

**United Hospital Services, Inc. and Local 3017, AFL-CIO Laundry & Dry Cleaning International Union, and Local Union No. 135, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Joint-Petitioners.** Case 25-RC-3676

August 21, 1968

### DECISION AND ORDER

BY CHAIRMAN McCULLOCH AND MEMBERS  
FANNING, JENKINS, AND ZAGORIA

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Ralph R. Tremain, Hearing Officer of the National Labor Relations Board.<sup>1</sup> Thereafter, the Joint-Petitioners, herein referred to as Petitioner or Union, and the Employer, herein also referred to as UHS, filed briefs with the Board.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this case, the Board finds:

The Union seeks to represent all production and maintenance employees including truckdrivers of the Employer at its Indianapolis, Indiana, establishment, excluding all office clerical employees, professional employees, and all guards and supervisors, as defined by the Act. The Employer, in effect, urges that the petition should be dismissed on the grounds that the Board does not have, or in the alternative should not assert, jurisdiction.

UHS is a nonprofit corporation, providing laundry services to member hospitals, which must be either public hospitals or nonprofit, private hospitals.<sup>2</sup> At the time of the hearing there were six member hospitals.<sup>3</sup> UHS was conceived by the Indianapolis Hospital Development Association (IH

DA), a nonprofit organization of several hundred members (most of whom are board members of nonprofit hospitals) organized to aid in the planning and financing of hospital development in the Indianapolis area. In 1963, IHDA believed it would be more economical for the area hospitals to build a central cooperative laundry rather than add to existing laundry facilities or build new laundries separately. Prior to the creation of UHS most of the member hospitals had their own laundry facilities. UHS began active laundry service in November 1966. The board of directors is elected by member hospitals, the only voting members. There are three classes of members (similar to classes of stock): hospital members, associate hospital members, and individual members (an individual member is any person elected a director of the corporation). The hospital members elect the board of directors at the annual meeting. At the time of the hearing there were two representatives of each member hospital and five or six individual members on the board of directors.

In order to become a member hospital, a hospital must execute a membership agreement in which it warrants that it is either a public or nonprofit private hospital (or similar health facility). The agreement provides the hospital will use the UHS laundry service for substantially all its laundry requirements for a period of 10 years; charges for laundry service are to be fixed by the board of directors of UHS on the basis of UHS costs. The agreement provides for arbitration in the event of a dispute over quality of laundry service. If the deficiency is not corrected within 30 days, the hospital may terminate the agreement. On the other hand UHS may terminate the agreement if a hospital's warranties are no longer true, its status changes from a nonprofit private or public hospital, or it fails to comply with the articles of incorporation or bylaws of UHS.

The general manager (Osgood) of UHS is responsible to and reports directly to the board of

<sup>1</sup> Pursuant to the Board's Rules and Regulations, the Regional Director issued an order transferring the case to the Board for decision

<sup>2</sup> The UHS articles of incorporation provide in part

#### ARTICLE II—PURPOSES

*Section 1 In General* The purposes for which the corporation is formed are

(a) To establish, maintain and operate hospital laundry facilities for those public hospitals and nonprofit private hospitals or similar health facilities organized and operated exclusively for religious, charitable, scientific or educational purposes which become members of this corporation

*Section 2 Non-Profit Purpose* The Corporation is organized exclusively for the foregoing charitable, scientific and educational purposes as a non-profit corporation, and its activities shall be conducted for the foregoing purposes in such a manner so that no part of its net earning

shall inure to the benefit of any member, director, officer or individual. The corporation shall not engage in carrying on propaganda, or attempt in any other manner to influence legislation

#### ARTICLE VII—MEMBERSHIP

*Section 2 Hospital Members* Any public or non-profit private hospital (or similar health facility) organized and operated exclusively for religious, charitable, scientific or educational purposes located within [75] miles of Indianapolis, and which qualified with respect to quantity of service may become a Hospital Member of this corporation

The exact number of directors of the corporation as specified in the By-laws shall never be less than the number of Hospital Members at such time, plus three

<sup>3</sup> All of the hospitals involved are exempt from the Board's jurisdiction (i.e., they are not employers as defined in Section 2(2) of the Act)

directors. He hires, discharges, sets wage rates, and grants increases (within guidelines set by the board of directors), and sets hours, assigns work, determines overtime requirements, and purchases supplies.

