UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 4

SAMARITAN HEALTHCARE & HOSPICE, INC.

Employer

and

HEALTH PROFESSIONALS AND ALLIED EMPLOYEES, AFT/AFL-CIO, A/W AMERICAN FEDERATION OF TEACHERS

Case 04-RC-376445

Petitioner

DECISION AND DIRECTION OF ELECTION

I. PROCEDURAL BACKGROUND

Health Professionals and Allied Employees, AFT/AFL-CIO, A/W American Federation of Teachers (the Petitioner) filed the petition in this case seeking to represent all full-time, part-time, and per-diem Registered Nurses, Advance Practice Nurses, Lead Advanced Practice Nurses, Nurse Practitioners, RN Case Managers (referred to herein as Field Nurses), Program and Clinical Coordinators,[1] Clinical Educators, Social Workers, Bereavement Counselors, Spiritual Support Counselors, and Music Therapists who work at Samaritan Healthcare & Hospice, Inc.'s (the Employer's) locations at 3906 Church Road, Mount Laurel, New Jersey (the Main Office); 265 NJ-73, Voorhees Township, New Jersey (the Voorhees Township Inpatient Unit (IPU)); and 175 Madison Avenue, Mount Holly, New Jersey (the Mount Holly IPU), in addition to those who provide home care and field services. The Petitioner explicitly excluded non-professional and clerical employees from the petitioned-for unit.

The Employer asserts that the petitioned-for unit is inappropriate under the Act for four reasons. First, the Employer contends that the petitioned-for classifications at the Employer's Voorhees and Mount Holly IPUs lack a sufficient community of interest with the classifications at the Main Office and in the field to warrant an Employer-wide multifacility unit. Second, the Employer argues that Music Therapists are not professional employees as defined in Section 2(12) of the Act. Third, the Employer argues that the Program and Clinical Coordinator is not a professional employee as defined in Section 2(12) of the Act. Fourth, the Employer argues that the Board should exclude Spiritual Support Counselors from the bargaining unit because they are held

[1] The petition lists this classification as Clinical Care Coordinator, but the record clarifies that the correct title is Program and Clinical Coordinator. This classification is also referred to as the Boccolini Care Coordinator. I will refer to it as the Program and Clinical Coordinator throughout.

out as performing explicitly religious, non-secular functions. Separate from the appropriateness of the unit, the parties also disagree over the method and timing of the election.

A hearing was held before a Hearing Officer of the Board on December 15 and 16, 2025, and the parties subsequently submitted post-hearing briefs to me, which I duly considered. As explained below, based on the record and relevant Board law, I find that the Program and Clinic Coordinator is not a professional employee and, as such, should be excluded from the unit. Otherwise, I find that the petitioned-for unit is an appropriate unit and I am therefore directing an election in that unit.

II. UNIT APPROPRIATENESS FACTS AND LEGAL ANALYSIS

A. The Employer's Operation and Facilities

The Employer is a non-profit organization that is legally licensed as a hospice facility and that provides hospice care, palliative care, and primary care to its patients. The Employer has only three locations: its Main Office in Mount Laurel, an IPU in Mount Holly, and an IPU in Voorhees. The Employer has a single Centers for Medicare & Medicaid Services (CMS) Certification Number that encompasses these three locations. The Employer is not a religious institution.

The Employer provides care both in the field—that is, in patients' home environments such as their private homes or other residential care facilities—and in two standalone IPUs. In its IPUs, the Employer provides care to certain patients whose needs require inpatient care because they cannot control symptoms in a home environment, need more frequent assessment, and need to be administered medications more frequently through IV drips, among other reasons. The Mount Holly IPU is in a rented space in the Virtua Mount Holly Hospital. The Voorhees IPU is a freestanding facility. The Employer's three locations are all between approximately 5 and 15 miles from each other.

Employees who work in the field are generally assigned to the Main Office, which also houses administrative leadership, professional staff, Human Resources (HR), and the Center for Grief Support. The Main Office is also where the Employer has all-staff events, including meetings, trainings, and celebrations.

Per CMS regulations, every patient—whether in the field or an IPU—is required to have a dedicated interdisciplinary team (IDT). Each IDT must have a physician, a nurse, a social worker, and a pastoral or other counselor. The IDTs must meet every fourteen days to discuss their patients' care.

B. The Petitioned-For Classifications

Approximately 160 employees are in the petitioned-for unit. Included in that figure are approximately one full-time Bereavement Counselor, one part-time Bereavement Counselor, one full-time HVP Practice RN, two full-time Music Therapists, twenty-four full-time Field Nurses,[2] one part-time Field Nurse, two per diem Field Nurses, nineteen full-time IPU RNs (referred to herein as IPU Nurses), two part-time IPU Nurses, three full-time Resource Nurses, six full-time RN Care Navigator RNs, one full-time Care Coordinator RN, six full-time After Hours Hospice RNs, two per diem After Hours Hospice RNs, two full-time Hospice Intake RNs,[3] three part-time

[2] An additional two Field Nurses are on leaves of absence. This classification is also sometimes referred to as RN Case Manager Hospice, RN Case Manager, and Field RN in the record.

[3] An additional Hospice Intake RN is on a leave of absence.

Hospice Intake RNs, two per diem Hospice Intake RNs, eight full-time Admission RNs,[4] one part-time Admission RN, one per diem Admission RN, two full-time Hospice Float RNs, one part-time Hospice Float RN, twelve Per Diem RNs (all of whom are per diem), seventeen full-time Social Workers, one part-time Social Worker, three per diem Social Workers, one full-time Palliative Care Social Worker, one per diem Palliative Care Social Worker, five full-time Spiritual Support Counselors,[5] one per diem Spiritual Support Counselor, one full-time Program and Clinical Coordinator, twelve full-time Nurse Practitioners (NPs),[6] four part-time NPs, three per diem NPs, one full-time NP Lead, one part-time NP Lead, one full-time Face to Face Program Lead (who is also an NP), one full-time RN Clinical Educator, and one part-time RN Clinical Educator.

Consistent with the Employer's general structure, employees in the petitioned-for unit can generally be categorized as either IPU employees or field employees. IPU employees are typically assigned to one of the two IPUs and regularly work at that IPU. Field employees are assigned to the Main Office and generally either provide direct care to patients in the field or help coordinate that provision of care from the Main Office or the field.

For some classifications, not all of the employees are assigned to the same location. For instance, two Social Workers are assigned to the Voorhees IPU, two are assigned to the Mount Holly IPU, and seventeen are assigned to the Main Office (the field). Also, some employees sometimes work at locations other than the one to which they are officially assigned, such as a Spiritual Support Counselor who is assigned to the Main Office but works both in the field and at one of the IPUs.

C. An Employer-Wide Multifacility Unit Is Appropriate

The first issue to resolve here is whether an Employer-wide multifacility unit is appropriate. As described in more detail below, this analysis depends on a community-of-interest analysis, as laid out in *Exemplar, Inc.*, 363 NLRB 1500 (2016), between the employees at the different facilities in the petitioned-for unit. The parties' arguments focus almost entirely on whether the IPU employees and the field employees share a sufficient community of interest to warrant a multifacility unit across the Main Office (which includes the field) and both IPUs.

Generally speaking, the Employer argues that there is no community of interest between field employees and IPU employees because (1) the Field Nurses and IPU Nurses have unique job classifications and perform distinct work pursuant to fundamentally different terms and conditions of employment and (2) although some evidence of functional integration exists, it is outweighed by the lack of interchange between field and IPU employees.

Conversely, the Petitioner argues that there is a community of interest across all petitioned-for classifications. The Union argues that each of the *Exemplar* factors supports this finding other than two, which are neutral.

For the reasons explained below, I find that the field and IPU employees share a community of interest sufficient to warrant an Employer-wide multifacility unit.[7]

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[4] An additional Admissions RN is on a leave of absence.

[5] The Employer hired a seventh Spiritual Support Counselor after the petition was filed.

[6] An additional two NPs are on leaves of absence.

[7] I note that, if I were to find that an Employer-wide multifacility unit was not appropriate under the Act, I would still find that there is sufficient community of interest between the employees at the

1. Legal standard

A petitioned-for multifacility unit is neither presumptively appropriate nor presumptively inappropriate. *Exemplar, Inc.*, 363 NLRB 1500, 1501 (2016). Rather,

> [i]n determining whether a petitioned-for multifacility unit is appropriate, the Board evaluates the following community-of-interest factors among employees working at the different locations: similarity in employees' skills, duties, and working conditions; centralized control of management and supervision; functional integration of business operations, including employee interchange; geographic proximity; bargaining history; and extent of union organization and employee choice.

Id. (citing *Clarian Health Partners, Inc.*, 344 NLRB 332, 334 (2005); *Bashas', Inc.*, 337 NLRB 710, 711 (2002); and *Alamo Rent-A-Car*, 330 NLRB 897, 897 (2000)).

"It is well settled that a petitioned-for unit need only be *an* appropriate unit, not the only or the most appropriate unit." Id. (citing *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB 934, 940 (2011)). In deciding whether a petitioned-for unit is appropriate, "[t]he Board's discretion . . . is broad, reflecting Congress' recognition 'of the need for flexibility in shaping the unit to the particular case.'" *NLRB v. Action Automotive*, 469 U.S. 490, 494 (1985) (quoting *NLRB v. Hearst Publications, Inc.*, 322 U.S. 111, 134 (1944)). Not every factor has to support a community of interest finding in order to determine that a community of interest exists. For instance, where there is evidence of similar terms and conditions of employment and some functional integration, evidence of similar skills and functions can lead to a conclusion that disputed employees must be in the same unit, in spite of lack of common supervision or evidence of interchange. See *Phoenician*, 308 NLRB 826, 827–28 (1992).

2. Facts and analysis

As explained below, I find that an Employer-wide multifacility unit is appropriate here because the relevant factors, overall, support a finding that the field employees and the IPU employees share a community of interest.

