

**Stormont-Vail Healthcare, Inc. and International Brotherhood of Teamsters, Local Union No. 959 Petitioner.** Case 17–RC–12100

November 28, 2003

DECISION ON REVIEW AND ORDER  
BY MEMBERS LIEBMAN, SCHAUMBER, AND  
WALSH

The issue presented in this case is whether the Regional Director properly excluded registered nurses (RNs) in the Employer's off-campus psychiatric facility, outlying clinics, and community nursing centers from the otherwise employerwide multifacility unit of RNs found appropriate. As explained below, we find, contrary to the Regional Director, that these excluded RNs must be included in the unit. Therefore, we reverse the Regional Director's decision and include these RNs in the unit.

On July 2, 2002, the Regional Director for Region 17 issued a Decision and Direction of Election (pertinent portions of which are attached as an appendix), in which he found that a unit of approximately 700 full-time and regular part-time RNs employed by the Employer at its hospital complex and at about seven other buildings located within six blocks of the hospital complex (the main campus) in Topeka, Kansas is appropriate for bargaining.<sup>1</sup> Pursuant to a stipulation of the parties, the Regional Director also included in the unit about 11 RNs that work for LifeStar, a helicopter ambulance service owned and operated by the Employer, based in locations outside of the main campus. The Regional Director, applying the single facility presumption, excluded other non-main campus RNs employed by the Employer in Topeka and in surrounding towns throughout Topeka and Shawnee counties. These include RNs at the Stormont-Vail West psychiatric facility, outlying clinics, and community nursing centers.

Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, the Employer filed a timely request for review of the Regional Director's decision. The Employer contended that the appropriate unit must also include the RNs employed in the Employer's remaining facilities located off of the main campus, specifically the Stormont-Vail West psychiatric facility, the outlying clinics, and the community nursing centers. On August 7, 2002, the Board granted the Employer's request for review.

<sup>1</sup> The Petitioner sought to represent a unit of RNs employed in the hospital complex only. The Regional Director found that the RNs employed in the buildings on the main campus must also be included. The Board denied the Petitioner's request for review of this finding on August 7, 2002.

The Board has delegated its authority in this proceeding to a three-member panel.

We have carefully considered the entire record, including the brief on review. Contrary to the Regional Director, we have decided, for the reasons set forth below, that the multifacility unit found appropriate by the Regional Director must also include the RNs employed by the Employer at its remaining facilities—the Stormont-Vail West psychiatric facility, the outlying clinics, and the community nursing centers. Accordingly, we reverse the Regional Director's decision.

### I. BACKGROUND

The Employer operates a comprehensive regional medical system, which is highly centralized. This integrated health system includes a hospital complex in Topeka consisting of four connected central inpatient acute care hospital buildings with a single address, stipulated to be a single building.<sup>2</sup> The hospital complex houses inpatient acute care departments, including operating rooms, recovery rooms, and the emergency room, as well as other departments, including outpatient surgery, admitting, and some central administrative offices. The Pozez Educational Center, which houses a school of nursing and a program called Health Connections (a telephone nurse-assistance service), is attached to this complex and accessible by an interior walkway.

As noted, the Employer has about seven other buildings within about a six-block radius of the hospital complex, referred to at the hearing as the main campus. These buildings house the Topeka Same Day Surgery Center (outpatient surgery), a heart center, physician offices, home health care and hospice, the central human resources department, and central finance offices, and include clinics that are part of the unit found appropriate. There are also some clinics located in the hospital complex that are included in the unit.

In about February 2001, the Employer moved its inpatient acute care psychiatric department from the hospital complex to a facility about 2 miles from the main campus called Stormont-Vail West (Stormont West). Stormont West operates one unit for adults and another for adolescents and children. The Employer has 20 full-time RNs at this facility plus 10 RNs working part time or as needed.

The Employer also provides inpatient psychiatric services at the senior diagnostic unit, which remains in the

<sup>2</sup> From the vantage point of the first floor of the hospital complex, the hospital buildings appear to be one building. From the outside, however, this hospital complex appears to consist of at least four buildings.

hospital complex. Older, "fragile" patients are placed in the senior diagnostic unit.

In 1995, the Employer acquired a group of physicians' clinics called the Cotton O'Neil Clinics. The Employer now owns and operates these clinics (the outlying clinics), located in about 17 locations in Topeka and surrounding towns throughout Topeka and Shawnee Counties. As of the date of the hearing, three of these clinics did not employ RNs. Most of these clinics are located anywhere from 3 to 60 miles away from the main campus.<sup>3</sup>

The Employer operates community nursing centers at two locations off the main campus. One center is located six blocks from the hospital complex, and the other is located in Oakland, a suburb of Topeka. The centers are each staffed by two RNs, who primarily service indigent patients. RNs perform blood pressure checks, health management and assessment, and referrals to the emergency room, if appropriate, or to other clinics or social service agencies.

The Employer operates LifeStar, a helicopter ambulance service, out of air fields at three locations: about 10 miles from the main campus at Forbes Field in Topeka; about 25 to 30 miles away from the main campus in Lawrence, Kansas; and about 70 miles away from the main campus in Junction City, Kansas. The LifeStar RNs accompany patients by helicopter to the helipad at the hospital complex and into the emergency room. As noted, the Regional Director included the LifeStar RNs in the unit pursuant to the parties' stipulation.<sup>4</sup>

The Employer's operations are highly centralized. One central human resources department serves all departments and locations. This department issues one set of personnel policies applicable to all employees, which may be supplemented by individual locations and departments but not overridden. It performs the initial screening interview for all applicants, and makes the final hiring decision and offer of employment after the department where the applicant will work has also interviewed the applicant and made a recommendation.<sup>5</sup> It approves suspensions and discharges systemwide.

<sup>3</sup> The parties stipulated to the distances of 15 outlying clinics in relation to the main campus. Out of the 15 clinics, 3 are located less than 10 miles from the main campus, 3 are between 10 and 20 miles away, 3 are between 20 and 30 miles away, 3 are 40 to 45 miles away, and 2 are 50 miles away or more.

