

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 18**

FAIRVIEW HEALTH SERVICES

Employer

and

MINNESOTA NURSES ASSOCIATION

Petitioner

Case 18-RC-362062

DECISION AND DIRECTION OF ELECTION

Fairview Health Services (Employer) operates an acute-care hospital in Edina, Minnesota. Minnesota Nurses Association (Petitioner) filed a petition seeking to add through an *Armour-Globe* self-determination election, registered nurses employed in the CV Imaging Center at the hospital, i.e., the CV imaging nurses, to its existing bargaining unit of registered nurses at the hospital. See *Globe Machine and Stamping Co.*, 3 NLRB 294 (1937) and *Armour and Company*, 40 NLRB 1333 (1942). The Employer asserts that a self-determination election is inappropriate as the petitioned-for employees do not share a community of interest with the employees in the existing unit. The Employer asserts that a stand-alone unit consisting of the petitioned-for employees would be appropriate.

On April 1, 2025, a hearing officer of the Board held a hearing in the matter. Both parties orally argued their positions on the record, which I have duly considered. Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Based on the record in this proceeding, I find that the CV imaging nurses are an identifiable, distinct segment of the Employer's workforce; share a community of interest with the current existing bargaining unit; and that they, therefore, constitute an appropriate voting unit for the purposes of a self-determination election. Accordingly, I am directing a self-determination election in the petitioned-for unit.

This decision begins with a summary of facts as it relates to the petitioned-for unit and existing unit. Next, I discuss my findings related to the appropriateness of the petitioned-for unit. Finally, I conclude the decision with a direction of election.

I. FACTS

A. The Employer's Operations

The Employer operates an acute-care hospital in Edina, Minnesota. The Employer's Edina healthcare campus is composed of approximately five buildings, all of which are within close proximity of one another. Employer Exhibit 2 contains a map of the relevant facilities. The primary

Southdale Hospital building, also referred to as building 6401, sits at the center of the campus.¹ To the south are the Radiation Therapy building and the Southdale Medical Building, which contains the Employer's Wound Care Center and Breast Center. To the northeast is the Southdale Physicians Building, also referred to as building 6363, which contains the IAMRX unit and Specialty Infusion center. To the west is the West Building, also referred to as building 6405, which contains the University of Minnesota Physicians Heart Center, Vascular Center, Specialty Clinics, and the CV Imaging Center at issue in this case. The main hospital (6401), Physicians Building (6363), and the West Building (6405) are all located on a shared piece of land; the Southdale Medical Building is separated from the other facilities by a roadway. It is possible to travel from the West Building (6405) to the main hospital (6401) via a flight of stairs or the skyway without going outside.

The Petitioner represents approximately 1,300 registered nurses employed in the Fairview Southdale Hospital.² The record is unclear as to the exact specifications of the existing bargaining unit, though Minnesota Nurses Association Lead Organizer Matthew Parris testified that registered nurses in at least the operating room, recovery area, emergency department, Heart Center, oncology department, neurology department, orthopedic department, medical surgical unit, Family Birth Center, maternal fetal medicine department, Breast Center, wound care unit, catheterization lab, and interventional radiology unit are all included in the existing bargaining unit. While most nurses in the existing bargaining unit work in the main hospital (6401), approximately 40 nurses work in departments located in the surrounding buildings, as described above. The most recent collective-bargaining agreement is effective from June 1, 2022, until May 31, 2025.³

1. CV Imaging Nurses

The CV imaging nurses are registered nurses who work in the CV Imaging Center, a hospital-based clinic located on the third floor of building 6405. CV imaging nurses report directly to CV Operations Manager Cherie Mitchell. Manager Mitchell reports to Director of Cardiovascular Operations Katy Soule. Director Soule reports to cardiac care service line

¹ While the Employer's entire operation constitutes an "acute care hospital," building 6401 is presented in the record as the primary "acute care facility."

² The full description of the current bargaining unit is described in the parties' CBA at Article I:

The Minnesota Nurses Association will be the sole representative of all registered professional staff nurses and assistant head nurses employed in the Hospital. The Hospital agrees to not challenge the supervisory/managerial status of any bargaining unit member during the term of this agreement and until a successor agreement is negotiated.

"Staff nurse" is defined as:

Registered professional nurses who are employed primarily to give direct nursing care to patients/clients. Delivery of care is directed toward promotion and restoration of health, prevention of disease, and care of the sick and disabled. The practice of professional nursing includes independent nursing functions and delegated medical functions which may be performed in collaboration with other health care team members.

