

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
SAN FRANCISCO BRANCH OFFICE

SAN MIGUEL HOSPITAL CORP. d/b/a  
ALTA VISTA REGIONAL HOSPITAL

and

Case 28-CA-22280

DISTRICT 1199NM, NATIONAL UNION OF  
HOSPITAL AND HEALTHCARE EMPLOYEES

Lisa Walker-McBride, Esquire,  
of Albuquerque, New Mexico,  
for the General Counsel.

Shane Charles Youtz, Esquire,  
of Albuquerque, New Mexico,  
for the Charging Party.

Donald T. Carmody, Esquire,  
of Brentwood, Tennessee,  
for the Respondent.

DECISION

Statement of the Case

JOHN J. MCCARRICK, Administrative Law Judge: This case was tried in Las Vegas, New Mexico on August 19, 2009, upon the complaint, issued on March 31, 2009 by the Regional Director for Region 28.

The complaint alleges that San Miguel Hospital Corp. d/b/a Alta Vista Regional Hospital (Respondent) violated Section 8(a)(1) of the Act by denying the request of its employee to be represented by the District 1199NM, National Union of Hospital and Healthcare Employees (Union) during an interview that could reasonably lead to discipline and by threatening employees that they could not have representation during an investigatory interview. The Complaint also alleges Respondent violated Section 8(a)(1) and (5) of the Act by, by refusing to provide information to the Union necessary and relevant to its duties as collective-bargaining representative, by unilaterally changing its practice with regard to Fit tests, by terminating an employee as a result of its changed practice concerning Fit tests, by unilaterally changing its practice with regard to allowing employees to have representation during investigative or disciplinary interviews and by bypassing the Union and dealing directly with unit employees by meeting with them to resolve grievances and discipline. In its answer, as amended, Respondent admitted most of the operative allegations of the complaint but denied it had violated the Act.

## Findings of Fact

Upon the entire record herein<sup>1</sup>, including the briefs from the General Counsel<sup>2</sup> and Respondent, I make the following findings of fact.

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## I. Jurisdiction

Respondent admitted it is a New Mexico corporation with an office and place of business located in Las Vegas, New Mexico, where it is engaged in the operation of an acute care hospital. Annually, Respondent in the course of its business operations derived gross revenues in excess of \$250,000 and purchased and received at its facility goods valued in excess of \$50,000 in directly from points outside the State of New Mexico.

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Based upon the above, Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

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## II. Labor Organization

Respondent admitted and I find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

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## III. The Alleged Unfair Labor Practices

## A. The Facts

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On March 4, 2008, the Board issued its Decision in San Miguel Hospital Corp. d/b/a Alta Vista Regional Hospital, Case 28-RC-6518 where it certified the Union as the collective-bargaining representative of the following unit of employees of Respondent (the Unit):

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All full-time and regular part-time professional employees, including registered nurses, registered nurse rotating team leaders, registered nurse case manager, licensed practical nurse case manager, cardiac catheterization laboratory supervisors, medical technologists, nuclear medicine technicians, pharmacists, registered pharmacists, occupational therapists, physical therapists, registered respiratory therapists, speech pathologists, and non professional employees, including all technical employees, skilled maintenance employees, business office employees, and other nonprofessional employees, and per diem employees averaging four or more hours of work per week for the last quarter prior to the eligibility date, employed by the [Respondent] at its hospital located in Las Vegas, New Mexico; excluding all employees employed at clinics, physicians, registered nurse permanent team leaders, house supervisors, human resource assistants, executive assistants, medical staff coordinator, staffing coordinator, confidential employees, guards and supervisors as defined in the Act.

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<sup>1</sup> On September 30, 2009, counsel for the General Counsel filed a “Motion to Correct the Record”. Good cause having been shown and no opposition filed, the motion is granted.

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<sup>2</sup> On October 14, 2009, counsel for the General Counsel filed an “Errata to the Post Hearing Brief”. As the errata correct a clerical error and there is no opposition, I accept the errata.