This analysis will focus predominantly on a handful of classifications because those classifications regularly perform work in both the field and in the IPUs. The main focus, consistent with the parties' focus, will be on the similarities and differences between Field Nurses and IPU Nurses. But I will also address Social Workers (some of whom work in the field and some of whom work in the IPUs), Music Therapists (both of whom work in the field and the IPUs), Spiritual Support Counselors (at least some of whom work in both the field and the IPUs), and Bereavement Counselors (at least one of which works in both the field and the IPUs). The record evidence shows that all other classifications work exclusively in the field/Main Office, though to the extent their work interacts with IPUs, I discuss it below.

Voorhees IPU and the Mount Holly IPU to warrant a multifacility unit covering those two facilities. This conclusion would be supported by most of the *Exemplar* factors discussed herein; the bargaining history and extent of union organization factors would be neutral, and all the other factors would support this finding. In that case, I would find two distinct units to be appropriate: one for the Main Office (including field employees) and one for both IPUs.

a. Skills, duties, and working conditions

The first *Exemplar* factor looks at the similarity in employees' skills, duties, and working conditions. This factor examines whether disputed employees can be distinguished from one another on the basis of job functions, duties, or skills. If they cannot be distinguished, this factor weighs in favor of including the disputed employees in one unit. Evidence that employees perform the same basic function or have the same duties, that there is a high degree of overlap in job functions or of performing one another's work, or that disputed employees work together as a crew, support a finding of similarity of functions. 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); *Phoenician*, 308 NLRB 826 (1992).

Based on the below, I find that this factor supports a finding that field employees and IPU employees share a community of interest.

i. Universal details

All of the Employer's employees, regardless of where they work or whether they are full-time or part-time, receive the same health insurance benefits. The Employer offers all of them the same 403(b) retirement plan. All employees accumulate paid time off (PTO) pursuant to the same formula, which only varies based on the employee's seniority (and not their assigned location or classification). All employees utilize the same system called UKG to manage their PTO.

The Employer has two salary grade systems that it uses to determine the pay range for each job classification. One has salary grades between approximately 100 and 200, and the other, which is used for nursing positions, has salary grades between approximately N2 and N5. Each salary grade has an associated pay range. Generally speaking, higher salary grades come with higher pay. However, it is possible that, for instance, someone at the "top" of the 140 salary grade could earn more than somebody at the "bottom" of the 150 salary grade. All full-time and part-time employees are paid salaries except for IPU Nurses and one of the four part-time Nurse Practitioners, who are paid hourly.[8] All per diem employees are paid hourly.

ii. Field Nurses and IPU Nurses

Both Field Nurses and IPU Nurses (in addition to every other employee hired into any of the Employer's other RN classifications) must be licensed RNs, which requires the same qualifications regardless of their classification with the Employer. The only difference between the job descriptions for the two classifications is that Field Nurses, but not IPU Nurses, must have a valid driver's license.

Once hired, the Employer formally provides relatively limited skills training to all RNs. The two main ways of doing so are via orientation and training when an employee is first hired and the Employer's annual Skills Day. In the weeklong orientation program, called Pathways, all staff attend the first two days, all clinical staff attend a third day, and then all clinical staff are assigned a preceptor whom they shadow for another two days. The preceptor is somebody in the same classification as the new hire. For instance, an IPU Nurse shadows an IPU Nurse and a Field

[8] The record evidence does not provide an explanation for why only one of the four part-time NPs is paid hourly.

Nurse shadows a Field Nurse. (However, new employees also sometimes shadow the opposite classification so that they have a holistic understanding of the Employer's services, too.) After Pathways, a new hire's training continues on the job for another approximately two to three months.

Similarly, all RNs receive training on certain core competencies at the annual Skills Day. Of the approximately nine training sessions at the Employer's 2025 Skills Day,[9] seven were for all RN classifications, one was for IPU Nurses only, and one was for Field Nurses only. In other words, the vast majority of the Skills Day trainings are the same for all RN classifications.

Turning now to the day-to-day duties and working conditions of the various classifications, the Employer assigns each Field Nurse to one of about ten teams, which are organized by the geographic location of patients. Field Nurses are assigned a certain number of patients and visit them as needed in their home environments. They work with each assigned patient through the patient's entire hospice journey, which can last from a few days to more than a year depending on the patient's condition, but averages a little more than six months. Field Nurses develop their own schedules based on patient needs, often in collaboration with their IDT members. Field Nurses do not clock in or out of work, nor do they report to a physical location (such as the Main Office) each day. Rather, they start their days from their homes and travel directly to their patients, of whom they see about four or five per day. Their patients need less constant attention than patients in the IPUs, which allows for less frequent visits.

Field Nurses typically work eight-hour shifts, between about 8:00am and 4:30pm, Monday through Friday. They are not eligible for overtime, nor do they ever receive shift differential pay. Their salaries are in the N2 salary grade. (Resource Nurses receive salaries in the N2.5 salary grade and are also required to utilize their subject matter expertise to support the hospice teams, including by answering questions from peers and mentoring staff.)

Conversely, IPU Nurses are assigned to a single location—one of the two IPUs.[10] Twelve IPU Nurses are assigned to the Voorhees IPU, while nine are assigned to the Mount Holly IPU. (Seven Per Diem IPU Nurses are assigned to the Voorhees IPU and five to the Mount Holly IPU.) The Voorhees IPU generally has between eight to twelve patients at any given time, and the Mount Holly IPU has anywhere from two to eleven. Patients are typically in the IPUs for a short period, anywhere from a couple of hours to about two weeks, though some patients remain in the IPUs longer than that. It is extremely unusual, if not unprecedented, for a patient to be in an IPU for several months. The goal for IPU patients is to get them back home for the end of their lives, though many of them die in the IPU.

A charge nurse assigns IPU Nurses to their patients at the start of each shift, so in theory an IPU Nurse could have all new patients each shift. In practice, however, the charge nurse will assign the same patients to the same IPU Nurses across shifts for the duration of the patients' stays. An IPU Nurse will check on their patients once every two hours during their shift.

IPU Nurses work three twelve-hour shifts per week, either 7:00am to 7:00pm or 7:00pm to 7:00am. They are eligible for overtime. They receive shift differential pay for overnight and

[9] A tenth session at the 2025 Skills Day was for the RNs to receive vaccinations; this did not involve any training for the RNs themselves.

[10] The record evidence reflects no relevant distinctions between an IPU Nurse who is assigned to the Voorhees IPU and one who is assigned to the Mount Holly IPU.

weekend shifts. Their pay, like Field Nurses, is in the N2 salary grade. They perform their work at the IPU where they are scheduled to work.

Field Nurses and IPU Nurses can give oral, subcutaneous, and sublingual medications, though by and large IPU Nurses are administering medication more frequently than Field Nurses. Field Nurses cannot administer push IVs and cannot start a patient on opioids. Field Nurses do not need to be as familiar with infusions. They cannot do ventilator weens or left ventricular assist device weens—processes that essentially let patients die.

IPU Nurses can give IV push medications and can start opioid infusions. They can do ventilator weens and left ventricular assist device weens, though these are done in a team setting. These are permitted in IPUs given the more controlled environment of IPUs. Therefore, generally speaking, IPU Nurses need to be more familiar with infusions, medication passes, frozen infusions, and administering push IVs, given the needs of IPU patients.

Field Nurses regularly attend IDT meetings, which occur approximately every other week, either virtually or in person at the Main Office without patients present. Field Nurses are responsible for ensuring that patients are still eligible for hospice care every several months after their treatment begins, whereas there is no such requirement in the IPUs.

IPU Nurses have their IDT meetings at the IPUs, typically in the patient's room and sometimes in the presence of the patient's family or other caregivers. IDTs in the IPUs occur weekly due to the higher acuity of IPU patients, which require more frequent adjustments to their medications, higher dosages of medications, and generally more constant attention.

Field Nurses receive a transit subsidy in accordance with the government rate. The Employer provides them with a laptop or notepad and a phone for communication and documentation; those devices are not meant for personal use. IPU Nurses do not receive a transit subsidy, a laptop, or a phone.

Field Nurses wear business casual attire to work, though they can also wear navy blue scrubs that the Employer provides. IPU Nurses are required to wear navy blue scrubs that the Employer provides. All employees wear a badge as an ID/name tag.

Field Nurses typically keep their supplies in their cars, though they can pick up supplies from the IPUs or the Main Office as needed. They order their own supplies via an app called Medline, and durable medical equipment through an app called QALYS. Typically, Field Nurses get supplies shipped to their own homes.

IPU Nurses' supplies are in the IPUs. About once a week, a charge nurse takes inventory of the IPU's supplies. The Unit Secretary (who is not in the petitioned-for unit) then orders supplies based on the inventory. Supplies are shared between the IPUs as needed.

If conditions are unsafe, such as due to bad weather, Field Nurses are not sent to work. If an emergency occurs in that situation, it would be "all hands on deck" for the Employer to resolve the emergency, and management would triage based on whoever is available and closest. A Field Nurse would never sleep over at a patient's home or facility.

IPU Nurses cannot leave their shifts until their relief arrives. This means that they (or whoever is providing coverage for them) may need to show up to work even during inclement weather. IPU Nurses may also need to sleep in the IPU, pursuant to the Employer's storm preparedness plan.

iii. Social Workers

All Social Workers have the same job descriptions, are required to be licensed social workers, and go through the same two-week orientation upon hire.

All Social Workers, regardless of whether they work in the field or in IPUs, are paid according to the same salary grade. They work Monday through Friday, 8:30am to 4:30pm. They dress in business casual. All Social Workers attend monthly meetings together.

Social Workers are part of the IDT and must be present at all IDT meetings. They must complete a psychosocial assessment of every patient within five days of admission.