³ Joint Exhibit 1, pg. 92.

Executive Director Katie Nelson. The cardiac care service line continues up through Marie Brown and Jeoff Will (the record does not contain evidence of Ms. Brown's and Mr. Will's specific job titles).

Per the job description, CV imaging nurses assist physicians and provide care to patients undergoing non-invasive cardiac testing, including MRI, CT, pharmacological nuclear imaging, and transthoracic echocardiograms. Typically, CV imaging nurses meet patients in the CV imaging-specific lobby and direct them to the MRI or CT suite to prepare for non-invasive cardiac testing. Like other RNs, CV imaging nurses check patients' vital signs, discuss medical histories, administer necessary medications, and use Epic to communicate with other care providers in the hospital. CV imaging nurses use nursing judgment to monitor for MRI stress, perform 12-lead EKGs, and administer medications.

A CV imaging nurse must possess a nursing license and maintain that license throughout their employment. As a licensed registered nurse, the CV imaging nurses, like the unit nurses, must meet the State's continuing education requirements. Prior to becoming a CV imaging nurse, registered nurses must have previous critical care experience and be ACLS (Advanced Cardiac Limb Support) certified. Orientation and training for CV imaging nurses takes approximately one month, with a particular focus on learning heart rhythms and reading EKGs. CV imaging nurses also need specialized radiation training for MRIs.

Many CV imaging patients are referred from the outpatient cardiology unit, though two CT slots and three MRI slots each week are reserved for hospital inpatients. While CV imaging nurses do not generally work beside registered nurses in the existing bargaining unit, they may seek assistance from registered nurses in the existing bargaining unit, such as help accessing IVs for transthoracic echocardiograms or catheterization lab assistance for ultrasounds, typically regarding one patient per week. Approximately once a year, code teams, which may include nurses in the existing bargaining unit, support the CV imaging nurses if any patients "code blue" or experience cardiac arrest while in their care; after patients are stabilized by the code teams and CV imaging nurses, those patients are transported to receive inpatient care in the main hospital (6401).

One of the three current CV imaging nurses initially transferred from a bargaining unit position in the catheterization lab and still holds an additional position in the catheterization lab. The other two current CV imaging nurses were hired externally and previously worked in emergency departments at other hospitals. Manager Mitchell testified about five casual nurses, or registered nurses trained to work in several departments as needed, who sometimes work in the CV Imaging Center. Casuals are required to have department-specific training and pick up specific shifts that would otherwise be filled by a regularly employed nurse in a particular department. One casual nurse works full-time in the Fairview Ridges ICU but will fill in as needed in the CV Imaging Center. Another casual nurse for the CV Imaging Center is a bargaining unit employee who works full-time at the Heart Center. A third casual works in the catheterization lab. A fourth is a bargaining unit employee who works full-time in the Southdale Hospital ICU and is a flyer, meaning that she will assist a variety of departments for limited periods of time. Finally, there is apparently one casual who works only in the CV imaging department, according to Manager Mitchell. The record is unclear whether there are any other casuals trained to work in the CV Imaging Center.

CV imaging nurses are paid hourly and work from Monday through Friday, without the possibility of overtime or weekend work. Accordingly, CV imaging nurses are ineligible for shift, weekend, or short-notice differentials. CV imaging nurses receive PTO, rather than vacation and sick time. CV imaging nurses do not have on-call responsibilities. CV imaging nurses are benefit-eligible, though they are ineligible for pensions. CV imaging nurses are under the purview of Fairview HR Department and Fairview Labor Relations Department, which also works with the registered nurses in the existing bargaining unit. Any hiring or firing, however, would be directed by the CV Operations Manager. Limited testimony was presented suggesting CV imaging nurse pay rates are similar to bargaining unit pay rates, though there may be some differences. Both CV imaging nurses and bargaining unit nurses, like all other Fairview Health Services employees, use Kronos, or MyTime, to enter their time. CV imaging nurses must wear a Fairview-issued identification badge and their choice of scrubs. The badges have a Fairview logo, "RN," and possibly a picture of the badge-holder. The badges do not indicate the department in which a particular nurse works.

2. The Existing Bargaining Unit of Registered Nurses

The existing bargaining unit of registered nurses work in various departments or centers throughout the hospital. Most registered nurses in the existing bargaining unit work in the 6401 building, though approximately 40 bargaining unit employees work elsewhere. For example, some unit nurses work in the Wound Care Center or Breast Center, both located in the stand-alone Southdale Medical Building.

