UNited States of America
Before the National Labor Relations Board
Region 28

QuarterLine Consulting Services, LLC

Employer

and

Case 28-RC-292558

International Association of Machinists and Aerospace Workers, Local Lodge 794

Petitioner

Decision and Direction of Election

On March 18, 2022,1 International Association of Machinists and Aerospace Workers, Local Lodge 794 (Petitioner) filed a petition to represent certain employees of QuarterLine Consulting Services, LLC (the Employer). Petitioner seeks a mail ballot election for a bargaining unit (the petitioned-for unit) that includes all full-time, regular part-time, on call, chiropractors, clinical pharmacists, dietitians, medical laboratory technicians, pharmacy technicians, physical therapists, physical therapy assistants, psychologists, social workers, and counselors employed by the employer on Kirtland Air Force Base, Albuquerque, New Mexico, excluding managers, supervisors, clerical workers, and all other employees including professional employees, managerial employees, guards, supervisors and other employees as defined in the National Labor Relations Act (the Act). Petitioner acknowledges that the petitioned-for unit includes a mix of professional and non-professional employees and maintains that an election pursuant to the Board’s decision in Sonotone Corp., 90 NLRB 1236 (1950) (Sonotone), is appropriate.

The Employer maintains that the petitioned-for unit is not appropriate because it includes a mix of professional and non-professional employees. Specifically, the Employer contends the following five category of employees are professional employees who do not share a community of interest with non-professional employees and should be excluded from the bargaining unit: chiropractor, clinical pharmacist, dietician, physical therapist, and psychologist. Notwithstanding its position, the Employer contends that, in the event the non-professional employees are found to share a community of interest, the petitioned-for unit should include all the Employer’s non-professional employees who share a community of interest nationwide.

1 All dates occur in 2022 unless otherwise indicated.
The Employer and Petitioner agree that, in the event an election is ordered, a mail ballot election is appropriate.

A hearing was held before a Hearing Officer of the National Labor Relations Board (the Board) via videoconference on April 8 and 12, at which time the parties were afforded the opportunity to present evidence and to state their respective positions on the record. Petitioner and the Employer submitted post-hearing briefs, which I have carefully considered.

Having considered the parties’ positions, evidence, and the entire record, and for the reasons described below, I find that the petitioned-for single facility unit is appropriate, and I am directing an election by mail ballot for this unit. I further find that, considering the petitioned-for unit is comprised of professional and non-professional employees as defined in the Act, an election pursuant to the Board’s decision in Sonotone, is appropriate. There are currently approximately nine (9) employees in this appropriate unit which is comprised of five (5) professional employees and four (4) non-professional employees.

I. ISSUES AND POSITION OF THE PARTIES

The issues raised at hearing before me are two-fold: 1) whether the petitioned-for facility-wide unit is appropriate; and 2) whether any of the job classifications in the petitioned-for unit are professional employee classifications, and, if so, whether an election pursuant to Sonotone is appropriate.

Petitioner seeks to represent all employees employed by the Employer at Kirtland Air Force Base (Kirtland AFB) – effectively, a wall-to-wall unit. Nine (9) job classifications comprise this petitioned-for unit: 1) chiropractor, 2) physical therapist, 3) physical therapy assistant, 4) psychologist, 5) clinical pharmacist, 6) pharmacy technician, 7) dietician, 8) medical laboratory technician, and 9) social worker. Both parties agree that the petitioned-for unit contains both professional and non-professional employees. While Petitioner contends that the unit is appropriate and that a Sonotone election would address potential representation issues, the Employer argues that such a unit is inappropriate.

The Employer contends that a mix of professional and non-professional employees is inappropriate because such employees do not share a community of interests. Additionally, the Employer contends that no bargaining unit would be appropriate among the non-professional employees.

2 The appropriateness of the Sonotone procedure was reaffirmed by the Board in Pratt & Whitney, 327 NLRB 1213, 1217-18 (1999).

3 Testimony at hearing established that Employer recently hired an additional employee in the non-professional employee position of Medical Laboratory Technician, increasing the number of employees in the petitioned-for unit to nine (9). The Employer’s contract, or Task Order, with the DHA calls for a total of eleven (11) employees, including two (2) psychologists and two (2) medical laboratory technicians. See Employer’s Exhibit 5.