Field Social Workers, like Field Nurses, have a lot of control over their schedules. They are assigned to the same geographic teams that Field Nurses are assigned to. They plan their days based on which patients (or families of patients who recently passed away) need care that day. Conversely, IPU Social Workers work exclusively with patients in the IPUs. The two full-time IPU Social Workers are each assigned to one of the IPUs, but they split their time between both IPUs. For instance, the Mount Holly IPU Social Worker usually works at the Voorhees IPU about once per week. She, in conversation with the Voorhees IPU, generally decides which day to work at the Voorhees IPU each week.

Because patients typically die in the IPUs, the IPU Social Workers spend a lot of time doing pre-bereavement prior to the death and dealing with the immediate aftermath of death, including by determining what to do with patients' bodies and how to support patients' grieving families. IPU Social Workers typically do not provide ongoing bereavement care to a deceased patient's family, but they do conduct initial bereavement calls. Field Social Workers, on the other hand, provide a deceased patient's family with bereavement care as needed for up to thirteen months.

iv. Music Therapists

All Music Therapists have the same job descriptions and requirements, which are described in more detail in the section about whether they are professional employees.

Music Therapists work both in the field and in the IPUs. Each Music Therapist is assigned approximately 40 to 45 patients in the field and is assigned to one of the two IPUs. Music Therapists visit their assigned IPUs about once per month. Music Therapists generally determine their day-to-day schedule, in terms of which patients they will see each day. IPU staff will reach out to Music Therapists directly as needed, too. They usually see between three and six patients in the field per day. As described in more detail below, a Music Therapist's job consists of assessing patients, creating a care plan to improve or alleviate patients' symptoms, implementing that care plan via music therapy interventions, and keeping records regarding the patients. These responsibilities are the same in the field and in the IPUs. Music Therapists wear business casual attire.

v. Spiritual Support Counselors

All Spiritual Support Counselors have the same job descriptions and must be ordained or have good standing within their own faith community. As discussed in more detail below, Spiritual Support Counselors are generally responsible for assessing and addressing patients' and their families' spiritual needs. This can take many different forms, but is not dependent on whether the Spiritual Support Counselor is working in the field or in an IPU.

vi. Bereavement Counselors

All Bereavement Counselors have the same job description and must be licensed. One is a Doctor of Psychology (PsyD), the other is a Licensed Associate Counselor (LAC) who is working towards becoming a Licensed Practical Counselor. There is no evidence in the record that the Bereavement Counselors' skills, duties, or working conditions differ based on whether the Bereavement Counselor is working in the field or in the IPUs.

vii. Conclusion

Based on the above evidence, the respective skills required of all classifications are virtually identical regardless of whether that classification works in the field, in the IPUs, or in both. The only substantial difference in skills is between Field Nurses and IPU Nurses, but as the Skills Day schedule and other evidence shows, that difference is heavily outweighed by the similarities between the skillsets required for those positions.

The duties and work conditions are also identical for Music Therapists, Spiritual Support Counselors, and Bereavement Counselors regardless of where they work. Social Workers have essentially identical work conditions, but their duties are slightly different insofar as Field Social Workers do more bereavement care and IPU Social Workers do more pre-bereavement care, and Field Social Workers have more control over their schedules. These distinctions are minor, though, when compared to the similarities in duties and work conditions.

Conversely, there are some more substantial differences between the duties and working conditions of Field Nurses and IPU Nurses. Their hours and shifts are completely different. Field Nurses are salaried and not eligible for overtime, while IPU Nurses are paid hourly and can earn overtime. Field Nurses make their own schedules, while IPU Nurses work defined shifts and are assigned patients by a Charge Nurse. The type of care they provide, while generally similar, can differ based on the more acute nature of care that IPU patients typically require.

Based on the above facts and relevant caselaw, like classifications have like skills, which supports a finding that a community of interest exists across an Employer-wide multifacility unit (as well as a multifacility unit including only the IPUs). For most of the classifications that work in both the field and the IPUs, their duties and working conditions are nearly identical regardless of where they work, which also supports a community of interest finding. However, the distinctions between the duties and working conditions of Field Nurses and IPU Nurses cuts against that finding. In weighing all of this, I nevertheless conclude that this factor slightly supports a finding of an Employer-wide community of interest.

b. Centralized control of management and supervision

The second *Exemplar* factor looks at how centrally controlled management and supervision is among the relevant facilities. In *Exemplar*, the Board considered how the employer determined its labor policy and its employees' vacation, pay, and other terms and conditions of employment; whether a single employee handbook applied to all petitioned-for classifications; and how the employer makes disciplinary and personnel decisions, among other considerations. *Exemplar, Inc.*, 363 NLRB 1500, 1503 (2016). *Exemplar* stands for the proposition that, where those details are centrally controlled, this factor supports a community of interest finding. See id.

Here, all employees must comply with the Employer's employee handbook. They all utilize the same PTO system and are subject to the same benefits policies, too. Human Resources, payroll, and compliance are all managed centrally from the Main Office. HR oversees the hiring and promotion processes. While managers are involved in hiring and other personnel decisions, they

cannot act independently. For instance, managers interview candidates and select the applicant they wish to hire, but they then notify HR of their selection, who handles background checks, offer letters, and orientation for the new hire. Promotions require similar HR oversight.

The Employer has quarterly all-staff meetings, which all employees are invited to attend regardless of classification. Clinical issues are not typically discussed at these meetings, which focus instead on broad overviews of the organization, its financials, its pillars, its growth, and other such topics. The Employer typically holds three such meetings each quarter at different times, to accommodate employees' schedules.

All Field Nurses and IPU Nurses fall under the supervision of Director of Hospice Joanne Hickman. However, their direct supervisors differ. All IPU Nurses report directly to Clinical Manager Jen Simone, who is responsible for hiring, staffing, and operation of the IPUs. Conversely, field RNs report to one of four clinical managers: Cindy Baptista, Susan Constantine, Michael Doughty, and Sue Fisher. Meanwhile, all Social Workers, Music Therapists, Spiritual Support Counselors, and Bereavement Counselors are supervised by Manager of Social Work and Counseling Services Kim Rumaker, regardless of whether they work at an IPU or in the field.

All other classifications are supervised by the same respective supervisor, regardless of whether they work in the field, in the IPUs, or both.

The facts here are like those in *Capital Coors Co.*, 309 NLRB 322 (1992) (denying review of the Regional Director's Decision and Direction of Election). In that case, like in this one, different groups of employees had distinct immediate supervisors, but the Employer's management and supervision were otherwise centrally controlled. Id. at 324–25. In that case, the Board affirmed the Regional Director's determination that a multifacility unit was appropriate, in part due to the centralized control of management and supervision. Moreover, many of the same details exist here as in *Exemplar*, where this factor supported a community of interest finding.

Given the above facts and precedent, this factor supports a finding that sufficient community of interest exists here to warrant an Employer-wide multifacility unit.

c. Functional integration

The third *Exemplar* factor is functional integration, which refers to when employees' work constitutes integral elements of an employer's production process or business. Thus, for example, functional integration exists when employees in a unit sought by a union work on different phases of the same product or as a group provides 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. Similarly, 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).

There is ample evidence here that field employees of all classifications work as a group to provide a service and that IPU employees of all classifications work as a group to provide a service. But there is also evidence that those two services—field care and IPU care—are distinct, and that field employees and IPU employees tend not to work together on the same matters, have frequent contact with one another, or perform similar functions in providing those services. This is

highlighted by the general lack of interchange between field employees and IPU employees, particularly Field Nurses and IPU Nurses. For those reasons, which I explain in more detail below, the functional integration factor cuts against a finding that an Employer-wide multifacility unit is appropriate here.

One way in which functional integration exists is via the Employer's electronic medical records system, called Netsmart myUnity (Netsmart). All classifications document in Netsmart. Patients' records are split up into the "clinical side" and the "back office side." All employees can see both "sides" of a patient's Netsmart file, but field staff generally takes notes in the clinical side, while IPU staff generally take notes in the back office side. Field staff must record patient assessments in Netsmart every time they visit a patient, and IPU staff must do so every shift. Generally speaking, Netsmart notes include information on patient assessments, medications, anything the provider has done, interactions with patients and families, interactions with other staff members, reasons for such interactions, and other such information. Various classifications, including Music Therapists, RNs, Spiritual Support Counselors, Bereavement Counselors, and Social Workers, often refer to other classifications' notes about particular patients to inform the care they provide.

Interdisciplinary teams regularly work together to provide services to the patients on their teams, but inevitably those teams are distinct based on whether the patient is in the field or in an IPU. That is to say that, although some classifications (like Music Therapists) work both in the field and in the IPU, they are on separate IDTs for their field patients and IPU patients. Similarly, field providers like Field Nurses, Licensed Practical Nurses (LPNs, who are not in the petitioned-for unit), Admission RNs, and RN Care Navigators have meetings every two or three months with Director of Hospice Hickman, which IPU providers generally do not attend. The inverse is also true: IPU providers regularly meet with Clinical Manager Simone, but without field providers.

So, generally speaking, there is a distinction between field care and IPU care. The main exception to this distinction comes when a patient transfers between the field and an IPU, or vice versa. This happens approximately once per month. For instance, sometimes a patient is in need of respite care, which is when the patient's primary caregiver needs a break for whatever reason. If that patient had theretofore been in the care of a Field Nurse and was being transferred to an IPU, the Field Nurse would tell an IPU Nurse the relevant information about the patient in a conversation called a "handoff." This can occur either via phone or via email (or, rarely, in person). The handoff is also documented in Netsmart. If and when the patient returns to their home environment, an IPU Nurse would do another handoff with the Field Nurse. When a transfer occurs, the Field Nurses typically would not come into the patient care area to pick up or drop off the patient at the IPU. (This same handoff process exists for Social Workers, too.)

Field Nurses and IPU Nurses also sometimes interact when a Field Nurse needs supplies from an IPU, though this is not a great example of integration. Additionally, according to one per diem IPU Nurse, about once per month, a Field Nurse will contact the IPU for assistance troubleshooting devices like infusion pumps, which demonstrates integration.