<sup>4</sup> The Regional Director found that absent such stipulation, the geographic remoteness of their base facilities, their contrasting working conditions, the lack of significant interchange, and separate day-to-day supervision would have warranted the exclusion of these RNs.

<sup>5</sup> The human resources department follows the recommendation of the department where the applicant will work over 95 percent of the time.

The administration and top supervisory and managerial hierarchy is centralized under an operating committee.<sup>6</sup> All employees enjoy common fringe benefits, and pay scales are determined centrally. All employees, regardless of work location, are sent to the employee health nurse at the human resource center should the employee need nonemergency care during worktime. The finance department oversees budgeting and finance for all facilities. The Employer has centralized computer and software system maintenance, employee training, orientation for new employees, purchasing of supplies and equipment and warehousing of bulky nonperishable supplies, housekeeping,<sup>7</sup> maintenance of medical equipment, X-ray and ultrasound imaging, lab work, laundry service, marketing, and advertising. The Employer operates a retail pharmacy available to all departments. There is a cafeteria operated by the Employer in the hospital complex that is open to all employees at a discount. There is an interoffice mail system that makes deliveries twice a day to all facilities, including the furthest outlying clinic located 60 miles away. There is a central float pool for licensed practical nurses and patient care technicians available to all locations, and it appears that each department maintains a pool of RNs who are available when needed.

The Employer frequently conducts training courses,<sup>8</sup> orientation, and other meetings of all employees, including those in the outlying clinics, at the Pozez Educational Center. Security is centralized, with rounds made by the security personnel on a regular basis, including at outlying clinics. The annual merit increase process and service awards, as well as the holiday party, summer picnic, and an employee newsletter, are systemwide. Seniority is calculated systemwide.

## II. DISCUSSION

The Petitioner initially sought to represent RNs in the hospital complex only, which, as noted, is stipulated to be a single facility. The parties thereafter stipulated to the inclusion of the LifeStar RNs, based in three locations 10 to 70 miles away from the hospital complex, and the RNs based at the Pozez Educational Center, a facility

<sup>6</sup> This committee is composed of vice presidents in charge of all of the various operations. This committee reports to the Employer's president and makes operational and organizational decisions for all locations.

<sup>7</sup> The Employer, for the most part, employs the housekeeping employees. Although some of the housekeeping work for the outlying clinics may be contracted out, the work remains centrally managed.

<sup>8</sup> The Employer operates an extensive program of continuing medical education open to its employees free of charge. The RNs use these courses to fulfill their 30 hours of continuing education that is required every 2 years to maintain their licenses. Many of these courses are run at the Pozez Educational Center.

connected to the hospital complex by a walkway.<sup>9</sup> The Regional Director further found that the unit must also include the RNs working in facilities located on the main campus based on such factors as geographic proximity, similarity of skills and functions, central administration, common high-level managerial and supervisory control, employee interchange, contact, and functional integration. As noted, the Employer claims that the only appropriate unit of RNs is an employer wide unit that includes, in addition to the foregoing, the RNs at Stormont-Vail West psychiatric facility, the outlying clinics, and the community nursing centers.

In determining whether a multifacility unit is appropriate,<sup>10</sup> the Board evaluates the following factors: employees' skills and duties; terms and conditions of employment; employee interchange; functional integration; geographic proximity; centralized control of management and supervision; and bargaining history. *Alamo Rent-A-Car*, 330 NLRB 897 (2000); *NLRB v. Carson Cable TV*, 795 F.2d 879, 884 (9th Cir. 1986).

In evaluating these factors, we find that the multifacility unit found appropriate by the Regional Director, excluding the Stormont West psychiatric facility, the outlying clinics, and the community nursing centers is an arbitrary grouping of employees, inasmuch as the evidence fails to establish that the RNs in the unit found appropriate share a community of interest distinct from the excluded RNs. See *Bashas', Inc.*, 337 NLRB 710, 711 (2002).

#### A. Stormont West

The Regional Director found that the RNs at Stormont West should be excluded from the unit of RNs found appropriate. In so finding, he noted that the inpatient psychiatric work of the RNs at Stormont West is very different from that of the vast majority of RNs included in the unit, that Stormont West is geographically and organizationally separate, and that the Stormont West RNs have separate day-to-day supervision. Contrary to the Regional Director, we find that the exclusion of the RNs in Stormont West is arbitrary.

In about February 2001, the Employer moved its inpatient acute care psychiatric department from the hospital complex to the Stormont West facility. The Employer's other inpatient psychiatric service, called the senior diagnostic unit, stayed in the hospital complex. The Regional Director found, and the record shows, that there is some interchange between the RNs at Stormont West and the

senior diagnostic unit, and that the work of the RNs in both of these inpatient psychiatric services is similar.

The record further shows supervisory/managerial interchange between Stormont West and the senior diagnostic unit. Todd Crause, a charge nurse at the senior diagnostic unit who used to work as a charge nurse at Stormont West,<sup>11</sup> provides MANDT training<sup>12</sup> in the use of patient restraints to all employees of the Employer who take such training, including the RNs at Stormont West. RNs from the senior diagnostic unit attend these trainings at Stormont West. Moreover, Carolyn Jones, the manager of patient care services at Stormont West, also functions as a clinical educator for the main hospital, including the senior diagnostic unit, and Stormont West, teaching basic life support restraints and serving on several committees that meet on the main campus. Further, Jon Hartnett, the clinical manager at Stormont West, leads patient group sessions on the senior diagnostic unit.<sup>13</sup>

In addition, the RNs at Stormont West use the cafeteria and fitness center located at the main campus, as do the included RNs. The RNs at Stormont West attend employee meetings, training classes, new employee orientation, picnics, and holiday parties with all employees, including those in the unit.

