

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

KAISER FOUNDATION HOSPITALS AND
THE PERMANENTE MEDICAL GROUP, INC.

Employer

and

Case 20-RC-188438

CALIFORNIA NURSES ASSOCIATION (CNA)

Petitioner

DECISION AND DIRECTION OF ELECTION

Kaiser Foundation Hospitals and The Permanente Medical Group, Inc. (the Employer) is a California corporation engaged in the operation of acute-care hospitals with facilities located throughout Northern California.¹ By its amended petition², California Nurses Association (CNA or the Petitioner)³ seeks to represent the approximately 550 employees employed by the Employer at 22 facilities located in the following California cities: Antioch, Fremont, Fresno, Manteca, Modesto, Oakland, Redwood City, Richmond, Roseville, Sacramento, San Francisco, San Rafael, Santa Clara, Santa Rosa, San Jose, San Leandro, South San Francisco, South Sacramento, Stockton, Vacaville, Vallejo, and Walnut Creek; in the following proposed unit: All Registered Nurses whose primary duties are to perform discharge planning, case management, utilization review, resource management, benefit review, regulatory compliance, coordination of

¹ The parties stipulated, and I find, that the Employer is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act. I further find that the Employer is an employer as defined in Section 2(2) of the Act, a healthcare institution within the meaning of Section 2(14) of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction in this case.

² The Petitioner amended the Petition at hearing with my approval.

³ The parties stipulated, and I find, that Petitioner is a labor organization within the meaning of the Act.

care and coordination to outpatient locations, by the Employer, Kaiser Foundation Hospitals (KFH), including Patient Care Coordinators and Patient Care Coordinators-Case Managers⁴ at its hospitals located within KFH's Northern California region and at the non-KFH hospitals where KFH assigns such employees to provide contracted services (currently only St. Joseph's Medical Center in Stockton, California); and all Registered Nurses employed by the Employer, The Permanente Medical Group, as Patient Care Coordinators-Case Managers in the trauma program services department at the South Sacramento location⁵, excluding managers, guards and supervisors, as defined by the Act.⁶

A hearing officer of the Board held a hearing in this matter and the Petitioner and Employer subsequently filed briefs with me. The parties stipulated on the record that the unit set forth above is an appropriate unit. The Petitioner seeks a self-determination election⁷ among the proposed unit to determine whether they wish to be included in the existing Petitioner-represented unit of over 17,000 Registered Nurses (RNs) employed by the Employer at facilities located in Northern California.⁸ The Employer, on the other hand, opposes a self-determination election on the ground that the proposed unit does not share a community of interest with the existing unit. It argues that the PCCs perform a planning and regulatory function, which it asserts is an entirely different function than the direct patient care provided by the represented RNs. The Employer did not seek to challenge the appropriateness of the unit on any other ground. Therefore, the only issue to be decided is whether the proposed unit shares a community of interest with the existing unit.

As explained below, based on the record evidence and relevant Board law, I find that the proposed unit employees share an overwhelming community of interest with the existing unit and that a self-determination election is appropriate to determine whether or not the proposed unit of employees wish to be represented by the Petitioner in the existing unit.

⁴ Herein collectively referred to as PCCs.

⁵ Further, the parties stipulated that per diem PCCs are eligible to vote if they worked at least 120 hours in either of the two calendar quarters immediately prior to the eligibility date.
Marquette General Hospital, Inc., 218 NLRB 713 (1975)

⁶ Petitioner is not willing to proceed to an election in a separate unit.

⁷ *Globe Machine & Stamping Co.*, 3 NLRB 294 (1937); and *Armour & Co.*, 40 NLRB 1333 (1942)

⁸ The parties current collective-bargaining agreement (CBA) reveals that the existing unit contains the following positions: Nurse Permittee, Staff Nurse I, Staff Nurse II, Staff Nurse II-Short Hour, Staff Nurse III, Staff Nurse IV, Charge Nurse II, Charge Nurse II-Short Hour, Charge Nurse III, Charge Nurse IV, Home Health Nurse I, Home Health Nurse I-Short Hour, Home Health Nurse II, Home Health Nurse II-Short Hour, Home Health Nurse III, Nurse Practitioner I, Nurse Practitioner I-Short Hour, Nurse Practitioner II, Nurse Practitioner II-Short Hour, and Nurse Practitioner III.

