

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 21**

CITY OF HOPE NATIONAL MEDICAL CENTER

Employer

and

Case 21-RC-335061

**SERVICE EMPLOYEES INTERNATIONAL UNION,
UNITED HEALTHCARE WORKERS-WEST**

Petitioner

DECISION AND ORDER

Service Employees International Union, United Healthcare Workers-West (Petitioner or Union) filed the instant Petition on February 2, 2024, seeking to represent a unit of radiation therapists employed by City of Hope National Medical Center (Employer) at its acute care medical center located at 1500 East Duarte Road, Duarte, California. The Petitioner seeks a *Sonotone*¹ and *Armour-Globe*² self-determination election for these employees.³ A hearing was held before a hearing officer of the National Labor Relations Board (Board) on July 1, 2024. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.⁴ For reasons discussed specifically below, based on the record and the relevant Board law, I find that the Petitioner has not met its burden of establishing that the petitioned-for unit of radiation therapists shares a sufficient community of interest with the existing bargaining unit, nor is the petitioned-for unit an appropriate unit under the Board's healthcare rules. Accordingly, I am dismissing the petition in this matter.

Upon the entire record in this proceeding, the undersigned makes the following findings and conclusions.⁵

¹ See *Sonotone Corp.*, 90 NLRB 1236 (1950).

² See *Globe Machine and Stamping Co.*, 3 NLRB 294 (1937) and *Armour and Company*, 40 NLRB 1333 (1942).

³ The parties stipulated that the radiation therapists at issue are professional employees as defined in Section 2(12) of the Act.

⁴ Based on the entire record in this proceeding, I find that the hearing officer's rulings, made at the hearing, are free from prejudicial error and are hereby affirmed.

⁵ At the direction of the hearing officer, the parties made oral arguments at the close of the hearing in lieu of filing written briefs. The parties' respective positions have been duly considered.

I. Record Evidence

a. *Background*⁶

The Employer⁷ operates an acute care medical center, known as the City of Hope National Medical Center located at 1500 East Duarte Road, Duarte, California. There are several outpatient clinics known as community practice sites within Southern California that are affiliated with the Employer including South Bay, Antelope Valley South Pasadena, Glendale, Santa Clarita, Sherman Oaks, West Hills, Temecula, Wildomar, San Bernadino, Riverside, Corona and Upland. Up until around 2021 and 2022, all of these community practice sites fell under the license of the City of Hope Medical Foundation.

For a period not specified on the record but pre-dating 2021, the Petitioner has represented a unit of service employees (service unit) employed by the Employer at its National Medical Center in Duarte. On October 31, 2019, following a Board election in Case 31-RC-248185, Region 31 of the National Labor Relations Board certified Petitioner as the collective-bargaining representative of a wall-to-wall unit of non-professional and technical (service) employees, including radiation therapists, employed by the City of Hope Medical Foundation at its Southern California community practice sites, referenced above. Although the radiation therapists included in this unit are professional employees within the meaning of the Act, Region 31 did not require a *Sonotone* election for the radiation therapists in Case 31-RC-248185.

In about late-2021 to early-2022, Petitioner-represented employees working at the Corona and Upland community practice sites, including approximately five (5) radiation therapists who were added to the campus-based, Petitioner-represented service unit at the National Medical Center in Duarte. This occurred when those clinics began operating under the same hospital license as the City of Hope National Medical Center, and their official employer was accordingly changed from the City of Hope Medical Foundation to the City of Hope National Medical Center. The radiation therapists' work locations at the outpatient clinics in Upland and Corona

⁶ In Board Exhibit 2, the parties entered into written stipulations as to many of the substantive background facts in this matter.

⁷ The parties stipulated that the Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and is thus subject to the jurisdiction of the Board. That stipulated language provides as follows:

The Employer, City of Hope National Medical Center, incorporated in the State of California, with a place of business located at 1500 East Duarte Road, Duarte, CA 91010, the only facility involved in this matter, is engaged in the business of operating an acute care hospital as defined in 29 CFR § 103.30(f). During the past 12 months, a representative period, the Employer derived gross revenues in excess of \$250,000 directly from points outside of the State of California.