The Regional Director noted that acute care psychiatric care differs from other acute hospital care, and that employees are specially trained for this type of work, citing *Hartford Hospital*, 318 NLRB 183 (1995); and *Brattleboro Retreat*, 310 NLRB 615 (1993). These cases, however, do not stand for the proposition that psychiatric nurses must in all cases be excluded from units that include other RNs in acute care hospitals. Indeed, here the Regional Director included psychiatric RNs at the senior diagnostic unit in the unit with other RNs, and thus the Regional Director's reasoning with respect to the type of work performed is not a rational basis for excluding the psychiatric RNs at Stormont West. Moreover, *Hartford* and *Brattleboro* involved the representation of technical employees at freestanding psychiatric hospitals, and not the representation of RNs.<sup>14</sup>

<sup>11</sup> The parties stipulated that charge nurses are excluded as supervisors under Sec. 2(11) of the Act.

<sup>12</sup> The record shows that MANDT training is training in how to restrain a patient in the least restrictive manner. The training was developed for psychiatric or aggressive patients who need to be restrained. All of the psychiatric staff as well as the security guards must be trained in MANDT.

<sup>13</sup> Until recently, these group sessions were weekly. The record shows that the groups are still ongoing, but meet less frequently.

<sup>14</sup> In *Hartford*, the Board found that the respondent violated Sec. 8(a)(5) and (1) of the Act by refusing to bargain with the union as the exclusive representative of a 14-year-old bargaining unit of technical employees in a psychiatric hospital, after that hospital merged with and

<sup>9</sup> The parties did not specifically stipulate that Pozez is part of a single facility with the hospital complex.

<sup>10</sup> Because the unit agreed to by the Petitioner is a multifacility unit, we find that the Regional Director erred by applying a single-facility presumption.

Thus, we conclude that the psychiatric nurses at Stormont West do not have a distinct community of interest from the psychiatric RNs at the senior diagnostic unit or other RNs included in the unit found appropriate. The RNs at Stormont West worked at the hospital complex prior to the relocation of the inpatient acute care psychiatric department. There is some interchange between the RNs at Stormont West and the senior diagnostic unit, and the work of the RNs in both of these inpatient psychiatric services is similar. Further, there is supervisory/managerial interchange between Stormont West and the senior diagnostic unit. Finally, the RNs at Stormont West use the cafeteria and fitness center located at the main campus, and attend common meetings, classes, and social events with included RNs.

### *B. Outlying Clinics*

In 1995, the Employer acquired the Cotton O'Neil clinics. These clinics are located in Topeka and in surrounding towns throughout Topeka and Shawnee Counties, and many, but not all, are staffed with RNs. As discussed above, the distances from the main campus to these freestanding clinics range from 3 to 60 miles away.

We find, contrary to the Regional Director, that the RNs in the outlying clinics do not have a distinct community of interest from the RNs included in the multifacility unit. The skills and functions of the RNs in the outlying clinics are similar to those of RNs included in the unit. As discussed below, the geographic proximity of the outlying clinics to the hospital complex and main campus is similar to other included locations. Moreover, the unit includes RNs who work at clinics that are located in the hospital complex and main campus, and some of these clinics are part of the same administrative grouping as the outlying clinics and share common oversight. Further, the excluded clinics are well integrated with the rest of the Employer's centralized system.

Contrary to the Regional Director, we do not find that the geographic distance of the outlying clinics warrants their exclusion from the unit. Significantly, the unit found appropriate includes, pursuant to the stipulation of the parties, the three LifeStar facilities, which are geographically distant from the hospital complex and main campus. Forbes Field is 10 miles away from the main campus, the Lawrence, Kansas location is 25–30 miles away, and the Junction City, Kansas location is 70 miles away. Thus, the furthest LifeStar facility stipulated to be included in the unit is further away than the most geo-

graphically distant outlying clinic, which is 60 miles away from the main campus. Further, two of the outlying clinics are located in Lawrence, Kansas, which is in the same vicinity as one of the LifeStar locations. In addition, several of the outlying clinics are located closer to the main campus than the LifeStar facility located 10 miles away in Forbes, and several additional clinics are closer to the main campus than the LifeStar facility in Lawrence. One of these disputed outlying clinics is located only 3 miles from the main campus.

Further, the unit found appropriate by the Regional Director's does not comport with the administrative/supervisory grouping: some clinics within the medical services division are included in the unit, and other clinics within that same division are excluded. Thus, clinics located on the main campus, all under the direction of Deb Yokum, the vice president of the medical services division, are included in the unit, while the outlying clinics in the medical services division, also reporting to Deb Yokum, were excluded. Also, Joe Hopeck, cardiology services director, also part of the medical services division, oversees numerous outpatient operations at the heart center, located in the main campus, and his clinics were included in the unit.

Finally, the record shows that the excluded clinics are well integrated with the rest of the Employer's centralized system. The operating committee is responsible for the operational and organization decisions for all departments and locations, including the outlying clinics. The committee must approve the closing of any outlying clinic, and has done so in a couple of instances. The Employer's personnel policies apply equally to the employees in the outlying clinics, and the human resource department plays the same role there with respect to hiring, terminations, and discipline as with other departments and clinics. The pay scales for RNs at the outlying clinics are the same as those for other RNs, and the RNs participate in the same new employee orientation and trainings as other RNs. The nurse managers and supervisors from all of the clinics attend meetings together regularly. Although outlying clinics may receive postal mail at their own addresses, the outlying clinics are also part of the Employer's interoffice mail system, which makes deliveries to the outlying clinics twice a day. Contrary to the Regional Director's finding, while some of the outlying clinics may contract out for housekeeping services, even in such instances the services are centrally managed. Further, security is centralized, with rounds made on a regular basis that include outlying clinics. The employees in the outlying clinics participate in Employer-wide holiday parties and picnics, and are eligible for system-wide service awards. Seniority is calculated system-wide.

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became a wholly-owned subsidiary of the respondent. In *Brattleboro*, the petitioner sought to represent a unit of technical employees at the employer's psychiatric hospital and nursing home. The Board found that the unit must include all nonprofessional employees.

