Peak Vista Community Health Centers *and* Union of American Physicians and Dentists Affiliated American Federation of State, County and Municipal Employees, AFL–CIO. Case 27–CA360180

June 3, 2026

DECISION AND ORDER

BY CHAIRMAN MURPHY AND MEMBERS PROUTY AND MAYER

This is a refusal-to-bargain case in which Peak Vista Community Health Centers (the Respondent) is contesting the certification of Union of American Physicians and Dentists Affiliated American Federation of State, County and Municipal Employees, AFL–CIO (the Union) as bargaining representative in the underlying representation proceeding. Pursuant to a charge filed on February 12, and amended on February 21, 2025, by the Union, the General Counsel issued a complaint on March 12, 2025, alleging that the Respondent has violated Section 8(a)(5) and (1) of the Act by failing and refusing to recognize and bargain with the Union following the Union's certification in Case 27–RC–349077.[1] (Official notice is taken of the record in the representation proceeding as defined in the Board's Rules and Regulations, Sections 102.68 and 102.69(d). *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint and asserting affirmative defenses.

On July 10, 2025, the General Counsel filed a Motion for Summary Judgment. On July 15, 2025, the Union filed a Joinder in Motion for Summary Judgment. On April 30, 2026, the Board issued an Order Transferring the Proceeding to the Board and a Notice to Show Cause why the motion should not be granted. On May 14, 2026, the Respondent filed a response to the Notice to Show Cause.

Ruling on Motion for Summary Judgment

The Respondent admits that it has refused to bargain but asserts that it has no duty to bargain and contests the validity of the Union's certification of representative based on its contention, raised and rejected in the underlying representation proceeding, that the Regional Director erred in excluding dental providers from the unit.[2]

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor has it established any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue

[1] The Respondent's answer denies knowledge or information sufficient to form a belief concerning the date the Union filed the charges. Copies of the charges and the affidavits of service of the charges are included in the documents supporting the General Counsel's motion, and the Respondent does not refute the authenticity of these documents.

[2] In its answer, the Respondent denies pars. 5, 6(c), and 6(d) of the complaint, which state that the unit is appropriate for the purposes of collective bargaining within the meaning of Sec. 9(b) of the Act and that at all times since January 13, 2025, based on Sec. 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit. The Respondent also denies pars. 8 and 9 of the complaint, which allege that the Respondent's failure to recognize and bargain with the Union violated Sec. 8(a)(5) and (1) of the Act, and that its unfair labor practices affect commerce within the meaning of Sec. 2(6) and (7) of the Act. The Respondent asserts, as an affirmative defense and in its response to the Notice to Show Cause, that the unit certified in the representation proceeding is inappropriate because it excludes dental providers and, as a result, the Respondent has no obligation to bargain with the Union. The appropriateness of the unit was fully litigated and resolved in the underlying representation proceeding. Accordingly, we conclude that the Respondent's denials of the allegations in pars. 5, 6(c), 6(d), 8, and 9 of the complaint, its second affirmative defense, and its response to the Notice to Show Cause do not raise any issues warranting a hearing.

We find no merit to the constitutional claims raised in the Respondent's answer. As to its arguments regarding Board member and administrative law judge insulation from presidential oversight, there is no evidence that the Respondent suffered any harm from the Act's removal protections. See *SJT Holdings, Inc.*, 372 NLRB No. 82, slip op. at 1 fn. 4 (2023) (citing *Collins v. Yellen*, 594 U.S. 220, 257-258 (2021), and *Calcutt v. FDIC*, 37 F.4th 293, 316 (6th Cir. 2022), rev'd per curiam on other grounds 598 U.S. 623 (2023)); *K & R Contractors, LLC v. Keene*, 86 F.4th 135, 148–149 (4th Cir. 2023) ("[R]egardless of how we answer the constitutional question presented by the removal provisions, we would be required to deny the petition because K & R has not asserted any harm resulting from the allegedly unconstitutional statutes.").

The Respondent asserts in its answer that a hearing in this matter would violate its right to a jury trial under the Seventh Amendment to the Constitution. This argument is unpersuasive. The Supreme Court has considered, and rejected, that the Act implicates the Seventh Amendment. See *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1, 48–49 (1937); see also *Atlas Roofing Co. v. OSHRC*, 430 U.S. 442, 453-55 (1977) (reaffirming that the Act created a public right and that Congress could therefore assign the adjudication of that right to the Board without violating the Seventh Amendment).

Finally, the Respondent pleads that the complaint fails to state a claim upon which relief can be granted; that no remedy is appropriate because the Respondent has not committed an unfair labor practice; and that the remedies requested in the complaint are punitive, inappropriate, non-remedial, and beyond the authority of the Board to order under Sec. 10(c) of the Act. The Respondent has not, however, offered any explanation or evidence to support these bare assertions. Thus, we find that these affirmative defenses are insufficient to warrant denial of the General Counsel's Motion for Summary Judgment. See, e.g., *Sysco Central California, Inc.*, 371 NLRB No. 95, slip op. at 1 fn. 1 (2022); *Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino*, 366 NLRB No. 58, slip op. at 1 fn. 1 (2018), enfd. sub nom. *Operating Engineers Local 501 v. NLRB*, 949 F.3d 477 (9th Cir. 2020).

that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.[3]

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent has been a Colorado non-profit corporation with principal offices and facilities in Colorado Springs, Limon, Strasburg, Fountain, Flagler, and Divide, Colorado, and has been engaged in the operation of community health centers.