I take administrative notice of the questionnaire on commerce information filed by the Employer in this matter on February 12, 2024, in which the Employer confirmed that it purchased and received goods valued in excess of \$50,000 from directly outside the State of California, during the preceding 12 months.

did not change as a result of this move and they continued to work at the Upland and Corona clinics.⁸

The radiation therapists working in the Corona and Upland clinics are now the only professional employees who are included in the Duarte service unit. All parties stipulated that the radiation therapists at issue here are professional employees within the meaning of Section 2(12) of the Act. The parties further stipulated that Employer employs additional classifications of professional employees at the Duarte campus that are not part of the bargaining unit represented by the Union; the Union is not seeking to represent those additional classifications of professional employees.

In about late 2023, the parties settled a successor collective-bargaining agreement for the National Medical Center bargaining unit. The successor agreement's recognition language includes a classification recognition clause as follows: the Hospital agrees that the following classifications (assigned to the Upland and Corona community practice sites) are represented by SEIU UHW and will be added to Appendix A: Receptionist -Job code 5820, Radiation Therapist I-Job code 2333 and Radiation Therapist II- Job code 2334x.

At one point during the above-mentioned successor negotiations for the agreement reached in late 2023, Petitioner proposed to the Employer, to include the (unrepresented) radiation therapists employed at the Duarte National Medical Center⁹ to the service unit since the radiation therapists in Upland and Corona had already been included in the Duarte service unit. The Employer rejected Petitioner's proposal.

On about November 22, 2023, Petitioner filed an unfair labor practice charge in Case 21-CA-330725 with Region 21 of the National Labor Relations Board alleging that the Employer's refusal to accept the Union's demand for voluntary recognition and request to commence bargaining that involved a subset group of professional employees, Radiation Therapists, at the Employer's Duarte Medical Center, was violative of Section 8(a)(1) and (5) of the National Labor Relations Act. On or about January 31, 2024, the Regional Director of Region 21 dismissed Petitioner's charge in Case 21-CA-330725.

The Union appealed Region 21's dismissal decision and the Board's Office of Appeals denied that appeal, finding that:

Considering the Board's Health Care Rules, the Union's accretion argument, and relevant case law, it was initially determined that the historically unrepresented subset group of Radiation Therapists at the Employer's acute care hospital

⁸ In moving the radiation therapists to the Duarte service unit, the Employer justified this move by taking the position that it was prohibited from unilaterally denying the radiation therapists union representation as a result of moving the Upland and Corona clinics under the National Medical Center license. However, during the subsequent successor contract negotiations, the Union acquiesced to this move by including the Upland and Corona radiation therapists in the recognition clause of the parties' new CBA.

⁹ The record evidence suggests that at the time of the hearing there were 17 radiation therapists employed at the Duarte Medical Center.

constitutes a nonconforming professional employee unit that does not comport with the Board's Health Care Rules. It was further determined that accreting them into the existing nonconforming unit to which the Union is the exclusive collective bargaining representative, absent either a *Sonotone* or *Armour-Globe* self-determination election, is precluded under Section 9(b)(1) of the Act. As such, the Union's request for a *Cemex* bargaining order is not appropriate under the circumstances presented.¹⁰

b. *Community of Interest Evidence*

The Union's current petition now seeks to do what the Office of Appeals' denial letter addressed: add an additional subset of professional employees—the radiation therapists employed at the Duarte National Medical Center—to an existing nonconforming bargaining unit composed predominantly of non-professional service employees, apart from the few professional radiation therapists working at the Upland and Corona community practice sites.

Accordingly, at hearing the Petitioner presented evidence seeking to meet its burden under *Armour-Globe* of establishing a sufficient community of interest between the radiation therapists employed at the Duarte National Medical Center and the existing service unit. For this reason, the bulk of the evidence presented at the 1-day hearing consisted of testimony and documentary evidence on this point. In furtherance of its community of interest evidence, at hearing the Petitioner presented two witnesses: a radiation therapist employed at the Duarte Medical Center; and a radiation therapist employed at the Upland community practice site (which employee had previously worked at the Duarte Medical Center). In support of its position, the Employer presented Executive Director, Radiation Physics, An Liu (Director Liu), who is the Director of Radiation Oncology services for City of Hope at the Duarte location and at all of the community practice site/clinical locations (17 total in California) including Upland and Corona. At the time he testified, Director Liu had worked for the City of Hope for over 30 years and had held his current job title for 5 years.