4 The petition names ten (10) job classifications which includes counselor. The Employer’s contract lists nine (9) job classifications and the Employer asserted at hearing that it did not employ any counselors. The Employer only employed individuals in eight of the nine classifications at the time of hearing.
employees because they also do not share a community of interests. In its position statement, the Employer contends, if it is determined that non-professional employees share a community of interest, that an appropriate bargaining unit should include all individuals employed in those non-professional classifications nationwide. However, the Employer did not provide evidence at hearing supporting its position and did not provide a basis for this position in its post-hearing brief.

Both parties agree that a mail ballot election, if directed, would be appropriate.

II. FACTUAL OVERVIEW

A. The Employer’s Operations

The Employer, a wholly owned subsidiary of Planned Systems International (PSI), provides various types of medical or healthcare personnel to the United States Air Force (USAF) at Kirtland AFB in Albuquerque, New Mexico, via staffing contracts with the Defense Health Agency (DHA). The Employer’s contract with DHA includes a Performance Work Statement (PWS) that dictates the expected duties and job descriptions of each employee supplied by the Employer to the DHA. In addition to providing personnel at Kirtland AFB, the Employer contracts with DHA to provide medical and healthcare personnel at 40 military facilities throughout the United States. Employees at Kirtland AFB do not communicate with employees performing work under the other Employer contracts at the other military facilities. The Employer does not provide commercial contract services.

At Kirtland AFB, the Employer provides medical and healthcare personnel under its contract Task Order Number FA9401-19-F-A023 (Task Order). The Task Order requires personnel who work in the following job classifications: chiropractor, physical therapist, physical therapy assistant, dietitian, psychologist, medical laboratory technician, clinical pharmacist, pharmacy technician, and social worker. The Employer is responsible for vetting, offering employment, and hiring employees who meet the government-mandated criteria and education, licensing and certification, and experience requirements in the Task Order job classifications. At the time of hearing, the Employer did not employ a social worker at Kirtland AFB. All employees in the petitioned-for unit perform work under the Employer’s Task Order which started in April 2019.

B. Kirtland AFB Facility

Petitioned-for unit employees report to the DHA medical treatment facility (MTF) at Kirtland AFB. The PWS specifies that services under this task order are to be performed at the 377th Medical Group Main Clinic (MDB) in Albuquerque, New Mexico or the Satellite

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5 “[W]here no party asserts that the smallest appropriate unit must include employees excluded from the petitioned-for unit, it is unnecessary to apply the three-step analysis set forth in The Boeing Company, 368 NLRB No. 67 (2019).” Macy’s West Stores, Inc., 32–RC–246415, fn. 1 (unpublished May 27, 2020). Whereas here, the Employer does not contend that additional employees must be included in the unit to render it appropriate, and rather contends that no bargaining unit among its employees is appropriate, I will proceed with an analysis of the traditional community of interest factors to determine the appropriateness of the petitioned-for unit.
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Pharmacy at Kirtland AFB. The PWS further notes that the physical therapy department may require performance at other locations throughout Kirtland AFB.

1. Control over Daily Operations, Labor Relations, and Local Autonomy

The vice president of PSI’s health sector is the program manager for 35 contracts, including the Employer’s contract at Kirtland AFB. None of the employees from the other 35 contracts also work at Kirtland AFB. The vice president of PSI’s health sector reports to PSI’s health sector president, who, in turn, reports to PSI’s chief operating officer (COO), who, in turn, reports to PSI’s owner. The vice president of PSI’s health sector performs her duties from her office in North Carolina and does not work onsite at Kirtland AFB. As part of her duties, she is responsible for hiring and communicating with the DHA.

In addition to communicating with the vice president of PSI’s health sector regarding issues related to pay, leave, or human resources, petitioned-for unit employees communicate with the Employer’s clinical manager. The clinical manager does not work onsite at Kirtland AFB. The vice president of PSI’s health sector and the clinical manager supervise petitioned-for unit employees and receive communications from onsite government personnel related to bargaining-unit employee performance. The Employer has two human resources employees and one payroll manager handling human resources and payroll nationwide.

The Employer does not have supervisors onsite at Kirtland AFB. Onsite military personnel or federal civilian employees oversee the petitioned-for unit employees. For instance, onsite government personnel may request or recommend disciplinary action, including termination, of petitioned-for unit employees. However, the decision to follow through with the recommended disciplinary action is made, approved, and administered by the Employer. Government personnel evaluate the Employer’s performance under the Task Order, and the Employer is responsible for management and quality control actions to ensure compliance with the Task Order requirements. Clinicians perform peer review evaluations in furtherance of their duties, but those evaluations are not administered by the Employer or DHA.

