

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

**PROVIDENCE REGIONAL MEDICAL CENTER
EVERETT**

Employer

and

**THE PHARMACY GUILD/INTERNATIONAL
ASSOCIATION OF MACHINISTS AND AEROSPACE
WORKERS**

Case 19-RC-387865

Petitioner

DECISION AND DIRECTION OF ELECTION

Petitioner seeks to represent a unit of inpatient pharmacists employed by the Employer at its medical center campuses in Everett, Washington. The Employer maintains that the unit sought by Petitioner is not appropriate because it contends the petitioned-for pharmacists should be given an opportunity to vote on inclusion in an existing professional unit and the petitioned-for unit is fractured because it excludes other pharmacists.

A hearing officer of the National Labor Relations Board (“Board”) held a videoconference hearing on June 8, 2026. The Union timely filed a post-hearing brief. The Employer filed a brief a day after the deadline set for briefs, without having first filed a request for an extension; I therefore am disregarding that late-filed brief. As explained below, based on the record and relevant Board law, I find that the unit sought by Petitioner is not appropriate because it excludes other unrepresented professionals, specifically, other pharmacists. I am directing an election in a unit of all full-time and regular part-time pharmacists employed by the Employer at its medical center in Everett.

I. THE EMPLOYER’S OPERATION

At issue here are the campuses of an Everett, Washington, acute-care hospital. The main campus, referred to as the Colby campus, is a complex bounded on the west by Colby Avenue, on the east by Oakes Avenue, on the north by 13th Street, and on the south by 14th Street. Its satellite campus, referred to as the Pacific campus, is located on Pacific Avenue about 2 ½ miles from the Colby campus. (I take administrative notice of these streets and distances, taken from Google Maps.) The hospital is a 575-bed, level-II trauma center. About 4,300 employees work at the campuses of this hospital.

The Employer’s pharmacists work in three pharmacy departments: inpatient, serving patients who have been admitted to the hospital; ambulatory care, serving patients who visit

hospital outpatient clinics; and retail, serving walk-up customers at the hospital's retail pharmacies. A single high-level manager oversees all pharmacy services, covering the three departments. Below this level, the three departments are separately supervised; each department is headed by a director. There are about 44 in-patient pharmacists and 28 ambulatory care and retail pharmacists.

All three types of pharmacists perform the same function of preparing, dispensing and managing medications. The Employer applies the same job descriptions—clinical pharmacist, clinical pharmacist specialist, or senior pharmacist—to all three types. All three types of pharmacists are required to pass a national board exam and possess a Washington state license. Inpatient pharmacists are also required to have completed at least a one-year post-graduate residency; there is no such requirement for ambulatory and retail pharmacists, although one-year of post-graduation work experience is required. The hospital hosts two residency programs to train pharmacists, an inpatient program and an ambulatory program. Senior pharmacists from the respective departments serve as preceptors, or clinical trainers, within the two residency programs.

Inpatient pharmacists use, in their daily work, specialized technology and equipment for tracking medications and ensuring that the correct medication is rapidly delivered from a central hospital inpatient pharmacy to patients throughout the large hospital campuses. Ambulatory and retail pharmacy do not use these same tracking and dispensing systems.

As the inpatient pharmacy department is staffed 24 hours a day, 7 days a week, the inpatient pharmacists work in 'round-the-clock shifts, including on weekends and holidays. Ambulatory and retail pharmacists do not work weekends, holidays, or nights. There is no cross-staffing among the three departments.

The inpatient, ambulatory care, and retail pharmacists work in separate spaces and have little daily contact. The only regular contact between them is during a daily inpatient pharmacist huddle, which one ambulatory care pharmacist attends in order to pass information between the inpatient and ambulatory care pharmacy departments.

All three types of pharmacists are paid based on the same wage scale.

II. HISTORY OF COLLECTIVE BARGAINING

Many of the Employer's Everett hospital employees are already represented by unions. United Food and Commercial Workers Local 3000 ("UFCW") has represented a unit of the Employer's professional employees since 2013. Although the original 2013 certification of UFCW as the bargaining representative for this unit included pharmacists, the most recent collective bargaining agreement between UFCW and the Employer specifies pharmacists as excluded from that unit, and UFCW and the Employer agree that pharmacists have always been excluded from this unit through collective bargaining. In March 2022, through a self-determination election, the Employer's dieticians were added to this unit, and in May 2022, palliative care social workers, case managers, discharge planners, and recreation therapists were added. The list of classifications in this unit is extensive, and there is no evidence in the record that the Employer employs any non-represented professionals other than pharmacists.

UFCW was given an opportunity to intervene in this matter but declined to do so. Its representative indicated in writing that it had no current interest in representing the pharmacists.

The Petitioner stated at hearing that, if I found the petitioned-for unit inappropriate, it was willing to go forward to an election among all pharmacists. It has a sufficient showing of interest in this expanded unit.

