

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

JOHNS HOPKINS MEDICAL ASSOCIATES,
A WHOLLY-OWNED SUBSIDIARY OF
THE JOHNS HOPKINS HEALTH SYSTEM
CORPORATION

and

ASHLEY GARCIA
An Individual

Case No. 05-CA-319331

and

CHANTAL LIGHTSY
An Individual

Case No. 05-CA-322175

Benjamin W. Palewicz, Esq. for the General Counsel.
Ian C. Beck, Gregory A. Brown and Jason R. Stanevich, Esqs (Littler Mendelson, P.C. New Haven, Connecticut and Boston, Massachusetts) for the Respondent.

DECISION

STATEMENT OF THE CASE

Findings of Fact

Arthur J. Amchan, Administrative Law Judge. This case was tried in Baltimore, Maryland on February 17-18, 2026. Ashley Garcia filed the charge in case 05-CA-319331 on May 31, 2023. Chantal Lightsy filed the charge in case 05-CA-322175 on July 19, 2023 and the General Counsel issued the complaint on March 23, 2025. I have reviewed the entire record and have read and considered the parties' briefs.¹

Respondent operates 7 ambulatory (outpatient) surgical centers. The facility involved in this matter is located in Lutherville, Maryland and at material times specialized in ophthalmology and fertility treatment. Respondent derived gross revenues in excess of \$250,000 in the year prior to February 28, 2025. During that period, it purchased and received goods

¹¹ Tr. 176, line 24 should read IVs, not these.

valued in excess of \$5,000 directly from points outside of Maryland. Respondent is and has been an employer and a health care institution within the meaning of the Act.

5 On May 24, 2023, Respondent terminated the employment of the Charging Parties, as well as another nurse, Sary Valles. A fourth nurse, Suzanne Hutter, received a final written warning the same day. Respondent had not disciplined Lightsy or Garcia previously.

10 The General Counsel alleges that the Charging Parties were terminated because they engaged in protected concerted activity, complaining about shortages of supplies, staffing and mandatory overtime. Thus, the General Counsel alleges that the 2 discharges violated Section 8(a)(1) of the Act

Chronology

15 The Charging Parties are Registered Nurses who assisted surgical patients and patients seeking Invitro Fertilization. Generally, 7-8 nurses worked on their unit. It appears that in May 2023, there were only 6 (Sary Valles, Suzanne Hutter, Abby Chen, Chyril Megino Ashley Garcia and Chantal Lightsy, the lead nurse).² They were supervised by Nurse Administrator Madalyn (Maddy) Biggs, who was present at the facility on alternate days. Charging Party
20 Lightsy was generally in charge of the unit when Biggs was at a different facility.

25 Shortly before April 6, 2023, Cathy Torgeson, another RN who worked on the unit, informed Respondent that she was resigning. Torgeson had an exit interview with Faye Cary, a human resources representative on April 6. Torgeson told Cary about a number of things she observed at work including employees taking naps in the unit and on at least 2 occasions giving each other IVs. Torgeson memorialized these observations in an email to Cary on April 6, 2023, R-Exh. 7.³

30 On April 26, Torgeson emailed Respondent's VP of Operations Sarah Disney videos of Ashley Garcia receiving fluid from an IV at lunch, R. Exhs. 4 & 5, and a video of Valles receiving fluid from an IV while Garcia, Lightsy, Hutter and RN Abby Chen watched, G.C. Exh. 2.⁴ In the video, Chen reaches for the IV bag which is hanging from a pole, G.C. 2, Tr. 109. Disney forwarded the emails to Faye Cary in Human Resources. At trial, Lightsy testified that the more experienced nurses were training Abby Chen, a new employee, in how to set an IV.
35 Chen, who did not testify, was hired by Respondent in March 2022, Tr. 53. Nobody credibly claims that the video of Garcia sitting in a chair while getting saline through an IV was a legitimate training exercise.