2. Employee Skills, Functions, and Working Conditions

Petitioned-for unit employees perform their work duties providing healthcare services at Kirtland AFB according to the requirements outlined in the PWS. Under the PWS, the Employer is authorized to enable contract employees to perform their duties via telework. Specific skills and functions depend on the education and certification requirements for each respective job classification and are outlined in the PWS. The Employer is responsible for

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6 See Employer’s Exhibits 5 and 8.
7 A medical technologist testified that the clinical manager is located in Reardon, Virginia.
8 The limited evidence suggests that government personnel, not employed by the Employer, observe and supervise employees at the Kirtland AFB in furtherance of the Task Order.
9 See Employer’s Exhibit 8. Dietician Laura Makarewicz provided limited testimony regarding monthly performance reports that she believes are sent to the Employer by a government contract coordinator.
ensuring that employees meet vaccination requirements and security requirements, as well as maintaining a process to monitor work and billable hours.

The Task Order and PWS outline the petitioned-for unit employees’ work schedules, paid holidays, and personal time off. Accordingly, all employees enjoy the same number of hours of paid time off, paid holidays, and work hours during the Task Order annual performance period starting in December and ending in November. Additionally, every employee receives 56 hours of paid sick leave per calendar year.

The PWS requires all petitioned-for unit employee work hours to be 40 hours per week, Monday through Friday, from 7:30 a.m. to 4:30 p.m. The Employer is responsible for conducting business during the days and hours specified in the Task Order. In the event an employee cannot go into work, the employee must notify the Employer and their assigned department supervisor at least three days in advance. The Employer must notify the DHA’s Contracting Officer’s Representative in the event an employee has an unplanned absence.

The Employer offers the same types of benefits, health insurance, vision insurance, dental insurance, and 401(k) program to the petitioned-for unit employees. Employees can choose which particular health, vision, and dental insurance they prefer, but all employees are offered the same choices. Non-professional hourly employees are paid according to the Register of Wage Determinations Under the Service Contract Act (SCA)\(^\text{10}\) and receive an additional $4.22 per hour for health and welfare benefits. Professional employee pay is not governed by the SCA, rather it is negotiated between the DHA and the Employer and codified in the Task Order.

3. **Employee Interchange and Distance Between Locations**

Petitioned-for unit employees are solely contracted to perform work at Kirtland AFB and may not be re-assigned to a different military site or to work off-site without first amending the contract. Employees do not work outside of their respective job classifications. All petitioned-for unit employees work at the MDB, and, with exception of the dietician, pharmacist, and pharmacy technician, employees perform all their work duties at their respective clinics and work areas at the MDB. Petitioned-for unit employees may interact with each other and refer patients to each other as they provide treatment and medical care.

In performing her duties, the Employer’s dietician spends half of her time at the MDB’s nutrition clinic and the other half of her time she spends performing outreach activities throughout Kirtland AFB.

In addition to performing duties at the first-floor pharmacy of the MDB, the Employer’s clinical pharmacist and pharmacy technician also perform their duties at the satellite pharmacy at the Base Exchange (BX) at Kirtland AFB. The MDB and BX are separate buildings and are approximately 1.9 miles apart within Kirtland AFB. The Employer’s pharmacy technician and other pharmacy technicians not employed by the Employer rotate between the MDB and BX on

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a monthly basis. Over the course of a year, the pharmacy technician spends about 20 percent of her time working out of the first-floor pharmacy at the MDB and the remainder of her time working out of the BX satellite pharmacy. The Employer’s pharmacist did not testify, but according to the pharmacy technician, The pharmacist is currently training with a pharmacist at the BX satellite pharmacy but also performs his duties at the MDB first-floor pharmacy.

4. Bargaining History

The Employer has no bargaining history at Kirtland AFB.

C. The Petitioned-for Unit

Job descriptions and performance requirements for the Employer’s employees are detailed in the Task Order’s PWS. The PWS includes the required minimum qualifications, such as education, degree, and certification, and core duties for each job classification. The Employer also provided the main contract award under the Task Order which includes the number of service work hours required and award amounts for each job classification. The required work hours for each classification during the base year is 1,272 hours. Each subsequent year, referred to as an option year, the required work hours for each classification is 1,920 hours. The award amounts for each job classification increase each subsequent year. At hearing, seven (7) of the petitioned-for unit employees testified about their respective positions and duties as more fully discussed below.