STATEMENT OF FACTS

The Employer's Operations and Managerial Hierarchy

The Employer operates 21 acute-care hospitals and related facilities in Northern California. The Employer is also under contract with St. Joseph's Medical Center in Stockton, California to provide Patient Care Coordinators to care for patients. Generally, the Employer provides healthcare and patient-care services to individuals. The managerial hierarchy at the executive level of the Employer's Northern California operations includes the following executives, from the top down: Chief Executive Officer/Chairman, Executive Vice President-Group President, President of Northern California, and Senior Vice President of Operations.

Either an Area Manager, Hospital Administrator, or Chief Executive Officer oversees each service area, which consists of one or two hospitals. The management reporting structures below this level differ throughout Northern California. The PCCs generally have one reporting structure which differs from the existing unit's various reporting structures. The charts below exemplify some, but not all of the reporting structures for the existing unit.

| | | |
|---|--|--|
| Area Manager/Hospital Administrator/Chief Executive Officer | | |
| Chief Nursing Executive ⁹ | | |
| Clinical Adult Service Director | | |
| Manager | | |
| Assistant Manager | | |
| Staff RN | | |

| | | |
|---|----------------------|------------------|
| Area Manager/Hospital Administrator/Chief Executive Officer | | |
| Continuum Administrator | | |
| Skilled Nursing Facility Director | Home Health Director | Hospice Director |
| Skilled Nursing Facility Manager | Home Health Manager | Hospice Manager |
| Staff RN | Staff RN | Staff RN |

⁹ Currently, at four Employer facilities, the Chief Operating Officer (COO) and Chief Nursing Executive (CNE) are combined positions. However, the Employer claims it is phasing out the combination position and establishing separate COO and CNE positions at those facilities.

The chart below reflects the reporting structure for the PCCs.

| |
|---|
| Area Manager/Hospital Administrator/Chief Executive Officer |
| Chief Operating Officer |
| Coordinator of Care Services Director |
| Resource Management Manager |
| Patient Care Coordinator (PCC) |

Hiring and disciplinary decisions involving the existing unit and the PCCs occur within the respective, separate reporting structures in consultation with the Employer's Human Resources department in the applicable service area.

Bargaining History

As discussed above, the Petitioner currently represents more than 17,000 Registered Nurses employed by the Employer at its Northern California facilities. The existing unit dates back to at least the 1960s. Nurses hold a variety of job titles in numerous departments and capacities. For example, some RNs work as bedside nurses, providing patient care throughout several departments at each hospital. Other nurses assist patients by providing Home Health, Hospice, and Palliative Care (life planning for patients with serious illness). The parties stipulated that there are at least several hundred Call Center/Advice Nurses in the existing unit that provide nursing assessments over the telephone, rather than at patients' bedsides. The parties' bargaining history concerning the PCCs is not clear on the record, and there is no evidence that the Petitioner or any other union ever previously filed a petition to represent them. Further, the parties stipulated that there is no bar to processing the instant Petition.

Duties of Employees and Functional Integration with Existing Unit

PCCs are RNs that provide long-view care coordination to patients who need transitional care. Each day they receive a new patient list identifying which patients are assigned to them that day. They then develop and coordinate the patient's care by reviewing the patient's charts, examining the care and trajectory of the disease, visiting the patient and his/her family at bedside, consulting with physicians and others to understand the patient's needs, utilizing certain software, and consulting with outside agencies regarding continued treatment or hospitalization.

PCCs coordinate the interdisciplinary approach to providing continuity of care, including utilization management, transfer coordination, discharge planning, and obtaining all authorizations as needed for patients and families to obtain outside services. Along with the physicians, the PCCs evaluate and develop discharge plans, recommend alternative levels of care, and determine the proper post-hospitalization care. They also ensure compliance with federal, state and local requirements.

With respect to Medicare requirements, the PCCs follow specific protocol and criteria to determine medical necessity for hospitalization and whether the patient is at the correct level of care for their illness burden. The PCCs also consult with physicians and utilize InterQual, a program that analyzes patient information to determine whether or not a patient meets the criteria to remain hospitalized. The PCCs then communicate the outcome of this process to the patient and advise the patient of their rights under Medicare, if applicable.

The bedside nurses, on the other hand, perform substantial hands-on or direct patient care. They are responsible for performing nursing assessments and developing and executing a nursing plan of care, such as administering medication, inserting IV and catheter lines, giving infusions, physically moving patients, and performing a variety of treatments.

