and are organizationally included in the same department. However, I find that the respective job

[3] The record does not indicate that the Employer employs any registered nurses other than those in the unit and those in the petitioned-for voting group.

descriptions reveal two separate positions with separate educational and clinical requirements. SW Care Managers use their social work clinical knowledge to perform their functions and that knowledge is distinctly different from the medical knowledge RN Care Managers use.

The second factor is whether the voting group employees share a community of interest with the existing unit. As stated, registered nurses are one of the appropriate units under the Board's Health Care Rule. Further, the record does not indicate that the Employer employs any registered nurses other than the Staff RN bargaining unit and the petitioned-for voting group. While the Rule, by its terms, applies to petitions that seek new units, the Board may rely on the Rule's presumption of community of interest within one of the Rule's eight appropriate units in self-determination petitions covered by the Rule. See, *St. Vincent Medical Center*, 357 NLRB at 855 (finding that nonprofessionals at an acute care hospital had a presumptive community of interest with a nonprofessional unit). Here, I rely in part on the Rule in finding that the registered nurse Care Managers share a presumptive community of interest with employees in the existing registered nurse bargaining unit.

To be sure, holding an RN license does not alone create a community of interest. However, the Board attaches considerable weight to licensure requirements when determining whether the voting group belongs in the registered nurse or another unit. See *Avanti Health System, LLC*, 357 NLRB 1661, 1665 (2011); *Salem Hospital*, 333 NLRB 560 (2001). Here, the petitioned-for employees are both required to hold an RN license and use their clinical skills and knowledge on a daily basis, spending most of their time on patient units where they have frequent contact with staff RNs regarding their shared patients' care and discharge needs. Moreover, as noted in *Salem Hospital*, the Board "generally has included in RN units those classifications which perform utilization review/discharge planning work where an employer requires or effectively *requires RN licensing for the job*." *Salem Hospital*, 333 NLRB at 660 (emphasis added), citing *Pocono Medical Center*, 305 NLRB 398 (1991); *Frederick Memorial Hospital*, 254 NLRB 36, 37-39 (1981); *Trustees of Nobel Hospital*, 218 NLRB 1441, 1444-1445 (1975). Applying the Board's decision in *Salem Hospital*, I find that when, as here, the position requires an RN license and is generally responsible for the maintenance of patient care, the classification shares a community of interest with the registered nurse unit.[4]

Additionally, the record establishes the RN Care Managers share a sufficient traditional community of interest with the existing bargaining unit employees under *United Operations, Inc*, 338 NLRB 123 (2002). When assessing the community of interest between two groups of employees, the Board considers whether the employees: (1) are organized into a separate department, (2) have distinct skills and training, (3) have distinct job functions and perform distinct work, (4) are functionally integrated with other employees, (5) have contact with other employees,

[4] In contrast, where the duties are more administrative and am RN license is not required, the position is excluded from the registered nurse unit. See, e.g., *Avanti Health System, LLC*, 357 NLRB at 1665; *Salem Hospital*, 333 NLRB at 560; *Charter Hospital*, 313 NLRB 951, 954 (1994); *Ralph K. Davies Medical Center*, 256 NLRB 1113, 1117 (1981); *Addison-Gilbert Hospital*, 253 NLRB 1010, 1011-1012 (1981).

(6) interchange with other employees, (7) have distinct terms and conditions of employment, and (8) are separately supervised. Id.

Based on the record, I find that the supervision, frequency of contact, functional integration, and the skills and training factors support a finding that the petitioned-for voting group shares a community of interest with the existing unit. The record is silent on whether there is any significant interchange between the RN Care Managers and existing bargaining unit, and I find the interchange is neutral. I also find the terms and conditions factor neutral as differences in employment terms that result from collective bargaining do not mandate exclusion in the self-determination context. *Public Service Co. of Colorado*, 365 NLRB 1017, 1017, n.4 (2017). Indeed, such distinctions "may reasonably be expected in the *Armour-Globe* context, where the unit employees' terms are the result of collective bargaining." Id. Conversely, I find that the supervision, job function, and departmental organization factors weigh against finding a community of interest. Overall, I find the relevant factors weigh in favor of community of interest.