1. Social Worker and Pharmacist Classifications

At the time of the hearing, the Employer did not employ a social worker. The vice president of PSI’s health sector testified that the Employer proposed an individual for hire which was rejected by the government because there was a problem with that individual’s certification. No further evidence was provided regarding the decision not to hire that individual, the decision not to hire any other individual for the position of social worker, the Employer’s response to the government’s decision to reject the proposed employee, the identity of the person who rejected the proposed employee, the Employer’s proposal of any other individual for the social worker position, the Employer’s intent to propose any other individual for the social worker position, or plans concerning whether the social worker position will remain vacant, or the Employer’s authority to decide whether to keep the social worker position vacant.

The Employer currently employs a single pharmacist. The pharmacist did not provide testimony regarding his position. However, according to a pharmacy technician, currently, the pharmacist primarily works out of the BX pharmacy.

Notwithstanding the lack of testimony, the Employer provided the PWS which itemized the minimum qualifications and core duties for the social worker and pharmacist classifications. According to the PWS, an individual employed as a social worker must have a master’s degree in social work (MSW) and must have graduated from a school of social work fully accredited by the Council on Social Work Education. In addition to clinical competency requirements, a social worker must also have a current, full, active, and unrestricted license to practice as a Licensed Clinical Social Worker. A social worker’s duties include independently assessing the
psychological functioning and needs of patients, formulating and implementing treatment plans, and coordinating appropriate referrals with service providers. Under the main contract award for the Task Order, the Employer’s award for a social worker during the base year is $55,179.36.

An individual employed as pharmacist must have a bachelor’s degree in pharmacy and must have graduated from a college or university accredited by the Accreditation Council on Pharmaceutical Education. Additionally, this individual must have one year of professional pharmacy experience after graduation and must have a current, full, active, and unrestricted license to practice as a pharmacist. A pharmacist’s duties include reviewing patient profiles to monitor medication therapy by reviewing patient profiles at the time of dispensing medication, ensuring prescription directions, dosage, accuracy, and medication interactions, and intervening in the event of prescription discrepancies. The pharmacist is required to work at the MDB pharmacy and at the BX satellite pharmacy and has an annual salary of $117,000.

2. Pharmacy Technician

The Employer employs one certified pharmacy technician, whose SCA mandated minimum hourly payrate is $16.76. The Employer’s pharmacy technician has been employed by the Employer since April 2019 and performs her work duties at the first-floor pharmacy located at the MDB and at the satellite pharmacy located at the BX. There are four pharmacy technicians comprised of military and civilian personnel who rotate from the pharmacy at the MDB and the BX monthly. As a result, the Employer’s pharmacy technician spends about 20 percent of worktime at the MDB and 80 percent at the BX. The Employer’s pharmacy technician’s onsite government supervisor is an Air Force Sergeant. Her immediate supervisor with the Employer is the Employer’s clinical manager. The clinical manager communicates directly with the pharmacy technician regarding her performance.

Individuals employed as a pharmacy technician must have graduated from a formal pharmacy technician program accredited by the American Society of Health-System Pharmacists or a formal pharmacy technician program, or a formal medical services training program of the United States military. Additionally, pharmacy technicians must be certified by the Pharmacy Technician Certification Board and must have one year experience.

In her role as pharmacy technician, the Employer’s pharmacy technician works alongside the pharmacist. The pharmacy technician’s duties include providing customer service, performing data entry, mitigating phone calls, dispensing medication, stocking medication, and organizing schedules of other pharmacy technicians. The pharmacy technician graduated from a pharmacy technician program and had several years of experience prior to working for the Employer. The pharmacy technician is licensed by the State of New Mexico and must complete 20 hours of continuing education and renew her license every two years.

3. Medical Laboratory Technician

The Employer employs a medical technologist and a medical laboratory technician. The medical laboratory technician was recently hired and did not testify at the hearing. The SCA mandated minimum hourly payrate for a medical laboratory technician is $20.85. At the time of the hearing, the medical technologist’s hourly payrate was $21.07. The medical technologist has
been employed by the Employer for two-and-a-half years and performs her work duties at the MDB laboratory. Her onsite government supervisor is a different Air Force Sergeant from the one who supervises the pharmacy technician. For issues related to payroll, the medical technologist communicates with the Employer’s clinical manager.