The unit nurses report to a manager, who in turn reports to a director. While each department has its own nurse manager, directors oversee several departments, depending on the service line. Many, but not all, nurses in the existing bargaining unit report up the acute care service line. However, approximately 40 unit nurses who work in catheterization lab, cardiology department, or oncology department report up the cardiac care service line to Director Soule, much like the CV imaging nurses. Other unit nurses, like those in the Breast Center, report through the imaging service line.

Most registered nurses in the existing bargaining unit receive an orientation and training from their department. Principal Labor Relations Consultant Gretchen Gromatka testified that the length and substance of the training is department-dependent; for example, orientation for the ICU takes between six and fourteen months, whereas medical surgical unit orientation takes approximately four weeks.

Some nurses in the existing bargaining unit, including in acute care departments like the Emergency Department, Heart Center, or intensive care unit, must be able to read EKGs and understand heart rhythms. While all registered nurses are required to have a college degree and an active nursing license, some departments have additional professional or educational requirements, including specific certifications. Some, but not all, nurses in the existing bargaining unit are required to have ACLS certification, just like the CV imaging nurses.

Registered nurses in the existing bargaining unit receive hourly pay. Some, but not all, have mandatory overtime requirements. Some registered nurses in the existing bargaining unit can be expected to work at any hour, on any day, whereas others work on rotating shifts or regular schedules. Bargaining unit nurses have access to the non-contract medical plan but may elect the Petitioner's standalone insurance.

Registered nurses in the existing bargaining unit are paid hourly using the wage scale in their collective bargaining agreement. They may be eligible for weekend bonuses, shift differentials, short-notice differentials, certain longevity bonuses, pensions, vacation time, sick time, and other benefits as included in their collective bargaining agreement. Many, but not all, nurses in the existing bargaining unit have on-call responsibilities; for example, oncology and medical surgical unit nurses do not have on call-responsibilities. Existing bargaining unit nurses are under the purview of Fairview HR and Labor Relations Departments, though hiring or firing is directed by each department's nursing manager. Both CV imaging nurses and bargaining unit nurses, like all other Fairview Health Services employees, use Kronos, or MyTime, to enter their time. Each department may set its own rules, to a certain extent, as the Employer does not provide an employee handbook. Nurses in the existing bargaining unit typically must wear a Fairview-issued identification badge and their choice of scrubs.

II. COMPOSITION OF THE PETITIONED-FOR UNIT

The question before me is whether the petitioned-for unit constitutes an appropriate unit for purposes of collective-bargaining under the Act; and further, whether a self-determination election would be appropriate to determine if the petitioned-for unit should be added to the existing unit. Petitioner contends that the petitioned-for CV imaging nurses share a community of interest with registered nurses in the existing bargaining unit. The Employer argues that the CV imaging nurses do not share a community of interest with the existing bargaining unit.

The applicable standard for evaluating the appropriateness of adding employees to an existing bargaining unit is the Board's *Armour-Globe* doctrine. *Warner-Lambert Company*, 298 NLRB 993 (1990); *Armour*, 40 NLRB 1333; *Globe Machine*, 3 NLRB 294. Under that doctrine, an incumbent union may petition to add unrepresented employees to an existing bargaining unit if the employees sought to be included: 1) constitute an identifiable, distinct segment so as to constitute an appropriate voting group; and 2) share a community of interest with unit employees. *Warner-Lambert*, 298 NLRB at 995 (citing *Capital Cities Broadcasting*, 194 NLRB 1063 (1972)). The petitioned-for employees need not constitute a separate appropriate unit by themselves to be added to an existing unit. *St. Vincent Charity Medical Center*, 357 NLRB 854, 855 (2011) (citing *Warner-Lambert*, 298 NLRB at 995). A certifiable unit, including the combined unit formed in an *Armour-Globe* case, need only be an appropriate unit, not the ultimate or the only or even the most appropriate unit. *International Bedding Co.*, 356 NLRB 1336, 1337 (2011) (citing *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950), *enfd.* 190 F.2d 576 (7th Cir. 1951)); see also *Overnite Transportation Co.*, 322 NLRB 723 (1996).