The Employer, citing *Salem Hospital*, argues that the Board has determined, in circumstances identical to those present here, that the only appropriate unit must include both the RN and SW Care Managers. I find this case to be readily distinguishable from *Salem Hospital.* While the *Salem Hospital* case managers' duties were similar to those performed by the RN Care Managers, the case manager job classification in *Salem Hospital* did not require RN licensure. 333 NLRB at 560-561. Guided by the distinction drawn in *Salem Hospital*, I view the undisputed licensure requirement present here dispositive.

The Employer also argues that adding the petitioned-for voting group to the existing RN unit would result in a "fractured unit" and should be rejected under the Board's *Specialty Healthcare* framework.[5] I am not persuaded by this argument. The *Specialty Healthcare* standard applies when an employer contends that a new proposed bargaining unit is inappropriate because it excludes certain employees. Id. The correct analysis when an incumbent union seeks to add employees to an existing bargaining unit is the *Armour-Globe* analysis. *St. Vincent Medical Center*, 357 NLRB at 855. Moreover, the Board's approach to bargaining units in acute care facilities announced in the Health Care Rule is to be applied in the *Armour-Globe* context so far as practicable. *St. Vincent Medical Center*, 357 NLRB at 855. Moreover, under *St. Vincent Medical Center*, the Board may direct a self-determination election in an acute care hospital even if the unit does not include all remaining unrepresented employees. Id. at 856; see also *Rush University Medical Center v. NLRB*, 833 F.3d 202 (D.C. Cir. 2016) (approving application of *St. Vincent Charity Medical Center* to find that a self-determination election was appropriate to decide whether some, but not all, of the employer's unrepresented nonprofessional employees wished to join a preexisting nonconforming unit consisting of some, but not all, of the nonprofessional and skilled maintenance employees).

Based on the record evidence, Rule, and relevant Board cases, I find the petitioned-for voting group shares a community of interest with the existing registered nurse bargaining unit.

[5] *Specialty Healthcare*, 357 NLRB 934, 947 (2011), as reinstated by *American Steel Construction, Inc*., 372 NLRB No. 23 (2022).

C. The Express-Promise Doctrine (*Briggs Indiana* Rule)

Under the *Briggs Indiana* doctrine, "a union which agrees by contract not to represent certain categories of employees during the term of a collective-bargaining agreement may not during that period seek their representation." *Cessna Aircraft Co*., 123 NLRB 855, 856 (1959) (citing *Briggs Indiana Corp*., 63 NLRB 1270 (1945)). The Board has specified that this rule applies "only where the contract itself contains an *express* promise on the part of the union to refrain from seeking representation of the employees in question or to refrain from accepting them into membership; such a promise will not be implied from a mere unit exclusion, nor will the rule be applied on the basis of an alleged understanding of the parties during contract negotiations." *Cessna, supra* at 857 (emphasis in original); see also *Springfield Terrace LTD*, 355 NLRB 937, 937 (2010); *Budd Co*., 154 NLRB 421, 423 (1965).

The Board has regularly applied this analysis in the self-determination context. In *Women & Infants' Hospital of Rhode Island*, the Board applied *Cessna Aircraft* to find that contractual language specifically excluding respiratory therapists from a technical employee unit did not bar the union from petitioning for an *Armour-Globe* election in a unit of respiratory therapists. 333 NLRB 479, 479 (2001). The Board held that because the union never made an express promise not to seek to represent the respiratory therapists, the direction of a self-determination election among members of that group was appropriate. Id. at 479. Similarly, in *UMass Memorial Medical Center*, where the parties' collective-bargaining agreement expressly excluded a petitioned-for voting group from an existing unit, the Board found the union's agreement to exclude the voting group from the unit did not waive its right to seek to add that voting group to the unit through an *Armour-Globe* election. 349 NLRB 369, 370 (2007).

Here, the parties' agreement contains no express promise not to file a Board election petition. While the Employer argues that the parties' three decades of bargaining history and historical exclusion of "case managers" from the unit should act as a bar to a self-determination election here, the record contains no evidence of the parties' bargaining history beyond copies of the parties' expired collective-bargaining agreements. Moreover, the Board will not find a *Briggs Indiana* waiver based on "an alleged understanding of the parties during contract negotiations." *Women & Infants' Hospital of Rhode Island*, 333 NLRB at 479. To the extent that the Employer contests the *Briggs Indiana* doctrine, I apply the Board's teaching in *Briggs Indiana* as the controlling precedent.

