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VIA E-FILE

Office of Executive Secretary
National Labor Relations Board
1015 Half Street, S.E.
Washington, DC 20003

File No; 75-000-439

**RE: Crozer Chester Medical Center
Case No. 04-RC-257107**

To the Office of the Executive Secretary:

The undersigned is counsel to the Crozer Professional Union/PASNAP, Petitioner in the above matter. This letter is a position statement with respect to the request for an expedited decision by the Board with respect to the April 7, 2020 Request for Review ("Request") filed by Crozer-Chester Medical Center ("Employer" or "Hospital"), the Employer in the above matter, which was supplemented by an April 14, 2020 letter.

At the outset, please note that this letter is not a response to the Request per se. Pursuant to §102.67(f) of the Board's Rules and Regulations, the Petitioner has "within 7 days after the last day on which the request for review must be filed, file with the Board a statement in opposition..." Section 102.67(c) of the Board's Rules and Regulations establishes a deadline of "14 days after a final disposition of proceeding by the Regional Director." Accordingly, the time for the Petitioner to respond to the Employer's Request has not yet been established, given that an election has not been conducted.

However, the Petitioner does seek to go on record as opposing the Employer's request for expedited consideration and to stay the election (Request at 18-20). The argument advanced by the Employer, pursuant to §102.67(k)(1)(i) and (ii), is predicated on the COVID-19 pandemic. The Employer suggests that somehow the COVID-19 pandemic justifies an undefined delay, mainly because (a) the Employer, which has full electronic, telephone and mail access to the members of the proposed bargaining unit will somehow find it difficult to campaign; (b) a campaign will somehow divert the voters from the health care responsibilities; (d) the Employer

Office of Executive Secretary
National Labor Relations Board
Page 2
April 16, 2020

may have decisions to make to operate the hospital and does not want to run afoul of the Act by somehow violating §8(a)5); and (e) the Acting Regional Director has ordered a mail ballot.

First and foremost, the Board has obviously considered the ramifications of conducting elections during the COVID-19 pandemic, when, it announced on April 1, 2020 that as of the week of April 6, 2020, it would commence conducting representation elections. The Board obviously considered the effect of the COVID-19 pandemic. As noted by Chairman Ring in the April 1, 2020 announcement:

Conducting representation elections is core to the NLRB's mission, and ensuring elections are carried out safely and effectively is one of our primary responsibilities. Two weeks ago, when the Board made the difficult decision to suspend elections, the developing situation made it impossible to ensure the safety of our employees or the public. With many regional offices closed and most employees teleworking, the Board was not confident that *any* type of election could be run effectively. Based on these concerns, the Board determined that a two-week suspension would provide the General Counsel, who is delegated authority to supervise the regional offices, which conduct elections on the Board's behalf, the opportunity to fully review the logistics of the election procedures in light of the unprecedented situation. The General Counsel now has advised that appropriate measures are available to permit elections to resume in a safe and effective manner, which will be determined by the Regional Directors. We appreciate the patience and understanding of all NLRB stakeholders during this challenging time.

All parties will have difficulty campaigning in the traditional manner, i.e., through face-to-face meetings but obviously this something that the Board must have considered when it made its decision to begin conducting representation elections on and after April 6, 2020. Moreover the suggestion that somehow that voters must focus *solely* on their responsibilities as health care employees is almost insulting; health care employees generally have serious responsibilities under a variety of circumstances but that hardly means they are not capable of exercising their franchise. Indeed, a number of elections for public office have been conducted over the last several weeks, the only issue being whether manual balloting in those elections can be conducted safely.

The assertion by the Employer that it does not wish to prolong its obligation to avoid committing violations of the Act hardly supports the Employer's request for extraordinary relief. Indeed, if the Employer's concerns in this regard were really serious, it would want to the uncertainty about whether the Petitioner is the bargaining representative resolved sooner rather than later.

Office of Executive Secretary
National Labor Relations Board
Page 3
April 16, 2020

Finally, as part of its request for extraordinary relief, the Hospital raises the fact that the Acting Regional Director – in his April 7, 2020 Order - has directed a mail ballot, a somewhat peculiar argument in light of the fact that the Employer has vigorously opposed the use of a mail ballot, notwithstanding impact of the COVID-19 pandemic.

That the Employer has sought extraordinary relief and a delay of the election with arguments so lacking in substance and in many ways contradictory suggests that all the Employer here – as it has suggested in its position as to the nature of the election to be conducted, i.e., manual or mail ballot -wants to do is simply delay the election. How that position provides the certainty desired by the Employer with regard to the potential for violation of the Act is unfathomable.

The Petitioner will respond to the Request for Review but in accordance with §102.67© and (f).

Respectfully submitted,



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