As an initial matter, although the parties frequently reference the Duarte service unit throughout the hearing, there is not a copy of the parties' recent collective-bargaining agreement or any other record evidence specifically describing the job titles and positions that fall within the existing service unit, the very unit the Petitioner seeks to increase with the addition of the radiation therapists employed at the Duarte Medical Center.

The bulk of the Petitioner's testimonial and documentary evidence focuses on the community of interest between the radiation therapists employed at the community practice sites in Corona and Upland and the radiation therapists employed at the Employer's Duarte Medical Center. Little time was spent on the record showing the community of interest between the Duarte radiation therapists and the remainder of the employees in the service unit, whose job titles and duties, as noted above, were not on the record.

¹⁰ See Board Exhibit No. 2 (Appeals' June 5, 2024, Denial Letter).

The record evidence establishes that the radiation therapists at Upland/Corona and at Duarte all have similar educational backgrounds, including a bachelor's degree and specialized licenses. Their paychecks are issued by the Duarte City of Hope National Medical Center. They report to the same upper-level managers including Director Liu and Robert Beatty (Beatty), Manager, Radiation Therapy. The big picture job duties performed by the radiation therapists at Duarte and the community practice sites are essentially the same in that they are responsible for treating patients with cancer through radiation therapy. In providing these treatments, they use some of the same machinery and equipment, including the LINAC accelerators.¹¹

On the other hand, the Duarte location can be differentiated from the Upland and Corona locations because it provides more advanced and specialized treatments to patients, utilizing different machinery and equipment. Duarte, being a hospital-based facility, has more staff and handles a larger volume of patients. The patients at Duarte tend to have more complex medical conditions and require more specialized care and procedures. Some of the patients at Duarte are inpatients and need to be wheeled from their patient room to the radiology department. Others are in more fragile conditions and require anesthesia so that they can tolerate the necessary treatment.¹²

The community practice sites including Upland and Corona provide more straightforward outpatient treatments for common and easier to treat types of cancers such as breast and prostate cancer. Because Upland and Corona are outpatient clinics, patients come and go from these facilities to receive their treatment. There are longer hours and staggered shifts at the Duarte facility to accommodate the number of patients and 24-hour hospital operations. The outpatient clinics at Upland and Corona have more standard business hours and less patient traffic.

Radiation therapists at the community practice sites are able to access the Duarte Medical Center with their credentials and receive discounts at Duarte's gift shop and cafeteria, just like the other Duarte staff. Evidence was also presented that there is some degree of ability to transfer work from the Duarte Medical Center to the Corona or Upland community practice sites. For instance, a radiation therapist called by the Petitioner explained that she previously worked at the Duarte Medical Center but, of her own volition, requested and received a transfer to the Upland community practice site in about May 2024.¹³ She also testified that during the time she worked at the Duarte National Medical Center she covered a few times for radiation therapists at the Corona and Upland community practice sites. The Duarte radiation therapist called by the Petitioner testified he has not worked anywhere other than Duarte, nor has he filled in for any other radiation therapist at the Upland or Corona locations.

The record evidence demonstrated that when the community practice sites are understaffed the Employer will sometimes send radiation therapists from Duarte to fill in the

¹¹ The record indicates that LINAC accelerators are a common machine used in radiology treatments to target tumors.

¹² Some examples of the more specialized treatments provided at Duarte include total body radiation and total skin radiation. Director Liu also testified that there are clinical trials performed at City of Hope and the majority of those take place at Duarte.