The Employer cites *Rinker Materials Corp.*, 294 NLRB 738 (1989) and *Children's Hospital of San Francisco.*, 312 NLRB 920 (1993), cases where the Board relied on bargaining history to determine the scope of bargaining units. These cases involve the continued appropriateness of predecessor employers' historical units and do not guide me here.

Based on the record and guided by the Board's decisions in *Women & Infants' Hospital of Rhode Island* and *UMass Memorial Medical Center*, I do not find that Petitioner waived its right to seek to represent the RN case managers through the current and/or historical contractual exclusion of Care Managers from the existing unit. Accordingly, I find the Petitioner has not waived its right to seek a self-determination election.

D. Managerial Status

Board policy excludes managerial employees from coverage under the Act. See *NLRB v. Yeshiva University,* 444 U.S. 672 (1980). Managerial employees are those who formulate, determine, or effectuate high-level employer policies and those who have discretion in the performance of their jobs independent of their employer's established policy. *Republican Co.*, 361 NLRB 93, 95 (2014). To be considered managerial, an individual represents "management interests by taking or recommending discretionary actions that effectively control or implement employer policy." *NLRB v. Yeshiva University*, 444 US at 682. Managerial status is reserved for those in "executive-type positions." *General Dynamics Corp.,* 213 NLRB 851, 857 (1974). Conversely, employees whose decision making is limited to the routine discharge of professional duties are not managerial. *NLRB v. Yeshiva University*, 444 at 690. Here, as the party seeking to exclude the employees as managerial, the Employer bears the burden of establishing the RN Care Managers are managers. *Montefiore Hospital & Medical Center*, 261 NLRB 569, 572, n. 17 (1982).

The Employer contends that RN Care Managers are managerial because they: 1) independently establish and effectuate discharge plans for patients; 2) ensure that the care provided is proper and consistent with insurance requirements for maximum reimbursement, effectively acting as "stewards of finances for the hospital and the patient;" and 3) have the authority to expend hospital resources through coordinating transportation services and providing durable medical equipment, paid for by the hospital. The Employer adds that the RN Care Managers' responsibility to protect the Employer's finances is so strong that being included in the bargaining unit would create a conflict of interest.

In *Sutter Community Hospitals of Sacramento*, the Board found that patient care coordinators were not managerial employees. 227 NLRB 181, 193 (1976). Their work involved evaluating hospital care in accordance with patient needs, planning continuing care for patients about to be discharged, and conferring with patients, their families and other health care facilities to assure the delivery of required health care in accordance with physician's orders. Id. Although the patient care coordinators in *Sutter Community Hospitals of Sacramento* worked independently and without close supervision, they followed the employer's established policies and did not formulate and effectuate management policy. Id. In contrast, the Board found managerial employee status regarding a clinical specialist who developed a new intensive care unit, which involved the development of new methods of nursing care, policies and procedures. Id. That degree of responsibility aligned the employee more closely with management. Id; see also *Trustees of Noble Hospital*, 218 NLRB 1441, 1444, n. 10 (1975) (finding that utilization review coordinators, who review patient charts to determine if the length of the patient's stay is in conformity with the standards established by the hospital are not managerial employees, because they do not formulate and effectuate management policies or exercise sufficient independent discretion in the performance of their jobs).

Here, the record establishes that the RN Care Managers are employees with both medical knowledge and expertise in the requirements for reimbursement by insurance carriers and other third parties. RN Care Managers apply their expertise in both these areas to formulate discharge plans for patients, based on established guidelines. Notably, the record shows no examples of RN Care Managers utilizing independent judgment outside established guidelines. While they

effectuate the Employer's policy of maximizing reimbursement for patient care when performing this task, these are not managerial decisions as they do not demonstrate executive level decision making of the type that guide the Employer's business. See *NLRB v. Yeshiva University*, 444 at 690; *Montefiore Hospital & Medical Center.*, 261 NLRB at 570 (managerial status may not be based on decision-making which is part of the routine discharge of professional duties primarily incident to patient care.); *General Dynamics Corp.*, 213 NLRB at 857 (employees who exercise discretion on the basis of their technical expertise are not managerial employees).