Charges for laundry service to member hospitals are strictly on a cost basis, determined periodically by the board of directors.<sup>4</sup> Charges are made by the pound and the hospitals are expected to pay on a bimonthly basis. Although the record is not entirely clear, it appears that the price per pound is established by the board of directors upon the recommendation of the finance committee, which is composed of the controller of each member hospital and the UHS treasurer, and General Manager Osgood.

Although the Employer emphasizes that UHS was designed solely for hospital laundry and employs special equipment for this purpose, General Manager Osgood admitted that the actual laundry equipment used by UHS is no different from that utilized by commercial laundries. He did testify, however, that he knew of no other laundry that employed a positive-negative airflow system, this system prevents air from dirty areas from flowing into clean areas. He also testified that to his knowledge the stainless steel truck bodies and laundry carts, along with the special steam cleaning facilities utilized to keep these clean, were unique.

The hospitals maintain a high degree of control over UHS with respect to the quality of laundry serviced by means of the quality control committee (QCC) which is composed of representatives of each of the member hospitals. The QCC meets monthly at UHS for the purpose of inspecting the premises and quality of the laundry; it then reports to the board of directors. Osgood testified that the recommendations of the QCC that he receives from the board of directors are complied with.<sup>5</sup>

The record reveals that special procedures are utilized in the handling of "isolation" and surgical laundry. UHS has on-the-premises laboratory facilities and employs a lab technician who performs culture tests regularly on the laundry, laundry carts, trucks, and various other areas of the plant. However, Osgood admitted that commercial laundries that do hospital work have similar tests taken by the American Institute of Laundries.<sup>6</sup>

The Petitioner, on the other hand, introduced exhibits that reveal the widespread use of commercial laundries by hospitals in the United States. One of the exhibits, a survey prepared by the American Hospital Association reveals that as of August 1, 1965, of 6,665 hospitals reporting 2,642 or 39.6 percent had their laundry service provided by outside firms, whereas only 2.4 percent of the hospitals reporting used laundry service provided by cooperative ventures such as UHS. The Petitioner contends that UHS is a separate corporation providing laundry service and is as such not exempt under Section 2(2) of the Act. The Petitioner contends that UHS merely provides laundry service similar to that provided by commercial laundries over which the Board would assert jurisdiction. The Petitioner concludes that providing laundry service without more cannot be considered intimately related to the care and treatment of patients confined to the statutorily exempt hospitals and that the Board should, therefore, assert jurisdiction over the Employer.

The Employer contends there are two grounds on which the Board could refuse jurisdiction. One is that UHS, as a nonprofit corporation, is actually an integral part of the exempt member hospitals and thus not an employer within the meaning of Section 2(2) of the Act. In the alternative, the Employer contends that the Board should decline jurisdiction because UHS operations are intimately related to the operations of the exempt hospitals and that it would not effectuate the purposes of the Act to assert jurisdiction.

After a careful consideration of all the relevant circumstances and noting particularly the facts that UHS was created by, is wholly controlled by, and exists only to provide services to exempt hospitals, we are of the opinion that UHS is an integral part of the exempt nonprofit and public hospitals it was established to serve; as it has no existence independently of such hospitals, it shares their statutory exemption. We therefore find that UHS is not an employer within the meaning of Section 2(2) of the Act. Accordingly, we shall dismiss the petition.<sup>7</sup>

#### ORDER

It is hereby ordered that the petition filed herein be, and it hereby is, dismissed.

<sup>4</sup> The Employer notes that the charges to the hospitals in the first year of UHS existence were on a less-than-cost basis, as the financial statement for the fiscal year ending September 2, 1967, shows UHS had a deficit of \$337,428.96.

<sup>5</sup> For example, on the recommendation of the QCC the Employer expended \$3,000 to seal the floors and purchased two 18-pound washing machines.

<sup>6</sup> In fact, some of the member hospitals use commercial laundries for a

small percentage of their laundry needs although this was true to a greater extent when UHS was in the early stages of its operations. For example, the Indiana University Medical Center has standing contracts with commercial laundries for emergencies and uses commercial laundries regularly for some uniforms.

<sup>7</sup> In view of our disposition herein, we find it unnecessary to consider the other ground on which the Employer urged that the petition be dismissed.