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Rhode Island CVS Pharmacy LLC and The Pharmacy Guild, International Association of Machinists and Aerospace Workers, AFL–CIO. Cases 01–CA–365034, 01–CA–365068, and 01–CA–365093

August 5, 2026

DECISION AND ORDER

BY CHAIRMAN MURPHY AND MEMBERS PROUTY
AND MAYER

This is a refusal-to-bargain case in which Rhode Island CVS Pharmacy LLC (the Respondent) is contesting the Union’s certification as bargaining representative in three underlying representation proceedings. Pursuant to charges filed on May 5, 2025, by The Pharmacy Guild, International Association of Machinists and Aerospace Workers, AFL–CIO (the Union), the General Counsel¹ issued a consolidated complaint (the complaint) on June 11, 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 01–RC–339980 (Wakefield unit), Case 01–RC–342728 (Westerly unit), and Case 01–RC–347138 (Middletown unit).² (Official notice is

¹ Although this case spans the transition from then-Acting General Counsel William B. Cowen to now General Counsel Crystal S. Carey, for simplicity, we use the term General Counsel throughout.

² In its answer to the complaint, the Respondent claims that it lacks sufficient information to admit or deny allegations related to the filing and service of the charges (pars. 1(a), 1(b), 2(a), 2(b), 3(a), and 3(b)). A copy of the charges and their affidavits of service are attached as Exhs. Q, R, S, T, U, and V to the General Counsel’s motion, showing the filing dates and service as alleged, and the Respondent has not contested the authenticity of those documents.

³ In its answer, the Respondent denies the complaint allegations that the bargaining units at its Westerly, Wakefield, and Middletown facilities are appropriate (pars. 5(a), 6(a), 7(a), and eleventh affirmative defense); that the Union has been certified as the exclusive collective-bargaining representative of those units (pars. 5(b), 6(b), 7(b)); that the Respondent has been failing and refusing to bargain collectively and in good faith with the Union at each of those locations in violation of Sec. 8(a)(5) and (1) of the Act (pars. 9–10); and that its unfair labor practices affect commerce within the meaning of Sec. 2(6) and (7) of the Act (par. 11). In its response to the Notice to Show Cause, the Respondent continues to argue that the Union’s certification in each of the units is invalid. Those denials and assertions do not raise any issues warranting a hearing. All representation issues were stipulated to and/or fully litigated and resolved in the underlying representation proceedings. And the Respondent admits, in its response to the Notice to Show Cause, that its intent is to test the certifications “before the Court of Appeals.” We do, however, correct the dates since which the Union has been the exclusive collective-bargaining representative of each unit to October 25, 2024 (Westerly unit), October 29, 2024 (Middletown unit), and February 6,

taken of the records in the representation proceedings 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 3, 2025, the General Counsel filed a Motion for Summary Judgment. On May 27, 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 June 10, 2026, the Respondent filed a Response to the Notice to Show Cause and Opposition to the General Counsel’s Motion for Summary Judgment.

Ruling on Motion for Summary Judgment

The Respondent denies that it has refused to bargain and asserts that it has no obligation to do so. Rather, it contests the validity of the Union’s certification of representative at the three CVS facilities involved in this case, asserting that the Westerly and Middletown units are inappropriate because they include statutory supervisors and asserting that the election in the Wakefield unit should be set aside based on the objectionable pro-union conduct of a supervisor.³

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceedings. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavail-

2025 (Wakefield unit), the dates the Regional Director issued the respective certifications of representative.

The Respondent’s answer also advances affirmative defenses, including that the allegations in the complaint are insufficient to state a violation of the Act; that it has not interfered with, restrained, or coerced any employee in the exercise of their rights under the Act; that it has acted in good faith and in reliance on Board and appellate court precedent; and that the relief sought is not provided for in the Act.

In addition, the Respondent’s affirmative defenses advance various constitutional claims, including that the Act’s removal restrictions on Board members and administrative law judges violate Article II of the Constitution; that a hearing would violate the Respondent’s rights under the Constitution’s Fifth and Seventh Amendments; that the Board unconstitutionally exercises legislative, executive, and judicial powers within the same administrative proceedings; that the Board’s procedures violate Sec. 10(b) of the Act and its due process rights under the United States and Rhode Island Constitutions; that the claims raised and the remedies sought exceed the Board’s authority, are punitive, contrary to precedent, and violate the Constitution; and that the Board lacks subject matter jurisdiction to decide the threshold constitutional matters raised in its answer.

The Respondent has not, however, offered any explanation or evidence to support its bare assertions. Thus, we find that they 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) (citing cases), enfd. sub nom. *Operating Engineers Local 501 v. NLRB*, 949 F.3d 477 (9th Cir. 2020).

able evidence, nor has it established any special circumstances that would require the Board to reexamine the decisions made in the representation proceedings. We therefore find that the Respondent has not raised any representation issue 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.⁴

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a division of CVS Health Corporation, has been a Delaware corporation with principal offices located in Woonsocket, Rhode Island and facilities in Westerly (the Westerly facility), Wakefield (the Wakefield facility), and Middletown (the Middletown facility), Rhode Island, where it has been engaged in the operation of retail pharmacies and general goods stores.

Annually, in conducting its operations described above, the Respondent derives gross revenues in excess of \$500,000 and purchases and receives at its facilities goods valued in excess of \$5000 directly from points outside the State of Rhode Island.