¹³ She testified that her salary decreased when she transferred to the Upland community practice site.

staffing gaps at the community practice sites. Because Duarte radiation therapists are trained on more specialized procedures it is easier for them to work at the community practice sites. Conversely, it is more difficult to utilize the radiation therapists from the community practice sites at the Duarte Medical Center because they don't have the specific training required to operate the additional technology or perform some of the more specialized radiation procedures that are done in Duarte. However, the Employer did temporarily solicit volunteers from the community practice sites to cover at Duarte around the time of the COVID pandemic because Duarte was severely understaffed at that time.

Although the Duarte, Upland, and Corona radiation therapists fall under the upper management hierarchy of Liu and Beatty, the radiation therapists report to a separate assigned lead at each of the facilities. The assigned lead radiation therapists are stationed full-time at the same facility as the radiation therapists they oversee. There are two leads assigned to Duarte due to the larger size of the staff there, and one each assigned to Corona and Upland. The lead radiation therapists at each of the facilities are the point person to whom the radiation therapists report for all of their day-to-day supervisory needs including work-related questions and concerns regarding patients, staff schedules, as well as handling requests for sick leave and other time and attendance matters of that nature. Ultimate hiring, termination, and disciplinary decisions fall to Beatty, but according to Liu, the lead radiation therapists' viewpoints at the Duarte, Upland, Corona, and the other sites are taken into account in making these decisions.

At the hearing, Petitioner introduced an organizational chart of the Employer's radiation department that includes Director Liu, Manager Beatty, and the various Radiation Therapists I and II, along with Lead Radiation Therapists, Radiographic Aides, Molecular Imaging Techs, and CT Simulation Techs, that work at the Employer's Duarte Medical Center as well as the community practice sites in Upland and Corona.¹⁴

The Duarte radiation therapists regularly interact with a network of other employees at the Employer's Duarte facility who all help execute the radiation treatment plans for patients. Those additional employees include radiographic aides, CT technologists, CT/PET technologists, patient transporters, front desk and administrative staff, nursing staff, physicists, and dosimetrists.

The Duarte radiation therapists regularly interact with the nurses that are already assigned to the radiation oncology department. From time to time a nurse who works in another department will accompany a patient who needs treatment and the radiation therapists might interact with that nurse regarding the care of that particular patient. The physicists assist the radiation therapists in creating radiation treatment plans for the patients. The dosimetrists work alongside the oncologists in mapping the areas where the radiation treatment should be targeted on a specific patient, while being careful to protect the healthy tissue and organs. It is then the job of the radiation therapists to carry out those plans.

¹⁴ The organizational chart (Union Exhibit 1), presented and reviewed with Petitioner witnesses, does not include a title, but one Petitioner witness testified that the chart originated from the Employer's intranet website.

Radiographic aides work alongside the radiation therapists and assist them in doing whatever is needed, including creating schedules for patients, helping to physically set up patients to receive treatment, and keeping track of the set up so it is replicable for the next time. CT Techs and CT Pet Techs meet with the patient first and perform a CT Scan in order to help create the set up for radiation that then needs to be duplicated each day of treatment, so the radiation therapists have to work back and forth with the CT Techs and Pet Techs. These employees also report to Director Liu and Manager Beatty. Patient transporters bring patients to the radiation department from different floors of the facility, so they have some limited interaction with radiation therapists, but they report to a different managerial team.

The front desk staff check the patients in for treatment and enter information into the system that the radiation therapists can access, so therapists are alerted when their patients arrive for treatment. Administrative staff help ensure that patients complete the correct paperwork and that their insurance is processed to make sure that all necessary steps are completed so they can receive their treatment.

II. Discussion

Combining the restrictions imposed by the Board's Health Care Rule along with the insufficient evidence of a community of interest between the radiation therapists at Duarte and the overall service unit employees, the Union is precluded from pursuing an *Armour-Globe/Sonotone* election among the radiation therapists.