In order to assist in creating a complete care plan for the patient, a PCC arranges a daily multi-disciplinary round with the bedside nurse and primary care physician. Occasionally, other healthcare officials are consulted, such as physical therapists, speech therapists, dieticians or social workers, as deemed necessary. The PCC uses these daily rounds to assess patient needs.

PCCs also assist physicians who wish to evaluate a patient during multi-disciplinary rounds by providing the patient with hands-on assistance with mobility. PCCs may also intervene and provide hands-on assistance if a patient is at immediate risk.

Contact Among Employees and Interchangeability

Record testimony shows that PCCs collaborate with bedside nurses daily by telephone and in person, sometimes on an hourly basis, to identify and provide solutions for potential patient need and care issues. This communication occurs during and after rounds in a patient's room, in the hall, at the Nurses Stations, or in other work areas. In performing their respective duties, the PCCs and bedside nurses consult with one another to develop a patient care plan and exchange patient information. The PCCs rely on the information obtained from the bedside nurse when determining a patient plan of care.

PCCs and nurses employed at the Employer's facilities in Modesto and Walnut Creek, work at, or out of, the same buildings, sit at Nurses Stations when not working on the floor, take daily breaks in the same break room, and celebrate birthdays, retirements, and attend potlucks together on occasion. PCCs and nurses attend quarterly and annual regional meetings together, in which the Employer provides direction about its objectives and reviews quarterly and annual accomplishments.

PCCs are required to attend trainings in order to maintain competencies to perform bedside nursing so that they may be able to take over that role when needed during an emergency. Examples include strike situations or when patient census is very high. One PCC testified that, during the past two years, there were approximately ten instances when she performed the same bedside duties that a primary nurse performs.

At the Employer's facility in Modesto, there is at least one example of an Emergency Department nurse that went on to become a PCC. There are three other examples at the Employer's facility in Walnut Creek, where RNs transferred, respectively, from bedside nursing, ICU nursing, and Emergency Department nursing to PCC nursing, only to transfer back to their original nursing assignments.

Education, Skills and Training of Employees

The educational requirements for a RN consist of obtaining two years of general education requisites, an Associate's degree in any program, licensure testing and passing the Nursing Board Exam. RNs must also complete continuing education requirements in order to keep their RN license current, as mandated by the Board of Registered Nursing.

PCCs are required to possess a Bachelor's degree in nursing or a health-related field, or four years of experience in a directly related field, a degree from an accredited nursing school, and a high school diploma or General Education Development (GED).

The Employer requires the PCCs and represented RNs to be licensed and active RNs under State guidelines. In this regard, PCCs and Nurses are required to complete the same or similar online training modules for continuing education requirements. They are also required to maintain particular patient-care competencies and certifications on an ongoing, yearly basis, which they typically obtain through the modules. For example, PCCs and Emergency Department nurses are required to complete the training modules for Emergency Medical Treatment and Active Labor Act (EMTALA). While the required competencies or certifications the PCCs and represented RNs must possess may differ, they are both required to have a Basic Life Saving (BLS) competency or certification. Additionally, PCCs must perform nursing training and provide a list of their competencies, certifications and job experience in the event they need to fill in for the nurses during an emergency.

Working Conditions, Compensation, Hours, Benefits

PCCs and nurses both work 8- or 12- hour shifts depending on the department in which they work. PCCs have varying weekly schedules, whereas represented RN schedules may or may not change. PCCs receive their schedules either electronically or from a particular Employer office. For example, in Modesto, PCCs receive their schedule from the utilization management office, and in Walnut Creek, the PCCs receive their schedule from the continuing care office. They are typically assigned to work with a physician daily.

PCCs and represented RNs are paid hourly and receive benefits, such as overtime pay, holiday pay, Employer healthcare, and a pension and/or 403(b) or 401(k) contribution options. PCCs receive paid time off and are paid bi-weekly. One PCC testified that she earns approximately \$71.00 per hour. The collective-bargaining agreement covering the existing RN unit provides for hourly pay between \$55.72 and \$103.27. The represented RNs receive compensation and benefits that PCCs do not receive, such as, differential pay, sick leave, paid

vacation leave, education leave, bereavement leave, and other leaves of absence, in addition to having access to a grievance-arbitration provision.

Both PCCs and represented RNs use Health Connect, the online program utilized by the Employer for patient charting purposes, although they input their data into different program applications. PCCs may have broader access than the bedside nurses to patient information in Health Connect; however, the record evidence is not clear on this point. As discussed above, PCCs use InterQual to help determine whether a patient's hospitalization is medically necessary. Bedside nurses do not use this software.