After the Union was certified, Respondent refused to bargain with the Union. Thereafter, on June 30, 2008, the Board issued its decision in *San Miguel Hospital Corp. d/b/a Alta Vista Regional Hospital*, 352 NLRB 809 (2008) in which it held that since March 4, 2008, the Union has been the exclusive representative under Section 9(a) of the Act of the employees in the Unit described above, and since March 12, 2008, Respondent has engaged in unfair labor practices by failing and refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit employees in violation of Section 8(a)(1) and (5) the Act. Respondent has requested review of this decision and the Board has filed a cross-application for enforcement of this decision in the District of Columbia Circuit Court. (*D.C. Cir. No. 08-1245*).

On March 31, 2009, the Regional Director for Region 28 issued the complaint herein, alleging that Respondent had violated Section 8(a)(1) and (5) of the Act.

On August 7, 2009, Counsel for the General Counsel filed a “Motion to Strike Portions of Respondent’s Answer to Complaint and For Partial Summary Judgment.” On August 12, 2009, Respondent filed a “Motion to Dismiss Complaint and Notice of Hearing, Alternatively, Respondent’s Motion to Stay.”

In its amended answer, Respondent admitted the Board’s jurisdiction, the Union’s labor status, the supervisory status of Respondent’s agents as alleged in complaint paragraph 4, that the Board issued its certification of the Union as the collective-bargaining representative of the Unit on March 4, 2008, that the Union, by its January 12 written request, requested from Respondent a list of Unit employees and a list of employees separated since the Union was certified, that since January 12, Respondent has refused to provide the requested information to the Union, that Respondent has required employees to take Fit Tests, fired Abeyta, changed its practice by denying employees requests to have employees present during investigative or disciplinary meetings, and bypassed the Union and dealt directly with Unit employees by meeting with them to resolve grievances and discipline without notice to or bargaining with the Union.

On August 14, 2009, Respondent filed an “Opposition to Counsel for the General Counsel’s Motion to Strike Portions of Respondent’s Answer to Complaint and for Partial Summary Judgment”, and Counsel for the General Counsel filed “General Counsel’s Opposition to Respondent’s Motion to Dismiss Complaint and Notice of Hearing, Alternatively Respondent’s Motion to Stay”.

On August 19, 2009, I issued an “Order Granting Counsel for the General Counsel’s Motion to Strike Portions of Respondent’s Answer to Complaint and for Partial Summary Judgment” in which I found that Respondent could not herein raise the appropriateness of the Unit or the Union’s certification as the representative of Unit employees. I also found that the Union’s January 12, 2009, request for employee names is necessary and relevant to the Union’s duty as collective-bargaining representative and that no factual issue concerning complaint paragraphs 7(a) through (c) remain. I also found that employee testing, employee discipline, employer work rules, and grievance resolution are related to wages, hours and other terms and conditions of employment and are mandatory subjects of bargaining as alleged in complaint paragraph 7(h). In addition, I ruled that neither Respondent’s first nor the second affirmative defense would be considered in the instant hearing. (Attacking the Board’s certification of the Union as the collective-bargaining representative of the Unit in Case 28-RC-6518 and attacking the authority of the General Counsel’s authority to issue, serve, and prosecute the complaint.)

Also on August 19, 2009, I issued my “Order Denying Respondent’s Motion to Dismiss Complaint and Notice of Hearing, Alternatively Respondent’s Motion to Stay”. In addition, at the start of the hearing on August 19, 2009, Respondent amended its amended Answer to admit complaint paragraph 1(a) and (b) regarding the filing and service of the charge and amended charge in this matter.

At the hearing, the parties entered into stipulations of fact that made the taking of testimony unnecessary. The stipulations are:

1. In October 2008, Respondent changed its policy regarding Fit Testing<sup>3</sup> without providing notice and an opportunity to bargain to the Union. Prior to October 2008 employees were not required to pass the Fit Test to continue their employment with Respondent. After October 2008 Respondent’s employees were required to pass the Fit Test to continue employment.
2. Fit Testing is governed by Federal OSHA regulations.
3. On about November 14, 2008, Respondent discharged Abeyta as a result of its change in policy regarding Fit Testing.
4. On about November 19, 2008, Respondent and Abeyta had a meeting discuss a grievance regarding her dismissal.
5. Prior to the November 19, 2008 meeting, Abeyta requested employee Regina Gutierrez (Gutierrez) be present at the meeting as her witness.
6. Respondent denied Abeyta’s request for the presence of Gutierrez.
7. Since Respondent refuses to recognize the Union, Respondent would have refused Abeyta’s request for a Union representative at the grievance meeting scheduled on November 19, 2008.
8. On about November 19, 2009, Respondent dealt directly with Abeyta, regarding her grievance that she filed over her dismissal.
9. On about November 19, 2008, Respondent told Abeyta and Gutierrez that their Weingarten rights were being denied.