a. Health Care Rule

The Board's Health Care Rule exists for a non-arbitrary reason – to avoid the *drip, drip* organizing of one non-conforming unit after another in an acute care facility. The Board's Health Care Rule, 29 CFR § 103.30 (1989) (Rule), identifies eight bargaining units which are the only appropriate bargaining units for acute care hospitals,¹⁵ absent "extraordinary circumstances" or "in circumstances in which there are existing non-conforming units." These eight units are (1) all registered nurses, (2) all physicians, (3) all professionals except for registered nurses and physicians, (4) all technical employees, (5) all skilled maintenance employees, (6) all business office clerical employees, (7) all guards, and (8) all nonprofessional employees except for technical employees, skilled maintenance employees, business office clerical employees, and guards. Reported at 284 NLRB 1515, *et seq.* In the rulemaking process that led to the adoption of the Health Care Rule, the Board explained:

[I]n light of the congressional admonition against proliferation of bargaining units, we have determined at this time not to approve separate units of other individual

¹⁵ Under the Rule, "acute care hospital" is defined as either a short-term care hospital in which the average length of patient stay is less than 30 days, or a short-term care hospital in which over 50 percent of all patients are admitted to units where the average length of stay is less than 30 days. 29 CFR § 103.30(f). The definition includes those hospitals operating as acute care facilities even if the hospitals provide other services such as long-term care, outpatient care, psychiatric care, or rehabilitative care.

professional employee classifications. Otherwise, we believe, the door would be open to the very fragmentation of bargaining units Congress directed the Board to avoid. *Collective-Bargaining Units in the Health Care Industry, First Notice of Proposed Rule Making*, 52 Fed. Reg. 25142-01, 25144, 1987 WL 225963 (1987).

In *Crittenton Hospital*, 328 NLRB 879, 880 (1999), the Board emphasized that Section 103.30(a) of the Rule, setting forth appropriate bargaining units in the health care industry, provides that, “[e]xcept in *extraordinary circumstances* and in circumstances in which there are existing non-conforming units,” the eight units and only those units, will be found appropriate for acute care hospitals (emphasis added). Section 103.30(c) provides that where there are existing nonconforming units in acute care hospitals, and a petition for additional units is filed pursuant to Section 9(c)(1)(A)(i) or 9(c)(1)(B), the Board “shall find appropriate only units which comport, insofar as practicable, with the appropriate unit set forth in [103.30(a)].” *Id.*

Thus, the Rule, on its face, prohibits the petitioned-for unit the Union seeks to create—namely, the addition of the Duarte radiation therapists to the existing non-conforming service unit that, within the meaning of the Rule, combines non-professional employees, technical employees, and some, but not all, professional employees except for registered nurses and physicians. The Union’s petition to move the unrepresented radiation therapists into the existing service unit would blatantly highlight the fact that the resulting residual professional employees (those other than the limited number of radiation therapists) employed at Duarte would remain unrepresented and very possibly lead to subsequent piecemeal representation efforts, one non-conforming unit after another, or the great expansion of an already inappropriate non-conforming unit under the Board’s Health Care Rule.¹⁶

b. The Health Care Rule in the Armour-Globe Context

The Board has established that its Rule addresses only prospective initial organizing of units in acute-care facilities and does not specifically address the situation which exists in the present case, i.e., where an acute-care facility was partially organized and a nonconforming unit or combination of units has already been formed.¹⁷ The Board expressly left such situations for resolution in subsequent adjudication. *St. Vincent Charity Medical Center*, 357 NLRB 854 (2011), citing the Rule at 284 NLRB at 1570-1571.

In *St. Vincent*, the Board explained that an “*Armour-Globe* self-determination election does not run afoul of the Health Care Rule as these elections undeniably avoid any

¹⁶ It is undisputed that prior to the instant petition the parties had already played a role in the creation of non-conforming bargaining units through the election and certification in 2019 in Case 31-RC-248185 at the community practice sites, and through the revised unit created by the parties in 2021/2022 by moving radiation therapists from Upland and Corona to the Duarte Service unit and later signing off on that non-conforming unit in 2023. Despite the Union’s contentions, the pre-existence of non-conformity in those bargaining units does not now obligate the Regional Director to stamp approval on a petition which asks for a violation of the principles of the Board’s Health Care Rule.