The function of RNs who work in health connections provides further evidence of integration among the facilities. Health connections consists of 25 RNs who operate out of the Pozez Educational Center and provide a telephone bank that is accessible to all patients of all departments and units of the Employer. Health connections RNs also contact and follow up with surgery patients after discharge. This program is staffed around the clock, 7 days a week. Health connection RNs answer the phone calls for the hospital, clinics, nursing centers, and offsite locations that are closed overnight, weekends, or holidays. Thus, patients from the outlying clinics who call a clinic during these closed hours are automatically transferred to Health Connections. The RNs then assess the patient's needs and provide information and direction. The guidance could be a referral to the emergency room or their doctor, or first aid advice. The RNs then document what occurred and transmit the information to the doctor in the clinic by facsimile machine.

In addition, there is a float pool of LPNs and patient care technicians that float throughout the facilities, including between clinics. As noted by the Regional Director, there is also some evidence of interchange of RNs among the clinics, and between the outlying clinics and departments on the main campus.

Based on the above, we conclude that the RNs at the outlying clinics do not share a community of interest distinct from the multi-facility unit found appropriate and were arbitrarily excluded.

### C. Community Nursing Centers

Similarly, we find that the exclusion of the RNs in the community nursing centers from the unit found appropriate is arbitrary, and that these RNs must be included in the unit. One of these centers is located only six blocks from the hospital complex, and the other is located in a suburb of Topeka. Thus, contrary to the Regional Director, these clinics are geographically proximate to included locations. Further, these centers share a common administrative grouping with other included clinics as part of the health services division.<sup>15</sup> Finally, similar to the other excluded outlying clinics, these clinics are well-integrated with the rest of the Employer's centralized system.

## III. CONCLUSION

For all of the foregoing reasons, we find that the multi-facility unit found appropriate by the Regional Director arbitrarily excludes the RNs at the Employer's remaining

facilities—Stormont West, the outlying clinics, and the community nursing centers—and is, therefore, not an appropriate unit for bargaining. Accordingly, we reverse the Regional Director's finding that a unit limited to the hospital complex and main campus is appropriate, and find that the unit must include the RNs at Stormont West, the outlying clinics, and the community nursing centers.<sup>16</sup>

## ORDER

The Regional Director's Decision and Direction of Election is reversed. This case is remanded to the Regional Director for further appropriate action consistent with the Order.

## APPENDIX

### DECISION AND DIRECTION OF ELECTION

#### 1. The issue

The Petitioner seeks to represent registered nurses employed in four buildings which make up the main hospital complex of the Employer (the hospital complex). The Employer maintains that the only appropriate unit of registered nurses is an employerwide unit composed of the hospital complex, plus the registered nurses employed in the other seven buildings within six blocks of the hospital complex (the central campus or the main campus) and the registered nurses employed by the Employer in all other locations. In the alternative, the Employer takes the position that the unit should be those registered nurses employed on, or based at, the buildings on its central campus.

The Petitioner estimates that the Employer employs about 600 registered nurses in the hospital complex. The Employer estimates that it employs about 800 registered nurses at all of its locations. The Employer further estimates that it has over 3000 employees total at all locations.

After careful consideration of the record as a whole and the law in this area, I conclude that the registered nurses employed in the departments on the central campus share a community of interest and should be included in the unit. It appears that there may be about 700 registered nurses in this group. The parties stipulated to the inclusion of 11 Life Flight registered nurses located outside the central campus. I shall include the Life Flight nurses in the unit.

#### 2. An overview of the operations of the Employer

The Employer began years ago as an acute care hospital which has grown, expanded, merged with other medical enterprises, and has emerged as a comprehensive regional medical system. From the vantage point of the first floor of the hospital complex, the four central inpatient acute care hospital buildings appear to be one building. However, from the outside, this hospital complex appears to consist of at least four buildings. The complex houses the inpatient acute care departments in-

<sup>15</sup> Carol Perry, vice president for patient care operations, oversees the community nursing centers, and Regional Operations Vice President Carol Wheeler oversees the clinics included in the unit that are part of the health services division.

<sup>16</sup> The Petitioner has not indicated whether it is willing to proceed to an election in a unit different from the unit found appropriate by the Regional Director.

cluding operating rooms, recovery rooms, and the emergency room, as well as other departments including outpatient surgery, admitting, and some central administrative offices.

Attached to this complex and accessible by interior walkway, is the Pozez Education Center (Pozez). Pozez houses a school of nursing and the Employer's telephone nurse assistance service.

The Employer also has eight other buildings within about a six block radius of the hospital complex which, at hearing, was called the central campus or the main campus. These eight buildings house the Topeka Same Day Surgery center (outpatient surgery), a heart center, a building with physician offices, a building which serves as a base for home health care and hospice, a building for the central human resources department, and a building for central finance offices.

In about February 2001, the Employer moved its inpatient acute care psychiatric department to a facility about 2 miles from the main campus called Stormont-Vail West (Stormont West).

In 1995, the Employer acquired a group of physicians' clinics called the Cotton O'Neil Clinics. The Employer now owns and operates these clinics at various locations, including some 17 outlying locations. Most of these clinics are located at distances from 3 miles away from central campus, to 60 miles away from central campus.

The Employer operates Life Flight, a helicopter ambulance service based at three locations: Forbes Field in Topeka, 10 to 15 miles away from the hospital complex; in Lawrence, Kansas, and in Hutchinson, Kansas. The Lawrence location is 25 to 30 miles from the hospital complex and the Hutchinson base is 70 miles away.

### 3. Centralized administration and services

The operations of the Employer are highly centralized in many respects. Along with registered nurses, many doctors, other nursing, technical, and nontechnical employees are employees of the Employer. The Employer has one central human resources department which serves all departments and all locations. The human resources department issues one set of personnel policies applicable to all employees. Individual locations and departments can supplement but cannot override these policies. All employees enjoy the same set of fringe benefits. Pay scales for classifications are determined centrally. Human resources does the initial screening interview for all applicants. Applicants who pass this screening are then sent to the individual departments for interviews and hiring recommendations. Human resources then makes the final hiring decision, going along with the department recommendations over 95 percent of the time. The actual offer of employment is extended by the human resources department. It appears, however, that day-to-day supervision of work assignment, discipline and similar matters is largely handled by supervision within the departments.