Regarding work attire, PCCs and certain represented RNs, including those performing Palliative Care, are not required to wear scrubs. However, the bedside nurses are required to wear scrubs.

ANALYSIS

A self-determination election is a proper method by which a union may add unrepresented employees to an existing unit. See *Globe Machine & Stamping Co.; Armour & Co.* Such an order is appropriate if the employees sought to be included both: (a) share a community of interest with the existing unit employees; and (b) "constitute an identifiable, distinct segment so as to constitute an appropriate voting group." *St. Vincent Charity Medical Center*, 357 NLRB 854 (2011) (citing *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990)). Thus, a self-determination election determines not only whether the employees wish to be represented, but also whether the employees wish to be included in the existing unit. *Warner-Lambert Co.*, *supra*.

At the hearing, the parties agreed that the proposed unit to be added is an identifiable, distinct segment, but the Employer did not agree that it shares a community of interest with the existing unit of RNs. In determining whether one group of employees shares a community of interest with another, the Board considers the following factors: frequency of contact and interchangeability among employees; degree of skills and common functions; commonality of wages, hours, work situs, and other working conditions; and shared supervision. *Publix Super Markets, Inc.*, 343 NLRB 1023, 1024 (2004). The continued use of this test was reiterated in *Specialty Healthcare and Rehabilitation Center of Mobile*, 357 NLRB No. 83 934 (2011). Thus, in determining whether employees in a proposed unit share a community of interest, the Board examines: "whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised." *Id.*, quoting *United Operations, Inc.*, 338 NLRB 123, 123 (2002).

As discussed below, the record evidence establishes that the PCCs and the existing unit of RNs are functionally integrated into the Employer's overall provision of healthcare in Northern California, have frequent interchange, interact on a daily basis, engage in common work tasks toward a common goal, work similar 8- or 12-hour schedules, have similar licensing

and continuing-education requirements, and enjoy similar wages and benefits. In sum, the PCCs are a readily identifiable group that share a community of interest with the existing unit.

Health Care Rule Presumption

On April 21, 1989, the Board set out the appropriate units for acute-care hospitals in a rulemaking proceeding, reported at 284 NLRB 1515, et seq. The Health Care Rule (Rule) (29 CFR Section 103.30 (1990)) provides that except in extraordinary circumstances, only certain units (including, among others, all RNs) are appropriate in an acute-care hospital. Further, the Rule finds that units of RNs are appropriate, and issues of unit placement are determined on a case-by-case basis. Licensing is an important factor in determining whether a particular employee or group should be included in an RN unit. As the Board indicated:

Although the Board has not included all RNs in a hospital RN unit regardless of function, the Board generally has included in RN units those classifications which perform utilization/review of discharge planning work where an employer requires or effectively requires RN licensing for the job. *Salem Hospital*, 333 NLRB 560 (2001).

In *St. Vincent Charity Medical Center*, *supra*, the Board held that the Rule left residual units in the healthcare industry to adjudication and ordered an *Armour-Globe* election. More specifically, the Board found that a self-determination election would not run afoul of the Rule or lead to undue proliferation of units and further found that the petitioned-for phlebotomists in that case constituted an appropriate voting group that shared a sufficient community of interest with the existing, nonconforming unit to permit a self-determination election.

In the instant case, the Employer requires the PCCs to maintain active RN licensure in order to apply for and perform their jobs. This important factor, coupled with the Board's Rule and its rationale in *St. Vincent*, *supra*, weighs in favor of directing an *Armour-Globe* election to determine whether the PCCs wish to join the existing unit.

Community of Interest

In the case at bar, the Employer contends that the PCCs do not share a community of interest with the nurses in the existing unit because the PCCs perform a planning and regulatory function, which it asserts is an entirely different function than the direct patient care provided by the represented RNs. It also points out that the PCCs comprise a separate department and have a different management reporting structure than the nurses. However, I do not find that those factors outweigh the other factors that otherwise show an overlap of common interests between the two groups.

The PCCs work hand in glove with the represented RNs on a daily basis toward a common goal of providing quality healthcare for patients. They participate in multi-disciplinary rounds, and they frequently collaborate by consulting one another and exchanging information to perform their respective patient-care duties. The PCCs and represented RNs interact daily at the Nurses Stations, in the halls, and at patients' bedsides. They periodically attend the same Employer meetings and socialize together in the workplace. The record disclosed that there is

some interchange between the PCCs and the represented RNs, and there is significant overlap of required licensure, competencies, and continuing education. For example, the Employer requires PCCs and the represented nurses to maintain active RN licenses and to complete many of the same training modules. The PCCs and represented nurses both use the Employer's Health Connect system, and their working conditions, working hours, compensation and benefits are relatively similar.