40 The Charging Parties admit that the IVs in question were administered without a doctor's order and were not documented. I credit witness Chyril Megino's testimony that managers never

² Cathy Torgeson had recently resigned. On May 8-10, HR Director Faye Cary interviewed 12 employees, 6 of whom were RNs.

³ Samantha Bell, Respondent's Director of Nursing, testified that in March 2023, nurse educator Nechami Brilliant communicated with her that she thought nurses were sleeping while on duty in the unit. Bell testified that she went to the facility but did not see this.

⁴ The fluid was saline solution (salt water).

told staff nurses that they were not allowed to practice setting IVs on each other, Tr. 66-67. She also testified that it was a common procedure for nurses to practice inserting IVs on each other. I credit this testimony as well. However, there is no evidence that Respondent's management, including Maddy Biggs, was aware that nurses were administering IVs to each other.

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HR representative Faye Cary went to the Lutherville facility on 3 days, May 8-10, 2023, to investigate the issues raised by Torgeson.⁵ She interviewed 12 employees individually, including the Charging Parties, RNs Sary Valles, Suzanne Hutter, Abby Chen, Chyril Megino and Suzanne Coomes, an operating room technician and Terri Graf, who also was not an RN, G.C. Exh. 12. The Charging Parties, Hutter, Megino and Coomes testified in this proceeding; Valles, Chen and Graf did not.

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Cary asked each person a series of fairly innocuous questions, but also whether they had ever witnessed any staff members engaging in conduct not aligned with Hopkins' code of conduct. Cary did not inform the employees that she was investigating allegations of misconduct or that she was investigating misuse of IVs. She also did not tell any employee that she had received allegations of misconduct on their part. Neither Garcia nor Lightsey told Cary about any employee misconduct.

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During her interview on May 8, Suzanne Coomes mentioned Ashley Garcia and Sary Valles sleeping and administering IVs to themselves or each other. Coomes also stated that Garcia, Valles and Hutter were a clique that had "teamed up" against Torgeson sometimes. She also criticized Maddy Biggs, G.C. 12, pp. 16-17.

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Teri Graf was also interviewed by Cary on May 8. In April, Torgeson suggested that Cary speak to her. Graf does not appear to have been an RN. On May 8, Graf told Cary that what Cary observed in the videos was common behavior since Valles, who she described as a "bad apple," started working in the department. She told Cary that Valles and Lightsey were friends, and lumped Valles, Garcia and Lightsey together in a negative way. Finally, she told Cary that she would not recommend the department as a place to work, G.C. Exh. 12, at 20. I infer from Graf's comments at the interview, that Graf had seen Torgeson's videos before May 8. I also suspect that someone in management had talked to Graf, as Torgeson had suggested. At trial, when asked about staff complaints, Cary responded that Graf's responses stood out, Tr. 158-59.⁶

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Employee John Petrowski mentioned Valles and Garcia sleeping. He also mentioned some hostility from Lightsey and Valles., G.C. 12 at 10.

⁵ Respondent calls the investigation an environmental scan. There is testimony in the record about something called a Glint survey. It is not clear whether that is the same thing as the environmental scan.

⁶ Neither Coomes nor Graf came forward before May 8 to inform Respondent of the alleged misuse of IVs. However, neither participated in this activity nor were they in a lead position that required that they report it.

During her interview on May 8, Abby Chen criticized upper-level management's communications (or lack thereof) with staff. Due to this, Chen indicated she was ambivalent about recommending the department as a place to work, G.C. 12, pp. 1-2. Others complained about management, including Garcia and Lightsey

As a result of this investigation, Cary recommended that Garcia, Valles and Lightsey be terminated. She recommended that Hutter be given a final written warning. Upper-level management followed Cary's recommendations.

Respondent did not discipline Abby Chen, Thus, 4 of the 6 nurses working the unit were disciplined. Chyril Megino left Respondent voluntarily in September 2023, despite being offered a financial incentive to stay with Respondent. Megino had complained to Faye Cary about management of the unit when Cary interviewed her on May 8, 2023, Tr. 74, G.C. Exh. 12 at 6. Megino specifically complained about being understaffed and inadequate patient monitors.

