

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 03**

**ROCHESTER REGIONAL HEALTH**

**Employer**

**and**

**Case 03-RC-384306**

**ROCHESTER UNION OF NURSES AND  
ALLIED PROFESSIONALS**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Rochester Regional Health (Employer) operates eleven walk-in urgent care centers across the Finger Lakes region of New York State. The urgent care centers fall under the Employer's Department of Primary Care. They are staffed by employees of three hospitals: Rochester General Hospital; United Memorial Medical Center; and Unity Hospital. Rochester Union of Nurses and Allied Professionals filed a petition on April 7, 2026 to represent employees of the eleven urgent care centers. Specifically, the Union petitioned for a unit made up of physicians, nurse practitioners, physician assistants, and registered nurses. The Employer contends that the registered nurses should be excluded from the unit because they do not share a community of interest with the physicians, nurse practitioners, and physician assistants (providers). The Union argues that the unit is appropriate because the providers and registered nurses are all professional employees, as opposed to the licensed practical nurses, medical assistants, and access associates who make up the remainder of employees at the urgent care centers.

A Hearing Officer for the Board conducted a hearing on April 21, 2026. The Board has delegated to me its authority in this proceeding under Section 3(b) of the Act. I find that the hearing officer's rulings are free from prejudicial error and hereby affirm them. I further find that the Employer is engaged in commerce within the meaning of the Act;<sup>1</sup> it will effectuate the purposes of the Act to assert jurisdiction; the Petitioner is a labor organization within the meaning of the Act; and a question affecting commerce exists concerning the representation of certain of the Employer's employees.

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<sup>1</sup> The Employer is a New York not-for-profit corporation with a principal location in Rochester, New York, and urgent care centers located in and around the Rochester, New York area. During the past 12 months, a representative period of its operations, the Employer derived gross revenues in excess of \$250,000 from the operation of its hospital and clinics and purchased and received goods valued in excess of \$5,000, which goods were shipped directly to the Employer's Rochester, New York area facilities from points located outside the State of New York.

Based on the record adduced at the hearing, I find that the registered nurses do not share a community of interest with the providers. Therefore, I find it is appropriate to exclude them from the bargaining unit.

## **I. Positions of Parties**

The Union argues that the registered nurses are professional employees and therefore should be included in the unit with the other professional employees of the Employer – the physicians, nurse practitioners, and physician assistants. The Employer contends that the registered nurses do not share a community of interest with the providers and should be excluded.

## **II. Summary of Record Evidence**

The Employer operates eleven urgent care centers in the Finger Lakes region of New York State. The urgent care centers are staffed by physicians, nurse practitioners, physician assistants, registered nurses, licensed practical nurses, medical assistants, and access associates. At the hearing, the Employer called Director of Operations for Urgent Care Joseph McCrae, Executive Director for the Department of Primary Care Dr. Jane Salomone, and Director of Nursing for Urgent Care Christian Gardner as witnesses. Registered nurse Rachel Pote and nurse practitioner Melissa Collier testified for the Union.

McCrae testified that urgent care serves as a bridge between emergency medicine and primary care, giving access to people who may not have access to their primary care provider in off hours while preventing people from having to resort to crowded emergency rooms. Witness testimony was broadly consistent about the workflow at the urgent care centers. Typically, a patient comes in and is greeted by the access associates. A registered nurse, licensed practical nurse, or medical assistant will call a patient back and ‘room’ them – escort them to a room and take information such as vitals, a medical history, and the chief complaint or reason the patient has come to urgent care on that occasion. Next, a provider sees the patient and assesses their condition. The provider makes a diagnosis, puts in any necessary orders, and writes the discharge instructions. On some occasions a nursing staff member may stay in the room with the provider, for example with a minor patient or to assist the provider. A registered nurse will typically administer the treatments or medications ordered by the provider and give the discharge instructions.