#### B. The Analysis

Having previously resolved in my order of August 19, 2009<sup>4</sup>, that complaint allegations paragraphs 7(a)-(c) and (h) were not in issue and that the information the Union sought is presumptively relevant<sup>5</sup>, I find that in refusing to provide the Union with the requested information, Respondent has violated Section 8(a)(1) and (5) of the Act. I will discuss the remaining complaint allegations in the order they are set forth in the complaint.

<sup>3</sup> The parties stipulated that the Fit Test consists of testing a mask over an employee’s face to ensure that the mask seals out airborne disease.

<sup>4</sup> ALJ Exh. 1.

<sup>5</sup> *River Oak Center for Children*, 345 NLRB 1335 (2005).

## 1. The Denial of Abeyta's Request to be Represented

5 It is alleged in complaint paragraphs 6(a) and (b) that on or about November 19, 2008, the Respondent denied employee Abeyta's request to be represented by the Union during an interview that Abeyta had reasonable cause to believe would result in disciplinary action being taken against her.

10 Counsel for the General Counsel argues that Abeyta was entitled to the presence of a representative at the grievance interview dealing with her discharge under *Weingarten*. Respondent contends that since Abeyta was no longer an employee and since the grievance meeting was not an investigative interview, she was not entitled to representation.

15 In *NLRB v. Weingarten*, 420 U.S. 251, 260 (1975), the Supreme Court held that Section 8(a)(1) of the Act provides employees the right to be accompanied and assisted by their union representative at investigatory meetings that the employee reasonably believes may result in disciplinary action.

20 In *Party Cookies, Inc.*, 237 NLRB 612, 619 (1978), the Board affirmed the administrative law judge who found that *Weingarten* did not apply to a post discharge interview that was not investigative in nature. In *dicta*, in *Seattle First National Bank*, 268 NLRB 1479, 1481 (1984), the administrative law judge suggested that a post discharge internal review hearing could constitute a *Weingarten* type interview since the internal review committee did more than merely rubber stamp terminations and that the employee could reasonably believe that her employment status could be affected. Respondent's citation to *IBM Corp.*, 341 NLRB 1288 (2004) is misplaced as *IBM* stands only for the proposition that unrepresented employees have no right to a representative at an investigatory interview. *Polson Industries, Inc.*, 242 NLRB 1210, 1211 (1979) is also distinguishable as the employee there had voluntarily resigned and was not an employee. Here it is alleged that Abeyta was unlawfully fired and thus retained her rights as an employee.

30 In this case Abeyta had been terminated at the time of the November 19, 2008, post-discharge disciplinary grievance interview. The record is silent as to whether the grievance process was investigative or merely pro forma or whether the Respondent's grievance procedure had authority to rescind the discipline. Accordingly, I find that *Weingarten* does not apply to the Respondent's grievance procedure that occurred after Abeyta's discharge and I will dismiss this Complaint allegation. *Party Cookies, Inc.*, *supra*.

## 40 2. The Threats to Employees that Respondent would not Permit Representation During Investigatory Interviews.

In complaint paragraph 6(c) it is alleged that on or about November 19, 2008, the Respondent threatened employees by informing them that the Respondent would not allow them to have representation during investigatory interviews.

45 Statements to employees that they are not entitled to representation under *Weingarten* because Respondent does not recognize the Union as the employees' collective-bargaining representative violate Section 8(a)(1) of the Act. *In re: Dish Network Service Corp.*, 339 NLRB 1126 (2003); *In re: Fruehauf Trailer Services, Inc.*, 335 NLRB 393 (2001).

Respondent stipulated that when Abeyta requested that Gutierrez be present as her witness at the November 19, 2008, grievance meeting, it told Abeyta and Gutierrez that their *Weingarten* rights were being denied. This statement violated Section 8(a)(1) of the Act.

5                                    3. Respondent's Change in Practice Concerning Fit Tests.

