

## **Do not change the process for determining bargaining units in Long-Term Care Case: 15-RC-8773**

Nursing homes are not like any other business and it is critical that the NLRB take the unique aspects of nursing homes into consideration when determining bargaining units. What makes nursing homes different than any other business?

1. Primary purpose is to care for the frail and elderly of our society
2. Approximately 34% of all nursing homes exist for charitable purposes (non-profit and government).<sup>1</sup>
3. Nursing homes are highly regulated by the government due to their reliance on Medicare and Medicaid funding and due to ongoing quality issues. Ironically, many of the quality problems have been exacerbated and institutionalized by the arbitrary requirement of segregated departments contained in federal regulations. State of the art nursing home models eschew federally mandated departments for resident (person) centered care utilizing a universal care delivery model.<sup>2</sup> In other words, state of the art nursing homes should have one bargaining unit, making this a mute issue.
4. All 16,000 nursing homes in the United States must transform to the person centered model for nursing home residents to receive the highest quality care. Many non-profits, due to their cost structure and ability to fund raise, have taken the initiative in this area. For-profit nursing home and government nursing homes will be late adopters but the Center for Medicare and Medicaid Services will require all nursing homes to adopt these principles. Creating small bargaining units that are potentially represented by different unions will complicate and inhibit this needed transformation.
5. While most nursing homes are for profit entities and many are public corporation, thousands of nursing homes are private, individually owned and non-profit charitable organizations. Many of these nursing homes spend as much money as possible delivering quality resident care and trying to create a nice, competitive pay and benefit environment for staff. Changing the bargaining unit make-up will have multiple negative effects on these private and or non-profit nursing homes:
  - a. Cost of labor attorneys and other consultants will reduce money spent on residents. With smaller bargaining units, a small number of unhappy staff members could desire a union, literally taking money from the residents. Medicaid budgets are being cut across the country. Most nursing home residents are funded by Medicaid. There is no extra money. It will come from the residents. Why should two or three disgruntled residents create such a burden if the vast majority of staff are satisfied. Whether the bargaining unit is made up of five or fifty, the cost attorneys and consultants will be basically the same. Keep the larger bargaining units!
  - b. For profit nursing homes and public corporations will make the return on investment required by their investors. They have no choice. Increase the cost of care in an environment where funding is being cut AND THE RESIDENTS WILL SUFFER. Making unionization easier by reducing the size of bargaining units will increase costs and result in poorer quality resident care.

6. The cost of dealing with unions is the last thing our strapped budgets can afford, especially considering the new mandates that will be hitting in just three years.
7. Dealing with multiple unions would be a nightmare and impede culture change. Small bargaining units will make that nightmare a reality.
8. Culture change! Unions are suspicious of culture change that by its very nature demands cross training jobs and takes positions away from their departments. It is one thing if there is one union in place in a nursing home to bargain the transfer of jobs between laundry, housekeeping, foodservice and nursing. In organizations with multiple unions representing those departments, culture change comes to a standstill. It is paralyzed by the unions' unwillingness to give up positions/duties/dues.

An Example:

One small unhappy department of just a handful of employees could unionize if the long established practice of grouping all front line staff into the proposed bargaining unit is abandoned. This will increase cost of human resources dramatically and the turmoil of negotiating and implementing a bargaining agreement for just one department in a relatively small environment will create morale and teamwork issues. The extra cost of lawyers and consultants rob money from the care of the residents. The extra pay or benefits "won" by the workers outside of the competitive economic environment will rob money from care of the residents.

What if two different unions conquest two different small departments and then vie for the rest of the staff. Picture that turmoil and unrest.

Those are the most critical reasons why the long standing NLRB practice of grouping all like positions into one proposed bargaining unit MUST not change.

Citations:

<sup>1</sup> <http://www.efmoody.com/longterm/nursingstatistics.html>

<sup>2</sup> <http://www.aging.senate.gov/events/hr199rj.pdf>