### **A. Physician**

Physicians at the Employer are salaried and typically work from 9:00 a.m. to 9:00 p.m. in three 12-hour shifts per week. They see patients, make diagnoses, order treatments and medications, and write discharge instructions. They are required to have an MD or DO and have completed a family or emergency medicine residency. They must be licensed in New York State and have a certificate to prescribe medications. They are required to complete 50 hours of continuing medical education per year, maintain credentialing through both the Employer and the insurance companies, and maintain their privileges through their employing entities.

Physicians have a ‘home’ facility but are scheduled to work at facilities other than their home sites at least half the time if not more based on coverage needs. Physician scheduling is done

by a scheduling team consisting of practice manager Zachary Rulli and physician assistant Parker Remelt, both of whom, along with three other practice managers (responsible for daily on-site operations at the facilities) report to McCrae. McCrae reports up to Amanda Monaco, Vice President, Chief Administrative Officer of Primary Care, Ambulatory, and Clinical, who reports up to Dr. Salomone. Physicians are overseen by Medical Director Dr. Molly Dingwall, who also reports up to Dr. Salomone. Physicians' terms and conditions of employment are set via individual contracts with the Employer. They are subject to the same primary care department Rules and Regulations, including time and attendance and dress code policies, as the nurse practitioners and physician assistants. Physicians are evaluated annually via an ongoing professional practice evaluation (OPPE) performed by Dr. Dingwall.

## **B. Nurse Practitioner**

Nurse practitioners at the Employer are salaried and typically work from 9:00 a.m. to 9:00 p.m. in three 12-hour shifts per week. They are required to maintain their registered nurses license and must have a bachelor's degree in nursing and complete a master's level nurse practitioner program. They must renew their nurse practitioner certification every five years. They must renew their registered nurse and nurse practitioner licenses through New York State every three years. Nurse practitioners take the same 50 hours of annual continuing medical education as physicians and are subject to the same privileging and credentialing process as physicians and physician assistants.

Also like physicians and physician assistants, nurse practitioners have a home facility but are scheduled to work at other facilities upwards of 50 percent of the time. Their scheduling is done by the same scheduling team as the physicians. They are also overseen by Dr. Dingwall, also enter into individual contracts with the Employer, and are subject to the same Rules and Regulations, including dress code and time and attendance, as physicians and physician assistants. Nurse practitioners are what the Employer calls 'advance practice practitioners' which means they can perform all the same workplace duties as physicians. They see patients, make diagnoses, order treatments and medications, and write discharge instructions. Nurse practitioners are also evaluated by the same OPPE as physicians.

## **C. Physician Assistant**

Physician assistants at the Employer are required to have a bachelor's degree and to have graduated from an approved physician assistant program. They must have an active New York State physician assistant license. They are subject to the same credentialing and privileging as the Employer's physicians and nurse practitioners and fulfill the same 50 annual hours of continuing medical education. They are also salaried and work the same schedule as the physicians and nurse practitioners – three 12-hour shifts per week, from 9:00 a.m. to 9:00 p.m., with 50 percent or less of that time spent at a home facility. Their terms and conditions of employment are also set by individual contracts with the Employer, and they are subject to the same primary care department

Rules and Regulation, time and attendance, and dress code policy as the physicians and nurse practitioners.<sup>2</sup>

Physician assistants are also overseen by Dr. Dingwall. Like nurse practitioners, the physician assistants are ‘advance practice practitioners’ who can perform all the same duties as physicians in the Employer’s urgent care facilities. They see patients, make diagnoses, order treatments and medications, and write discharge instructions. Physician assistants are evaluated via the same OPPE as physicians and nurse practitioners.

