IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

TEMPLE UNIVERSITY HOSPITAL, INC. Petitioner, v. NATIONAL LABOR RELATIONS BOARD, Respondent.	:	Case No. 21-1111

PETITION FOR REVIEW

Pursuant to Rule 15(a) of the Federal Rules of Appellate Procedure and 29 U.S.C. § 160(f), Petitioner Temple University Hospital, Inc. hereby petitions this Court for review of the Decision and Order issued by the Respondent, National Labor Relations Board, in NLRB Case No. 04-CA-174336, which was reported at 370 NLRB No. 106 and entered on April 12, 2021, and requests that said Decision and Order be set aside, modified, and/or remanded for further proceedings. Petitioner requests that the Court review the Board's Certification of Representative that issued on February 18, 2016 and the related Board decisions in the underlying representation proceeding in Case No. 04-RC-162716 as part of its review of the Board's April 12, 2021 Decision and Order.

The Board's April 12, 2021 Decision and Order is attached hereto as Exhibit A, along with a Corporate Disclosure Statement.

Respectfully submitted,

Dated: April 26, 2021

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RULE 26.1 CORPORATE DISCLOSURE STATEMENT

Petitioner Temple University Hospital, Inc. is a non-profit corporation whose sole member is Temple University Health System, Inc. Temple University—Of The Commonwealth System of Higher Education is the sole member of Temple University Health System, Inc.

Respectfully submitted,

Dated: April 26, 2021

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EXHIBIT A

NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Temple University Hospital, Inc. *and* Temple Allied Professionals, Pennsylvania Association of Staff Nurses and Allied Professionals (PASNAP). Case 04–CA–174336

April 12, 2021

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN MCFERRAN AND MEMBERS EMANUEL AND RING

This case is before the National Labor Relations Board on remand from the United States Court of Appeals for the District of Columbia Circuit.[1] In this test-of-certification proceeding, the Board granted the General Counsel's motion for summary judgment and found that the Respondent violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of a unit of professional and technical employees and previously unrepresented medical interpreters and transplant financial coordinators. 366 NLRB No. 88 (2018). In the underlying representation case, the Board had rejected the Respondent's contention that the Union was judicially estopped from invoking the Board's jurisdiction. On review of the instant unfair labor practice case, the court found fault with the Board's analysis of the Respondent's judicial estoppel argument and remanded the case for the Board to determine "whether judicial estoppel is available in NLRB proceedings and, if so, whether to invoke it." *Temple University Hospital v. NLRB*, 929 F.3d at 731. For the reasons set forth below, we find that although judicial estoppel may be available in certain Board proceedings, it is not available in proceedings such as this, where the Board's jurisdiction is in issue. Accordingly, we reaffirm our conclusion that the Respondent violated Section 8(a)(5) and (1) by refusing to recognize and bargain with the Union.

Factual and Procedural History

The Respondent is a nonprofit acute care hospital in Philadelphia, Pennsylvania. For more than 30 years prior to 2006, the Professional and Technical Employees Association, National Union of Hospital and Health Care Employees, AFSCME District 1199C (District 1199C) represented the Respondent's professional and technical employees, and the parties conducted their labor relations under the jurisdiction of the Pennsylvania Labor Relations Board (PLRB). In 2005, the Temple Allied Professionals, Pennsylvania Association of Staff Nurses and Allied Professionals (the Union) filed a petition with the PLRB, seeking to represent the unit. In that proceeding, the Respondent and the Union took the position that the PLRB had jurisdiction over the Respondent, while District 1199C contended that the Board had jurisdiction. The PLRB asserted jurisdiction over the Respondent and conducted an election. The Union won and was certified by the PLRB.

In 2015, the Union petitioned the Board for an *Armour-Globe* election among 12 unrepresented professional medical interpreters and transplant financial coordinators to determine whether they wished to be included in the professional and technical unit.[2] The Respondent sought dismissal of the petition on multiple grounds, including that the Union was judicially estopped from invoking the Board's jurisdiction because it had argued in the earlier proceeding before the PLRB that the Board lacked jurisdiction over the Respondent.[3] The Acting Regional Director found that the Board had jurisdiction over the Respondent and directed an election. The Union won the election and was certified as the exclusive collective-bargaining representative of the expanded unit.