An individual employed as a medical laboratory technician must have graduated and received a certificate from a medical laboratory technician training program accredited by the National Accrediting Agency for Clinical Laboratory Sciences (NAACLS), Accrediting Bureau of Health Education Schools (ABHES), or an education program acceptable to the American Medical Technologist (AMT). Additionally, the individual must be certified and registered pursuant to the American Society for Clinical Pathology (ASCP) or AMT and have one year of experience. Medical laboratory technicians must complete a certain number of continuing education hours every two years to maintain their certification.

An individual employed as a medical laboratory technologist must have a bachelor’s degree and must have graduated from a medical technology program accredited by the NAACLS, ABHES, or AMT. Similar to a medical laboratory technician, a technologist must be certified and registered pursuant to the ASCP or AMT and have one year of experience.

As part of her duties, the medical technologist performs laboratory tests, determines specimen suitability, and interprets diagnostic tests for the purpose of patient care at the MDB. Some of the tests performed interpreted by the medical technologist include metabolic panels, such as electrolytes, sugar levels, and cholesterol levels, and chemistry panels. After interpreting the tests, the medical technologist reports her findings to the ordering physician. The medical technologist has a bachelor’s degree and is certified by the ASCP. The medical technologist must renew her certification annually.

4. Physical Therapy Assistant

The Employer employs one physical therapy assistant. The SCA mandated minimum hourly payrate for a physical therapy assistant is $28.63. The physical therapy assistant has been employed by the Employer since about April 2019 and performs her work duties out of the MDB. Specifically, the physical therapy assistant works out of the physical therapy clinic which is part of a larger physical medicine clinic at the MDB. The chiropractic clinic is also part of the physical medicine clinic. The person in charge of the physical medicine clinic, and the physical therapy assistant’s onsite government supervisor, is an Air Force Major. The clinical manager is the physical therapy assistant’s manager.

An individual employed as physical therapy assistant must have an associate’s degree and must have graduated from a college or university accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE). A physical therapy assistant must have a current, full, active, and unrestricted license to practice as a physical therapy assistant or technician as determined by the American Physical Therapy Association and have one year of experience.

As part of her duties, the physical therapy assistant works closely with the Employer’s physical therapist. After the physical therapist writes a plan of care for a patient, the physical therapy assistant works directly with the patient to ensure that the treatment plan written by the
physical therapist is carried out. In conducting her duties, the physical therapy assistant regularly communicates with the physical therapist and the Employer’s chiropractor. Patient treatment may overlap between the physical therapy clinic and the chiropractic clinic, which requires communication between the physical therapist, physical therapy assistant, and the chiropractor. The physical therapy assistant has an associate’s degree, is currently licensed by the State of New Mexico, and must complete 30 hours of continuing education and renew her license every two years.

5. **Physical Therapist**

The Employer employs one physical therapist. The physical therapist’s annual salary is $82,992. Like the physical therapy assistant, the physical therapist performs her work duties at the physical therapy clinic at the MDB. The physical therapist has been employed by the Employer for three-and-a-half years.

An individual employed as physical therapist must have either a master’s degree in physical therapy or baccalaureate degree in physical therapy prior to January 1, 2002. As with a physical therapy assistant, a physical therapist must have graduated from a college or university accredited by CAPTE. A physical therapist is required to meet clinical competency requirements and must have a current, full, active, and unrestricted license to practice as a physical therapist.

As part of her duties, the physical therapist performs physical therapist services and creates treatment programs for patients. In doing so, the physical therapist regularly communicates and works with the Employer’s physical therapy assistant and chiropractor in providing treatment to patients. In addition to coordinating treatment with other medical personnel, the physical therapist also refers patients to the psychologist or to the dietician. The physical therapist has a master’s degree in physical therapy and has been a licensed physical therapist since 2005. To maintain her license, physical therapist must complete 30 hours of continuing education and renew her license every two years.

6. **Chiropractor**

The Employer employs one chiropractor, whose annual salary is $124,800. Like the Employer’s physical therapy assistant and physical therapist, the chiropractor performs his work duties in the physical medicine clinic at the MDB. Specifically, the chiropractor works out of his office in the chiropractic clinic within the physical medicine clinic. The chiropractor has been employed by the Employer for three-and-a-half years. The Chiropractor communicates with the same Air Force Major who supervises the physical medicine clinic about time his time off from work. Regarding employment related issues, the Employer’s chiropractor communicates with the vice president of PSI’s health sector.