¹⁷ Under the Health Care Rule, units that are either underinclusive, that is, fail to include all the employees in one of the eight types of classification in an acute-care facility, or over-inclusive, including employees outside of the classification, are thereby non-conforming. See, e.g., *St. Vincent*, 357 NLRB at 855.

proliferation of bargaining units, because they do not result in the creation of [an] election in a separate, additional unit.” *St. Vincent*, 357 NLRB at 855. Instead, “an *Armour-Globe* election permits employees sharing a community of interest with an already represented unit of employees to vote whether they wish to be added to the existing unit.” *Id.* In that sense, a self-determination election “further[s] the petitioned-for employees’ interest in obtaining representation while avoiding any undue proliferation of units,” which is the principal concern of the Health Care Rule. *Id.* at 856.¹⁸

In *St. Vincent*, the Board found that that nonprofessionals at an acute care hospital had a presumptive community of interest with all other nonprofessionals—in concluding that the phlebotomists in the voting group shared a community of interest with, at a minimum, the other nonprofessional employees in the existing unit represented by the petitioner—notwithstanding that the voting group did not include all of the remaining unrepresented nonprofessional employees.

In *West Virginia University Hospitals*, 2024 WL 726191 (N.L.R.B.) the Board affirmed a regional director’s decision which directed a self-determination election in the petitioned-for voting group of shuttle drivers finding that the nonprofessional shuttle drivers shared a community of interest with the other nonprofessional employees already included the (non-conforming) bargaining unit.¹⁹ In that case, the Board relied on its prior decision in *St. Vincent* noting that in that case the Board also makes clear that in determining whether the employees in a petitioned-for voting group share a community of interest with employees in the preexisting unit, the Board may rely on the Board’s appropriate unit/community of interest determinations in the Health Care Rule, even if the unit does not strictly conform to any of the designated units set forth in Sec. 103.30(a). See *St. Vincent*, 357 NLRB at 854-855.

Although the Board’s Decision and Order in *St. Vincent* does not entirely prohibit the Union’s petition for a self-determination election in this matter, it nonetheless indicates that the Union must still establish a sufficient community of interest between the Duarte radiation therapists and the existing service unit.

c. Community of Interest Factors

The Union’s petition does not pass this next and final hurdle of establishing a sufficient community of interest between the Duarte radiation therapists and the existing service unit.

The applicable standard²⁰ for evaluating the appropriateness of adding additional employees to a pre-existing bargaining unit is the Board’s *Armour-Globe* doctrine. Under that

¹⁸ See also *Rush University Medical Center v. NLRB*, 833 F.3d 202, 204-208 (D.C. Cir. 2016) (explaining that Sec. 103.30(c) of the Board’s Health Care Rule applies by its terms only to a petition for additional units, and that an *Armour-Globe* self-determination election, by its nature, does not involve the creation of any “additional units” but rather “the inclusion of additional unrepresented employees in an already-existing unit”).

¹⁹ In this case, the shuttle drivers started and ended their day in the same location, performed the same tasks, worked the same amount of hours and had the same supervisors, and had the same terms and conditions of employment.

²⁰ If the Union’s petition were to be approved, the election would likely take the form of a combined *Sonotone/Armour-Globe* election, due to the fact that the Union’s petition seeks to add professional employees to an overall non-professional unit. Section 9(b)(1) of the Act states that the Board shall not decide that any unit is

doctrine, an incumbent union may petition to add unrepresented employees to its existing unit through an *Armour-Globe* election if the employees sought to be included share a community of interest with unit employees and "constitute an identifiable, distinct segment so as to constitute an appropriate voting group." *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990) (citing *Capital Cities Broadcasting Corp.*, 194 NLRB 1063 (1972)). See also *Rush Univ. Med. Ctr. v. NLRB*, 833 F.3d 202, 209 (D.C. Cir. 2016); *NLRB v. Raytheon Co.*, 918 F.2d 249, 251 (1st Cir. 1990).

The Board considers the following factors in determining whether employees share a community of interest: whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised. *United Operations, Inc.*, 338 NLRB 123, 123 (2002).