The Respondent filed a request for review, and the Board granted review in part but denied review with respect to the Acting Regional Director's ruling on judicial estoppel. Assuming for the sake of argument that judicial

[1] *Temple University Hospital, Inc. v. NLRB*, 929 F.3d 729 (D.C. Cir. 2019).

[2] An *Armour-Globe* election permits employees who share a community of interest with an already-represented unit of employees to vote on whether to join the existing unit. See *Armour & Co*., 40 NLRB 1333 (1942), and *Globe Machine & Stamping Co*., 3 NLRB 294 (1937).

[3] Judicial estoppel "is an equitable doctrine invoked by a court at its discretion." *New Hampshire v. Maine*, 532 U.S. 742, 750 (2001) (internal quotation marks omitted). "[I]ts purpose is to protect the integrity of the judicial process by prohibiting parties from deliberately changing positions according to the exigencies of the moment." Id. (citations and internal quotation marks omitted). More specifically, judicial estoppel applies to prevent a party that prevailed on an argument in one phase of a case from relying on a contradictory argument to prevail in another phase. See id. at 749. The facts of *New Hampshire v. Maine* are illustrative. In 1977, the State of New Hampshire stipulated to the Supreme Court that the boundary line between itself and Maine ran down the navigable middle of the Piscataqua River. In 2001, New Hampshire changed position and argued to the Court that the boundary line hugs the river's Maine shoreline. Invoking judicial estoppel, the Court dismissed the case, applying the following factors to determine whether the balance of equities favored dismissal: (1) whether a party's later position is clearly inconsistent with its earlier position; (2) whether the party succeeded in persuading a court to accept its earlier position such that judicial acceptance of the inconsistent position in a later proceeding would create the perception that either the first or the second court was misled; and (3) whether the party asserting the inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party. Id. at 750–751.

estoppel applies in Board proceedings, the Board affirmed the Acting Regional Director's conclusion that the Union was not estopped from invoking the Board's jurisdiction. *Temple University Hospital, Inc.*, 04–RC–162716, 2016 WL 7495062, at *1 fn. 2 (Dec. 29, 2016). Citing *New Hampshire v. Maine*, supra, the Board stated: "We agree with the Acting Regional Director's findings that processing the petition will not confer an unfair advantage on the [Union] or impose an unfair detriment on the Employer; there is no evidence that the [Union] misled the PLRB, and there is an inadequate basis to believe the PLRB would have reached a different result had the [Union] taken some contrary position before the PLRB." Id. In its subsequent Decision on Review and Order, the Board affirmed the Acting Regional Director's decision in full. *Temple University Hospital, Inc.*, 04–RC–162716, 2017 WL 6379903 (Dec. 12, 2017).[4]

Thereafter, the Respondent refused to recognize and bargain with the Union, and the Board found that the Respondent violated Section 8(a)(5) and (1) of the Act by doing so. See *Temple University Hospital, Inc.*, 366 NLRB No. 88 (2018). The Respondent petitioned the court for review of the Board's order, contending in part that the Board had erred by failing to judicially estop the Union from invoking its jurisdiction. The Board cross-applied for enforcement.

On review, the D.C. Circuit did not decide whether judicial estoppel applies in Board proceedings. However, the court concluded that the Board's bargaining order was unenforceable because the Board had misapplied the *New Hampshire v. Maine* factors in the underlying representation case. 929 F.3d at 735–736. Because the Board had merely assumed without deciding that judicial estoppel is available in Board proceedings, the court remanded the case for the Board "to determine in the first instance whether judicial estoppel is available in NLRB proceedings. . . . in appropriate circumstances." Id. at 737. On September 26, 2019, the Board notified the parties to this proceeding that it had accepted the court's remand and invited them to file statements of position. The Respondent and the Charging Party Union each filed a statement of position.

The Board has delegated its authority in this proceeding to a three-member panel.