Another detail that shows some level of integration between the field and the IPU is the existence of on-call shifts. Many classifications, including Field Nurses, IPU Nurses, Social Workers, and Spiritual Support Counselors, have on-call requirements. When on call, an employee could have to provide care—sometimes via the phone and sometimes via an in-person visit—to both field patients and IPU patients, regardless of the employee's typical assignment. This demonstrates integration, although not of the everyday variety.

Another consideration is interchange. The evidence here shows that interchange is not a regular feature of the Employer's operation, especially not on a temporary basis. There is some evidence of permanent transfers between the field and the IPUs, for instance by Social Workers or Field/IPU Nurses. However, in each of those cases, the employee had to apply to the new position, go through the hiring process, and then do orientation for the new position. This has happened fewer than approximately ten times across all classifications in the past several years.

Temporary transfers between field employees and IPU employees happen irregularly at the Employer. A Field Social Worker will occasionally (the record does not indicate how frequently) work in the IPUs when coverage is needed and neither of the per diems are available, or if one of their field patients is in an IPU temporarily. IPU Social Workers might work with the Center for Grief (in the Main Office) if there is a need for bereavement services for patients, family members, or caregivers, but the record does not indicate how frequently that happens.

Hospice Float RNs (and not IPU Nurses) cover for Field Nurses when Field Nurses are out sick, on vacation, or simply have too many patients. Alternatively, members from the Field Nurses' team can cover callouts as needed. It is extremely uncommon that an IPU Nurse would pick up a shift in the field, though rarely an IPU Nurse might do a field infusion to help an Admissions Nurse with a pump. (The record evidence shows that this has happened once since approximately 2021, including one instance in approximately 2024 when an IPU Nurse was asked to do a field infusion, but ultimately did not actually do it.)

When an IPU Nurse shift needs coverage, other IPU Nurses, per diem RNs, Clinical Manager Simone, or other managers usually provide it. However, in the rare circumstances that none of those options are available to cover a shift, Field Nurses will sometimes cover a shift at an IPU. When Field Nurses cover those shifts, they do so strictly as a waste nurse, which means that they serve as one of the two witnesses required by law any time a controlled substance needs to discarded or "wasted."[11] When they fill in at the IPUs, Field Nurses' duties are restricted to witnessing such waste and other ancillary work that they might do in the field, such as cleaning a patient. When any of the other options cover an IPU Nurse shift, they are not subject to the same restrictions as Field Nurses are.

Conversely, there is ample evidence of temporary transfers between IPU Nurses. The Employer maintains a transfer log for IPU Nurses, and at least weekly a Voorhees IPU Nurse is required to work a shift at the Mount Holly IPU or vice versa. An IPU Nurse may even start a shift at one IPU and finish the same shift at the other IPU. (The IPUs have separate key cards, but every IPU Nurse has one for both IPUs and the Main Office.) Moreover, both IPUs use the same scheduling app, via which IPU Nurses can see open shifts at both IPUs and can pick up overtime shifts at both IPUs (if per diem IPU Nurses do not pick up all of the open shifts first). IPU Nurses cannot see Field Nurses' schedules via the scheduling app, nor vice versa. An IPU Nurse's hours between the IPUs are aggregated for pay and benefits purposes.

Other petitioned-for classifications are varyingly functionally integrated with the field employees, the IPU employees, or both. RN Per Diems are functionally integrated solely with the IPU employees, and particularly IPU Nurses, for whom RN Per Diems provide coverage as needed. Their jobs are essentially identical to those of IPU Nurses, other than the hours they work and other details like that.

[11] For instance, when only two milligrams of a four-milligram vial of morphine are used, the remaining two milligrams need to be wasted. This requires two witnesses under relevant regulations.

Hospice Float RNs, who provide as-needed coverage for Field RNs, work exclusively in the field and not in the IPUs. The same is true for Nurse Practitioners and Nurse Practitioner Leads, who provide primary care to field patients who have difficulty leaving their homes for medical appointments.

RN Care Navigators collaborate with staff from hospitals who are discharging a patient who may need the Employer's services; they coordinate with both field and IPU employees, since patients being discharged could need care in the field or in the IPUs. The same is true for Admission RNs, who visit patients, families, and healthcare professionals in hospitals and other settings to facilitate admission into the Employer's programs, whether field or IPU.

HVP Practice RNs, who triage calls from field patients, and After Hours Hospice RNs, who provide nursing services to field patients during evenings and nights, regularly interact with other field employees, but not with IPU employees.

The record evidence is unclear as to whether RN Care Coordinators, who utilize patient data in the Employer's predictive analytics software to identify the needs of complex and high-risk patients and coordinate with staff to ensure proactive and timely interventions—interact with field employees, IPU employees, both, or neither. The same is true for Hospice Intake RNs, who take calls for patients and families interested in hospice care and determine whether that patient is appropriate for hospice care. The same is also true for RN Clinical Educators, about whom the record evidence was particularly sparse.

In summary, there is some evidence of functional integration and interchange between the field and the IPUs. However, the majority of the evidence demonstrates that field care and IPU care are two distinct services that the Employer provides, and the Employer's operation generally reflects that distinction. Therefore, I find that this factor weighs against a community of interest finding between the field employees and IPU employees.

d. Geographic proximity

The Board considers the geographic proximity of facilities in a multifacility unit to the extent that the proximity "would permit full employee participation in union activities." *Exemplar, Inc.*, 363 NLRB 1500, 1504 (2016).

Here, all three locations are approximately 5 to 15 miles away from one another. This would permit full employee participation in union activities. *See, e.g.*, *Stormont-Vail Healthcare, Inc.*, 340 NLRB 1205, 1205, 1208 (2003) (multifacility unit appropriate where facilities were up to 70 miles apart); *Capital Coors Co.*, 309 NLRB 322, 325 (1992) (multifacility unit appropriate where facilities were 90 miles apart). Therefore, this factor supports a finding that sufficient community of interest exists here for an Employer-wide multifacility unit.

e. Bargaining history

The record lacks any evidence regarding bargaining history for any of the Employer's employees. Therefore, this factor is neutral here.

f. Extent of union organization and employee choice

There is no evidence in the record showing the extent of union organization among the petitioned-for unit, other than Petitioner's assertion in its initial filing that 30% or more of the petitioned-for unit employees wished to be represented by Petitioner. Nor is there any record evidence showing whether the employees in the petitioned-for unit prefer to be represented in a single, multifacility unit or in distinct units. Therefore, this factor is neutral here.

3. Conclusion

In sum, three of the six *Exemplar* factors—skills, duties, and working conditions; centralized control of management and supervision; and geographic proximity—illustrate that a community of interest exists between field and IPU employees such that an Employer-wide multifacility unit is appropriate here. Two of the six factors—bargaining history and extent of union organization and employee choice—are neutral. Finally, only the functional integration factor weighs against an Employer-wide community of interest finding.

This analysis then becomes a question of whether the lack of functional integration, in and of itself, undermines the community of interest shared between field employees and IPU employees. In *Exemplar*, it was "undisputed that the two locations [were] not functionally integrated and there ha[d] been no interchange of employees between the two facilities." *Exemplar, Inc.*, 363 NLRB 1500, 1503 (2016). In that case, "the employees' personnel records [were] maintained in their distinct locations[,] . . . no employee from either location ha[d] ever been assigned work at the other building," call-out coverage was exclusively provided by employees "on a preferential list for that location," and employees at one of the locations were restricted entirely from transferring to the other location because the second location required security-cleared employees. Id. Despite this complete lack of integration and interchange, the Board ruled that that factor—"the one factor that disfavors a finding of an appropriate unit that includes employees at both facilities"—was "plainly outweighed by the numerous other factors that support a finding of a community of interest." Id. at 1505 (citing *I.T.O. Corp. of Baltimore v. NLRB*, 818 F.2d 1108, 1113 (4th Cir. 1987)).

The Employer cites a number of cases in support of its argument that the lack of functional integration should be determinative here. Those cases are inapposite. The Employer cites *J&L Plate*, 310 NLRB 429 (1993) for the proposition that "minimal employee interchange and lack of meaningful contact between employees at two facilities diminished the significance of the functional integration and geographic proximity of the facilities." (Employer's Brief at 9.) I do not find this argument to be particularly convincing, since it is essentially stating the purpose of any multifactor test: to weigh multiple factors against one another. In any event, the Board in that case still concluded that the petitioned-for unit was appropriate despite the lack of functional integration. *J&L Plate*, 310 NLRB at 429. Plus, that case does not provide much help here, since the Board there was analyzing whether the Employer had rebutted the single facility presumption, which does not apply here. Id.

The Employer cites *Alamo Rent-A-Car*, 330 NLRB 897, 898 (2000), and *RB Associates*, 324 NLRB 874, 878 (1997), for the same proposition for which it cited *J&L Plate*. *RB Associates*, like *J&L Plate*, is not applicable because it was applying the single-facility unit presumption, which does not apply here. *RB Associates*, 324 NLRB at 874, 878 (affirming that "irregular and sporadic" interaction between facilities and "quite limited" interchange, among other factors, was insufficient to overcome the single-facility unit presumption).

In *Alamo*, the Acting Regional Director had decided that the union's petitioned-for unit, which included only two of the employer's four facilities, was appropriate in part because the included two facilities were more functionally integrated than the excluded two. See *Alamo*, 330 NLRB at 897–98. The Board essentially ruled that the Acting Regional Director had erred in that analysis, and concluded that an employer-wide multifacility unit was appropriate, even though there was limited evidence of temporary employee interchange, because the functional integration was indistinguishable between the four facilities. See id. In that case like in this case, there was

some evidence of functional integration among all of the relevant facilities, which, along with the other factors, prompted the Board to find that the more inclusive unit was appropriate. See id.