There is no evidence that Respondent had terminated an employee for a first offense or single act of misconduct prior to terminating Lightsey, Garcia and Valles.

The Charging Parties' Protected Concerted Activity

On March 30, 2023 Chantal Lightsey sent Maddy Biggs the following email with a copy to the other nurses on the unit:

We really need to get the monitor situation fixed as soon as possible. We had a patient emergency in prep/pacu where the ivf patient had a laryngospasm. Unfortunately, because the procedure room uses different monitors we had to scramble to find the appropriate leads and reattach monitors. This is no way to run emergency interventions/situation. Thankfully, the patient is fine and breathing on her own now. The team worked and given the predicaments we've had to be in and definitely a learning moment for all of us. But again, we cannot run an ASC safely with 3 monitor setups.

G.C. Exh. 3.

On May 2, 2023, Biggs held a staff meeting with unit nurses.

Unit Nurses, including Lightsey and Garcia raised several issues at this meeting: invitro fertility procedures being performed after 3:30 p.m., defective blood pressure monitors, lack of preparation for the administration of anesthesia in an emergency, and non-unit nurses who worked on the unit failing to clean up trash,

On other occasions, Lightsey complained to Biggs⁷ regarding staffing levels and mandatory overtime.

⁷ Biggs did not testify in this proceeding. Thus, the Charging Parties' testimony about complaints they made to Biggs is uncontradicted and credited.

Unit nurses had been told that invitro cases would be moved to a different floor. They complained about the date for this transfer being repeatedly pushed back. At one time, unit nurses were told that weekend work would cease in August 2023. After being informed that was not the case, Ashley Garcia told Biggs that requiring the nurses to continue working mandatory weekend overtime was “crazy and obscene.”

During questioning by Cary on May 8, Garcia complained about lack of support from management about staffing and equipment. Lightsy told Cary that management listened but probably did not understand the nurses’ concerns.

On May 24, 2023, Respondent summoned Lightsy to a meeting with Biggs, Cary and Samantha Bell, Respondent’s Director of Nursing. She was told she was discharged for failing to report misconduct, of which she was aware.

At a meeting the same day, Respondent told Garcia she was being terminated for theft of property and improper use of IV fluids, G.C. Exh. 9..

In June, Respondent filed reports with the Maryland Board of Nursing regarding the circumstances of Lightsy and Garcia’s discharge. The Board took no action as a result of this report. The record does not conclusively establish one way or another whether Garcia and Lightsy violated the terms (scope of practice) of their nursing licenses, as alleged by Respondent.

Lightsy and Garcia contend that the situations in which nurses were administered IVs were training sessions for a new employee, Abby Chen.⁸ Respondent disputes this and contends that even if that were so, nurses are not allowed to administer IVs without a doctor’s order and without documenting the administration.⁹ There was no doctor’s order or documentation for the incidents depicted in the photos and video sent to Respondent by Torgeson.

Use of leftover IV bags

Lightsy, Hutter and Garcia testified that they used leftover IV bags that had been spiked (or pierced) in administrating IV solution for practice and/or training. Respondent’s termination letter for Garcia mentions “ theft of property: and “waste of medical supplies such as using IV and IVF to place and administer fluids. Lightsy’s termination letter alleged her failure to report employee incidents such as the misuse of JHSCS supplies and misadministration of IVFs.

⁸Respondent hired Chen in March 2022. Thus, she had been working in the unit for over a year by the time the video, G.C. Exh. 4 was taken. Respondent hired Valles in July 2022, but she may have been working in the unit before she became an employee of Respondent. G.C. 12 p. 13, Tr. 54-55.

⁹ GC witness Suzanne Hutter, who received a final written warning, agreed that the administration of an IV, even in training, should be documented by the nurse conducting the training, Tr. 82-83.

Analysis

5 Section 8(a)(1) of the National Labor Relations Act provides that it is an unfair labor practice to interfere with, restrain or coerce employees in the exercise of the rights guaranteed in Section 7. Discharging or otherwise discriminating against employees because they engaged in activity protected by Section 7 is a violation of Section 8(a)(1).