We have carefully reviewed the record and the parties' statements of position in light of the court's decision, which we accept as the law of the case. For the reasons explained below, we hold that judicial estoppel is not available in this or any Board proceeding where application of that doctrine could compel the Board to surrender its jurisdiction.

Analysis

Whether judicial estoppel is available in Board proceedings is an issue that prior to now the Board has not squarely addressed. Parties have urged its application in other cases, and the Board has declined to apply it on other grounds.[5] The D.C. Circuit has observed that "whether a nonjudicial tribunal may itself invoke judicial estoppel appears to be an issue of first impression." 929 F.3d at 734. "[O]ne might wonder," said the court, "whether a doctrine known as 'judicial' estoppel has force in proceedings before the NLRB, which is an administrative tribunal." Id. Similarly, the Supreme Court, addressing an estoppel argument urged by a litigant against the Board, observed that "the differences in origin and function between administrative bodies and courts 'preclude wholesale transplantation of the rules of procedure, trial and review which have evolved from the history and experience of courts.'" *Wallace Corp. v. NLRB*, 323 U.S. 248, 253 (1944) (quoting *Federal Communications Commission v. Pottsville Broadcasting Co.*, 309 U.S. 134, 143 (1940)).

We do not foreclose the possibility that a future case may present circumstances under which judicial estoppel may be appropriately applied. Notwithstanding the Supreme Court's observation concerning "differences in . . . function between administrative bodies and courts," id., the Board operates predominantly as a quasi-judicial tribunal, filling in the interstices of the Act by issuing decisions based on the facts presented in particular cases. Here, however, the Respondent sought to use judicial estoppel as a basis for compelling the Board to surrender its

[4] In doing so, the Board rejected the Respondent's contentions that, separate and apart from the issue of judicial estoppel, the Board should exercise its discretion to decline jurisdiction over the Respondent because of its relationship with Temple University, over which the Board has declined to exercise jurisdiction "because of the 'unique relationship between the University and the Commonwealth [of Pennsylvania].'" Id. at *1 (quoting *Temple University,* 194 NLRB 1160, 1161 (1972)). The Board also rejected the Respondent's argument that the Board should not extend comity to the technical-professional unit previously certified by the PLRB because the unit does not conform to the Board's prescribed units for healthcare facilities. Id. at *2-*3. The Respondent reiterates those contentions in its position statement on remand, but we have already held that they are not "properly litigable in this unfair labor practice proceeding." *Temple University Hospital*, Inc., 366 NLRB No. 88, slip op. at 1–2 (2018).

[5] See *Precision Industries*, 320 NLRB 661, 663 (1996) ("[A]ssuming arguendo that th[e judicial estoppel] doctrine is applicable to proceedings before the Board," the parties had not taken inconsistent positions.), enfd. 118 F.3d 585 (8th Cir. 1997), cert. denied 523 U.S. 1020 (1998); see also *Kvaerner Songer, Inc.*, 343 NLRB 1343, 1346 fn. 9 (2004) (finding it unnecessary to reach the question of collateral and judicial estoppel argued by the General Counsel as an alternative ground for finding that the parties' hiring hall arrangement was nonexclusive).

jurisdiction. For the following reasons, we hold that judicial estoppel is unavailable for that purpose in Board proceedings.

Preliminarily, we observe that federal courts have generally declined to apply judicial estoppel to create or defeat jurisdiction. See *Hansen v. Harper Excavating, Inc.*, 641 F.3d 1216, 1227–1228 (10th Cir. 2011); *City of Colton v. American Promotional Events, Inc.-West*, 614 F.3d 998, 1006 fn. 6 (9th Cir. 2010), cert. denied 562 U.S. 1062 (2010); *Whiting v. Krassner*, 391 F.3d 540, 544 (3d Cir. 2004), cert. denied 545 U.S. 1131 (2005); *Da Silva v. Kinsho International Corp.*, 229 F.3d 358, 361 (2d Cir. 2000); but see *Sexual Minorities Uganda v. Lively*, 899 F.3d 24, 34 (1st Cir. 2018). In *Whiting*, a threshold issue of mootness was raised, and Whiting, invoking judicial estoppel, argued that Krassner was estopped from taking a certain position on that issue because he had taken the opposite position before the district court. Rejecting this argument, the court stated:

> [T]here is an exception to the general concept of "judicial estoppel" when it comes to jurisdictional facts or positions, such that it has been said that "judicial estoppel . . . cannot conclusively establish jurisdictional facts." *In re Southwestern Bell Tel. Co.*, 535 F.2d 859, 861 (5th Cir. 1976). Mootness must be examined by the court on its own and courts have generally refused to resort to principles of judicial estoppel to prevent a party from "switching sides" on the issue of jurisdiction.

391 F.3d at 544 (citing *Da Silva*, supra). In *Da Silva*, both parties reversed themselves, before the court of appeals, on positions they had taken before the district court regarding subject-matter jurisdiction. Declining to apply judicial estoppel, the court stated that the parties' "prior litigating positions do not preclude either side from asserting its current position since the issue of subject matter jurisdiction is one we are required to consider, even if the parties have . . . switched sides on the issue." 229 F.3d at 361.

Like the courts, we are also unwilling to place our jurisdictional powers in the hands of litigants. Were judicial estoppel available here, we could be compelled to surrender our jurisdiction to the PLRB if the balance of equities under *New Hampshire v. Maine* favored estoppel. In other words, whether we would retain jurisdiction could depend on the parties' petition-filing and litigation choices over time. Whatever the circumstances under which the Board might appropriately apply judicial estoppel in a future case, we hold it unavailable to dictate our jurisdiction here.

There is no question that the Board has jurisdiction of the Respondent as an employer under Section 2(2) of the Act. The 1974 Health Care Amendments to the Act extended the Board's jurisdiction to nonprofit hospitals and other healthcare facilities.[6] The Respondent is not a political subdivision of the Commonwealth of Pennsylvania, nor is it otherwise excluded from statutory employer status. It is not a member of a class or category of employers over which the Board has declined to exercise jurisdiction under Section 14(c) of the Act.[7] And we have rejected the Respondent's contention that its relationship with Temple University distinguishes it, for jurisdictional purposes, from other employers over which we have jurisdiction under Section 2(2). See *Temple University Hospital, Inc.*, 04–RC–162716, 2017 WL 6379903, at *1. Moreover, although the Respondent raised judicial estoppel in the underlying representation case, a finding that we are constrained to surrender jurisdiction to the PLRB would mean that the PLRB has jurisdiction over the Respondent in all cases, including unfair labor practice cases.

Federal labor policy weighs heavily against allowing judicial estoppel to be used as a ground to limit our jurisdiction in this way. Section 10(a) of the Act, 29 U.S.C. § 160(a), states in relevant part: "The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 158 of this title [i.e., Section 8 of the Act]) affecting commerce. *This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, or otherwise* . . ." (emphasis added). Pennsylvania law contains "unfair practice" prohibitions that parallel the prohibitions set forth in Section 8 of the Act, and it empowers the PLRB to prevent those unfair practices.[8] Thus, unfair practice proceedings before the PLRB constitute a "means . . . established by law" to prevent the same kinds of misconduct that Section 10(a) empowers the Board to prevent, and Section 10(a)

[6] Public Law 93-360, 88 Stat. 395 (July 26,1974).

[7] Sec. 14(c)(1) provides in relevant part that "[t]he Board, in its discretion, may . . . decline to assert jurisdiction over any labor dispute involving any class or category of employers, where, in the opinion of the Board, the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction." 29 U.S.C. § 164(c)(1).