The Employer also argues that, in cases where a multifacility unit was determined to be appropriate, the evidence of interchange was far more extensive. I first note that this argument is undermined by *Alamo*, which, as discussed above, the Employer also cited, and in which the Board found that a multifacility unit was appropriate despite there being evidence of only one temporary transfer between all four facilities. *Alamo*, 330 NLRB at 898. Still, the Employer is correct to argue that, in *West Jersey Health System*, employee interchange occurred considerably more frequently than in this case—147 permanent transfers and 250 employees who regularly rotated or were assigned to multiple divisions during a 14-month period. 293 NLRB 749, 750 (1989). However, once again, this case is not squarely applicable because it was analyzing the single-facility unit presumption, which does not apply here. Id. Moreover, the Board did not in any way hinge its decision on the number of transfers—rather, it merely considered that factor alongside the other factors and concluded that, all in all, the factors supported a multifacility unit.

The same is generally true of the final case the Employer cited for this argument, *Presbyterian/St. Luke's Medical Center*, 289 NLRB 249 (1988). In that case, the Board concluded that all of the relevant factors, including integration and interchange, favored a multifacility unit. See id. at 250–51. The Board did not give any special weight to the integration and interchange factor. See id.

The cases cited by the Employer do not support the Employer's implicit argument that a lack of functional integration and interchange outweighs all other factors in this analysis. In fact, that argument is directly contradicted by *Exemplar*, in which the Board found that a multifacility unit was appropriate despite there being no functional integration or interchange whatsoever. The Employer makes no effort to address this aspect of *Exemplar*, which I also note was decided in 2016. (All cases cited by the Employer are from 2000 or earlier.)

What's more, the evidence in this case shows that, unlike in *Exemplar*, there is at least some functional integration here. Multiple job classifications regularly work with both field patients/caregivers and IPU patients/caregivers. On-call shifts sometimes require all classifications to work with field and IPU patients and caregivers, regardless of their typical assignment. Patients are sometimes transferred between the field and the IPUs. All employees have access to, and sometimes review, a patient's file in Netsmart, regardless of whether that patient is in the field or an IPU. Sometimes field employees provide coverage for IPU employees. These examples may not occur with overwhelming frequency, but it is indisputable that they combine to surpass the complete lack functional integration that existed in *Exemplar*. In *Exemplar*, there was no functional integration or interchange, but the other factors supported a finding of a community of interest, so the Board held that a multifacility unit was appropriate. Here, there is some evidence of functional integration and interchange, and the other factors also support a finding of a community of interest (other than the two neutral factors). Therefore, I find that an Employer-wide multifacility unit is an appropriate unit under the Act.

D. Music Therapists Are Professional Employees

The next issue to resolve is whether Music Therapists are professional employees under the Act. The Employer argues that they are technical, not professional, employees. The Petitioner argues that they are professional employees.

For the reasons explained below, I find that Music Therapists are professional employees and are therefore appropriately included in the petitioned-for unit.

1. Legal standard

Section 2(12) of the Act, in relevant part, defines a "professional employee" as:

> (a) any employee engaged in work
>
> > (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work;
> >
> > (ii) involving the consistent exercise of discretion and judgment in its performance;
> >
> > (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;
> >
> > (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes.

Per longstanding Board precedent, Section 2(12)(a)'s requirements are interpreted to mean that the Act

> "defines a professional employee in terms of the work he performs," not in terms of individual qualifications. Thus, if an employee performs work of a predominantly intellectual and varied character, involving the consistent exercise of discretion and judgment, and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, then that employee qualifies as a professional.

Avco Corp., 313 NLRB 1357, 1357 (1994) (quoting *Western Electric Co.*, 126 NLRB 1346 (1960)) (internal citations omitted).

Conversely, "technical employees" are those "who do not meet the strict requirements of the term 'professional employees' . . . , but whose work is of a technical nature, involving the use of independent judgment and requiring the exercise of specialized training usually acquired in colleges or technical schools, or through special courses." National Labor Relations Board Outline of Law and Procedure in Representation Cases at 284 (citing *Avco Lycoming Div.*, 173 NLRB 1199, 1200 (1969); *Audiovox Communications Corp.*, 323 NLRB 647 (1999); see *Folger Coffee Co*., 250 NLRB 1 (1980); *Barnert Memorial Hospital Center*, 217 NLRB 775, 777 (1975); *Fisher Controls Co*., 192 NLRB 514 (1971); *Design Service Co*., 148 NLRB 1050 (1964); *Augusta Chemical Co*., 124 NLRB 1021 (1959); *Dayton Aviation Radio & Equipment Corp*., 124 NLRB 306 (1959); and *Container Corp. of America*, 121 NLRB 249, 251 (1958)).

2. Facts

In addition to the below, I incorporate into this analysis all of the details discussed previously about Music Therapists' jobs.

Music Therapists must be board certified. While a relatively new New Jersey law provides for a state music therapist certification, that process has not yet been fully developed, so it is currently impossible to be certified by a New Jersey entity. However, certification also occurs via the Certification Board for Music Therapists, which is a national organization. To receive

certification from that Board, an applicant must have a bachelor's degree in music therapy, do 1,200 clinical internship hours, pass a board examination, pay $80 in annual dues, and complete 100 hours of continuing education every five years. In addition to board certification, the Employer requires Music Therapists to have a Master's Degree in Music Therapy. Both of the Employer's Music Therapists are professionally trained in the psychology of human being and musicality. They earn salaries in the 160 salary grade, the same grade as Social Workers and one grade higher than Spiritual Support Counselors (who are paid in the 150 salary grade).

For each patient, the Music Therapist has a distinct treatment plan depending on the patient's needs, preferences, goals, and objectives. The Music Therapist also adjusts the treatment plan based on their observations of the patient. They also consider input from the patient's other providers, including by reviewing other providers' notes. Music Therapists are trained, just like any other hospice service provider, to identify nonverbal signs of pain like grimacing, talking softly or loudly, crying, and being hunched over or tensed up. They are also trained to identify when a patient is feeling overstimulated. Sometimes these signs can be obvious, but other times they are only noticeable to the trained eye, particularly with patients who are unconscious, minimally conscious, or in some kind of alternate state of consciousness. They are trained in utilizing music interventions to help people who cannot speak or who might be in alternate states of consciousness, including by observing external movements or cues, or sometimes via verbalization during the therapy from people who can't otherwise verbalize. Music Therapists will observe the patient and assess their cognitive alertness, including by asking questions when the patient is able to answer them, or by making other observations. Music Therapists use all this information to create and adjust treatment plans, including what interventions are appropriate for each patient.

Interventions are tailored to each patient and can be quite varied. For some patients, singing and playing live music is sufficient, whether an original song or a cover of an existing song. This may seem simple to a layperson, but the Music Therapist is constantly assessing how the patient is responding and changing the intervention accordingly, such as by changing the speed or sound of the music or the type of songs they are playing. Other examples of interventions include having the patient play music with the Music Therapist, writing an original song either individually or with the patient's input, playing recorded music, and creating a "legacy project" with a patient, among other interventions. Legacy projects can include writing songs with patients and recording them or writing things down for the patient to leave for their families when they pass away. Interventions can help patients recall happy memories or even speak or sing when they are otherwise unable to do so. They can increase a patient's ability to communicate or verbally express their feelings and decrease the patient's perception of pain, anxiety, and agitation.

Another intervention is procedural support, which is being present for and using music interventions to decrease pain and anxiety during painful treatments, including wound care. Music Therapists can collaborate with nurses in the field and the IPUs to help relax patients during such painful experiences. Music Therapists might also do guided imagery experiences with patients, during which patients verbalize what they are seeing while listening to music. Patients might also write their own lyrics based on answers to certain questions or just utilizing their own creativity.

One example of a specific technique that Music Therapists might use during treatment is called entrainment, which is how bodies naturally sync up to rhythm and music. Playing music that initially matches an anxious patient's tempo and then slowly slowing down the rhythm and volume subliminally encourages the patient to relax, even to the extent that their blood pressure will decrease.

Typically, Music Therapists are not relying on pre-recorded music in their treatments, unless specifically requested by a patient. One of the Music Therapists estimated that this occurs only once or twice per week across all patients. Still, there is always a clinical reason for using recorded music rather than live music. The Music Therapist will process the patient's emotions after songs, too—it is not just a matter of pressing play and turning off your brain, one Music Therapist testified.

In doing these interventions, Music Therapists are constantly observing and adjusting their treatments according to the patient's response. For instance, while music is typically soothing to many people, an important part of the assessment is determining what is soothing for each individual—any two individuals could have very different ideas of what type of music is soothing. Sometimes, too, the Music Therapist will be able to assess that music therapy is not appropriate for the patient at all, for instance if the music is overstimulating. This, again, depends heavily on the Music Therapist's trained eye, though it happens only a couple of times per year.

Finally, like other providers, Music Therapists take clinical notes about each patient they visit with. These notes are taken in Netsmart and are visible to other providers. They might include information on how the Music Therapist found the patient, what interventions were provided, how the patient (or family) responded to the interventions, and next steps. These notes are all part of the Music Therapist's care plan for each patient. This documentation can take up to an hour to complete each day, depending on how many visits occurred that day.

3. Analysis

For the below reasons, I find that Music Therapists are professional employees under Section 2(12) of the Act.

a. Section 2(12)(a)(i)

The first Section 2(12)(a) requirement is that Music Therapists' work is "predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical." The Employer attempts to argue that this requirement is not met here because Music Therapists' work "is much more analogous to the physical work performed by a massage therapist." (Employer's Brief at 17.) It is unclear why the Employer makes this analogy, since it does not otherwise allude to a case involving massage therapists. Nevertheless, the Employer goes on to argue that Music Therapists' work is predominantly physical in nature, insofar as playing instruments and singing is physical. The Employer then makes the unconvincing argument that, because a guitar needs to be repeatedly strummed to be played and a tambourine or drum needs to be repeatedly struck, a Music Therapists' work is only possible through "repetitive physical acts." (Id.) The Employer also argues that, when not physically playing a song, Music Therapists will "often" simply play pre-recorded music.