10 Section 7 provides that, "employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, *and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection ...* (Emphasis added)."

15 In *Myers Industries (Myers I)*, 268 NLRB 493 (1984), and in *Myers Industries (Myers II)* 281 NLRB 882 (1986), the Board held that "concerted activities" protected by Section 7 are those "engaged in with or on the authority of other employees, and not solely by and on behalf of the employee himself." However, the activities of a single employee in enlisting the support of fellow employees in mutual aid and protection are as much concerted activity as are ordinary group activities.

20 To establish an 8(a)(1) violation based on an adverse employment action where the motive for the action is disputed, the General Counsel has the initial burden of showing that protected activity was a motivating factor for the action, *Wright Line*, 251 NLRB 1083 (1980). The General Counsel satisfies that burden by proving the existence of protected activity, the employer's knowledge of the activity, and animus against the activity that is sufficient to create an inference that the employee's protected activity was a motivating factor in his or her discharge or other discriminatory action. If the General Counsel meets this burden, the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct.¹⁰

30 Charging Parties Lightsy and Garcia engaged in protected concerted activity of which Respondent was aware. However, I am unable to conclude that Respondent bore animus towards them as a result of that activity, or that the record is sufficient to draw an inference that their protected activity was a motivating factor in their discharges.

35 With regard to animus and discriminatory motive, The General Counsel relies largely on Respondent's failure to discipline Abby Chen, who was recorded watching Sary Valles receive an IV along with Lightsy, Garcia and Hutter. The General Counsel submits that Respondent's failure to discipline Chen establishes that its stated reason for discharging Garcia and Lightsy is pretextual and thus establishes animus towards their protected activity.

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¹⁰ In cases in which the employer's motive for allegedly discriminatory discipline is at issue, the *Wright Line* test applies regardless of whether the employee was engaged in union activity or other protected concerted activity, *Hoodview Vending Co.*, 362 NLRB 690 (2015); 359 NLRB 355 (2012).

5 The General Counsel also alleges that pretext is shown by the fact that Respondent conducted an inadequate investigation (failing to identify Chen) and gave the discriminatees no or an inadequate opportunity to respond to the allegations against them. Further, it alleges that severity of the discipline and exaggeration of the charges against Lightsy and Garcia for a first-time offense supports a finding of pretext.

10 I find the testimony of Respondent's witnesses that Chen was not disciplined because it could not identify her, to be false. To the contrary, I find that Respondent knew the identity of all five nurses depicted in Exhibit G.C. 2. The testimony of Sarah Disney, Vice President for the John Hopkins Surgery Center Series, at Tr. 251-52, strongly suggests that.

15 As the G.C. notes, there were only 6 nurses then working on the unit. Coomes, Torgeson or the nurses' immediate supervisor, Maddey Biggs could have and may have told management who was the fifth nurse in the video. Also, Respondent could have asked Megino if she was the fifth person. It could also have asked Lightsy, Garcia, Hutter, or Chen to identify all five.

20 When interviewed by Cary on May 8, Chen, like Garcia and Lightsy, criticized management and did not tell Cary that she had witnessed any staff member behavior that was inconsistent with Respondent's Code of Conduct or Values, G.C. Exh. 12 at 1.

25 Respondent did not satisfactorily articulate a distinction between Chen, on the one hand, and Lightsy and Garcia on the other. However, Chen, so far as this record shows, never administered an IV to herself, as did Garcia. She also was, unlike Lightsy, not in a leadership position. Her status is harder to distinguish from Hutter, who is not an alleged discriminatee in this matter, but who received a final written warning despite not being in a leadership position and in the absence of any evidence that she received an IV improperly. Chen's conduct is indistinguishable from the conduct for which Hutter received a final written warning.