Annually, the Respondent, in conducting its operations described above, derived gross revenue in excess of $250,000 and purchased and received goods valued in excess of $5000 which goods were shipped directly to the Respondent's Colorado facilities from points outside the State of Colorado.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and the Union is a labor organization within the meaning of Section 2(5) of the Act.

I. ALLEGED UNFAIR LABOR PRACTICES

A. The Certification

Following an election conducted by mail ballot between December 5, 2024, and January 2, 2025, the Regional Director issued a Certification of Representative in Case 27–RC–349077 on January 13, 2025, certifying the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

> All full-time, and regular part-time Physicians, Physician Assistants, Pediatricians, Nurse Practitioners, OB GYN Physicians, Certified Nurse Midwives, Physician-Psychiatrists, and Psychiatric Nurse Practitioners employed by the Employer at its Colorado facilities, but excluding all Dentists, Registered Dental Hygienists, Psychologists, Professional Counselors, Licensed Clinical Social Workers, Marriage/Family therapists, office clerical employees, guards, and supervisors as defined by the Act.

On April 23, 2026, the Board denied the Respondent's request for review of the Regional Director's Decision and Direction of Election. The Union continues to be the exclusive collective-bargaining representative of the unit employees under Section 9(a) of the Act.

B. Refusal to Bargain

On about February 3 and 5, 2025, the Union requested that the Respondent bargain with the Union as the exclusive collective-bargaining representative of the unit. Since about February 3, 2025, and continuing to date, the Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit.

We find that the Respondent's conduct constitutes an unlawful failure and refusal to recognize and bargain with the Union in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By failing and refusing since about February 3, 2025, to recognize and bargain with the Union as the exclusive collective-bargaining representative of the employees in the appropriate unit, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning on the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); accord *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965); *Lamar Hotel*, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964).[4]

---

[3] The Respondent's request that the complaint be dismissed is therefore denied.

[4] The General Counsel's and the Union's requests for additional remedies are denied as the Board's traditional remedies are sufficient to remedy the unfair labor practice found herein.

For the reasons stated in his dissent in *Longmont United Hospital*, 374 NLRB No. 52 (2026), in his concurrence in *CP Anchorage Hotel 2 d/b/a Hilton Anchorage*, 371 NLRB No. 151 (2022), enfd. 98 F.4th 314 (D.C. Cir. 2024), and in order to effectuate Sec. 10(c) of the Act, Member Prouty would grant the General Counsel's requests for a notice reading and distribution. While he reiterates his view that notice reading and distribution should be standard for all unfair labor practices found by the Board, he also notes that these remedies are particularly appropriate where, as here, employees have been deprived of the benefit of their chosen representative because of the Respondent's unlawful refusal to bargain. In addition, Member Prouty would grant the General Counsel's request for a bargaining schedule. See *Longmont United Hospital*, supra, slip op. at 3 (Member Prouty dissenting) (contending that a notice reading and bargaining schedule are appropriate remedies where an employer unlawfully refuses to bargain on grounds that it is challenging the union's certification).

ORDER

The National Labor Relations Board orders that the Respondent Peak Vista Community Health Centers, Colorado Springs, Colorado, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to recognize and bargain with Union of American Physicians and Dentists Affiliated American Federation of State, County and Municipal Employees, AFL–CIO (the Union) as the exclusive collective-bargaining representative of the employees in the bargaining unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

> All full-time, and regular part-time Physicians, Physician Assistants, Pediatricians, Nurse Practitioners, OB GYN Physicians, Certified Nurse Midwives, Physician-Psychiatrists, and Psychiatric Nurse Practitioners employed by the Employer at its Colorado facilities, but excluding all Dentists, Registered Dental Hygienists, Psychologists, Professional Counselors, Licensed Clinical Social Workers, Marriage/Family therapists, office clerical employees, guards, and supervisors as defined by the Act.

(b) Within 14 days after service by the Region, post at its Colorado facilities copies of the attached notice marked "Appendix."[5] Copies of the notice, on forms provided by the Regional Director for Region 27, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 3, 2025.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 27 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. June 3, 2026

_____

James R. Murphy, Chairman

_____

David M. Prouty, Member

_____

Scott A. Mayer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to recognize and bargain with Union of American Physicians and Dentists Affiliated American Federation of State, County and Municipal

[5] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Employees, AFL–CIO (the Union) as the exclusive collective-bargaining representative of our employees in the bargaining unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the following appropriate bargaining unit:

> All full-time, and regular part-time Physicians, Physician Assistants, Pediatricians, Nurse Practitioners, OB GYN Physicians, Certified Nurse Midwives, Physician-Psychiatrists, and Psychiatric Nurse Practitioners employed by the Employer at its Colorado facilities, but excluding all Dentists, Registered Dental Hygienists, Psychologists, Professional Counselors, Licensed Clinical Social Workers, Marriage/Family therapists, office clerical employees, guards, and supervisors as defined by the Act.

PEAK VISTA COMMUNITY HEALTH CENTERS

The Board's decision can be found at www.nlrb.gov/case/ 27-CA-360180 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.