The Employer contends that RN Care Managers effectively update and recommend updates to guidelines related to Care Manager processes. The record does not support this contention. Senior Director of Care Management Jones testified that Care Managers are encouraged to inform the Employer if a different person is attached to a process the Employer had previously generated or that there had been a change in a process or workflow, and that the Employer then updates its guidelines to reflect those changes. This testimony indicates the Care Managers report existing information rather than promulgate or implement policy. Additionally, I note that the RN Care Manager job description specifies that the classification is responsible for enforcing the Employer's policies and procedures, not creating them.

Finally, RN Care Managers' authority to commit hospital funds to purchase durable medical equipment for patients after receiving proper approval does not establish managerial status. See, e.g.*, Washington Post Company*, 254 NLRB 168, 189 (1981) (assistant manager who determined need for stock items, solicited bids from vendors and then selected the most appropriate vendor via price and quality guidelines not managerial employee).

Based upon the foregoing, I find that the Employer has not met its burden to establish that the RN Care Managers are managerial personnel.

E. Supervisory Status

The Act specifically excludes supervisors from its coverage. Section 2(11) of the Act defines a supervisor as any individual with the authority to engage in enumerated supervisory functions, including the authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend any of these actions. 29 U.S.C. § 152(11). Possession of any one of these authorities is sufficient to confer supervisory status if the authority is exercised with independent judgment, not in a routine manner, and in the interest of the employer. *NLRB v. Kentucky River Community Care, Inc.*, 532 U.S. 706, 711 (2001).

The authority to effectively recommend an action means that the recommended action is taken without independent investigation by acknowledged supervisors, not simply that the recommendation is ultimately followed. *DirecTV LLC*, 357 NLRB 1747, 1748–1749 (2011).

The Board will find that independent judgment has been shown where the alleged supervisor acts free from the control of others, is required to form an opinion by discerning and comparing data, and makes a decision not dictated by circumstances or company policy. *Oakwood Healthcare, Inc.*, 348 NLRB 686, 693 (2006). Independent judgment requires that the decision "rise above the merely routine or clerical." Id.

The party asserting supervisory status bears the burden of establishing it by a preponderance of the evidence. *NLRB v. Kentucky River Community Care, Inc.,* 532 U.S. at 711-12. Supervisory status cannot be established by record evidence that is inconclusive or otherwise in conflict. *Phelps Community Medical Center*, 295 NLRB 486, 490 (1989). Mere inferences or conclusory statements, without detailed, specific evidence, are insufficient to establish supervisory authority. *Lynwood Manor*, 350 NLRB 489, 490 (2007); *Golden Crest Healthcare Center*, 348 NLRB 727, 731 (2006). The Board looks to evidence of supervisory authority in practice, not simply paper authority; job descriptions or other documents suggesting the presence of supervisory authority are not given controlling weight. See *Golden Crest Healthcare Center*, 348 NLRB 727, 731 (2006), citing *Training School at Vineland*, 332 NLRB 1412, 1416 (2000).

There is no evidence or argument that the RN Care Managers have the authority to hire, discharge, promote, transfer, lay off, or recall employees, or to adjust their grievances, or to effectively recommend such. Instead, the Employer argues that that RN Care Managers have authority to direct and assign work, effectively recommend and report employees who perform substandard care, and recommend rewards within the meaning of Section 2(11) of the Act. The evidence does not support the Employer's claims.

1. Assignment of work

The Board has determined that the term "assign" refers to the "act of designating an employee to a place (such as a location, department or wing), appointing an employee to a time (such as a shift or overtime period) or giving significant overall duties, i.e., tasks, to an employee." *Oakwood Healthcare*, 348 NLRB at 689. The authority to "assign" requires more than choosing the order in which an employee will perform discrete tasks within an overall significant assignment of duties. Id. The authority to make an assignment, by itself, does not confer supervisory status. As with all supervisory criteria, the alleged supervisor must also use independent judgment when making an assignment. Id. at 692-93.