30 In fact, Chen appears to be a more active participant in the episode depicted in G.C. Exh. 2 than Hutter. However, Coomes, when interviewed on May 8, mentioned Hutter, but not Chen, as teaming up with Garcia and Valles against Torgeson. Moreover, it is quite possible that Chen was the "new target" referred to by Torgeson in her April 26, 2023 email to Disney, R. Exh. 19.¹¹

35 Chyril Megino also did not tell Cary that she had witnessed any improper conduct by any staff member. She had criticized management, but unlike Lightsy and Garcia, there is no evidence that she participated in or was aware of such conduct. Also, she was not like Lightsy, a lead nurse.

40 In sum, I find that the May 8 interviews were conducted with a view to finding a basis for disciplining and discharging Lightsy, Garcia and Valles. The discriminatees failure to report misconduct strikes me as a pretext. Hunter's discipline may have been collateral damage. However, Coomes mentioned Hutter, but not Chen, as teaming up with Garcia and Valles against Torgeson. This may well explain Hutter's final written warning.

33. ¹¹ Several nurses were told in early May that they were accused of bullying other nurses, Tr.

All that being said, I cannot find any connection between Lightsy and Garcia's protected activity and their discharges. It seems to me that the discharges were a result of Respondent's acting on Torgeson's complaints, which predate most of the protected activity. Torgeson appears to have had some influence with Sarah Disney, Vice President for the John Hopkins Surgery Center Series, Tr. 249-52, R. Exh. 18 and 19. It appears from Torgeson's April 26 email to Disney, that Torgeson was going over the head of Faye Cary to insure her concerns were addressed. If Respondent is covering up something, I do not conclude it was a violation of the National Labor Relations Act. It is important to note that Torgeson's April 26 email to Disney predates any protected activity by Lightsy or Garcia that anyone other than Madeline Biggs was aware of.¹²

The General Counsel also contends that Respondent, by Faye Cary, did not give Garcia and Lightsy an opportunity to respond to allegations made against them. Respondent contends that Cary gave them such an opportunity in the May 8 interviews. I agree with the General Counsel. Respondent did not tell any of the nurses, that it was investigating the improper administration of IVs to staff members.

The events leading to the discharges of Lightsy and Garcia began with the complaints to Respondent from co-worker Torgeson. There is no basis for inferring that Respondent's decision to investigate those complaints was discriminatorily motivated. Torgeson's allegations were confirmed by Respondent's investigation and established that the Respondent had a legitimate basis for concluding that the Charging Parties and others violated Respondent's Code of Ethics. There is nothing in this record on which I can find that Respondent did not genuinely consider nurses administering an IV to themselves or others, violative of its policies and Code of Conduct worthy of discharge. However, misuse of the IVs was not the only reason that Respondent discharged Lightsy, Garcia and Valles, and disciplined Hutter, and may well have been pretextual-given its failure to discipline Chen.

Despite this, the General Counsel has not met its initial burden of either establishing animus towards Lightsy and Garcia's protected conduct or a causal relationship between that conduct and Respondent's decision to discharge them both. While there is plenty of evidence of animus towards the Charging Parties, the record does not establish that the animus was related to their protected activities. I dismiss the complaint.¹³

¹² Respondent contends that Biggs, who no longer works for it, played no role in the discharges or discipline in this case. I find that likely given that Torgeson's April 6 email, R. Exh. 7, does not speak well of Biggs' management of the department. The circumstances under which Biggs' employment with Respondent are not in the record.

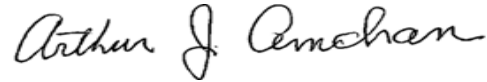
¹³ Current Board law is that a finding of pretext does not automatically satisfy the General Counsel's initial burden, *Electrolux Home Products, Inc.*, 368 NLRB No. 34 (2019). The instant case is a much stronger case for that principle. In *Electrolux* the employee's union activity predated the reasons for which she was terminated. Also see, *Cintas Corp, No. 2*, 372 NLRB No. 34 (2022) fn. 26.

ORDER¹⁴

The complaint is dismissed.

Dated, Washington, D.C. April 24, 2026

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Arthur J. Amchan
Administrative Law Judge

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¹⁴ If no timely exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.