FORM NLRB-5026 (4-80)

UNITED STATES GOVERNMENT
National Labor Relations Board

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Memorandum A.D. 01782

TO : Robert S. Fuchs, Director
Region 1

DATE: August 15, 1986

FROM : Harold J. Datz, Associate General Counsel
Division of Advice

177-9700-~~9799~~
593-4036

SUBJECT: New England Health Care Employees Union District 1199, National Union of Hospital & Health Care Employees, AFL-CIO (Costigan Ambulance Service, Inc.)
Case 1-CG-31

RELEASE

This case was submitted for advice as to whether an ambulance service constitutes a health care institution within the meaning of Section 2(14) of the Act.

FACTS

Costigan Ambulance Service, Inc. (the Employer) provides ambulance services to hospitals and nursing homes in several Rhode Island communities. The Employer's ambulances are staffed by emergency medical technicians (EMTs), who are trained to provide such care as O.C.P.R., emergency childbirth, alleviation of airway obstruction, fracture splinting, treatment of respiratory distress and treatment of anaphalaxis by injection of aphinephrine. The employer's ambulances are equipped to allow radio contact with hospital emergency rooms, thereby enabling emergency room personnel to advise the EMTs as to proper methods of stabilizing a patient's condition en route to the hospital. The Employer's EMTs are not qualified to administer I.V. medication or to perform "advanced life supports."

On July 18, 1986, the Union herein demanded recognition as the collective-bargaining representative of the Employer's EMTs. The Employer notified the Union on July 21, that it would not voluntarily accord recognition and, on July 22, the Union commenced a strike, admittedly without having provided the Employer with any prior notice. The Employer consequently filed the instant Section 8(g) charge.

ACTION

We have concluded that the Employer's ambulance service constitutes a health care institution within the meaning of Section 2(14). 1/

1/ Section 2(14) states that "[t]he term 'health care institution' shall include any hospital, convalescent hospital, health maintenance organization, health clinic,

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We have found no Board cases in which this precise issue has been decided. We note, however, the Board's general recognition of congressional intent to construe the term "health care institution" broadly." 2/ In our view, the Employer's ambulance service falls within the literal language of Section 2(14), and the policy rationale underlying the notice requirements of Section 8(g) supports the application of such requirements to the instant employer.

The Employer herein does not merely provide transportation to hospitals. It also provides the speed in transportation that could mean the difference between life and death; and most significantly, its drivers are trained to provide the medical care or monitoring essential to the care of many patients while en route to a hospital or nursing home. Thus, the Employer's ambulance personnel constitute an essential element of direct patient care. Therefore, we conclude that the Employer is literally an "institution devoted to the care of sick, infirm, or aged persons," as set forth in Section 2(14). 3/ Moreover, we believe that the policy underlying the enactment of Section 8(g), "to insure the continuity of health care to the community and the care and well being of patients by providing for a statutory advance notice of any anticipated strike or picketing" 4/ supports the application of such notice requirements to the instant employer. Thus, an unannounced strike by the Employer's ambulance personnel would have the same potential impact on the continuity of health care as would an unannounced strike directed at any other health care provider, since, as concluded above, the Employer's EMTs provide direct patient care.

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nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged persons."

2/ Kirksville College of Osteopathic Medicine, Inc., 274 NLRB No. 121, slip op. at 4 (1985).

3/ See Ruehle's Paramedic Ambulance, Inc., JD-128-82, slip op. at 11 (1982). Compare, e.g., San Diego Blood Bank, 219 NLRB 116, 116-117 (1975) (blood bank not a health care institution since supplying blood to hospitals does not involve patient care.)

4/ S.Rep. No. 766, 93rd Cong., 2d Sess. 4 (1974); H.R. Rep. No. 1051, 93rd Cong. 2d Sess. 5 (1974).

Finally, in view of the substantial arguments in favor of including the Employer's ambulance service within the definition of a "health care institution", we believe that this important issue should be put before the Board. Accordingly, the Region should issue a Section 8(g) complaint, absent settlement. 5/

H. J. D.