Here, all parties appear to concede that the issue at hand is whether the CV imaging nurses constitute an appropriate voting group for an *Armour-Globe* election.⁴

A. The Petitioned-For Employees Constitute an Identifiable, Distinct Segment of the Employer's Workforce

When a petitioner seeks a self-determination election, the first consideration is whether the voting group is an identifiable and distinct segment of the workforce. *Warner-Lambert*, 298 NLRB

⁴ As detailed below in Section II (B), the *Armour-Globe* standard should be applied per *St. Vincent*, 357 NLRB 854, which remains good law and is controlling.

at 995. Whether a voting group is an identifiable, distinct segment is not the same question as whether the voting group constitutes an appropriate unit, the analysis where a petitioner seeks to represent employees in a standalone unit. *St. Vincent*, 357 NLRB at 855. Instead, the identifiable and distinct analysis asks whether the voting group sought unduly fragments the workforce. *Capital Cities Broadcasting*, 194 NLRB at 1064.

In *St. Vincent*, the Board found a petitioned-for group of employees in a single classification (phlebotomists) constituted an identifiable and distinct group, appropriate for an *Armour-Globe* election, because the employees were employed in a single department, worked in the same physical location, and shared the same supervision. *St. Vincent*, 357 NLRB at 855-856. The Board reached the opposite conclusion in *Capital Cities Broadcasting*, finding the voting group sought arbitrary and inappropriate for an *Armour-Globe* election, because the employees in the voting group were scattered across various unrepresented departments and lacked such similarities. *Capital Cities Broadcasting*, 194 NLRB at 1064.

Here, the petitioned-for CV imaging nurses work together in a single center at the same facility, are commonly supervised by Manager Cherie Mitchell, and have duties distinct from other classifications. All registered nurses in the CV Imaging Center are included in the voting group. The voting group sought is not an arbitrary grouping like the one found inappropriate by the Board in *Capital Cities Broadcasting*, but instead is much more like the phlebotomists at issue in *St. Vincent*. Additionally, neither party contends that CV imaging nurses do not constitute an identifiable and distinct group. Accordingly, I find that the petitioned-for CV imaging nurses are an identifiable and distinct group that does not unduly fragment the Employer's workforce.

B. The Health Care Rule and Community of Interest

Evaluating the propriety of *Armour-Globe* elections in acute care hospitals involves a further layer of complexity. In 1989, the Board issued a Health Care Rule providing that, absent extraordinary circumstances, it would find eight types of units, and only those units, appropriate in acute care hospitals. 29 CFR §103.30(a). One of the eight appropriate units consists of all registered nurses. The Rule, however, addresses only prospective, initial organizing of units in acute care facilities and does not specifically address where an acute care facility is partially organized in a non-conforming unit or combination of units. The Board specifically deferred such situations to adjudication in the Rule. *See* Sec. 103.30(a) of the Board's Rules and Regulations; *Collective Bargaining Units in the Health Care Industry*; 284 NLRB 1515 at 1570-1571.

Under the Health Care Rule, units that are either underinclusive, that is, fail to include all the employees in one of the eight types of classification in an acute-care facility, or over-inclusive, including employees outside of the classification, are thereby non-conforming. *See, e.g., St. Vincent*, 357 NLRB at 855. The Rule includes special provisions for existing non-conforming units, but only regarding petitions to create additional units. 29 CFR §103.30(c). The Board has held that, because the Health Care Rule was enacted to address the Board's concern with proliferating units in healthcare facilities, when a petition is filed to add employees to an existing healthcare unit, rather than to create a new unit, the Health Care Rule provision does not apply; instead, the Board's usual *Armour-Globe* standard for additions to existing units applies. *Id.*

Here, as evidenced by the fact the petitioned-for CV imaging nurses are unrepresented, the existing bargaining unit represented by Petitioner is underinclusive in that it does not include all registered nurses employed by the Employer at the Edina location. As the existing bargaining unit of registered nurses is nonconforming, and the Petitioner seeks to add employees to it, the *Armour-Globe* standard applies. *St. Vincent*, supra. In the self-determination context, the petitioned-for voting group need not share a community of interest with every classification in the existing unit. Rather, it is only required that the petitioned-for employees have a community of interest with at least a portion of the currently represented employees. *St. Vincent*, 357 NLRB 854; *Public Service Company of Colorado*, 365 NLRB No. 104 (2017). As discussed below, I find that the CV imaging nurses share a community of interest with at least some of the already represented employees.

Indeed, I find that the Employer's position in this matter—that the CV imaging nurses should be a separate, distinct unit from the existing bargaining unit encompassing all other represented nurses—runs contrary to the policy aims of the Healthcare Rule. If the petitioned-for CV imaging nurses were to be placed in a standalone unit, as suggested by the Employer, there would be two registered nurse bargaining units: one with approximately 1300 registered nurses from at least a dozen different departments and a second with 3 registered nurses from a single department, suggesting the exact type of proliferation the Health Care Rule was designed to prevent. As the Board noted in *St. Vincent*, “[a]n *Armour-Globe* self-determination election . . . undeniably avoids any proliferation of units, much less undue proliferation, because it does not result in the creation of and election in a separate, additional unit.” 357 NLRB at 855.