The Employer also relies on *American President Lines Limited*, 124 NLRB 1038 (1959), in arguing that the first requirement is not met here. In that case, the Board affirmed a Trial Examiner's decision that a cruise ship recreation director was not a professional employee because "it must be questioned whether . . . the playing of records, dancing, bingo, the screening of motion pictures, and similar recreational activities can be said to constitute work 'predominately intellectual' within the meaning of the Act." Id. at 1044. The trial examiner also found that the director's duties were routine. Id. This case is plainly distinguishable from that one for the reasons explained below.

I do not find the Employer's arguments here to be convincing, in part because they ignore pertinent aspects of the record. First of all, the assertion that playing pre-recorded music happens "often" is not supported by the record, which indicated that this type of intervention happens only once or twice per week. Moreover, the testimony reflected that, even when playing pre-recorded music, the treatment included additional interventions, such as processing the patient's emotions after songs are played. Moreover, the Music Therapist's decision to play pre-recorded music is always informed by a clinical need. Additionally, Music Therapists have more than 40 patients at any given time and have to come up with individualized treatment plans for each one—a process that incorporates a variety of individualized observations by the Music Therapist. Music Therapists' job requires them to be constantly adjusting their approach to interventions, both during sessions and in between sessions. This is very different from the duties of the cruise ship recreation director described in *American President*. Even though there are indisputably physical aspects of the Music Therapist job, the evidence shows that their work is intellectual and varied in character.

Therefore, I disagree with the Employer's argument and find that Music Therapists' work meets the first Section 2(12)(a) requirement.

b. Section 2(12)(a)(ii)

The second Section 2(12)(a) requirement is that Music Therapists' work "involve[es] the consistent exercise of discretion and judgment in its performance." The Employer seemingly attempts to argue that this requirement is not met because Music Therapists are able to determine the efficacy of their treatment in ways that "can be observed by people who are not Music Therapists." (Employer's Brief at 18.) This interpretation of the record evidence is somewhat misleading. It is true that some cues from patients are discernable to the untrained eye, but the unrebutted record evidence was clear that certain cues are typically only noticeable by trained hospice care providers. Still, the Employer is technically correct that non-Music Therapists might be able to observe those cues, too. But there is no legal requirement that Music Therapists have exclusive domain over the discretion and judgment that their job requires. Therefore, I am not convinced by the Employer's argument on this requirement.

Instead, I find that this requirement is met. As noted previously, Music Therapists' jobs require them to always be assessing and reassessing their interventions and treatment plans for their patients. According to the record evidence, Music Therapists cannot simply do the same intervention over and over for every patient. In reality, they have to consistently exercise discretion and judgment in terms of what interventions to provide and the efficacy of those interventions. As such, this requirement is met.

c. Section 2(12)(a)(iii)

The third Section 2(12)(a) requirement is that Music Therapists' work is "of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time." Neither party directly addresses this requirement, but the record evidence shows that it is met. Unlike a widget made in a factory, the Employer here cannot standardize the results accomplished by Music Therapists over a given period of time. The testimony shows that measuring the success of music therapy is an ongoing process that can ebb and flow with each intervention and even throughout the course of a single appointment. It would be impractical to try to standardize that, and the Employer makes no effort to do so. Therefore, this requirement is met.

d. Section 2(12)(a)(iv)

The fourth and final Section 2(12)(a) requirement is that Music Therapists' work "require[es] knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes." The *Avco* Board noted that the "knowledge of an advanced type" prong is generally met "[i]f a group of employees consists primarily of individuals with professional degrees." 313 NLRB at 1357 (quoting *Western Electric*, 126 NLRB at 1349).

The Employer relies on *Lakeshore Manor, Inc.*, 225 NLRB 908 (1976), in arguing that this requirement is not met. In that case, the Board held that art therapists, dance therapists, special education teachers, and other classifications at a nursing home for developmentally disabled patients were not professional employees because "the functions performed by such individuals do not seem to require the specialized education or knowledge of an advanced type as defined by the Act." Id. at 909. In fact, in that case only the special education teacher has a master's degree, and none of the other classifications had education beyond an undergraduate degree. Id. Furthermore, the Board relied on the fact that none of the relevant employees were "on an education track which [would] lead them to an advanced degree in an area which includes their specialized employment activities." Id. Nor were they either already or in the process of becoming "certified, registered, or licensed as professionals in such an area by any organization established for such purpose." Id. The Board also considered their relatively low pay. Id.

The Employer's reliance on *Lakeshore Manor* is misplaced. First of all, under *Avco*, the fact that both of the Music Therapists are required have Master's Degrees in music therapy is sufficient to satisfy the fourth and final Section 2(12)(a) requirement. Moreover, the facts here are completely distinguishable from those in *Lakeshore Manor*. Here, unlike in that case, both Music Therapists have advanced degrees and both are certified by the Certification Board for Music Therapists, a national organization whose certification requirements include a bachelor's degree in music therapy, 1,200 clinical internship hours, passing a board examination, paying $80 in annual dues, and completing 100 hours of continuing education every five years. Finally, Music Therapists are paid in the same salary grade or a higher salary grade than comparable classifications.

In short, Music Therapists here could hardly be more different from the relevant classifications discussed in *Lakeshore Manor*. Moreover, under *Avco*, the fact that they both have master's degrees generally means that they have met this requirement. Therefore, I find that this requirement is met.

e. Conclusion

Based on the above, I find that the Music Therapist classification meets each of the Section 12(2)(a) requirements. Therefore, Music Therapists are professional employees under the Act and are appropriately included in the petitioned-for unit.

E. The Program and Clinical Coordinator Is Not a Professional Employee

The next issue to resolve is whether the Program and Clinical Coordinator should be included in the unit. The Employer's argument is that she should not be because she is not a professional employee under Section 2(12) of the Act.

1. Legal Standard

The same Section 2(12)(a) legal standard as discussed in the previous section applies here.

2. Facts

The Program and Clinical Coordinator works in the Main Office and is primarily responsible for coordinating the schedules for students from nearby educational institutions who are doing observations, clinical rotations, internships, and fellowships with the Employer. She reports to the Director of the Boccolini Institute, a manager who does not supervise any other employees in the petitioned-for unit. This job requires a high school diploma or equivalent and proficiency in Microsoft Office. The Program and Clinical Coordinator does not provide direct care to patients or support professionals who are providing direct care to patients. Rather, she gathers information from applicants, presents information in an organized way, communicates outcomes to applicants, collects data, reviews and revises data input for integrity, and summarizes information relating to the relationships described above. She is paid a salary in the 140 salary grade.

3. Analysis

The Union does not address this argument in its brief. The Employer argues that her work does not require independent judgment or the use of highly specialized skills. I agree with the Employer's argument.

There is no record evidence that the Program and Clinical Coordinator's work meets any of the four Section 2(12)(a) requirements. The work, as described above, does not appear to require predominantly intellectual and varied work as required by Section 2(12)(a)(i). It does not involve the consistent exercise of discretion and judgment in its performance as required by Section 2(12)(a)(ii). The record is unclear as to whether it is of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period as required by Section 2(12)(a)(iii). Finally, the record evidence shows that the work does not meet Section 2(12)(a)(iv)'s requirement for advanced knowledge of any type.

Failing to meet one of the four Section 12(2)(a) requirements is enough to be deemed a non-professional employee. Here, the Program and Clinical Coordinator fails to meet at least three of those requirements. Therefore, she is not a professional employee.

Because the petitioned-for unit explicitly excludes both non-professional and clerical employees, the Program and Clinical Coordinator classification shall be excluded from the unit.[12]

F. Spiritual Support Counselors Are Eligible for Representation

The final issue to resolve is whether I should exclude Spiritual Support Counselors from the unit to avoid entangling the Board in religious affairs. For the reasons expressed below, I will not exclude the Spiritual Support Counselors on those grounds.

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[12] Even if the Petitioner had sought to include the Program and Clinical Coordinator as a non-professional member of the unit, the record evidence appears to indicate that she lacks a community of interest with the other petitioned-for classifications. As such, it is likely that she would have been excluded from the unit on those grounds had that argument been raised.

1. Legal standard

The Employer concedes that there is no Board precedent on point to deem Spiritual Support Counselors ineligible for representation under the Act. However, it argues that the Board has traditionally declined to exercise its discretion to exercise jurisdiction where doing so may result in entanglement with religious affairs.

2. Facts

The Employer must offer a Spiritual Support Counselor to every patient pursuant to CMS regulations. The Employer considers candidates' religion when hiring Spiritual Support Counselors, to ensure that the diversity of the patient population is accounted for and to meet patient needs, since some patients request a Spiritual Support Counselor of a certain religion—though most patients do not do this. Spiritual Support Counselors are part of the IDTs pursuant to CMS regulations, too, though patients are not required to receive care from Spiritual Support Counselors.

For those patients who do wish to meet with a Spiritual Support Counselor, the focus of their meetings, according to one Spiritual Support Counselor's testimony, will be to address whatever is weighing on their heart or their mind. Spiritual Support Counselors are mostly helping their patients deal with grief and anticipatory grief. Many patients are not seeking particular religious guidance. For instance, a meeting with an atheist patient might look like asking the patient (or family member) what the meaning of life is to them, what concerns they have, what issues they want to discuss. Many patients are concerned about what will happen to their family members or children. They might process their emotions by sharing regrets, joys, disappointments, or things they thought they could have done but did not. They may discuss what is going on now with family and what is going to happen when they are no longer there.

Each visit with a patient is tailored to the patient's needs and wishes. However, regardless of the patient's faith, the core goal of the Spiritual Support Counselor is to understand and address the patient's concerns about death. These can involve dealing with the patient's existential concerns of at the end of their life, including regrets they have or fears they have about what will happen to them due to actions they took during their lives. It can be a lot of soul searching and helping patients find themselves. The visits can allow for the release of emotions, thoughts, anxieties, and sadness. The Spiritual Support Counselor can help to normalize patients' experiences to help them be at peace at the end of their lives.