The Employer argues that RN Care Managers exercise their independent judgement in determining which task to assign to Staff RNs and Care Management Assistants based on the needs of the individual patient and the Care Managers' independent judgement about what tasks must be performed in order to continue moving the patient toward a safe discharge.

Beginning with Staff RNs, there is no evidence or argument that RN Care Managers assign individual Staff RNs to places or shifts. While the Employer contends that the RN Care Managers assign work to nurses by tasking them with gathering patient data for discharge plans, the record suggests that gathering patient data is routine and in accordance with set practice rather than an assignment of significant overall duties. Such ministerial assignment of tasks in accordance with an employer's set parameters does not require a sufficient exercise of independent judgment to satisfy the statutory definition. *Express Messenger Systems*, 301 NLRB 651, 654 (1991) *Bay Area-Los Angeles Express*, 275 NLRB 1063, 1075 (1985). Further, assuming for purposes of argument that requests for patient information are assignments of significant overall duties, the record does not reveal any use of independent judgment. To establish that a putative supervisor exercises independent judgment, there must be concrete evidence showing how assignment decisions are made; the record here does not show the factors considered when making the purported assignments. Finally, the Employer's contention relies on one-word answers to leading questions.

Such conclusory statements, without detailed and specific evidence, are insufficient to establish supervisory authority. *Lynwood Manor*, 350 NLRB at 490.

As to Care Management Assistants, there is no indication that the RN Care Managers assign individual CMAs to places or shifts. Nor do they assign individual employees to CMA functions. Rather, the record shows that the CMA classification is responsible for seeking insurance authorization and communicating with insurance companies. This work is the next step in the Employer's process after RN Care Managers specify the types of reimbursement authorization needed in the CarePort software. The work performed is therefore part of the Employer's set practice and does not demonstrate an assignment of overall duties.

As the record does not show that the RN Care Managers assign work in any other manner, I find that the Employer has not met its burden in establishing that RN Care Managers assign work within the meaning of the Act.

2. Responsible direction

Responsible direction, unlike the authority to assign, encompasses the delegation of discrete tasks rather than overall duties. *Oakwood Healthcare, Inc.* 348 NLRB at 690-692. To direct another's work requires one to decide what will be done next and who will do it. Id. at 691.

As with the other indicia of supervisory status, responsible direction will establish supervisory status only if it is shown that the putative supervisor uses independent judgment in exercising this authority. Id. at 693. Moreover, the authority to responsibly direct other employees requires that the delegation of discrete tasks results in accountability for the putative supervisor. To establish accountability, it must be shown that the employer has empowered the putative supervisor to take corrective action and made the putative supervisor subject to adverse consequences based on other staff members' performance. Id. at 691-692, 695; *Golden Crest Healthcare Center*, 348 NLRB at 731.

Here, while the Employer generally asserts that RN Care Managers direct CMAs and Staff RNs to perform tasks based on the needs of the individual patient, the Employer did not elicit testimony explaining the specific factors RN Care Managers consider when deciding which employee would perform the tasks or providing specific examples of such direction. Absent such detailed, specific evidence, the record evidence is insufficient to establish supervisory authority to decide what will be done next and who will do it. *Lynwood Manor*, 350 NLRB at 490; *Golden Crest Healthcare Center*, 348 NLRB at 731. The evidence also fails to demonstrate that the purported supervisors have authority to take corrective action against other employees or that they are subject to adverse consequences for the work performance of those employees. *Oakwood Healthcare, Inc.* 348 NLRB at 691-692, 695. For these reasons, the Employer has failed to meet its burden of establishing that the RN care managers responsibly direct employees.

3. Discipline

To establish supervisory authority to discipline, the asserted authority "must lead to personnel action without independent investigation by upper management." *Veolia Transportation Services*, 363 NLRB 902, 908 (2016). Although the Act demands only the possession of Section 2(11) authority, not its exercise, the evidence must still be persuasive that such authority exists.

The record must establish actual authority to discipline, rather than "paper authority" present in job descriptions and other documents. *Golden Crest Healthcare Center*, 348 NLRB at 731.

Here, Senior Director of Care Management Jones testified RN Care Managers have no role in disciplining employees in the Care Management Department. The Employer, citing the RN Care Manager Job Description, contends that RN Care Managers possess the authority to effectively recommend and report other employees including Medical or Nursing staff if the provision of care falls below the standard level.