An individual employed as chiropractor must have a doctor of chiropractic degree and must have graduated from a college or university accredited by the Council on Chiropractic Education. A chiropractor is required to meet clinical competency requirements and must have a current, full, active, and unrestricted license to practice as a doctor of chiropractic.
As part of his duties, the Employer’s chiropractor performs clinical diagnoses and chiropractic treatment for neuro-musculoskeletal conditions. In performing his duties, the chiropractor communicates with the Employer’s physical therapist in determining patient care plans and may see the same patients as the physical therapist and physical therapy assistant. The chiropractor also co-treats patients who receive treatment by the physical therapist and physical therapy assistant. In addition to referring patients to the physical therapist, the chiropractor may also refer patients to the Employer’s psychologist if necessary for patient care. The chiropractor has a doctorate degree of chiropractic and has been employed as a chiropractor by the Employer for about three and a half years.

7. Dietitian

The Employer employs one dietitian, whose annual salary is $65,000. The dietitian has been employed as the Employer’s health promotion dietitian since November 2020 and works out of the nutrition clinic at the MDB. Her onsite supervisor is a federal general schedule (GS) employee. Regarding employment or human resources issues, the dietician reports to the Employer’s clinical manager.

An individual employed as dietitian must have a bachelor’s degree and must have graduated from a college or university accredited by the Accreditation Council for Education in Nutrition and Dietetics (ACEND), completed a Didactic Program in Dietetics (DPD) accredited by the ACEND, or completed a post-Baccalaureate degree Dietetic Internship Program of supervised practice (for a minimum of 1200 hours) accredited by ACEND. A dietitian must have a current registration as a Registered Dietitian from the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics and have one year of specialized experience. Additionally, a dietitian must have a current, full, active, and unrestricted dietetics license or certification.

As part of her duties, the Employer’s dietician spends about half of her time seeing patients one-on-one, preparing patient care plans, and performing medical nutrition therapy. In furtherance of providing patient care, the dietician will order lab work for patients to view and track patients’ progress or history with diabetes or cholesterol issues. As part of her treatment plans, the dietician may refer patients to other service providers, such as their primary care physician, the Employer’s psychologist, or physical therapy. The dietician spends about 50% of her time working out of the nutrition clinic at the MDB. The remainder of her time, the dietician performs health promotion outreach throughout Kirtland AFB. The dietician is nationally certified by the Commission on Dietetics Registration (CDR) and is a licensed dietitian by the State of New Mexico. The CDR has a five-year credentialing period which requires 75 hours of continuing education, and the State of New Mexico requires a dietitian’s license to be renewed every two years.

8. Psychologist

The Employer employs one clinical psychologist. The psychologist’s annual salary is $121,430.40. The psychologist has been employed by the Employer since June 2019 and performs his work duties at the family health clinic located at the MDB. The psychologist’s onsite government supervisor is an Air Force Master Sergeant. The psychologist’s supervisor
with the Employer is currently the vice president of PSI’s health sector. At the start of his position with the Employer, the psychologist’s supervisor had been the Employer’s clinical manager.

An individual employed as psychologist must have a doctor of philosophy or doctor of psychology degree and must have graduated from an American Psychology Association (APA) accredited college or university with a doctoral degree in clinical or counseling psychology. Additionally, a psychologist must successfully complete an internship in psychology accredited by the APA, meet clinical competency requirements, and have a current, full, active, and unrestricted license to practice as a psychologist in any State, the District of Columbia, Guam, Puerto Rico, or the U.S. Virgin Islands.

As part of his duties, the Employer’s psychologist conducts psychological evaluations, establishes psychiatric diagnoses, provides psychological treatment for individuals and groups, and assist in patient rehabilitation. In performing his duties, the psychologist coordinates and refers patients to the Employer’s dietician, chiropractor, physical therapist, and physical therapy assistant. The psychologist has a doctor of clinical psychology degree and is licensed by the State of New Mexico as a licensed psychologist. The psychologist’s license must be renewed every three years and requires 22 hours of continuing education every two years.