I turn next to determine whether the petitioned-for CV imaging nurses share a sufficient community of interest with the registered nurses in the existing bargaining unit to warrant an *Armour Globe* election.

C. Factors Considered

When deciding whether a group of employees share a community of interest, the Board considers whether the employees sought are organized into separate departments; have distinct skills, training, and job functions; are functionally integrated with employees in the existing unit; have frequent contact or interchange with other employees; have distinct terms and conditions of employment; and are separately supervised. *United Operations, Inc.*, 338 NLRB 123 (2002). Further, in the context of an acute care hospital, the Board may take into account the community of interest and appropriate unit determinations in the Health Care Rule. As the Board explained in *St. Vincent*, “nonprofessionals at an acute care hospital have a presumptive community of interest with all other nonprofessionals”. *Id.* at 2. By corollary, registered nurses at an acute care hospital would have a presumptive community of interest with all other registered nurses. Notwithstanding this arguable presumption, I address the traditional community of interest factors in detail below.

1. Departmental Organization

As noted above, an important consideration in any unit determination is whether the proposed unit conforms to an administrative function or grouping of an employer's operation. *Gustave Fischer, Inc.*, 256 NLRB 1069 fn. 5 (1981). For example, generally the Board would not deem

appropriate a unit consisting of some, but not all, of an employer's production and maintenance employees. See, e.g., *Check Printers, Inc.*, 205 NLRB 33 (1973). This is because the Board does not approve of fractured units—that is, combinations of employees that are too narrow in scope or that have no rational basis. See, e.g., *Seaboard Marine*, 327 NLRB 556 (1999) (citing *Colorado National Bank of Denver*, 204 NLRB 243 (1973)). However, in certain circumstances the Board will find a unit is appropriate even though other employees in the same administrative grouping are excluded. *Home Depot USA*, 331 NLRB 1289 (2000).

Here, the existing bargaining unit is already fragmented in terms of departmental organization and administrative groupings. First, it is underinclusive and does not contain all the registered nurses employed by the Employer at the Edina facility. Further, the unit nurses themselves work in different departments under different managers who report up through different service lines of the Employer's organizational chart. The CV imaging nurses, who report to Manager Mitchell, are under the same service line under Director Soule as are the bargaining unit nurses in the catheterization lab, so the CV imaging nurses are not in a standalone grouping administratively. At the same time, the existing bargaining unit includes registered nurses in certain departments, like the Breast Center, who are in a standalone administrative grouping in the imaging service line. As the existing bargaining unit already contains registered nurses in the same service line as the CV imaging nurses, and noting the fractured nature of the departmental grouping in the existing unit, I conclude this factor weighs slightly in favor of finding a community of interest between the CV imaging nurses and the existing bargaining unit nurses.

2. Distinct Skills, Training and Job Functions

This factor examines whether the disputed employees can be distinguished from one another based on skills and training. If they cannot be distinguished, this factor weighs in favor of including the disputed employees in one unit. Evidence that disputed employees have similar requirements to obtain employment; that they have similar job descriptions or licensure requirements; that they participate in the same employer training programs; and/or that they use similar equipment supports a finding of similarity of skills. *Casino Aztar*, 349 NLRB 603 (2007); *J.C. Penny Company, Inc.*, 328 NLRB 766 (1999); *Brand Precision Services*, 313 NLRB 657 (1994); *The Phoenician*, 308 NLRB 826 (1992). Further, the Board has generally considered an employer's requirement that employees in a registered nurse classification have a registered nurse license to be an indicator that registered nurse skills and training are necessary to perform the job functions. *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). However, the Board has not interpreted the Health Care Rule as requiring all those employees who happen to possess registered nurse licenses to be grouped together—rather, the Board has found that those who perform nursing work should be placed together; however, if the work of a particular classification does not require nursing skills or training, then employees in the classification who hold registered nurse licenses may be included in a non-nursing unit. *St. James Hospital of Newark*, 248 NLRB 1045, 1046 (1980).

The CV imaging nurses and the existing bargaining unit nurses must all be licensed registered nurses, a factor that weighs in favor of finding a community of interest between them. Like many of the bargaining unit nurses, the CV imaging nurses have experience in critical care. They utilize

this experience to give sound nursing advice while performing their duties. CV imaging nurses, like nurses in the existing bargaining unit, must have college degrees and must have certain department-specific certifications. For example, both CV imaging nurses and Heart Center nurses in the existing bargaining unit are required to be ACLS certified.