The RN Care Manager job description states, in pertinent part, that RN Care Managers "[c]an effectively recommend that staff (either Medical or Nursing) be disciplined to the Department Chair when the care is below the standard level." While the RN Care Manager witnesses acknowledged the job description and Senior Director Jones generally testified that she has referred patient care issues reported by RN Care Managers to the Chief Medical Officer, the record does not reveal further consequences after a report of substandard care. Further, the record does not show any specific examples of such reports. Thus, aside from the job description itself, there is no record evidence establishing that RN Care Managers recommendations led or could lead to any substantive personnel actions or that the reports affect the job status of employees. I find the job description constitutes mere paper authority, which the Board has long held is insufficient to establish supervisory status. *Golden Crest Healthcare Center*, 348 NLRB at 731 (job descriptions suggesting the presence of supervisory authority are not given controlling weight). Further, absent evidence that the claimed supervisory authority exists, reporting infractions does not show supervisory authority if the reports do not result in disciplinary action without investigation by higher-level managers. *Veolia Transportation Services*, supra. Therefore, I find that the Employer has not demonstrated that the RN Care Managers exercise supervisory authority in recommending discipline.

4. Reward

The ability to reward employees is one indicium of supervisory authority under Section 2(11) of the Act. The Board holds, however, that "small monetary awards fail to establish supervisory status where evidence does not establish that the award was more than sporadic or involved independent judgment." See *Veolia Transportation Services, Inc*., 363 NLRB 1879, 1887 (2016).

As a threshold issue, the record does not show the value of the awards and, thus, falls short of establishing they constitute a reward. Assuming for the sake of argument that the rewards are of more than de minimis value, the record does not show how the putative supervisors decide to recommend employees for these rewards and thus that the decisions involve independent judgment. Id. at 1887 (assuming $25.00 gift cards to employees could constitute reward). Further, the record evidence is limited to Senior Director Jones' general description of the procedure and the record does not show any specific examples of RN Care Managers recommending any employee receive an award, or that such a recommendation was followed. Finally, the record does not establish how frequently the purported recommendations resulted in awards and thus that they are more than sporadic. Id. (insufficient evidence where gift cards were issued sporadically and without independent judgment). Accordingly, I find that the record fails to show the RN Care Managers independently reward employees.

5. Conclusion Regarding Supervisory Status

Based on the foregoing and the record as a whole, I find that the Employer has failed to meet its burden of demonstrating the RN Care Managers exercise supervisory authority under Section 2(11).

F. Separation of Powers

The Employer contends that the Petition should be dismissed, because the Board's structure violates Article II of the United States Constitution by limiting the right of the President to remove Board members "for neglect of duty or malfeasance in office but for no other cause." 29 U.S.C. § 153(a). I take administrative notice that the President removed Board Member Wilcox on January 27, 2025, on March 6, 2025, the United States District Court for the District of Columbia issued an Order reinstating her for the remainder of her term. See *Wilcox v. Trump*, No. 25-cv-334, 2025 WL 720914 (D.D.C. Mar. 6, 2025) (Howell, J.). Following rulings by a panel of the United States Court of Appeals for the District of Columbia Circuit and the District of Columbia Circuit en banc, on April 9, 2025, the Chief Justice stayed the district court's order pending further order of the Court. *Trump v. Wilcox*, 2025 WL 1063917 (April. 9, 2025). The Wilcox case remains a live controversy.

Section 3(b) of the Act authorizes the Board to delegate to its regional directors its powers under the Act to determine the unit appropriate for the purpose of collective bargaining. 29 U.S.C. § 153(b). The Board delegated decisional authority in representation cases to Regional Directors in 1961 and has never withdrawn that delegation. 26 Fed. Reg. 3889 (May 4, 1961). Although contested questions concerning the scope of the President's constitutional powers should be left to the courts to decide, as then-Member Kaplan explained in *SJT Holdings*, 372 NLRB No. 82, slip op. at 2 n.5.(2024), there is a strong public interest in addressing representation disputes that are of concern to employees and employers alike as soon as possible.