Spiritual Support Counselors see patients of different religions regularly, as long as the patient is okay with that. About 75% of patients are Christian, the majority of those being Catholic. Spiritual Support Counselors do not run church services with patients, but they might provide specific services meant for specific religious populations, even if the Spiritual Support Counselor does not practice that religion. For instance, if requested, Spiritual Support Counselors will pray with patients, regardless of faith. Spiritual Support Counselors also have resources relating to various religions, including Judaism, Islam, Jehovah's Witness, Catholicism, and other Christian faiths. Spiritual Support Counselors will also do basic research about religions or belief systems they are unfamiliar with, as needed. Spiritual Support Counselors also have access to non-religious resources, such as blankets, poem books, picture books, and lap cloths, all of which can help alleviate patient's symptoms.

Sometimes, a Spiritual Support Counselor is not in a position to provide a certain religious service or ceremony requested by a patient. In that case, the Spiritual Support Counselor will

contact a local religious institution of the patient's faith to try to coordinate whatever the patient is seeking.

One of the Spiritual Support Counselors testified: "I use my personal religion to help me do my work. But I don't bring it to the patients. I don't bring it to the family members. I use it for self-care. To help me deal with what's going on with our patients and what's going on with the staff and the world." She testified that she shares her faith with patients if they ask, but not necessarily what she believes in. Her focus is on the patient's faith, not her own. She facilitates the patient's emotions about what they are experiencing. She prays with clients and talks about God, but she does more listening than talking about God. She sometimes reads directly from religious texts but does not translate for patients.

Each Spiritual Support Counselor can have hundreds of patients each year, especially given the turnover at IPUs. They document in Netsmart, like other providers do. The information they record includes a spiritual care assessment within five days of admission, how the patient presented, the patient's goals, the patient's needs related to spiritual or existential concerns, the patient's connections with faith communities, the specific tradition the patient follows, what would help the patient, overall what type of counsel or religious guidance the patient needs, the patient's response to a session, and what the next steps are.

3. Analysis

The Employer relies on several cases in making its argument. At its core, my decision not to exclude the Spiritual Support Counselors is based on the fact that there is no binding precedent dictating that I do so and, as a result, the Employer is essentially arguing that I read into the Act an exclusion that has never been articulated previously, whether by the Board or Congress itself. I will not do that here.

First, the Employer relies on *Bethany College*, 369 NLRB No. 98 (2020). In that case, the Board created a bright-line, three-prong rule to determine whether it should exercise jurisdiction over employees at a religious educational institution, including whether the employer "holds itself out" to be a religious institution. Id. Key to the application of *Bethany College* is that the employer be a religious institution. Id. There can be no legitimate argument here that the Employer is a religious institution. Therefore, *Bethany College* is not applicable. The Employer argues that the principles and concerns addressed by the *Bethany College* Board are applicable here because the Employer "holds out" the Spiritual Support Counselor position as a religious position. But that is not relevant in analyzing whether a specific classification should be excluded on religious grounds under *Bethany College* or any other precedent.

The Employer also relies on *Ukiah Adventist Hospital*, 332 NLRB 602 (2000). The Employer asserts that, in that case, "the Board agreed with the Regional Director's assertion of jurisdiction over a hospital operated by the Seventh Day Adventist Church. However, in doing so, the hospital's chaplains were specifically excluded from the bargaining unit." (Employer's Brief at 26 (citing *Ukiah*, 332 NLRB at 615).) This grossly misstates the facts of that case. In *Ukiah*, the petitioned-for unit only included registered nurses; the eligibility of chaplains was not at issue. See *Ukiah*, 332 NLRB at 602. Neither the Board nor the Regional Director in that case made any determination as to the inclusion or exclusion of chaplains. See id. ("The Petitioner seeks to represent a unit of the Employer's registered nurses (RNs).") It is accurate to state that the Regional Director discussed the fact that the employer in that case employed chaplains. Id. at 609. It is not accurate to say that the Regional Director specifically excluded chaplains from the bargaining unit. In reality, the Regional Director merely alluded to the fact that chaplains were not in the petitioned-for unit as a justification for concluding that asserting jurisdiction over the *employer*

(and not over specific classifications) would not violate the establishment clause of the First Amendment. Id. at 615.

The Employer later points out that the Regional Director in *Ukiah* explicitly justified its exercise of jurisdiction over the employer by stating that, since the unit employees' duties were "overwhelmingly secular in nature, arbitration of grievances arising out of that employment should not involve the Board in issues of theology." (Employer's Brief at 27 (quoting *Ukiah*, 332 NRLB at 615).) The Employer argues that this concern over grievance arbitration involving the Board in religious affairs militates against the inclusion of Spiritual Support Counselors here. But that concern was raised with respect to exercising jurisdiction over an employer, not a classification of employees; was theoretical in nature; and was raised by a Regional Director and not directly addressed by the Board, rendering it non-binding. For those and other reasons, I do not find this argument compelling, or *Ukiah* to be at all applicable here.

Next, the Employer relies on *Shapiro Packing Co.*, 155 NLRB 777 (1965). In that case, the Board affirmed a trial examiner's decision that a shochet (a worker who performs kosher killing of animals in a slaughterhouse) be excluded from the bargaining unit. Id. The trial examiner made this determination not due to any risk of religious entanglement, but because of a much more fundamental issue under the Act: the shochet lacked a community of interest with rest of unit. Id. at 781. This case, then, is inapposite.

Finally, the Employer cites several employment discrimination cases. Those are, of course, not binding on the Board, so I will not treat them as such.

The Employer is correct that some aspects of the Spiritual Support Counselor's work are religious in nature, though I also agree with the Petitioner that the Spiritual Support Counselor's job, at its core, is to provide clinical care pursuant to CMS regulations to patients in a secular setting. It is also hypothetically true, as the Employer argues, that grievances and arbitrations could arise over religious issues if Spiritual Support Counselors are included in the unit here. But that is not particularly important here because, as I stated previously, there is no precedent that binds or even instructs me to exclude Spiritual Support Counselors from the coverage of the Act, as an employee classification, for any reason raised by the Employer. If Congress had intended to preclude from the protection of the Act job classifications that an employer "holds out" as being religious, then Congress could have done so explicitly. It is telling that Congress, in fact, excluded several classifications of workers from the statutory definition of employees—agricultural laborers, domestic workers, anybody employed by a parent or spouse, independent contractors, supervisors, and certain railway workers—but did not exclude religious workers. For me to read that exclusion into the Act now is untenable. Therefore, I reject the Employer's argument to do so. The Spiritual Support Counselors are eligible for representation under the Act.

III. ELECTION DETAILS

Having determined the appropriateness of the petitioned-for unit, I now turn to the parties' dispute over the election details. The main dispute is over the method of the election: the Petitioner seeks a mixed manual-mail election, while the Employer seeks a manual election. The parties also do not agree explicitly on the date and timing of the election, to the extent that it is a manual election. For the reasons explained below, I find that a mail ballot election—and not a manual election or a mixed manual-mail ballot election—is appropriate here.[13]

[13] On January 5, 2026, after the parties had filed their briefs, the Employer filed a Motion to Strike regarding portions of the Petitioner's brief regarding what election arrangements (i.e., mail, manual, or

A. Legal standard

Congress has entrusted the Board with a wide degree of discretion in establishing the procedure and safeguards necessary to ensure the fair and free choice of bargaining representatives, and the Board in turn has delegated the discretion to determine the arrangements for an election to Regional Directors. *San Diego Gas and Elec.*, 325 NLRB 1143, 1144 (1998) (citing *Halliburton Services*, 265 NLRB 1154 (1982)). These arrangements include the mechanics of an election, such as the date and method of voting. Id.; *Nouveau Elevator Industries*, 326 NLRB 470, 471 (1998).

The Board has a long-standing preference for in-person (manual) elections. "Manual elections permit in-person supervision of the election, promote employee participation, and serve as a tangible expression of the statutory right of employees to select representatives of their own choosing for the purpose of collective bargaining, or to refrain from doing so." *Aspirus Keweenaw*, 370 NLRB No. 45, slip op. at 1 (Nov. 9, 2020). The Board has also recognized, however, that there are instances where circumstances tend to make it difficult for eligible employees to vote in a manual election. Id., slip op. at 2 (internal citations omitted). The Board has addressed a few of these situations, including where voters are "scattered" over a wide geographic area, "scattered" in time due to employee schedules, where there is a strike, or where there are other extraordinary circumstances. *San Diego Gas*, 325 NLRB at 1145. In these situations, a Regional Director may reasonably conclude that a mail-ballot will enfranchise the most employees.

In *San Diego Gas & Electri*c, the Board stated that mail-ballot elections may be appropriate in cases where, *inter alia*, eligible voters are "scattered" in the sense that their work schedules vary significantly, so that they are not present at a common location at common times. Id. Additionally, a Regional Director might reasonably conclude that the opportunity to participate in the election would be maximized by utilizing mail or mixed manual-mail ballots where "a significant number of eligible voters are not scheduled to be at the election site at the times proposed for manual balloting-for such reasons as that they work part-time or on an on-call basis." Id. In such cases, the Regional Director should also consider the positions of the parties, the ability of the unit employees to read and understand a mail ballot, the availability of addresses for employees, and finally, the most efficient use of Board resources. Id.

B. Parties' positions

The Employer proposed a manual election on March 5, 2026, from 6:30am and 8:30am, 12:00pm and 2:00pm, and 6:30pm to 8:30pm. The Employer proposed to have the election take place entirely at the Main Office in Mount Laurel. In the alternative, the Employer proposed that the election occur on a Wednesday or a Thursday to coincide with when IDT meetings typically occur.

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mixed manual-mail) would be appropriate in this matter. The Employer argues that the Petitioner's inclusion of those portions in its brief violated Section 102.66(g)(1) of the Board's Rules, which prohibits parties from litigating the arrangements for an election. The Petitioner argues in response that these portions of its brief merely restated the Petitioner's position as discussed at the Hearing and did not constitute litigation.

I agree with the Petitioner's argument and therefore deny the Employer's Motion to Strike. I note, however, that the relevant portions of the Petitioner's brief were given only the weight they deserve.