Both groups of employees undergo training for their positions. While the length of training varies, department by department, CV imaging nurses and bargaining unit medical surgical nurses both train for approximately one month, while bargaining unit emergency department nurses train for up to six months. The length of training, as well as the specific tasks nurses are trained on, is not dispositive as there is significant variation within the existing bargaining unit. In performing their job functions, all nurses utilize the same electronic messaging system—Epic—as well as the same timekeeping system—Kronos or MyTime. Also weighing in favor of finding a community of interest between the CV imaging nurses and the existing bargaining unit nurses is the fundamental similarity of the work performed by them, i.e., patient care, whether it be direct or indirect.

I conclude that this factor weighs in favor of finding that a community of interest exists between the CV imaging nurses and the existing bargaining unit.

3. Degree of Functional Integration

Functional integration refers to when employees' work constitutes integral elements of an employer's production process or business. Thus, for example, functional integration exists when employees work on different phases of the same product, or as a group to provide a service. Another example of functional integration is when the employer's workflow involves all employees in a unit sought by a union. Evidence that employees work together on the same matters, have frequent contact with one another, and perform similar functions is relevant when examining whether functional integration exists. *Transerv Systems*, 311 NLRB 766 (1993). On the other hand, if functional integration does not result in contact among employees in the unit sought by a union, the existence of functional integration has less weight.

Here, there is a moderate degree of functional integration within the hospital. Cardiac care departments, which contain nurses in the existing bargaining unit, refer outpatients to the CV Imaging Center for non-invasive cardiac testing. The CV Imaging Center also reserves two CT slots and three MRI slots for inpatients referred by acute-care departments through the week. CV imaging nurses work on the same patients, ultimately, as nurses in the existing bargaining unit. After the non-invasive cardiac testing is complete, the patients return to the care of the existing bargaining unit nurses. While the CV imaging nurses may not be working side-by-side with bargaining unit nurses every day, Manager Mitchell testified that CV imaging nurses receive help from bargaining unit nurses, including for IVs related to transthoracic echocardiograms and catheterization lab assistance for ultrasounds, approximately once a week. CV imaging nurses also provide care, even if infrequent, to the same patient at the same time as acute care nurses during "code blue" situations. As all nurses use Epic, the electronic messaging system, the two groups have contact through electronic charting, at a minimum. Finally, CV imaging nurses and the existing bargaining unit nurses are both engaged in the provision of patient care.

The record evidence is clear that each group of nurses plays a role in providing medical care to patients. I find that the CV imaging nurses and the existing bargaining unit nurses are functionally integrated and that this factor weighs in favor of finding a community of interest.

4. Contact and Interchange with Unit Employees

Interchangeability refers to temporary work assignments or transfers between two groups of employees. Frequent interchange “may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills.” *Hilton Hotel Corp.*, 287 NLRB 359, 360 (1987). As a result, the Board has held that the frequency of employee interchange is a critical factor in determining whether employees who work in different groups share a community of interest sufficient to justify their inclusion in a single bargaining unit. *Executive Resource Associates*, 301 NLRB 400, 401 (1991) (citing *Spring City Knitting Co. v. NLRB*, 647 F.2d 1011, 1015 (9th Cir. 1081)). Also relevant for consideration with regard to interchangeability is whether there are permanent transfers among employees in the unit sought by a union. However, “[t]he Board does not find evidence of one-way or permanent interchange particularly persuasive.” *Lehigh Valley Hospital*, 367 NLRB No. 100, slip op. at 8 (2019) (citing *Dennison Mfg. Co.*, 296 NLRB 1034, 1037 (1989); *Safeway Stores*, 276 NLRB 944, 949 (1985)). Further, the existence of permanent transfers is not as important as evidence of temporary interchange. *Hilton*, 287 NLRB at 360. Work-related contact among employees, including whether and to what extent they work beside one another, is yet another consideration. See, e.g., *Casino Aztar*, 349 NLRB at 605-606.