It is alleged in paragraph 7(d) that between about June 16, 2008, to November 14, 2008, the Respondent changed its practice regarding Fit Tests by requiring Unit employees having direct contact with patients to take and pass a Fit Test or be discharged.

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Counsel for the General Counsel contends that Respondent's unilateral change in requiring employees, a condition of employment to take Fit tests violates Section 8(a)(1) and (5) of the Act. Respondent argues that it was required by Federal Law to require employees take the Fit test and it is not, therefore, obligated to bargain with the Union.

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An employer who refuses to bargain with the Union as the exclusive bargaining representative of its employees during a test of certification does so at its own risk and may violate Section 8(a)(5) of the Act. *In re United Food and Commercial Workers, Local No. 1996*, 336 NLRB 421 (2001); *Hankins Lumber Co.*, 316 NLRB 837, 861 (1995); *Proof Co.*, 115 NLRB 309 (1956). Thus, an employer's obligation to bargain attaches at the time the union wins the election, and the employer acts at its peril when it makes unilateral changes while post-election proceedings are pending. *In re: United Food and Commercial Workers, supra*; *Proof Co., supra*.

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The parties stipulated that in October 2008, Respondent changed its policy regarding Fit Testing without providing notice and an opportunity to bargain to the Union. Prior to October 2008 employees were not required to pass the Fit Test to continue their employment with Respondent. After October 2008 Respondent's employees were required to pass the Fit Test to continue employment. Such conduct constitutes an unlawful unilateral change.

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However, Respondent contends that Federal regulations dealing with protective masks privilege its unilateral acts.

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Under the OSHA regulations it is stated that, "[a] respirator shall be provided to each employee when such equipment is necessary to protect the health of such employee." 29 C.F.R. § 1910.134 (a) (2); *see also* 29 C.F.R. § 1910.132 (a) ("[p]rotective equipment, including respiratory devices shall be provided whenever it is necessary by reason of hazards of environment capable of causing injury").

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In *Quality House of Graphics, Inc.*, 336 NLRB 497, 498 (2001) the Board held that there are circumstances where an employer may act unilaterally if the employer can establish extraordinary events which are an unforeseen occurrence that require the company to take immediate action. The requirements of complying with other Federal Statutes do not fall within this exception. There is also another category of exigency identified in *Quality House of Graphics* that are not sufficiently compelling to excuse bargaining altogether but that require prompt action and cannot await final agreement or impasse on the collective-bargaining agreement as a whole. In such cases the Board still requires notice to and bargaining with the union.

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The first category of circumstances of *Quality House of Graphics* does not apply in this case since there was no extraordinary event that was unforeseen by Respondent that required implementing the rule that employees pass the Fit test as a requirement of employment. Rather the OSHA regulation only mandates that employees be provided with protective masks. There

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is nothing in the record that the OSHA regulation required Respondent to take immediate action. Indeed it appears that prior to October 2008, Respondent administered the Fit Test but did not condition employment upon passing the test. Even assuming, arguendo, that this case might fall under the second set of *Quality House of Graphics* exigencies, in the absence of notice to and bargaining with the Union concerning the new rule requiring passing the Fit test as a condition of employment, Respondent violated Section 8(a)(1) and (5) of the Act in unilaterally implementing such a requirement.

#### 4. The discharge of Abeyta.

It is alleged in paragraph 7(e) that on or about November 14, 2008, as a result of Respondent's conduct described above in paragraph 7(d), the Respondent discharged Abeyta.

If it is found that an employer unilaterally changes terms and conditions of employment in violation of Section 8(a)(5) of the Act, the discharge of employees pursuant to such unlawfully imposed rules also violates Section 8(a)(1) and (5) of the Act. *Great Western Produce, Inc.*, 299 NLRB 1004, 1005 (1990). In *Great Western at 1005*, the Board said:

We shall continue to apply the following test for analyzing discharges and other discipline alleged to violate Section 8(a)(5) If the Respondent's unlawfully imposed rules or policies were a factor in the discipline or discharge, then the discipline or discharge violates Section 8(a)(5).

It was stipulated that Respondent unilaterally implemented the change to its Fit testing rules and that Abeyta was discharged for violation of the rule. Having found that the rule was implemented unlawfully, I find that Abeyta's discharge violated Section 8(a)(1) and (5) of the Act.