III. ANALYSIS

In 1987, the Board promulgated regulations, dubbed the Health Care Rule, to prevent the proliferation of units in acute-care hospitals. 29 CFR § 103.30. Under this Health Care Rule, in acute care, only eight types of units are appropriate, except in extraordinary circumstances or where there are existing non-conforming units. 29 CFR § 103.30(a). The eight types are 1) all registered nurses, 2) all physicians, 3) all professionals except 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 remaining nonprofessional employees. *Id.* In the case of a petition for an additional unit in a hospital where there are existing non-conforming units, the Rule directs the Board to find a new unit appropriate if it comports with one of those 8 types “insofar as practicable.” 29 CFR § 103.30(c). This exception for existing non-conforming units applies even to units that came into existence after the Health Care Rule’s effective date. *Saint Joseph Health Sys. Inc.*, 373 NLRB No. 78, slip. op at 2 n.6 (2024)) Because pharmacists typically must have at least a college degree and have a state license, they are considered professionals and included in professional units. *See, e.g., McLean Hosp. Corp.*, 311 NLRB 1100 (1993).

The Board also has a longstanding doctrine regarding groups of employees omitted from established bargaining units. A petitioned-for unit of such employees is appropriate only if the group of employees is separate and distinct from the established unit such that it could constitute a separate appropriate unit or if it is “residual,” that is, “it includes all unrepresented employees of the type covered by the petition.” *Fleming Foods*, 313 NLRB 948, 949 (1994); *see also G.L. Milliken Plastering*, 340 NLRB 1169 (2003); *Carl Buddig & Co.*, 328 NLRB 929 (1999). The Board will not entertain an incumbent union’s petition to represent a new unit of the same type it already represents, and instead the incumbent must seek to represent additional employees by adding them to an existing unit. *Budd Co.*, 154 NLRB 421, 428 (1965). A non-incumbent union may represent a unit of employees who have been omitted from an existing bargaining unit, but only if the unit is properly residual, that is, it includes all unrepresented employees of the type petitioned for. *G.L. Milliken Plastering*, 340 NLRB at 1170.

The Board first addressed the interplay between the Health Care Rule and the residual unit doctrine in a 1992 case involving a hospital where various unions represented skilled maintenance workers in five different units. *St. John’s Hosp.*, 307 NLRB 767 (1992). An incumbent union petitioned for a sixth unit, of some but not all of the remaining unrepresented maintenance employees. *Id.* The Board found that the petitioned-for separate unit would be inappropriate and cause potential further proliferation of units, both because it included only a portion of the remaining skill maintenance employees and because the petitioning union already represented a skilled maintenance unit. *Id.* at 768. Conversely, in *St. Vincent Charity Medical Center*, 357 NLRB 854 (2011), the Board allowed an incumbent union to seek to add a group of phlebotomists to an existing unit of technical, non-professional, skilled maintenance, and business office clerical

employees at the employer's acute care hospital, even though this would leave some remaining employees unrepresented. The Board found that this was appropriate because a self-determination election to add employees to an existing unit does not result in the creation of any additional units, thus avoiding proliferation of units. *Id.* at 855.

Non-incumbent unions in acute healthcare settings, on the other hand, may represent new units of employees who are residual to existing units: In *St. Mary's Duluth Clinic Health System*, 332 NLRB 1419 (2000), the Board held that a non-incumbent union could represent a separate residual unit of employees in an acute care hospital that was residual to an existing non-conforming unit, that is, it included all of the remaining unrepresented employees in one of the eight Health Care Rule types.

IV. APPLICATION OF BOARD LAW TO THE FACTS OF THIS CASE

Here, a non-incumbent union petitions to represent some but not all of the remaining professional employees at an acute-care hospital. The incumbent union has declined interest in seeking to represent these employees, so a self-determination election to add these employees to an existing unit cannot take place. Under the case law above, the petitioned-for separate unit is not an appropriate residual unit, because it does not include all the unrepresented professionals. An election in a unit of all the identified remaining unrepresented professionals comports with the Health Care Rule's directive to avoid undue proliferation of units and Board case law, and the Petitioner is willing to proceed to such an election. I am therefore ordering such an election.

V. CONCLUSION

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain professional employees of the Employer. UFWC represents certain other professional employees of this Employer but has declined to intervene.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

¹ The Employer, a State of Washington corporation, operates an acute care hospital in Everett, Washington, with three campuses. During the last twelve months, a representative period of time, the Employer had gross revenues in excess of \$250,000, and purchased and received at its facilities within the State of Washington goods and materials valued in excess of \$50,000 directly from points outside the State of Washington.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All full-time, regular part-time, and per-diem Pharmacists, including Clinical Pharmacists, Senior Clinical Pharmacists, Clinical Pharmacy Specialists, and Lead Clinical Pharmacists, employed by the Employer at Providence Regional Medical Center Everett located in Everett, Washington.

Excluded: Pharmacy Managers, Clinical Pharmacy Managers, Clinical Pharmacy Supervisors, Pharmacy Residents, Pharmacy Interns, Pharmacy Technicians, Pharmacy Technician Supervisors, employees represented by other labor organizations, office clerical employees, all other employees, and guards and supervisors as defined by the Act.

There are approximately 72 employees in this unit.

A. Election Details

The election will be held on **Tuesday, July 28, 2026**. The Notice of Election will be issued subsequently to the determination of time and place for polling.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Also eligible to vote are all employees in the unit who have worked an average of four (4) hours or more per week during the 13 weeks immediately preceding the eligibility date for the election.

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 **Monday, July 6, 2026**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.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. 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 to be issued subsequently, 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, 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: Wednesday, July 1, 2026



Ronald K. Hooks, Regional Director
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