The record demonstrates that CV imaging nurses can perform the work of existing unit nurses and at least one CV imaging nurse does, performing work in the catheterization lab. CV imaging nurses are required to have critical care experience and with the proper competence and orientation, may transfer to acute care units. Similarly, the record demonstrates that there are several casual nurses working in the CV Imaging Center—though not in the voting group—that have successfully cross-trained on CV imaging and bargaining unit work. There is moderate evidence that CV imaging nurses and the existing bargaining unit nurses would be able to perform each other’s work, with sufficient training, as well as evidence that CV imaging nurses and existent bargaining unit nurses have performed each other’s work, suggesting some interchange. And while CV imaging nurses typically do not have work-related contact with nurses in the existing bargaining unit every day; the record evidence suggests that such contact occurs regularly, approximately once a week.

The close proximity of a petitioned-for group to the existing bargaining unit is also a salient factor. *Jerrys Chevrolet, Cadillac, Inc.*, 344 NLRB 689, 690 (2005) (finding community of interest where employees could walk from one contiguous building to another). All of the buildings on the Employer’s campus are in close proximity to one another, which further suggests a community of interest between the CV imaging nurses and other represented nurses. *Cf. Executive Resource Associates*, 301 NLRB at 401 (noting that distance of 35 miles between work locations of employees weighed against finding a community of interest). While the CV imaging nurses, who work in the 6405 building, are physically separated from many of the existing bargaining unit nurses, who work in the 6401 building, they are still able to access the other building without going outside. Additionally, there are at least some nurses in the existing bargaining unit who work in

buildings other than 6401, suggesting that the fact that CV imaging nurses work in a separate building is not dispositive considering the composition of the existing bargaining unit.

Given that there are only three employees in the petitioned-for unit, the frequency of the work-related contact between the CV imaging nurses and the bargaining unit nurses is substantial, occurring approximately once per week. Based on this ongoing, regular contact between the CV imaging nurses and the existing bargaining unit, combined with the other contact and interchange evidence discussed above, demonstrates this factor weighs slightly in favor of finding a community of interest.

5. Terms and Conditions of Employment

Terms and conditions of employment pertain to whether employees receive similar wages and are paid in a similar fashion (for example, salary or hourly); whether employees have the same fringe benefits; and whether employees are subject to the same work rules, disciplinary policies and other terms of employment that might be described in an employee handbook. See, e.g., *United Rentals, Inc.*, 341 NLRB 540, 541-542 (2004). However, the fact that employees share common wage ranges and benefits or are subject to common work rules does not warrant a conclusion that a community of interest exists where employees are separately supervised, do not interchange and/or work in a physically separate area. *Bradley Steel, Inc.*, 342 NLRB 215 (2004); *Overnite Transportation*, 322 NLRB 347.

The record establishes that the CV imaging nurses and the existing bargaining unit nurses are all hourly employees who utilize Kronos or MyTime for documenting work hours. The CV imaging nurses and nurses in the existing unit must also wear the same uniform—i.e., any color scrubs and a Fairview-issued registered nurse ID badge. The record evidence also discloses that the wage rates of the CV imaging nurses and the represented nurses are relatively similar. In terms of hours of work, it appears that most, but not all, of the existing bargaining unit nurses work weekends and evenings—which are not required for the CV imaging nurses. There are, however, some unit nurses who do appear to work similar schedules to the CV imaging nurses. For example, bargaining unit nurses in the Care Suites and Breast Center only work during the day from Monday through Friday. Despite these commonalities, however, the CV imaging nurses benefits differ from those of represented employees, including insurance, differentials, and leave types, as the unit nurses' benefits are established by their collective bargaining agreement.⁵ Additionally, all employees, including CV imaging nurses and existing bargaining unit nurses, are subject to different departmental rules, as the Employer does not maintain a common handbook applicable to all departments.

Based on the record evidence, I find that this factor weighs neutrally in finding a shared community of interest.

⁵ As explained in *Public Service Company of Colorado*, “certain differences in the employment terms of the petitioned-for and current unit employees . . . do not mandate exclusion and may reasonably be expected in the *Armour-Globe* context, where the unit employees' terms are the result of collective bargaining.” *Pub. Serv. Co. of Colorado*, 365 NLRB 1017, 1017 fn. 4 (2017).

6. Common Supervision

When examining whether there is common supervision, the Board looks at the identity of employees' supervisor(s) who have the authority to hire, to fire or to discipline employees (or effectively recommend those actions) or to supervise the day-to-day work of employees, including rating performance, directing and assigning work, scheduling work, and providing guidance on a day-to-day basis. *Executive Resources Associates*, 301 NLRB at 402; *NCR Corporation*, 236 NLRB 215 (1978). Common supervision weighs in favor of placing the employees in dispute in one unit. However, the fact that two groups are commonly supervised does not mandate that they be included in the same unit, particularly where there is no evidence of interchange, contact, or functional integration. *United Operations*, 338 NLRB at 125. Similarly, the fact that two groups of employees are separately supervised weighs in favor of finding against their inclusion in the same unit. However, separate supervision does not mandate separate units. *Casino Aztar*, 349 NLRB at 607, fn.11. Rather, more important is the degree of interchange, contact and functional integration. *Id.* at 607.