[8] See, e.g., Pennsylvania Public Employe [sic] Relations Act (the PERA), 43 Pa. Stat. § 1101.1201(a)(1) (prohibiting public employers from "[i]nterfering, restraining or coercing employes in the exercise of the rights guaranteed" by Section 401 of the PERA); id. § 1101.1201(a)(3) (prohibiting public employers from "[d]iscriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any employe organization"); id. § 1101.1201(a)(5) (prohibiting public employers from "[r]efusing to bargain collectively in good faith with an employe representative which is the exclusive representative of employes in an appropriate unit"); id. § 1101.1301 (empowering the PLRB "to prevent any person from engaging in any unfair practice listed in" the PERA); see also Pennsylvania Labor Relations Act (the PLRA), 43 Pa. Stat. § 211.8(a) (empowering the PLRB "to prevent any person from engaging in any unfair labor practice" listed in the PLRA).

provides that our power to prevent such misconduct "shall not be affected by any other means of . . . prevention . . . established by . . . law." Were we to treat judicial estoppel as a cognizable argument here, the power Congress endowed us with in Section 10(a) could be surrendered to the parties and the history of their petition-filing and litigation choices over time. Even assuming Section 10(a) would permit this, the federal policy embodied in that statutory provision convinces us that we ought not do so. See also *NLRB v. Curtin Matheson Scientific, Inc.,* 494 U.S. 775, 786 (1990) (emphasizing "that the NLRB has the primary responsibility for developing and applying national labor policy").

To be sure, the Board does not always exercise the power Congress granted it in Section 10(a). For example, it defers unfair labor practice charges to arbitration where the standards for deferral are met. But federal law favors arbitration as a matter of policy: Section 203(d) of the Labor Management Relations Act declares "[f]inal adjustment by a method agreed upon by the parties . . . to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective-bargaining agreement." Moreover, although Board precedent has oscillated over the years between more and less restrictive deferral standards,[9] the Board has never surrendered its *jurisdiction* over the parties to an arbitrator, and it exercises its jurisdiction to review arbitral decisions and reject those that are repugnant to the Act.[10] Here, in contrast, the Respondent urges us to surrender our jurisdiction over it to the PLRB, and we certainly have no power to review decisions issued by that state board.

Consistent with Section 10(a) and federal labor policy, the Board has not hesitated to assert jurisdiction notwithstanding parties' inconsistent positions on that issue over time. In *Wyndham West at Garden City*, 307 NLRB 136 (1992) (Advisory Opinion), the Board addressed a situation in which an employer had obtained dismissal of a representation petition by claiming it did not meet the Board's jurisdictional standards, but after the union invoked a state labor board's jurisdiction, the employer reversed course and claimed that it was subject to the Board's jurisdiction. Despite the union's objection to the employer's inconsistent positions, the Board advised that it would assert jurisdiction over the employer. Also, in *We Transport, Inc.*, 215 NLRB 497 (1974), the employer filed a petition with a state labor board, which conducted an election that the union won. A few years later, the employer filed an RM petition with the Board. The Board rejected a dissenting member's argument that the state labor board alone was entitled to assert jurisdiction and found that the employer was subject to the Board's jurisdiction. Similarly here, the fact that the Union previously submitted itself to the PLRB's jurisdiction and subsequently invoked ours ought not control the Board's exercise of its jurisdictional powers. Cf. *Kelly Services, Inc.*, 368 NLRB No. 130, slip op. at 4 (2019) (invalidating an arbitration agreement that sought to limit the Board's power to prevent unfair labor practices). Indeed, the Supreme Court has recognized that the Board cannot be "render[ed] powerless to prevent an obvious frustration of the Act's purposes" through incorporation of "the judicial concept of estoppel into its procedure." *Wallace Corp.*, supra at 253.

The Board has also asserted jurisdiction over nonprofit hospitals irrespective of their prior submission to the jurisdiction of state labor relations authorities. See *Vancouver Memorial Hospital*, 219 NLRB 73, 73 (1975) (Advisory Opinion); *Yale-New Haven Hospital*, 214 NLRB 130 (1974) (Advisory Opinion). Further, in *Management Training Corp.*, 317 NLRB 1355, 1358 (1995), the Board stated that in determining whether to assert jurisdiction over an employer that provides services to or for an exempt entity, it will consider only whether the employer meets the statutory definition of employer under Section 2(2) and applicable jurisdictional standards. See also *Correctional Medical Services*, 325 NLRB 1061 (1998); *Methodist Hospital of Kentucky*, 318 NLRB 1107 (1996), enfd. in relevant part sub nom. *Pikesville United Methodist Hospital of Kentucky v. United Steelworkers of America,* 109 F.3d 1146 (6th Cir. 1997). As determined in the representation case, there is no question that the Respondent meets both the statutory and monetary requirements for the Board's assertion of jurisdiction, which is appropriate notwithstanding the Respondent's close ties with Temple University.[11]