Administration and top supervisory and managerial hierarchy is centralized. All locations appear on the Employer's organizational chart. The operating committee is composed of vice presidents in charge of all of the various operations. This committee reports to the Employer's president and makes op-

erational and organizational decisions for all locations. The nonphysician vice presidents on this committee also rotate duty on call to make decisions on problems which arise in all units during the evenings and weekends. Such issues as patient care and family complaints and legal questions that arise are referred to the operating committee vice president on call.

The Employer has a finance department housed in a separate building on the main campus which oversees budgeting and finance for all facilities. All facilities and departments submit a budget to this department. The finance department reports to the president and the operations committee.

Maintenance of computers and software systems and training and troubleshooting on these systems, is handled centrally, with personnel (including two registered nurses) who work on the main campus.

Training of employees and orientation attended by all new employees are done centrally on the main campus. After the general orientation for new employees, training is also done in the department where each employee will work. The Employer also operates an extensive program of continuing medical education courses open to its employees free of charge. The Employer's registered nurses use these courses to fulfill the 30 hours of continuing education required every 2 years to maintain their licenses. Many of these courses are run at the Pozez Education Center on the main campus.

Purchasing of supplies and equipment and warehousing of bulky nonperishable supplies is centralized. Cleaning of buildings on the central campus and maintenance of medical equipment is done by a central department. The Employer operates a retail pharmacy available to all departments. The Employer has a central float pool for licensed practical nurses available to all locations. It also appears that each department maintains a pool of registered nurses who are available when needed. The following are managed centrally for all locations: X-ray and ultrasound imaging, lab work, laundry, marketing and advertising.

The Employer operates a cafeteria open to all employees and the public in the hospital complex. Employees pay discounted prices in the cafeteria. It appears that the cafeteria is used mainly by the public and by employees who work on the central campus. The Employer also operates a fitness center on the central campus available to employees for discounted fees, as well as a child care center run on the same basis.

All mail to buildings and departments on the central campus goes to one address and the Employer then distributes it by internal courier service to its various central campus departments.

### 4. Applicable legal principles

The Petitioner argues that a single-location presumption should be applied to the hospital complex. The Petitioner is also willing to include the adjacent Pozez Education Center building. The Employer argues that the Union is trying to gerrymander the unit, and that an employer-wide presumption applies.

The hospital complex is much more extensive and inclusive than a single acute care hospital. The vast majority of patients served by the Employer are outpatients rather than patients

admitted as in-patients to an acute care unit. Accordingly, the Board's health care rule applicable to acute care facilities does not apply in this case. In such circumstances, the Board weighs the traditional community of interest factors to determine the appropriate unit. In general, in evaluating a single location versus a multi-location unit, there is a presumption that employees employed at a single facility are an appropriate unit. *Manor Healthcare Corp.*, 285 NLRB 224 (1987); *Heritage Park Health Care Center*, 314 NLRB 447, 451 (1997); *Lutheran Welfare Services of Northeastern Pennsylvania, Inc.*, 319 NLRB 886 (1995). This presumption can be overcome based upon an evaluation of the following factors:

- 1) Geographic proximity of the employees in question;
- 2) Similarity of employee function and skill;
- 3) Similarity of employment conditions;
- 4) Centralization of administration;
- 5) Managerial and supervisory control of employees;
- 6) Employee interchange;
- 7) Functional integration of the employer;
- 8) Bargaining history.

*Hartford Hospital*, 318 NLRB 183, 191 (1995); *Staten Island University Hospital v. NLRB*, 24 F.3d 450 (2d Cir. 1994); *University Medical Center*, 335 NLRB 1091 (2001); *Passavant Retirement & Health Center*, 313 NLRB 1216, 1218 (1994).

There is no bargaining history in this case. The remaining seven factors will be considered subsequently.

#### 5. The hospital complex

The record includes an aerial photograph of the main campus. It is attached to this decision. In the center of this photograph is the hospital complex. All of the buildings on the main campus are marked with numbers from 1 through 12. The buildings making up the hospital complex are numbered 3, 4, 5, and 7.

The hospital complex houses acute care hospital and other operations. It includes an outpatient surgery center which has an admitting area through which all surgery patients are received. Both outpatient and inpatient surgery utilize operating rooms and recovery rooms. Following procedures, outpatients are sent home; inpatients are taken to a room. Building 4 on the aerial photograph is the "North Patient Tower" and building 3 on the photograph is the "South Patient Tower." Registered nurses work in all of these areas.

The hospital complex also includes an outpatient center (aerial photograph building 5) which houses physical therapy, occupational therapy and speech therapy. At this time, no registered nurses work in these areas. The hospital complex also includes an endoscopy center and a pain management clinic, both of which are staffed by registered nurses. It also includes a "Senior Resource Center," a membership program for seniors which is a resource and referral network and which operates an indigent drug program. This complex also houses the cafeteria used both by employees and the public.

The inpatient floors in the hospital complex are open and staffed by registered nurses around the clock, 7 days a week. The emergency room, a part of this complex, is always open

and staffed with registered nurses. The Endoscopy Center is not open evenings and weekends. Similarly, outpatient surgeries are not performed evenings and weekends.

Both parties agree that the registered nurses employed in the four acute care hospital buildings at the hospital complex should be included in any unit found appropriate. I find that they share a community of interest and should be included in the unit.

#### 6. Pozez Education Center

The Pozez Education Center, one of the buildings in the middle of the main campus, appears on the aerial photograph (building 8) as the building to the right (immediately north) of the hospital complex. It is connected to the hospital complex by a walkway to afford interior access between the two buildings. Pozez houses a school of nursing and a program called Health Connections. Health Connections is a nurse triage program where about 25 registered nurses staff a telephone bank accessible to patients of all departments and units of the Employer. This program is staffed around the clock, 7 days a week. Patients with questions on a weekend or evening can call the nurse line and will be given medical guidance. The guidance could be a referral to the emergency room, or to their doctor, or first aid advice. Health Connections nurses also contact and follow up with surgery patients after discharge.