#### **D. Registered Nurse**

The Employer has four levels of registered nurse – RN I through IV. Registered nurse I, II, and III are required to have an associate’s degree in nursing and be registered by the State of New York as a professional nurse. Registered nurse IV is required to have a bachelor’s degree in nursing. The Employer also employs one nurse educator who is also required to have a bachelor’s degree. Registered nurses do not have to satisfy the credentialing, privileging, or continuing medical education requirements that the providers do. Registered nurses are scheduled by assistant nurse manager Amy VerHulst. Registered nurses are assigned a home facility. They do float to other facilities based on scheduling needs, but typically about 75 percent of their time or more is spent at their home facility. Registered nurses work 8:30 a.m. to 9:00 p.m. Monday through Friday, and 9:30 a.m. to 8:00 p.m. Saturday and Sunday. They are hourly employees and are eligible for overtime. They do not have individual contracts with the Employer, and they accrue leave as opposed to being granted a certain number of weeks like the advance practice providers. They are subject to the professional attire guidelines governing the nursing staff (as are licensed practical nurses and medical assistants), which are different than the requirements for providers.

Registered nurses are responsible for rooming patients, taking vitals and a medical history, and learning the patient’s chief complaint. They then relay that information to the provider either in person or electronically. The provider then sees the patient, assesses them, and orders treatment or medication. Registered nurses have the ability to order some treatments, like a urine dip, that are completed at the facility at the time of a patient’s visit. These registered nurse orders are co-signed by the provider, although the testing might already be done by the time the provider actually co-signs the order. While a registered nurse can assess a patient, they cannot make a diagnosis or come up with a treatment plan – only a provider may do those duties. After a provider diagnoses a patient and orders treatment, a registered nurse is responsible for administering whatever medication was ordered. Registered nurses also administer the discharge orders written by the provider. Registered nurses perform the same duties regardless of whether the provider is a physician, nurse practitioner, or physician assistant.

Like providers, registered nurses can push IV medication, read tuberculosis tests, and may assess, meaning they can interpret vital signs. Licensed practical nurses and medical assistants cannot do these tasks. However, if no registered nurse is present at a facility it can still operate.

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<sup>2</sup> The physician assistants and nurse practitioners get the same four weeks’ paid vacation, one week paid continuing medical education time, and continuing medical education allowance as nurse practitioners. The physicians have different standards for those benefits.

Indeed, certain urgent cares do not staff registered nurses on a day-to-day basis. On the other hand, without a provider – whether physician, nurse practitioner, or physician assistant – an urgent care facility would not be able to operate.

Nurse practitioner Melissa Collier, who was previously employed by the Employer as a registered nurse, testified that as a nurse practitioner she uses a different skill set. Where a registered nurse can assess, one would not make a diagnosis or come up with a treatment plan the way a nurse practitioner would. Nor can a registered nurse prescribe medication. The overlap in the positions comes, Collier testified, where she as a nurse practitioner might give her patient their discharge instructions if she had time, but a registered nurse, LPN, or medical assistant would do it otherwise. Or, if the nursing staff was busy, Collier might call a patient with a test result.

### **E. Other Positions**

In addition to registered nurses, the Employer’s urgent care nursing staff includes licensed practical nurses and medical assistants. No party contends that these employees should be included in the bargaining unit. Like the registered nurses, these positions report up through the nursing chain of command. They are subject to the same dress code and other policies as the registered nurses and are similarly hourly employees entitled to overtime and who accrue leave. They are evaluated in the same manner as the registered nurses. Licensed practical nurses and medical assistants are responsible for the same rooming and other job responsibilities as registered nurses, although they are not able to push IV medications, make assessments based on vital signs, or read tuberculosis tests. Collier testified that as a provider, she interacts in the same manner with registered nurses, licensed practical nurses, and medical assistants.

## **III. Community of Interest**

### **A. Legal Standard**

In *American Steel Construction, Inc.*, 372 NLRB No. 23 (2022), the Board overruled *PCC Structurals, Inc.*, 365 NLRB No. 160 (2017) and reinstated *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB 934 (2011). The *American Steel* Board held that:

[T]he Board will once again approve a petitioned-for “subdivision” of employee classifications if the petitioned-for unit: (1) shares an internal community of interest; (2) is readily identifiable as a group based on job classifications, departments, functions, work locations, skills, or similar factors; and (3) is sufficiently distinct.