#### 5. The Change in Practice Regarding Employee Representation at Investigative Meetings.

It is alleged in paragraph 7(f) that on or about November 19, 2008, the Respondent changed its practice by denying employees' requests to have employees present during investigative or discipline meetings.

In its answer Respondent admitted that it changed its practice concerning employees' rights to be represented at investigative meetings that could result in discipline. Since this policy affects terms and conditions of employment, it is a mandatory subject of bargaining. Failure to accord the Union notice and a meaningful opportunity to bargain violates Section 8(a)(1) and (5) of the Act. I find Respondent in unilaterally changing its practice regarding employee representation at a Weingarten type meeting violated Section 8(a)(1) and (5) of the Act.

#### 6. Bypassing the Union.

Paragraph 7(g) alleges that on or about November 19, 2008, the Respondent bypassed the Union and dealt directly with Unit employees by meeting with them to resolve grievances and discipline.

The Board has continued to hold that an employer violates Section 8(a)(1) and (5) by dealing directly with its employees. *Dayton Newspapers, Inc.*, 339 NLRB 650 (2003).

It was stipulated that on about November 19, 2009, Respondent dealt directly with Abeyta, regarding her grievance that she filed over her dismissal. I find that Respondent violated Section 8(a)(1) and (5) of the Act in dealing directly with Abeyta concerning her grievance.

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### Conclusions of Law

Respondent has engaged in conduct in violation of Section 8(a)(1) and (5) of the Act by, (a) refusing to provide information to the Union necessary and relevant to its duties as collective-bargaining representative, (b) threatening employees that they could not have representation during an investigatory interview, (c) unilaterally changing its practice with regard to the right of employees to be represented in *Weingarten* type meetings, (d) unilaterally changing its practice with regard to Fit tests, (e) terminating an employee as a result of its changed practice concerning Fit tests and by bypassing the Union and, (f) dealing directly with unit employees by meeting with them to resolve grievances and discipline. Respondent has not otherwise violated the Act and the remaining allegations of the complaint are dismissed.

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The above are unfair labor practices affecting commerce within the meaning of Sections 2(6), (7) and (8) of the Act.

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### Remedy

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Having found that the Respondent has engaged in certain unfair labor practices, I shall recommend that it be ordered to cease and desist and to take certain affirmative action designed to effectuate the purposes of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended.<sup>6</sup>

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### ORDER

The Respondent, San Miguel Hospital Corp. d/b/a Alta Vista Regional Hospital, its officers, agents, successors and assigns, shall

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#### 1. Cease and desist from

(a) Failing and refusing to recognize and bargain in good faith with National Union of Hospital and Health Care Employees District 1199NM, Union, as the exclusive collective-bargaining representative in the following appropriate unit:

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All full-time and regular part-time professional employees, including registered nurses, registered nurse rotating team leaders, registered nurse case manager, licensed practical nurse case manager, cardiac catheterization laboratory supervisors, medical technologists, nuclear medicine technicians, pharmacists, registered pharmacists, occupational therapists, physical therapists, registered respiratory therapists, speech

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<sup>6</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

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5 pathologists, and nonprofessional employees, including all technical employees, skilled maintenance employees, business office employees, and other nonprofessional employees, and per diem employees averaging four or more hours of work per week for the last quarter prior to the eligibility date, employed by us at our hospital in Las Vegas, New Mexico; excluding all employees employed at clinics, physicians, registered nurse permanent team leaders, house supervisors, human resource assistants, executive assistants, medical staff coordinator, staffing coordinator, confidential employees, guards and supervisors as defined in the Act.

10 (b) Failing and refusing to provide information to the Union that it needs to perform its duties as the exclusive bargaining representative of the current bargaining Unit described above.

15 (c) Unilaterally changing the wages, hours, or working conditions of Unit employees without first notifying the Union of planned changes and providing the Union with a meaningful opportunity to bargain over these changes and the effects of the changes.

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

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

25 (a) Recognize and bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the above described unit.

(b) Provide the Union with the information it requested of us on January 12, 2009, and any other information the Union requests that it needs to represent you.

30 (c) Reinstate Bernice Abeyta to her former position with full seniority and all other rights and privileges previously enjoyed by her.