For these reasons, we hold that judicial estoppel is not available in this proceeding to divest the Board of jurisdiction over the Respondent, and we find that the Board properly asserted jurisdiction in 2016.[12] No other question having been presented for our consideration, we reaffirm the Board's prior finding that the Respondent violated Section 8(a)(5) and (1) by refusing to recognize and bargain with the Union, and we will issue an appropriate Supplemental Order.

[9] For a thorough review of this history, see *United Parcel Service*, 369 NLRB No. 1 (2019).

[10] See id.

[11] See supra fn. 4.

[12] Having found that judicial estoppel is unavailable to defeat Board jurisdiction, we need not reach the court's second question: whether, if judicial estoppel is available, the balancing of the equities under *New Hampshire v. Maine* favors its application here.

ORDER

The National Labor Relations Board orders that the Respondent, Temple University Hospital, Inc., Philadelphia, Pennsylvania, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to recognize and bargain with Temple Allied Professionals, Pennsylvania Association of Staff Nurses and Allied Professionals (PASNAP) (the Union) as the exclusive collective-bargaining representative of all full-time and regular part-time professional medical interpreters and transplant financial coordinators employed by the Respondent as part of the bargaining unit.

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

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

(a) On request, bargain with the Union as the exclusive collective-bargaining representative of all full-time and regular part-time professional medical interpreters and transplant financial coordinators employed by the Respondent as part of the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

> A subdivision of Temple University Health System's unit working at Temple University Hospital and Temple University Children's Medical Center comprised of all full-time and regular part-time professional and technical employees [employed by the Respondent], excluding [all other employees,] physicians, nurses, pharmacists, office clerical employees, students, and employees on temporary visas, management level employees, supervisors, first level supervisors, confidential employees and guards as defined in the Act.

(b) Post at its facilities in Philadelphia, Pennsylvania, copies of the attached notice marked "Appendix."[13] Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed any of the facilities involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 23, 2016.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 4 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. April 12, 2021

Lauren McFerran, Chairman

William J. Emanuel, Member

John F. Ring Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

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

[13] If the facility involved in these proceedings is open and staffed by a substantial complement of employees, the notices must be posted within 14 days after service by the Region. If the facility involved in these proceedings is closed due to the Coronavirus Disease 2019 (COVID-19) pandemic, the notices must be posted within 14 days after the facility reopens and a substantial complement of employees have returned to work, and the notices may not be posted until a substantial complement of employees have returned to work. Any delay in the physical posting of paper notices also applies to the electronic distribution of the notice if the Respondent customarily communicates with its employees by electronic means. If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by 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."

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 fail and refuse to recognize and bargain with Temple Allied Professionals, Pennsylvania Association of Staff Nurses and Allied Professionals (PASNAP) (the Union) as the exclusive collective-bargaining representative of our professional medical interpreters and our transplant financial coordinators in the bargaining unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our professional medical interpreters and our transplant financial coordinators as part of the following bargaining unit:

A subdivision of Temple University Health System's unit working at Temple University Hospital and Temple University Children's Medical Center comprised of all full-time and regular part-time professional and technical employees [employed by the Respondent], excluding [all other employees,] physicians, nurses, pharmacists, office clerical employees, students, and employees on temporary visas, management level employees, supervisors, first level supervisors, confidential employees and guards as defined in the Act.

TEMPLE UNIVERSITY HOSPITAL, INC.

The Board's decision can be found at www.nlrb.gov/case/04-CA-174336 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

CERTIFICATE OF SERVICE

I hereby certify that, on this date, a true and correct copy of the foregoing Petition for Review, Decision and Order, and Corporate Disclosure Statement was served via first-class mail on the following:

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Dated: April 26, 2021

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