Initially, and as noted above, the record is devoid of any clear or descriptive list of the job duties and/or job titles of the service unit to which the Union petitions to add the Duarte radiation therapists. This makes any in-depth community of interest analysis difficult to compare and contrast any commonalities or differences between these groups. The only undisputed classification of employees in the service unit are the radiation therapists employed in Upland and Corona. It should be noted however that in the self-determination context, the petitioned-for voting group need not share a community of interest with every classification in the existing unit or even a majority of the unit. Rather, it need only have a community of interest with at least a minority of the unit. See e.g., *MV Transportation, Inc.*, 373 NLRB No.8 (2023); citing *Public Service Co. of Colorado*, 365 NLRB 1017 (2017). Thus, the following discussion will center around the record evidence presented for the Duarte, Upland, and Corona radiation therapists.

Identifiable Distinct Segment: The Duarte radiation therapists constitute an identifiable and distinct voting group. When a petitioner seeks a self-determination election, the first consideration is whether the voting group is an identifiable and distinct segment of the workforce. *Warner-Lambert*, 298 NLRB at 995. Whether a voting group is an identifiable, distinct segment is not the same question as whether the voting group constitutes an appropriate unit, the analysis where a petitioner seeks to represent employees in a standalone unit. *St. Vincent*, 357 NLRB at 855. Instead, the identifiable and distinct analysis asks whether the voting group sought unduly fragments the workforce. *Capital Cities Broadcasting*, 194 NLRB 1063, 164 (1972). Here the Duarte radiation therapists work within the same department at the same facility, report to the same managers and supervisors, perform the same duties and work the same (rotating) schedules and consequently qualify as an identifiable and distinct voting group within the Board's meaning.

appropriate for the purposes of collective bargaining "if such unit includes both professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit." The Board utilizes *Sonotone* elections, in which professional employees vote both with respect to whether they want to be represented by the petitioner and whether they want to be in a unit with nonprofessionals, to comply with this statutory mandate. See *Sonotone Corp.*, 90 NLRB 1236 (1950).

Organized Under a Separate Department: An important consideration in any unit determination is whether the proposed unit conforms to an administrative function or grouping of an employer's operation. *Gustave Fischer, Inc.*, 256 NLRB 1069 fn. 5 (1981). Here, although the radiation therapists at Duarte and the radiation therapists at the Corona and Upland community clinics are organized under the same departmental classification and perform similar tasks, they work in entirely different locations and report to different supervisors.

Distinct skills, training and job 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); *The Phoenician*, 308 NLRB 826 (1992). Here it can be said that the radiation therapists in Duarte, Upland, and Corona all have fulfilled similar educational requirements and training and though the Duarte radiation therapists appear to be more thoroughly trained and skilled with more advanced radiation technology, all of these groups in essence perform the same job functions. Accordingly, this factor falls in Petitioner's favor.

Functional Integration: 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). The radiation therapists at Duarte, Upland, and Corona cannot be said to meet this factor. While they do the same work, they perform these tasks in entirely different locations and with different patients and under the supervision of different leadership.

Frequent Contact and Interchange: Interchangeability refers to temporary work assignments or transfers between two groups of employees. Frequent interchange "may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills." *Hilton Hotel Corp.*, 287 NLRB 359, 360 (1987). As a result, the Board has held that the frequency of employee interchange is a critical factor in determining whether employees who work in different groups share a community of interest sufficient to justify their inclusion in a single bargaining unit. *Executive Resource Associates*, 301 NLRB 400, 401 (1991) (citing *Spring City Knitting Co. v. NLRB*, 647 F.2d 1011, 1015 (9th Cir. 1081)). The close proximity of a petitioned-for group to the existing bargaining unit is also a salient factor. *Jerry's Chevrolet, Cadillac, Inc.*, 344 NLRB 689, 690 (2005) (finding community of interest where employees could walk from one contiguous building to another). The Duarte radiation therapists do not have frequent contact or interchange with the radiation therapists in Corona and Upland. As noted above, although the Duarte therapists do, from time to time, transfer or substitute for other staff at Corona and Upland, the evidence does not suggest that this occurs frequently. Additionally, the evidence indicated no evidence of Corona or Upland radiation therapists transferring to or substituting for radiation therapists in Duarte. As the record evidence shows, the radiation therapists at the three facilities don't interact very frequently and work at completely different types of facilities and in different cities.