(d) Make Bernice Abeyta whole, with interest, for any loss of earnings or benefits resulting from her discharge.

35 (e) Expunge and physically remove from our files any references to the discharge of Bernice Abeyta and notify her, in writing, that such action has been accomplished and that the expunged material will not be used as a basis for any future personnel action against her or made reference to in any response to any inquiry from any employer, prospective employer, employment agency, unemployment insurance office, or reference-seeker.

40 (f) Within 14 days after service by the Region, post at its facilities in Las Vegas, New Mexico, copies of the attached notice marked "Appendix."<sup>7</sup> Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Company's authorized representative, shall be posted by the Company immediately on receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to

50 <sup>7</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted Pursuant to an Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

employees are customarily posted. Reasonable steps shall be taken by the Company to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Company have gone out of business, closed a facility involved in these proceedings, or has laid off employees, Respondents shall duplicate and mail, at their own expense, a copy of the notice to all current employees and former employees employed by the Company at any time since October 1, 2008.

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(g) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondents have taken to comply.

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Dated, Washington, D.C., November 27, 2009.

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John J. McCarrick  
Administrative Law Judge

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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** do anything that interferes with these rights. More particularly:

**WE WILL NOT** threaten employees that they have no right to Union representation at an investigatory meeting that may reasonably lead to disciplinary action.

**WE WILL NOT** refuse to recognize and bargain with National Union of Hospital and Health Care Employees District 1199NM as the exclusive bargaining representative, of the following collective-bargaining unit (the Unit):

All full-time and regular part-time professional employees, including registered nurses, registered nurse rotating team leaders, registered nurse case manager, licensed practical nurse case manager, cardiac catheterization laboratory supervisors, medical technologists, nuclear medicine technicians, pharmacists, registered pharmacists, occupational therapists, physical therapists, registered respiratory therapists, speech pathologists, and nonprofessional employees, including all technical employees, skilled maintenance employees, business office employees, and other nonprofessional employees, and per diem employees averaging four or more hours of work per week for the last quarter prior to the eligibility date, employed by us at our hospital in Las Vegas, New Mexico; excluding all employees employed at clinics, physicians, registered nurse permanent team leaders, house supervisors, human resource assistants, executive assistants, medical staff coordinator, staffing coordinator, confidential employees, guards and supervisors as defined in the Act.

**WE WILL NOT** refuse to provide information to the Union that it needs to perform its duties as the exclusive bargaining representative of the current bargaining Unit described above.

**WE WILL NOT** unilaterally change the wages, hours, or working conditions of Unit employees without first notifying the Union of planned changes and providing the Union with a meaningful opportunity to bargain over these changes and the effects of the changes.

**WE WILL NOT** in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

**WE WILL** recognize and bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the Unit.

**WE WILL** immediately provide the Union with the information it requested of us on January 12, 2009, and any other information the Union requests that it needs to represent you.

**WE WILL** immediately reinstate Bernice Abeyta to her former position with full seniority and all other rights and privileges previously enjoyed by her.

**WE WILL** make Bernice Abeyta whole, with interest, for any loss of earnings or benefits resulting from her discharge.

**WE WILL** expunge and physically remove from our files any references to the discharge of Bernice Abeyta and notify her, in writing, that such action has been accomplished and that the expunged material will not be used as a basis for any future personnel action against her or made reference to in any response to any inquiry from any employer, prospective employer, employment agency, unemployment insurance office, or reference-seeker.

SAN MIGUEL HOSPITAL CORP. d/b/a ALTA VISTA  
REGIONAL HOSPITAL

\_\_\_\_\_  
(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: [www.nlr.gov](http://www.nlr.gov).

2600 North Central Avenue, Suite 1800

Phoenix, Arizona 85004-3099

Hours: 8:15 a.m. to 4:45 p.m.

602-640-2160.

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE**

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 602-640-2146.

Si quiere, se puede hablar con un agente de la Junta Nacional de Relaciones del Trabajo en confianza. [a Board agent who speaks Spanish can be made available to speak with you in confidence.] Pagina electronica de red de la Junta Nacional de Relaciones del Trabajo tambien tiene informacion en espanol" [www.nlr.gov](http://www.nlr.gov)  
[Information in Spanish is also available on the Board's website: [www.nlr.gov](http://www.nlr.gov)]