In assessing the appropriateness of any proposed unit, the Board considers such community of interest factors as employee skills and functions, degree of functional integration, interchangeability and contact among employees, and whether the employees have common supervision, work sites, and other working terms and conditions. *American Steel*, supra; *United Operations, Inc.*, 338 NLRB 123 (2002).

## **B. Analysis**

The providers and registered nurses have some similar or overlapping skills and functions, but overall, this factor weighs against finding a community of interest. The providers, whether physician, nurse practitioner, or physician assistant, all perform the same duties in the Employer's urgent care setting: make diagnoses, prescribe medications and treatments, and write discharge instructions. In order to perform these duties, they must have a bachelor's degree along with an advanced degree – physicians must have an MD or DO, nurse practitioners and physician assistants must have master's level degrees in their respective fields. They are required to maintain certifications and privileges at various facilities. They must complete 50 hours of continuing medical education annually.

By contrast, most registered nurses employed by the Employer do not need a bachelor's degree. They maintain their registration as nurses, but do not have the kind of privileging requirements as the providers. Nor do they need to complete continuing medical education. Registered nurses cannot make diagnoses, prescribe medications and treatments, or write discharge instructions. Their duties include rooming patients, ordering in-house testing, and giving discharge instructions written by providers. Registered nurses can push IV medications and read tuberculosis tests, duties that the Employer's licensed practical nurses and medical assistants cannot do but the providers could. Those duties plus ordering in-house testing that is co-signed by a provider are the only duties that the other nursing staff does not perform. And, while providers could do those tasks, they are typically performed by registered nurses. The evidence demonstrates little overlap in the skills and functions of the providers and registered nurses. Therefore, this factor weighs against finding a community of interest.

There is very little functional integration between the providers and the registered nurses. The two groups work closely together given the nature of the urgent care setting: each facility is staffed by providers and nursing staff who work in tandem to provide care to patients. But they do not perform each other's job duties. Indeed, a registered nurse cannot perform the job duties of a provider or fill in for an absent provider.

There is very little interchangeability between the registered nurses and the providers. While a provider might give a patient discharge instructions or call with a test result, and a registered nurse could order certain in-house tests or push an IV medication, the overlap is minimal. Providers are responsible for making diagnoses, ordering medications and treatments, and writing discharge instructions. Registered nurses cannot perform those duties. Whereas physicians, nurse practitioners, and physician assistants are interchangeable, a registered nurse cannot fill in for an absent provider. And while a provider is able to perform any task a registered nurse can do, they typically would not. Instead, licensed practical nurses and medical assistants are the employees who would do most of the same tasks as the registered nurses, aside from pushing IV medication, ordering in-house tests, and reading tuberculosis tests. The limited interchange between the registered nurses and the providers weighs against finding a community of interest.

There is contact among the employees, given the nature and configuration of the urgent care setting. Registered nurses and providers work closely to provide care, and in some facilities they share a workstation. This factor weighs in favor of a community of interest finding.

The providers and registered nurses do not have common supervision. Physicians are overseen and their annual evaluations are done by the Employer's Medical Director Dr. Dingwall who in turn reports to Dr. Salomone, the Executive Director of the Department of Primary Care. Nurse practitioners and physician assistants are also evaluated and overseen by supervisory advance practice providers or Dr. Dingwall. Registered nurses report up through the nursing chain of command to Gardner, the Director of Nursing for Urgent Care, who in turn reports to Tiffany Smith, Associate Chief Nursing Officer. They are evaluated by their direct supervisor as well as a peer. The lack of common supervision between providers and registered nurses weighs against finding a community of interest.