Common Supervision: When examining whether there is common supervision, the Board looks at the identity of employees' supervisor(s) who have the authority to hire, to fire or to discipline employees (or effectively recommend those actions) or to supervise the day-to-day work of employees, including rating performance, directing and assigning work, scheduling work, and providing guidance on a day-to-day basis. *Executive Resources Associates*, 301 NLRB at 402; *NCR Corporation*, 236 NLRB 215 (1978). Common supervision weighs in favor of placing the employees in dispute in one unit. Here, although the three groups of employees have the same upper management structure, their day-to-day interactions with their supervisors appear to be through their leads. Moreover, even if common supervision could be established due to the fact that these groups have the same upper management structure, this still would not be enough to find a sufficient community of interest under the Board's standard. The fact that two groups are commonly supervised does not mandate that they be included in the same unit, particularly where there is no evidence of interchange, contact, or functional integration. *United Operations*, 338 NLRB at 125.

Terms and Conditions of Employment: Terms and conditions of employment pertain to whether employees receive similar wages and are paid in a similar fashion (for example, salary or hourly); whether employees have the same fringe benefits; and whether employees are subject to the same work rules, disciplinary policies and other terms of employment that might be described in an employee handbook. See, e.g., *United Rentals, Inc.*, 341 NLRB 540, 541-542 (2004). The record does not specifically address the similarity of the terms and conditions of employment between the Duarte, Corona, and Upland radiation therapists in any great detail, except by establishing that the Duarte radiation therapist—who transferred to the Upland clinic—received a pay cut upon transferring. Arguably, given the affiliation between the three entities under the City of Hope umbrella, it's likely that the three groups do, in fact, have similar terms and conditions of employment in terms of common policies and benefits, but the record does not establish this factor. Even if the record was sufficient on this point, the fact that employees share common wage ranges and benefits or are subject to common work rules does not warrant a conclusion that a community of interest exists where employees are separately supervised, do not frequently interchange, and work in a physically separate area. *Bradley Steel, Inc.*, 342 NLRB 215 (2004); *Overnite Transportation*, 322 NLRB 347 (1996).

Based on the analysis set forth above, Petitioner has not met its burden of establishing a sufficient community of interest between the Duarte radiation therapists and the existing service unit. Given the strictures of the Board's Health Care Rule and its framework for reviewing cases of this nature through an *Armour/Globe* analysis, this petition must be dismissed. The Union has not lost the opportunity to represent these individuals as it can seek to represent the radiation therapists employed at Duarte through seeking a grouping of professional employees at that facility that fit within the confines of the Rule.

III. Conclusion

It is hereby ordered, based on the analysis set forth above, that the petition in this matter is dismissed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67(c) of the Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the request for review must be served on each of the other parties as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations. The request for review must contain a complete statement of the facts and reasons on which it is based.

Procedures for Filing Request for Review: Pursuant to Section 102.5 of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site (www.nlrb.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. A request for review filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Section 102.5(e) of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations. The request for review must comply with the formatting requirements set forth in Section 102.67(i)(1) of the Board's Rules and Regulations. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (**5 p.m. Eastern Time**) on **May 13, 2026**, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time on May 13, 2026**.

Filing a request for review electronically may be accomplished 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. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which must also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this

proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Any party may, within 5 business days after the last day on which the request for review must be filed, file with the Board a statement in opposition to the request for review. An opposition must be filed with the Board in Washington, DC, and a copy filed with the Regional Direction and copies served on all the other parties. The opposition must comply with the formatting requirements set forth in §102.67(i)(1). Requests for an extension of time within which to file the opposition shall be filed pursuant to §102.2(c) with the Board in Washington, DC, and a certificate of service shall accompany the requests. The Board may grant or deny the request for review without awaiting a statement in opposition. No reply to the opposition may be filed except upon special leave of the Board.

Dated: April 29, 2026



David Selder, Acting Regional Director
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