As previously noted, the existing bargaining unit nurses work in different departments under different managers and report to different directors and service lines. Departmental managers, for both CV imaging nurses and nurses in the existing bargaining unit, are responsible for all day-to-day supervision. However, there is some commonality in supervision between the CV imaging nurses and certain existing bargaining unit nurses. CV Operations Manager Mitch reports up through Director of CV Operations Soule, who reports to cardiac care service line Executive Director Nelson. Similarly, the department managers for existing bargaining unit nurses in the Heart Center, oncology department, or other cardiac-care related units report to a regional department director, who then reports to cardiac service line Executive Director Nelson. While most of the existing bargaining unit nurses report up through the acute care service line, as discussed above, it is not dispositive considering the composition of the existing bargaining unit (i.e., with some reporting up the cardiac care service line and imaging service line).

Based on the record evidence, I find that this factor weighs neutrally finding a community of interest between the CV imaging nurses and the existing bargaining unit.

III. CONCLUSION

Based on the above and the entire record in this matter, and after carefully weighing the community-of-interest factors cited in *United Operations*, supra, I find that the combination of departmental organization, commonality of skills and job functions, contact and interchange, along with functional integration in providing patient care, weigh in favor of an overall finding that a community of interest exists between the CV imaging nurses and the existing bargaining unit. I further note, as the Board did in *St. Vincent* and *St. John's Hospital*, supra, that directing a self-determination election among the CV imaging nurses will not result in the undue proliferation of bargaining units because a majority vote in favor of representation would simply add them to the existing bargaining unit. An opposite finding, as suggested by the Employer, could result in one bargaining unit with approximately 1300 registered nurses from at least a dozen different departments and a second with 3 registered nurses from a single department. Accordingly, I am

directing a self-determination election among the Employer's CV imaging nurses to determine whether they wish to join the existing bargaining unit that is currently represented by the Petitioner.

Based upon 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 parties stipulated, and I find that the Employer is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act and is subject to the jurisdiction of the Board. The parties further stipulated that the Employer is a health care institution within the meaning of Section 2(14) of the Act and operates an acute-care hospital within the meaning of the Board's "Healthcare Rule," 29 CFR §103.30, 54 Fed. Reg. 16336-16348 (1989).⁶

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

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

5. The following employees of the Employer constitute an appropriate voting unit for a self-determination election to determine whether they wish to be included in the existing bargaining unit of registered nurses currently represented by the Petitioner:

All full-time and regular part-time registered nurses employed by the Employer at its CV Imaging Center located at 6405 France Avenue S., Edina, MN 55435; excluding all managerial employees, confidential employees, guards and supervisors as defined by the National Labor Relations Act, and all other employees.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret-ballot election among the employees in the voting unit found appropriate above. Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by Minnesota Nurses Association. If a majority of valid ballots are cast for Minnesota Nurses Association, they will be taken to have indicated the employees' desire to be included in the existing bargaining unit of registered nurses currently

⁶ The parties stipulated that the Employer, Fairview Health Services, is a Minnesota non-profit corporation with an office and place of business in Edina, MN and is engaged in the business of operating an acute care hospital. During the past calendar year, a representative period, the Employer purchased and received goods in excess of \$50,000 directly from suppliers located outside the State of Minnesota. During this same period, the Employer derived gross revenue in excess of \$250,000.

represented by Minnesota Nurses Association. If a majority of valid ballots are not cast for representation, they will be taken to have indicated the employees' desire to remain unrepresented.

A. Election Details

A manual election will be held on **Wednesday, April 30, 2025**, from 12:00 p.m. to 1:00 p.m. (CDT), in the Esperanza Room at the Employer's 6405 France Ave. S, Suite W200, Edina, Minnesota facility.⁷

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **Sunday, April 13, 2025**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

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 if they appear in person at the polls.

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

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names (that employees use at work), work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **April 25, 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

⁷ The Petitioner waived all ten days it is entitled to have the voter list prior to the election.

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.nlr.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.nlr.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 of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election, which will be provided separately, 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 Section 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.nlr.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 23, 2025



Jennifer A. Hadsall
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