The fitness center, which is open to all employees at a discounted fee, is in the basement of Pozez.

Both parties agree that the registered nurses who work at Pozez Education Center should be included in the unit. Due to the geographic proximity of the registered nurses at Pozez, the similarity in working conditions, the extensive centralization of administration and services and their functional integration with the rest of the operations on the main campus, and in view of the parties' agreement, I find that the registered nurses who work at Pozez should be included in the unit.

#### 7. The O'Neil Building at 823 Mulvane

The door of the O'Neil Building at 823 Mulvane (aerial photograph building 1) is 680 feet from the dock door of the hospital complex. This building houses the Topeka Same Day Surgery Center, the Endoscopy Center, the Women's Center, and the Employer's Clinical Educator. All of these operations are owned by the Employer and are staffed by its employees. Registered nurses of the Employer work in all of these departments.

The Topeka Same Day Surgery Center (TSDS) is a center for outpatient surgery. The Employer has two sites for outpatient surgery-one at this location and one at the hospital complex. Functions and skills of the registered nurses who work in outpatient surgery at both locations are similar if not identical. Some of the same types of surgeries are performed at both locations. The three or four registered nurses who work at TSDS report to Jane Asher, the director of surgical services. Asher also supervises the registered nurses who work in the operating room, the recovery room and the outpatient center at the hospital complex. The Employer showed instances of interchange, where registered nurses based in a department at the hospital complex also worked at TSDS, and vice versa. Instances of transfers of employees between TSDS and the hospital complex

were also documented. The Petitioner argues that such instances are minimal. I find that, given the small size of the TSDS staff, the three or more instances of temporary interchange of employees in a recent 3-month period does not appear to be minimal. The three instances of permanent transfers between TSDS and another main campus or hospital complex department also does not appear to be minimal.

The Endoscopy Center is located at the O'Neil Building. The Employer also has an endoscopy center in the hospital complex. Registered nurses do similar work in both of these areas. Registered nurses are hired to work in one area or the other, but they also provide coverage to the other location when needed. The record disclosed several instances of temporary coverage and of permanent transfers between the endoscopy departments, and between endoscopy and other main campus departments. There is interchange of technical personnel between the two endoscopy centers as well. Equipment is interchanged between the endoscopy centers. As of the date of the hearing, staffs of the two endoscopy centers were separately supervised, but recently they have come under common supervision. Endoscopies are also performed at 901 Garfield, another main campus building to be discussed below.

The Women's Center is also located in the O'Neil Building. It is primarily an outpatient diagnostic facility. Procedures performed here include mammogram screenings and osteoporosis screens. The Women's Center also houses a weight loss program and community education efforts. Four registered nurses work at the Women's Center. Work here is similar to that done by two nurses who work in radiology at the hospital complex and to the work done by two other registered nurses who work in radiation therapy at the hospital complex. One registered nurse, Mary Cochran, works part time in the Women's Center and also works in an area in the hospital complex. Technicians with whom these registered nurses work rotate regularly between various locations including the hospital complex and the Women's Center.

The O'Neil Building at 823 Mulvane also houses physicians' offices, sometimes called clinics. These physicians are employed by the Employer, as are the registered nurses who work in their offices. In addition to the Women's Center and the endoscopy center, these clinics which employ registered nurses specialize in oncology, nephrology, and pulmonary medicine. (Several other clinics in this building employ no registered nurses.) In nephrology, registered nurse Barb Livergood works part of her day at 823 Mulvane and part of the day at the hospital complex seeing patients there with a physician.

The clinical educator, registered nurse Vickie Sturgeon, also works at the O'Neil Building. She teaches new procedures to employees including registered nurses at various locations. I note that clinical education coordinators are appropriately included in units of acute care nurses. See *St. Mary's Hospital, Inc.*, 220 NLRB 496 (1975); *Milwaukee Children's Hospital Assn.*, 244 NLRB 1009 (1981).

Based upon geographic proximity, similarity of skills and function, central administration, common high level managerial and supervisory control and employee interchange, I find that the registered nurses who work in the O'Neil Building should be included in the unit. These registered nurses clearly share a

strong community of interest with the registered nurses at the hospital complex. See *Hartford Hospital*, 318 NLRB 183, 191 (1995); *Staten Island University Hospital v. NLRB*, 24 F.3d 450 (2d Cir. 1994); *Lutheran Welfare Services of Northeastern Pennsylvania, Inc.*, 319 NLRB 886 (1995).

#### 8. The Heart Center

Since January 2001, the Heart Center has been located in a building at 929 Mulvane (aerial photograph building 2). Its door is 759 feet from the dock door of the hospital complex. Before that, it was in the hospital complex. Heart Center employees report to Joseph Hopeck, the director of cardiovascular services for the Employer. Most cardiac services of the Employer report to Hopeck, including critical care areas at the main hospital complex.

The Heart Center operations include the cardiac rehabilitation department, cardiology offices, nuclear medicine, stress testing, ultrasound, and the anticoagulation clinic. Three groups of registered nurses work in the Heart Center, supervised by three registered nurse supervisors.

Five registered nurses report to supervisor Carol Frazee and work in the cardiac rehabilitation department. The first phase of the cardiac rehabilitation process is done in the hospital complex by registered nurse Marian Bolz. Bolz works out of two offices: one at the hospital complex on floor 5 North, and one in the Heart Center. Bolz regularly performs duties in both locations, helping in the later phases of cardiac rehabilitation with the four other registered nurses who work at the Heart Center. Bolz also regularly does stress testing, which is performed at both the Heart Center and in the hospital complex. On occasion, if a stress test is scheduled at the hospital and Bolz is not available, one of the other registered nurses from the Heart Center will go to the hospital complex and perform the test there.

Eleven cardiologists work in the Heart Center, and have patients at the hospital. Their four registered nurses work both at the Heart Center and at the hospital complex and report to Supervisor Ladonna Andritsch.

Ten other registered nurses in the Heart Center report to Supervisor Janelle Wade. Employees in the electro-physiology lab in the hospital complex also report to Wade.