The providers and registered nurses share common work sites in that they all work across the Employer's urgent care facilities. Some of the urgent care facilities have separate workstations for the providers and registered nurses, while others have a single area that both providers and registered nurses use. Both registered nurses and providers go in and out of the patient rooms. The record generally reflects common work sites, weighing in favor of a community of interest.

The registered nurses and providers have dissimilar terms and conditions of employment. There are some dissimilarities even among the providers – for example, physicians do not get the same CME time benefits and vacation leave as the nurse practitioners and physician assistants, presumably because they are compensated at a higher rate. Even so, the providers as a whole have fairly standard terms and conditions of employment: they are salaried employees. They sign individual contracts and are subject to the same rules and regulations, time and attendance, and dress code policy. They are scheduled to the same schedules and by the same scheduling team. They report to the same supervisory structure.

By contrast, the registered nurses are hourly and accrue overtime and leave. They are subject to different time and attendance and dress code policies than providers. They are scheduled separately from providers and work different hours. They report up a different supervisory chain of command. They are evaluated by different managers and on different bases than providers. Registered nurses attend different trainings than the providers do. Overall, the differences in terms and conditions between the registered nurses and providers weighs against finding a community of interest.

Because a majority of the factors evaluated above weigh against it, I do not find that the registered nurses share a community of interest with the providers. Therefore, they shall be excluded from the bargaining unit.

#### **IV. Conclusion**

Consistent with the precedent set forth herein, I find that the following unit is appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act, and I order that it proceed to an election:

**INCLUDED:** All full-time, regular part-time and per diem<sup>3</sup> Physicians, Physician Assistants, and Nurse Practitioners employed by the Employers at their Finger Lakes Region Urgent Care centers located at 8103 Oak Orchard Rd., Batavia NY 14020; 3170 Chili Ave. Suite T1A, Rochester, NY 14624; 2745 W. Ridge Rd., Rochester, NY 14626; 4302 Gateway Dr., Geneseo, NY 14454; 2685 E. Henrietta Rd., Henrietta, NY 14467; 1881 Monroe Ave., Rochester, NY 14618; 1425 Portland Ave., Rochester, NY 14621; 1065 Ridge Rd., Webster, NY 14580; 2200 Penfield Rd., Penfield, NY 14526; 65 Genesee St., Rochester, NY 14611; and 833 Canandaigua Rd., Geneva, NY 14456.

**EXCLUDED:** Registered Nurses, confidential employees, guards, managers, and supervisors as defined by the Act, and all other employees.

### **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 Rochester Union of Nurses and Allied Professionals.

#### **A. Election Details**

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 03, on **Tuesday, June 16, 2026, at 2:00 p.m.** Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 03 Buffalo office by close of business on **Tuesday, July 7, 2026.** The mail ballots will be opened and counted via videoconference at 3:00 p.m. EST on **Wednesday, July 8, 2026.**

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 void.

If any **eligible voter** does not receive a mail ballot or otherwise requires a duplicate mail ballot kit, the **eligible voter** should contact Region 03 office by no later than the close of business on **Monday, June 29, 2026,** in order to arrange for another mail ballot kit to be sent to that employee.

If the election and/or count is postponed or canceled, the Regional Director, in her discretion, may reschedule the date, time, and place of the election.

#### **B. Voting Eligibility**

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<sup>3</sup> Per diem employees who have worked an average of four (4) hours or more per week during the thirteen (13) weeks immediately preceding the eligibility date for the election are eligible to vote

Eligible to vote are those in the unit who were employed during the payroll period ending **Saturday, May 16, 2026**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

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

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

### **C. Voter List**

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

To be timely filed and served, the list must be *received* by the regional director and the parties by **June 2, 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.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

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

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

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

#### **D. Posting of Notices of Election**

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

#### **RIGHT TO REQUEST REVIEW**

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

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review. Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: May 29, 2026

/s/ Linda M. Leslie

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LINDA M. LESLIE  
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