III. ANALYSIS

As the Supreme Court recognized, “the initiative in selecting an appropriate unit resides with the employees.” American Hospital Assn. v. NLRB, 499 U.S. 606, 610 (1991). “Section 9(b) of the Act directs the Board to make appropriate unit determinations which will ‘assure to employees the fullest freedom in exercising rights guaranteed by this Act’ i.e., the rights of self-organization and collective bargaining.” Federal Electric Corp., 157 NLRB 1130, 1132 (1966). In making such determination, the petitioner’s desire concerning the unit “is always a relevant consideration.” Marks Oxygen Co., 147 NLRB 228, 229 (1964); see also, e.g., Mc-Mor-Han Trucking Co., 166 NLRB 700, 701 (1967) (reaffirming “polic[y] . . . of recognizing the desires of petitioners as being a relevant consideration in the making of unit determinations”); E. H. Koester Bakery Co., 136 NLRB 1006, 1012 (1962). Accordingly, “the Board looks first to the unit sought by the petitioner, and if it is an appropriate unit, the Board’s inquiry ends.” Wheeling Island Gaming, Inc., 355 NLRB 637, 637 fn. 2 (2010); see also, Boeing Co., 337 NLRB 152, 153 (2001); see also P. J. Dick Contracting, 290 NLRB 150 (1988).

It is well established that the Act does not require that a bargaining unit be the “only” appropriate unit, or the “ultimate” unit, or the “most” appropriate unit, rather, that the unit be “appropriate.” Morand Bros. Beverage Co., 91 NLRB 409, 418 (1950), enf’d. 190 F.2d 576 (7th Cir. 1951); see Staten Island University Hospital v. NLRB, 24 F.3d 450, 455 (2d Cir. 1994); see also American Hospital Assn., 499 U.S. at 610 (interpreting Section 9(a) as suggesting that “employees may seek to organize ‘a unit’ that is ‘appropriate’ not necessarily the single most appropriate unit.”). “It is irrelevant that some other larger or smaller unit might also be appropriate or most appropriate.” Tallahassee Coca-Cola Bottling Co., 168 NLRB 1037, 1038 (1967), enf’d. 409 F.2d 201 (5th Cir. 1969).
Moreover, Congress expressly contemplated employer-wide units and facility-wide units in Section 9(b) of the Act, and the Board has long held that “[a] plant-wide unit is presumptively appropriate under the Act, and a community of interest inherently exists among such employees.” *Kalamazoo Paper Box Corp.*, 136 NLRB 134, 136 (1962). A proposed bargaining unit based on an arbitrary, heterogeneous, or artificial grouping of employees is inappropriate. *Turner Industries Group, LLC*, 349 NLRB 428, 430 (2007); see also *Moore Business Forms, Inc.*, 204 NLRB 552 (1973); *Glosser Bros., Inc.*, 93 NLRB 1343 (1951). The burden is on the employer to demonstrate that the interests of a given classification are so disparate from those of other employees that they cannot be represented in the same unit. *Airco, Inc.* 273 NLRB 348, 349 (1984).11

**A. Community of Interest**

The Board determines appropriateness by evaluating whether the employees have a sufficient community of interest. *Overnite Transportation Co.*, 322 NLRB 723, 724 (1996). In deciding whether a group of employees shares a community of interest, the Board considers whether the employees sought: (1) are organized into a separate department; (2) have distinct skills and training; (3) have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; (4) are functionally integrated with the Employer’s other employees; (5) have frequent contact with other employees; (6) interchange with other employees; (7) have distinct terms and conditions of employment; and (8) are separately supervised. *United Operations, Inc.*, 338 NLRB 123, 123 (2002). Additionally, it is important to examine a plant’s organization, namely, how employees in different job classifications interact to carry out the employer’s business purpose. *Gustave Fisher, Inc.*, 256 NLRB 1069, fn. 5 (1981) (citing *International Paper Company*, 96 NLRB 295, 298, fn. 7 (1951)). In doing so, the Board has made clear that fractured units—that is, combinations of employees that are too narrow in scope or that have no rational basis—will not be approved. *Seaboard Marine*, 327 NLRB 556 (1999).

Notably, that two or more groups of petitioned-for employees engage in different processes does not by itself render a combined unit inappropriate if there is a sufficient community of interest among all these employees. *Berea Publishing Co.*, 140 NLRB 516, 518 (1963).

**1. Departmental Organization**

An important consideration in any unit determination is whether the proposed unit conforms to an administrative function or grouping of an employer’s operation. Thus, for example, generally the Board would not approve a unit consisting of some, but not all, of an employer’s production and maintenance employees. *See, Check Printers, Inc.*, 205 NLRB 33

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11 In *Airco*, an employer failed to rebut the presumption that a plant-wide unit of plant operators, truck drivers, and mechanics was appropriate, even though the three groups had very little in common, had little contact, and had different skills, training, and working conditions. *See also Huckleberry Youth Programs*, 326 NLRB 1271, 1274 (1998) (overall unit of all program employees was presumptively appropriate, and peer health educators could not be excluded despite different wages and benefits and different immediate supervision).
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(1973). However, in certain circumstances, the Board will approve a unit notwithstanding other employees in the same administrative grouping are excluded. *Home Depot USA*, 331 NLRB 1289, 1289, 1291 (2000).