The Employer's records show that registered nurses worked hours in both the Heart Center and in the hospital complex. The Employer's records also show registered nurses transferring between the Heart Center and Home Health, Endoscopy, and other main campus departments.

Inasmuch as the Heart Center is a part of the main campus and geographically very close to the hospital complex, and in view of the similarity of registered nurse functions and skills between the Heart Center and the hospital complex, the similarity of employment conditions, the strong centralization of the Employer's administration and support services, the integrated managerial and supervisory hierarchy, and the functional integration of the Heart Center with the hospital complex, I find that the registered nurses who work in the Heart Center should be included in the unit. *Staten Island University Hospital v. NLRB*, 24 F.3d 450 (2d Cir. 1994); *Lutheran Welfare Services of Northeastern Pennsylvania, Inc.*, supra.

#### 9. 901 Garfield

The 901 Garfield Building (aerial photograph building 6) is across the street from the hospital complex. The door of the building is 215 feet from the dock door of the hospital complex. This building houses physician' offices and the Neurology Department. The two registered nurses who work in neurology divide their time between the 901 Garfield Building and the hospital complex. The infusion center is also located in this building. The two registered nurses who work here also spend part of their time at the hospital and part in their clinic at the 901 Building. Another registered nurse works in infectious diseases. She also works in other areas on the main campus.

The 901 Building also houses the oncology department. Eight registered nurses work in this area. The building also includes the gastro-intestinal specialty area. Five registered nurses work in this area and its endoscopy center. Endoscopy services are performed in two other areas noted above, including the 823 Mulvane Building and the hospital complex.

The Employer has decided that the Diabetic Learning Center, now in the hospital complex, will be moved to the 901 Building. That move has not yet taken place.

The "treatment nurse" also works in the 901 Building. She is a registered nurse who does such procedures as blood pressure checks, injections, and EKGs. When the registered nurse who works in Human Relations and performs prehire physicals is absent, the treatment nurse fills in for her.

The 901 Building also includes the retail pharmacy. No registered nurses work in the pharmacy.

Based upon geographic proximity, centralization of administration, functional integration of some of the clinics, similarity of working conditions, and employee interchange, I conclude that the registered nurses employed in the 901 Garfield Building should be included in the unit.

#### 10. The Human Resource Center

The Human Resource Center (aerial photograph building 10) is 774 feet from the dock door of the hospital complex and is a part of the main campus. It houses the Human Resource Department which services all employees and all departments. This building is the work site for the registered nurse who does pre-employment physicals for all employees. When this nurse was absent last year, the treatment nurse did preemployment screens at the 901 Garfield Building. The Board has included employee health nurses in acute care units. See *St. Mary's Hospital, Inc.*, 220 NLRB 496 (1975). Based upon geographic proximity, centralization of administration, the fact that the registered nurse's job involves dealing with unit employees, and interchange with another unit employee, I conclude that this registered nurse should be included in the unit.

#### 11. Home health and hospice

Home health and hospice are included in a single department. The door to the building where home health is located (aerial photograph building 9) is 331 feet from the dock door of the hospital complex. About 13 registered nurses work in home health, and 2 in hospice. There appears to be regular interchange between registered nurses who work in home health and hospice. It also appears that the hospice registered nurses are

based in a building located at 10th and McVicker. It also appears, however, that both the home health and the hospice buildings are a part of the main campus. The registered nurses performing home health and those who perform hospice work come to their home buildings on campus to receive assignments at the beginning of their day and to do paperwork at the end of their day, but their work is performed mainly at the patients' homes. Often, home health nurses meet with patients and their families in the hospital complex before the patients are discharged from the hospital. Before home health patients are discharged from the hospital, home health nurses consult with hospital complex nurses regarding patients' eligibility for home health services and whether the home health criteria are met by the patient. When the hospice patients are hospitalized, the hospice nurses continue to see them in the hospital complex. Several home health nurses also regularly work in the hospital.

Home health employees have often been included in appropriate units in acute care settings. See *Frederick Memorial Hospital*, 254 NLRB 36 (1981); *Long Island College Hospital*, 256 NLRB 202, 207 (1981).

In view of the fact that the home health and hospice registered nurses are based on the main campus, and in light of centralization of administration and services, employee interchange and functional integration, I conclude that the home health and hospice registered nurses should be included in the unit. I further find that, in the event that there are any home health and hospice registered nurses who are not based at a building on the central campus, they do not share the same community of interest with other unit registered nurses and are excluded from the unit.

#### 12. Finance Building 1200 Washburn—Systems Applications

Two registered nurses are based in the finance building at 900 Washburn (aerial photograph building 12), the final building discussed by the parties at the hearing as a part of the main campus. The two are classified as Clinical Application Analysts. They train nurses in the use of new software, and in the use of the computer medical record system, the patient registration system, and the order entry system. They also provide day-to-day troubleshooting support for all users.

Because they are registered nurses who have regular contact with other unit registered nurses, because it appears that they work mainly on the central campus, and because of the extent of centralization of administration and services by this Employer, I shall include them in the unit.

#### 13. Life Flight

As a joint venture with another hospital, the Employer owns and operates Life Flight, a helicopter ambulance service. The Life Flight employees are employees of the Employer. These employees, including 11 registered nurses, are stationed at the air fields at three locations: about 10 miles from the main campus at Forbes Field in Topeka; about 25 to 30 miles away from the main campus in Lawrence, Kansas; and about 70 miles away from the main campus in Hutchinson, Kansas. The Life Flight registered nurses work 12-hour shifts at two locations, and 24-hour shifts at the third location. They accompany patients by helicopter to the helipad at the hospital complex

(marked 11 in ink on the foreground of the aerial photograph) and into the emergency room.

The parties stipulated that the flight nurses should be included in the unit. Absent such stipulation, the evidence of geographic remoteness of their base facilities, their contrasting working conditions, the lack of significant interchange, and separate day-to-day supervision, would have warranted exclusion of the flight nurses. However, inasmuch as both parties agree to their inclusion, I shall include the Life Flight nurses in the unit.