I note that the PCCs do not regularly perform hands-on, direct patient care, like certain of the represented RNs. However, many of the represented RNs are also "hands-off," including the Palliative Care and Call Center/Advice nurses. Likewise, although the PCCs have a unique management reporting structure, there is not a single uniform reporting structure for the represented nurses. Indeed, Palliative Care and Call Center/Advice Nurses, as well as Home Health and Hospice Nurses, have management reporting structures that are separate from the bedside nurses. Accordingly, I do not find the nature of the PCCs' work or their management reporting structure detract from their overall common interests with the existing unit.

Finally, I have also considered that the record disclosed no history of collective-bargaining vis-a-vis the PCCs, that the Petitioner seeks to include the PCCs in the existing non-conforming unit, and that no other labor organization seeks to represent the PCCs separately or in a different combined unit.

Finding: Based on all of the above, I find that the PCCs are an appropriate voting group that share a community of interest with the existing unit of RNs. Accordingly, I shall direct an election among the PCCs to determine whether they wish to be represented by the Petitioner in the existing RN unit.

CONCLUSIONS

I have carefully weighed the record evidence and the arguments of the parties, and I conclude that the Petitioner has carried its burden of proving that the proposed unit is an appropriate unit, and I direct herein a self-determination election among that unit.

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

- 1) The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
- 2) The parties stipulated, and I find, that the Employer is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act. I further find that the Employer is an employer as defined in Section 2(2) of the Act and that it will effectuate the purposes of the Act to assert jurisdiction in this case.
- 3) The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of the Act.

- 4) I find that a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.
- 5) The following employees of the Employer at its Northern California facilities constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All Registered Nurses whose primary duties are to perform discharge planning, case management, utilization review, resource management, benefit review, regulatory compliance, coordination of care and coordination to outpatient locations, by the Employer, Kaiser Foundation Hospitals (KFH), including Patient Care Coordinators and Patient Care Coordinators-Case Managers at its hospitals located within KFH's Northern California region and at the non-KFH hospitals where KFH assigns such employees to provide contracted services (currently only St. Joseph's Medical Center in Stockton, California); and all Registered Nurses employed by the Employer, The Permanente Medical Group, as Patient Care Coordinators-Case Managers in the trauma program services department at the South Sacramento location, excluding managers, guards and supervisors, as defined by the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be included in the existing unit for purposes of collective bargaining by CALIFORNIA NURSES ASSOCIATION (CNA). Should the PCCs vote against, it will be taken to mean that they wish to remain unrepresented.

A. Election Details

The parties stipulated to a mail-ballot election. Given the high degree of employee scatter throughout Northern California, I agree that conducting the election by mail, as described below, will serve to ensure the effective exercise of employees' Section 7 rights:

The election will be conducted by mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 20, on December 30, 2016. Voters must return their mail ballots so that they will be received in Region 20 of the National Labor Relations Board before the ballot count, which will take place at Region 20's offices located at 901 Market Street, Suite 400, San Francisco, CA 94103 at 10:00 am on January 19, 2017.

If any eligible voter does not receive a mail ballot or otherwise requires a duplicate mail ballot kit, he or she should contact the Region 20 office by no later than 5:00 pm on January 9, 2017, in order to arrange for another mail ballot kit to be sent to that employee.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending November 26, 2016, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible to vote are all employees in the unit who have worked an average of four (4) hours or more per week during the 13 weeks immediately preceding the eligibility date for the election.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by December 27, 2016. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015. Because this mail ballot election involves a large voting group please be sure to number the list as shown in the above sample form.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once

the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

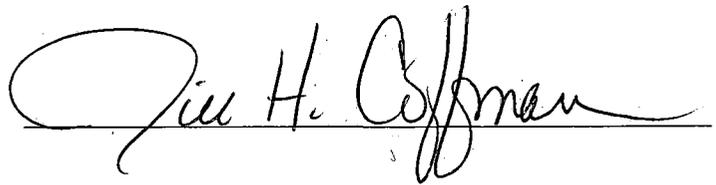
Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: December 22, 2016

JILL COFFMAN
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 20

A handwritten signature in black ink that reads "Jill H. Coffman". The signature is written in a cursive style and is positioned above a solid horizontal line.