The Petitioner proposed a mixed manual-mail ballot election at the earliest possible date. The Petitioner proposed that the manual portion of the election occur at all three of the Employer's locations from 6:30am to 9:00am and 3:30pm to 6:00pm. The Petitioner proposed having these sessions occur simultaneously, but did not oppose the sessions occurring over the course of two days, if they were occurring at multiple locations. If holding a manual election at the Mount Holly IPU proved impractical, the Petitioner proposed having voting occur at the Voorhees IPU and the Main Office.

The Petitioner argued that a mixed manual-mail ballot election is appropriate here because certain employees work in the field and are not located near any of the Employer's physical locations. A mixed manual-mail ballot election, the Petitioner argued, would provide the best opportunity for all eligible voters to express their desire for union representation. Additionally, the Petitioner argued that, given eligible voters' schedules, it might be difficult for certain field employees to get to one of the physical locations during regular work hours. The Petitioner argued that mail ballots would only be necessary for those employees who are assigned to work out of the Main Office but in fact work in the field. The Petitioner would have all other eligible voters—that is, employees assigned to work at either of the IPUs and employees assigned to work out of the Main Office who do, in fact, physically report to the Main Office—vote manually. The Petitioner clarified this position by referencing Board Exhibit 1, which includes a list of all petitioned-for employees and what their "Location" is. The Petitioner's position is that any employee whose "Location" is listed as "Field" should receive a mail ballot. All other employees—whose "Locations" are either "Main Office – Mt. Laurel," "IPU – Samaritan Center" (that is, the Voorhees IPU), or "IPU – Mt. Holly"—should vote manually. This would require about 115 employees to vote by mail.

The Employer argued that a mixed manual-mail ballot election is not appropriate here because there is insufficient evidence that the geographic scattering that would warrant a mail ballot election. The Employer points out that field staff all have vehicles, travel from place to place as part of their job duties, and travel with some regularity to the Main Office (for instance, for in-person IDT meetings, Skills Days, and other developmental and staff meetings). The Employer also notes that "the vast majority" of employees live within a 30-minute drive of the Main Office, though it is worth noting that the Employer's Counsel came to that conclusion by reviewing real-time GPS directions on a Saturday.

The parties agreed that Conference Room 103-104 is an appropriate room to hold an election in the Main Office and that, to the extent a manual election occurs at the Voorhees IPU, the Community Education Room is an appropriate room there. The Employer's position is that there is no appropriate voting place in the Mount Holly IPU, because that location is inside a hospital and lacks an enclosed break room. The hospital would need to give its permission to hold the election there, as well. Therefore, the Employer proposed that Mount Holly IPU employees be assigned to vote at the Main Office, which is about ten miles from the Mount Holly IPU. The Employer proposed in the alternative that the only possible room to hold a manual election in the Mount Holly IPU would be the Social Worker's office. The Employer discouraged this, though, because the Social Worker's office is a small room with lots of furniture in a tight area.

The overwhelming majority of eligible voters work between the hours of 8:30am and 4:30pm. IPU Nurses, however, work 7:00am to 7:00pm and 7:00pm to 7:00am shifts.

The parties agreed that there was no need for foreign language ballots and notices. They agreed that, in the event of a mixed manual-mail ballot election, the ballot count should occur at

the Board's Regional Office in Philadelphia. Finally, the Petitioner waived the requirement that the Employer provide a voter list ten days prior to the election date.

C. Analysis

After careful consideration of the parties' positions, I conclude that a mail ballot election is more appropriate than a manual election or mixed manual-mail ballot election to enfranchise the greatest number of eligible voters and because it is the most efficient use of Board resources. Under *San Diego Gas & Electric*, a determinative factor in deciding whether a mail-ballot is more appropriate than a manual election is whether the eligible employees will be at a common location at the same time. 325 NLRB at 1145. The available information shows that, although all eligible voters are assigned to one of the three physical locations, about 115 of them do not report to any of the locations on any given day. Rather, most field employees travel directly from their homes to wherever their patients reside and then directly back home again. There is insufficient evidence in the record to establish how frequently those travels take field employees near the Employer's facilities, nor how easy it would be for a field employee to schedule their day around an in-person election at one of those locations. The Employer's argument that field employees sometimes have to physically attend meetings at the Main Office is unavailing here because the record shows that those meetings are few and far between. Although field employees sometimes attend IDT meetings in person, the record evidence shows that they also regularly attend those meetings virtually. Therefore, permitting field employees to vote by mail ballot election is appropriate here to accommodate those employees.

Moreover, allowing field employees to vote by mail ballot is a far more efficient use of Board resources, as doing so would reduce the number of in-person voters by more than half, thereby reducing the necessary length and number of in-person voting sessions. In turn, the Board would not have to commit as many Board Agents to running this election.

Finally, there is no evidence that any field employees who are eligible voters would have issues reading and understanding a mail ballot, nor that their addresses are unavailable.

Relying on the Board's guidance for when a mail ballot elections should be considered, I conclude that in these circumstances, allowing field employees to vote by mail ballot would ensure the broadest possible participation of those voters. *San Diego Gas*, 325 NLRB at 1145. Further, doing so is the most efficient use of the Region's resources, and efficient use of Agency resources is a factor that is considered under *San Diego Gas*. Id.; see also *GPS Terminal Services, Inc.*, 326 NLRB 839, 839 (1998) (Board finding that the Regional Director properly considered whether a manual ballot would be an efficient use of Board resources).

With field employees accounting for more than two-thirds of eligible voters, I now turn to the logistics of how the remaining one-third of voters will be able to vote. There are approximately 46 voters who physically work at one of the IPUs or at the Main Office. Of those, about fifteen work at the Mount Holly IPU, about twenty work at the Voorhees IPU, and about eleven work at the Main Office. Their shifts vary: most, but not all IPU employees work three 7:00am to 7:00pm or 7:00pm to 7:00am shifts, which can occur any day of the week, whereas other IPU employees and all Main Office employees work from about 8:30am and 4:30am, Monday through Friday. IPU employees' varying workdays means that, even with multiple voting sessions at times when shift changes occur, there is no guarantee that all eligible voters would be at one of the voting locations at a given time. This is further exacerbated by the fact that one of the voting locations—the Mount Holly IPU—does not appear to have a viable room to hold voting in any event.

Given these realities, it would take substantial Board resources to adequately staff a manual election for this third of the eligible voters. Attempting to hold separate sessions at every location would require multiple Board agents over the course of multiple days. Conversely, the Employer's proposal to have all voting occur at the Main Office would guarantee that about 35 of the remaining 46 eligible voters would be required to travel to vote—a fate that I am finding is inappropriate for about 115 of their peers.

Finally, as was true for the field employees, there is no evidence that any non-field employees who are eligible voters would have issues reading and understanding a mail ballot, nor that their addresses are unavailable.

Therefore, in applying *San Diego Gas* to the eligible voters who do not work in the field, I find that permitting them to vote by mail also would ensure their broadest possible participation and allow for the most efficient use of Board resources.

In conclusion, I am directing that this election occur entirely by mail both to ensure the broadest possible participation among all eligible voters and the most efficient use of Board resources.

IV. CONCLUSIONS AND FINDINGS

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 Employer is an employer engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act. The Petitioner claims to represent certain employees of the Employer, and the Employer declines to recognize the Petitioner as the employees' representative.
4. There is no collective-bargaining agreement covering any of the employees in the unit, and there is no contract bar or other bar to an election in this matter.
5. A question concerning commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.
6. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

   Included: All full-time, regular part-time, and per diem employees in the following classifications: Music Therapist, Spiritual Support Counselor, Social Worker, Social Worker Pall Care, Bereavement Counselor, RN – IPU, RN – Per Diem, HVP Practice RN, RN – Care Navigator, Resource Nurse, RN Care Coordinator, RN – After Hours Hospice, RN – Hospice Intake, RN Clinical Educator, Admission RN, Hospice Float RN, RN Case Manager Hospice, Nurse Practitioner, Nurse Practitioner Lead, and Face to Face Program Lead (NP) employed by the Employer at its inpatient unit located 265 NJ-73, Voorhees Township, New Jersey; at its inpatient unit located at 175 Madison Avenue, Mount Holly, New Jersey; at its Main Office located at 3906 Church Road, Mount Laurel, New Jersey; and in the field serving patients in their homes and in third-party facilities.

Excluded: All other employees, non-professional staff, office clerical employees, managers, and supervisors as defined in the Act.

V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Health Professionals and Allied Employees, AFT/AFL-CIO, A/W American Federation of Teachers.

A. Election Details

Ballots will be mailed to all eligible voters at 5:00 p.m. on **Friday, February 13, 2026** from the National Labor Relations Board, Region 04, at **100 E Penn Square, Suite 403, Philadelphia, PA 19107**. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by **Friday, February 20, 2026,** should communicate immediately with the National Labor Relations Board by either calling the Region 04 Office at (215) 597-7601 or our national toll-free line at (844) 762-6572.

All ballots will be commingled and counted at the National Labor Relations Board, Region 04, at **100 E Penn Square, Suite 403, Philadelphia, PA 19107** on **Friday, March 13, 2026**, at 2:00 p.m. In order to be valid and counted, the returned ballots must be received by the National Labor Relations Board, Region 04, at **100 E Penn Square, Suite 403, Philadelphia, PA 19107**, prior to the counting of the ballots.

B. Voting Eligibility

Eligible to vote are those employees in the unit who were employed during the payroll period ending **January 24, 2026**, 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 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 eligibility date; (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, 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 **February 6, 2026**. 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 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 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 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 non-posting of notices if it is responsible for the non-posting, and likewise shall be estopped from objecting to the non-distribution of notices if it is responsible for the non-distribution. 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.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: February 4, 2026

/s/ Kimberly Andrews
Kimberly Andrews
Regional Director
National Labor Relations Board
Region 04
100 E. Penn Square
Suite 403
Philadelphia, PA 19107