The Employer argues it is harmed by having to participate in a constitutionally defective process and expend resources to participate in this process, lest the unconstitutional actors determine it has not met its burden by failure to participate.

The Employer's argument regarding removal protections for Board members is unpersuasive because "there is no evidence that the [Employer] suffered any harm from the Board members' … removal protections." *Commonwealth Flats Dev. Corp.*, 373 NLRB No. 142, slip op. at 1 n.1 (2024); *SJT Holdings, Inc.*, 372 NLRB slip op. at 1 n.4 (citing *Collins v. Yellen*, 141 S. Ct. 1761, 1787 (2021), and *Calcutt v. FDIC*, 37 F.4th 293, 316 (6th Cir. 2022), *rev'd per curiam on other grounds*, 598 U.S. 623 (2023)); *YAPP USA Auto. Sys., Inc. v. NLRB*, --- F. Supp. 3d ----, No. 24-12173, 2024 WL 4119058, at *9-10 (E.D. Mich. Sept. 9, 2024) (applying causal-harm standard to reject constitutional challenge to removal protections enjoyed by Board members and administrative law judges), *injunction pending appeal denied*, No. 24-1754, 2024 WL 4489598 (6th Cir. Oct. 13, 2024), *emergency application for writ of injunction denied*, No. 24A348, 2024 WL 4508993 (U.S. Oct. 15, 2024) (Kavanaugh, J., in chambers).

The Employer has not established any nexus between the President's desire to remove any Board member and any action taken (or to be taken) in this case. Rather, the Employer only generally asserts that it is harmed by having to participate in the administrative process and expend

resources. This bare assertion is insufficient, and I deny the Employer's request to dismiss the Petition on this basis. *Cortes v. NLRB*, No. 1:23-cv-02954, 2024 WL 1555877, at *7 (D.D.C. Apr. 10, 2024) (declining to address the constitutionality of Board members' removal protections because "the Court could 'dispose of the case' on the harm requirement" (quoting *Bond v. United States*, 572 U.S. 844, 855 (2014))), *appeal docketed*, No. 24-5152 (D.C. Cir. June 10, 2024).

III. CONCLUSION

Based on the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

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.[6]

3. The parties stipulated, and I find, that Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

4. There is no contract bar to conducting an election in this matter.

5. 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.

6. The following employees of the Employer constitute an appropriate group for self-determination election for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time, regular part-time and per diem Registered Nurse Care Managers; but excluding all other employees, guards, and supervisors as defined by the Act.

IV. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret-ballot election among the employees in the voting group found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by The New York State Nurses Association. If a

[6] The parties stipulated that the Employer is a non-profit acute care hospital within the meaning of 29 C.F.R. § 103.30(f)(2) of the National Labor Relations Act, with a place of business located at 160 North Midland Avenue, Nyack, New York. Annually, in the course and conduct of its business operations, the Employer derives gross revenues in excess of $250,000 and purchases and receives at its Nyack, New York facility goods and materials valued in excess of $5,000 directly from suppliers located outside the State of New York.

majority of valid ballots are cast for The New York State Nurses Association, they will be taken to have indicated the employees' desire to be included in the existing unit of employees currently represented by The New York State Nurses Association. If a majority of valid ballots are not cast in favor of representation, they will be taken to have indicated the employees' desire to remain unrepresented.

A. Election Details

The manual election will be held on **Tuesday, May 6, 2025**, from **8 a.m. to 12 p.m.** and **2 p.m. to 6 p.m.** in the Cafeteria Conference Room on the ground floor of the Employer's facility located at 160 North Midland Avenue, Nyack, NY 10960.

B. Voting Eligibility

Eligible to vote are those in the unit Eligible to vote are those in the unit who were employed during the payroll period ending **April 19, 2025,** including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote by mail consistent with the instructions above.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period, and, in a mail ballot election, before they mail in their ballots to the Board's designated office; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

To be timely filed and served, the list must be *received* by the regional director and the parties by **April 28, 2025**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlrb.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting Notice of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of § 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the

circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review. Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: April 24, 2025

John D. Doyle, Jr.
Regional Director
National Labor Relations Board
Region 02
26 Federal Plaza, Suite 41-120
New York, NY 10278-3699