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 that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Certifications

1. Following an election conducted by secret ballot on May 23, 2024, the Regional Director for Region 1 issued a Decision Overruling Objections and Certification of Representative in Case 01–RC–339980 on February 6, 2025, certifying the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit (the Wakefield unit):

All full-time and regular part-time Staff Pharmacists and Night Pharmacists employed by the Employer at its Wakefield, Rhode Island facility (store #2065); but excluding pharmacy managers, pharmacy technicians, pharmacy interns, shift supervisors, store managers, managers, store associates, confidential employees, office clerical employees and guards, nonprofessional employees and supervisors as defined in the Act.

On May 6, 2026, the Board denied the Respondent's request for review of the Regional Director's Decision Overruling Objections and Certification of Representat-

ive. The Union continues to be the exclusive collective-bargaining representative of the employees in the Wakefield unit under Section 9(a) of the Act.

2. Following an election conducted by secret ballot on October 17, 2024, the Regional Director for Region 1 issued a Certification of Representative in Case 01–RC–342728 on October 25, 2024, certifying the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit (the Westerly unit):

All full-time and regular part-time pharmacists employed at the Employer's 151 Franklin St., Westerly, Rhode Island facility (store #1544), but excluding pharmacy managers, pharmacy technicians, pharmacy interns, store managers, store associates, confidential employees, managers and guards, and supervisors as defined in the Act.

On March 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 employees in the Westerly unit under Section 9(a) of the Act.

3. Following an election conducted by secret ballot on October 21, 2024, the Regional Director for Region 1 issued a Certification of Representative in Case 01–RC–347138 on October 29, 2024, certifying the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit (the Middletown unit):

All full-time and regular part-time pharmacists employed at the Employer's 99 E. Main Road, Middletown, Rhode Island facility (store #493); but excluding pharmacy managers, pharmacy technicians, pharmacy interns, store managers, store associates, confidential employees, managers and guards, and supervisors as defined in the Act.

On March 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 employees in the Middletown unit under Section 9(a) of the Act.

B. Refusal to Bargain

By email dated March 3, 2025, the Union requested that the Respondent bargain with the Union as the exclusive collective-bargaining representative of the Wakefield, Westerly, and Middletown units. Since about March 3, 2025, and continuing to date, the Respondent has failed

⁴ The Respondent's request that the complaint be dismissed is therefore denied.

and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of those units.

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 to recognize and bargain with the Union as the exclusive collective-bargaining representative of the employees in the appropriate Wakefield, Westerly, and Middletown units since about March 3, 2025, 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 signed agreements.

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 certifications 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).

ORDER

The National Labor Relations Board orders that the Respondent, Rhode Island CVS Pharmacy LLC, Woonsocket, Rhode Island, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to recognize and bargain with The Pharmacy Guild, International Association of Machinists and Aerospace Workers, AFL-CIO (the Union) as the exclusive collective-bargaining representative of the employees in the Wakefield, Westerly, and Middletown bargaining units.

(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 units concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in signed agreements:

The Wakefield unit:

All full-time and regular part-time Staff Pharmacists and Night Pharmacists employed by the Employer at its Wakefield, Rhode Island facility (store #2065); but excluding pharmacy managers, pharmacy technicians, pharmacy interns, shift supervisors, store managers, managers, store associates, confidential employees, office clerical employees and guards, nonprofessional employees and supervisors as defined in the Act.

The Westerly unit:

All full-time and regular part-time pharmacists employed at the Employer's 151 Franklin St., Westerly, Rhode Island facility (store #1544), but excluding pharmacy managers, pharmacy technicians, pharmacy interns, store managers, store associates, confidential employees, managers and guards, and supervisors as defined in the Act.

The Middletown unit:

All full-time and regular part-time pharmacists employed at the Employer's 99 E. Main Road, Middletown, Rhode Island facility (store #493); but excluding pharmacy managers, pharmacy technicians, pharmacy interns, store managers, store associates, confidential employees, managers and guards, and supervisors as defined in the Act.

(b) Within 14 days after service by the Region, post at its facilities in Wakefield, Westerly, and Middletown, Rhode Island, copies of the attached notice marked "Appendix."⁵ Copies of the notice, on forms provided by the Regional Director for Region 1, 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

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."

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 March 3, 2025.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 1 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. August 5, 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 The Pharmacy Guild, International Association of Machinists and Aerospace Workers, AFL-CIO (the Union) as the exclusive collective-bargaining representative

of our employees in the Wakefield, Westerly, and Middletown bargaining units.

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 agreements reached on terms and conditions of employment for our employees in the following appropriate bargaining units:

The Wakefield unit:

All full-time and regular part-time Staff Pharmacists and Night Pharmacists employed by the Employer at its Wakefield, Rhode Island facility (store #2065); but excluding pharmacy managers, pharmacy technicians, pharmacy interns, shift supervisors, store managers, managers, store associates, confidential employees, office clerical employees and guards, nonprofessional employees and supervisors as defined in the Act.

The Westerly unit:

All full-time and regular part-time pharmacists employed at the Employer's 151 Franklin St., Westerly, Rhode Island facility (store #1544), but excluding pharmacy managers, pharmacy technicians, pharmacy interns, store managers, store associates, confidential employees, managers and guards, and supervisors as defined in the Act.

The Middletown unit:

All full-time and regular part-time pharmacists employed at the Employer's 99 E. Main Road, Middletown, Rhode Island facility (store #493); but excluding pharmacy managers, pharmacy technicians, pharmacy interns, store managers, store associates, confidential employees, managers and guards, and supervisors as defined in the Act.

RHODE ISLAND CVS PHARMACY LLC

The Board's decision can be found at www.nlrb.gov/case/01-CA-365034 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.