#### 14. Outlying clinics

In 1995, the Employer acquired the Cotton O'Neil clinics. These clinics are located in Topeka and in surrounding towns throughout Topeka and Shawnee Counties. They are physicians' offices and many, but not all, are staffed with registered nurses. As of the date of hearing, the clinics located at Baldwin, Urish, and Meriden had no registered nurses. The distances from the main campus to the freestanding clinics was stipulated to be as follows:

Site	No. of miles distant
Emporia	60
Baldwin	40
Urish	7
Rossville	15
Wamego	45
Alma	45
Lebo	50
Osage City	30

According to Clinic Administrator Carol Yocum, who oversees these clinics, there is a distinct difference between hospital inpatient care of as is provided in the hospital complex and the clinical care of which she is in charge.

Although generally, housekeeping services are centralized, the Employer contracts out housekeeping for the outlying clinics because it is easier not to do so. Although most locations of the Employer use identification badges with photographs and magnetic strips with coded information, used for hourly employees to clock in and out, some clinics do not have automated time and attendance systems.

The clinics are part of the Employer's medical services division; the hospital complex is part of the Employer's health services division. The medical services division is headed by Kent Palmberg. The health services division is headed by David Knocke. Deb Yocum, the vice president of the medical services division, was the administrator of the clinics when they became a part of the Employer's system in 1995. She continued in charge of the clinics. While the clinics are owned by the Employer, and the employees are employees of the Employer, they appear to retain their premerger names and a separate identity (separate location and patients). Day-to-day supervision of the registered nurses is by supervisors and managers at the clinics. The clinics use different titles for supervisory nurses than do the departments on the main campus. The clinic nurse manager is responsible for adherence to the budget for the clinic, and is also responsible for hiring, firing, scheduling

hours, and recommendations for promotion. There was evidence that these clinic nurse managers attend meetings at the main campus once every other week. There was also some evidence of interchange of registered nurses between the clinics, and of some interchange with the departments on the main campus. This interchange appears to be the exception rather than the rule for the registered nurses who work at the clinics.

The clinics are not served by the central mail system. They receive mail at their own addresses.

Not all clinic patients who are admitted to a hospital go to the hospital complex: about 35 percent are admitted to a different hospital.

The administrator in charge of the clinics testified that if the hospital shut down, the clinics could still function, but they would have very few support services (laundry, lab work, maintenance, computer assistance). She also testified that if the registered nurses at the hospital "left," it is possible that the Employer would decide to shift registered nurses from the clinics to the hospital—that resources would be devoted to the highest

Site	No. of miles distant
Emporia	18
Meriden	20
Croco	7
Oskaloosa	40
Lawrence	
Wakarusa	25
Lawrence Hospital	27
Topeka Pediatric Care (15 <sup>th</sup> & Gage)	3

priority, the acute care patients. She also believes it possible that if there were a shortage of registered nurses at the hospital, the Employer would transfer nurses from the clinics. This testimony was elicited in answer to hypothetical questions. Apparently no such scenarios have come to pass.

In addition to these freestanding clinics, physicians employed by the Employer see patients at various locations throughout the region. Registered nurses are not ordinarily a part of these "specialty clinics."

The Employer also has community nursing centers at two locations off the main campus, in Topeka. As of the date of hearing, the clinics located at Baldwin, Urish, and Meriden had no registered nurses. Here, registered nurses do blood pressure checks, health management and assessment and referrals to the emergency room, if appropriate, or referrals to other clinics or social service agencies. Each of the Employer's two community nursing centers are staffed by two registered nurses. They primarily see indigent patients.

Based upon their geographic separation from the main campus, their functional separation, and their separate organization and distinct day-to-day working conditions, I conclude that the registered nurses who work in the clinics off the main campus possess interests predominantly separate from the registered nurses who work on the main campus and should be excluded from the unit of registered nurses employed at the main campus.

#### 15. Stormont-Vail West

Stormont-Vail West is an inpatient psychiatric facility located about two miles from the main campus. As an inpatient facility, it is open around the clock, seven days a week. Until late February 2001, this department was located in the hospital complex. With the closing of the competing Menninger Clinic in Topeka, many of the patients were transferred to Stormont-Vail, and more space was needed. At that point, the department was moved to its present location off the main campus. As of the date of the hearing, Stormont-Vail West operates two units—one for adults and one for adolescents and children. The Employer has 20 full-time registered nurses at Stormont-Vail West plus 10 registered nurses working part time or as needed (prn). The Employer has inpatient psychiatric services at two locations. After the move, the senior diagnostic unit remains at the hospital complex on floor 6 West. Older, “fragile” patients are placed at 6 West. The choice between Stormont-Vail West and 6 West is based not upon age but upon acuity. The more acute geriatric patients are treated on 6 West.

The Board has noted that acute psychiatric care differs from other acute hospital care, and that employees are specially trained for this type of work. See, e.g., *Hartford Hospital*, 318 NLRB 183, 191 (1995); *Brattleboro Retreat*, 310 NLRB 615, 616 (1993).

Treatment of psychiatric patients differs from treatment of other patients. Possibly for that reason, there is minimal contact and interchange of personnel between the psychiatric departments and other departments. There is some interchange between registered nurses at Stormont-Vail West and 6 West. The work of the registered nurses at Stormont-Vail West and those on 6 West is similar. The charge nurses on 6 West report to Carolyn Jones. The charge nurses at Stormont-Vail West report to Jon Hartnett. Some of the clinics also perform some mental health care.

Todd Crause, a charge nurse on 6 West, provides training in the use of patient restraints to all employees of the Employer who take such training, including the registered nurses at Stormont-Vail West.

Because the inpatient psychiatric work of the registered nurses at Stormont-Vail West is very different from that of the vast majority of registered nurses on the main campus, because of the geographic and organizational separation of Stormont-Vail West, and because of the separate day-to-day supervision, I find that the registered nurses at Stormont-Vail West should be excluded from the unit of registered nurses who work on the main campus.