In this case, the unit sought by Petitioner is a wall-to-wall unit of all of the Employer’s employees covered under its contract at Kirtland AFB and, as such, conforms to an administrative grouping of the Employer. The Employer highlights that petitioned-for unit employees work at different clinics and separate locations in its effort to demonstrate a lack of departmental organization. With the exception of the physical medicine clinic, which houses the chiropractic clinic and the physical therapy clinic, each clinic operates out of its own area located in the MDB. Notwithstanding the separate work areas, testimony by several employees that patient care by one clinician is often conducted in tandem with other clinicians, meaning employees co-treat patients, weighs against the Employer’s position. Moreover, the Employer’s operations are controlled by a singular Task Order which applies to all employees in the petitioned-for unit as a single administrative grouping.

Accordingly, this factor weighs in favor of finding that the petitioned-for unit employees share a community of interest.

2. **Employee Skills and Training**

This factor examines whether disputed employees can be distinguished from one another on the basis of job functions, duties or skills. If they cannot be distinguished, this factor weighs in favor of including the disputed employees in one unit. Evidence that employees perform the same basic function or have the same duties, that there is a high degree of overlap in job functions or of performing one another’s work, or that disputed employees work together as a crew, support a finding of similarity of functions. Evidence that disputed employees have similar requirements to obtain employment; that they have similar job descriptions or licensure requirements; that they participate in the same Employer training programs; and/or that they use similar equipment supports a finding of similarity of skills. *Casino Aztar*, 349 NLRB 603, 604-05 (2007); *J.C. Penny Company, Inc.*, 328 NLRB 766 (1999); *Brand Precision Services*, 313 NLRB 657 (1994); *Phoenician*, 308 NLRB 826, 827 (1992).

While all petitioned-for unit employees provide healthcare at Kirtland AFB, the record reveals that most employees in the petitioned-for unit have different job functions, duties, skills, education and licensure or certification requirements. Regarding education, each job classification requires a different level or degree of education from an associate’s degree to a doctorate degree. Each job classification also requires distinct licensing or certification requirements by different respective agencies. Accordingly, licensing or certification renewal requirements also vary by certifying agency.

The Employer does not train or educate employees in any of the skills required for their respective job classifications. No evidence was provided at hearing of the steps that the Employer takes in ensuring employees maintain their licenses or certifications. Moreover, no evidence was provided at hearing of the efforts the Employer exerts to train employees to ensure they meet job classification requirements prior to commencing work under the Task Order.
Under the Task Order PWS, the petitioned-unit employees are required to attend and participate in MTF training. Except for CPR certification training, the Employer can bill the DHA at the Task Order billing rate for employee MTF training. MTF training is administered by the USAF and occurs on an annual and as needed basis. While the Employer can bill the DHA for MTF training attended by its employees, the Employer does not administer the MTF training.

Notwithstanding the universal MTF training requirements, the petitioned-for employees generally have distinct skills, education, and licensing or certification requirements. Accordingly, this factor weighs against finding a community of interest.

3. Job Functions and Work

This factor examines whether the petitioned-for employees can be distinguished from one another on the basis of job duties or functions or the work they perform. Evidence that employees perform the same basic function or have the same duties, that there is a high degree of overlap in job functions or of performing one another’s work, or that employees work together as a crew, support a finding of similarity of functions. Casino Aztar, 349 NLRB at 604-05; J.C. Penny Co., Inc., 328 NLRB 766 (1999); Brand Precision Services, 313 NLRB 657 (1994).

Here, while employees may co-treat patients and work toward fulfilling a patient’s treatment plan, the record reveals that each petitioned-for job classification has distinct job duties and employees can be distinguished by the work they perform. As such, this factor weighs against finding a community of interest.

4. Functional Integration

Functional integration refers to when employees’ work constitutes integral elements of an employer’s production process or business. Thus, for example, functional integration exists when employees in a unit sought by a union work on different phases of the same product or as a group provides a service. Another example of functional integration is when the Employer’s workflow involves all employees in a unit sought by a union. Evidence that employees work together on the same matters, have frequent contact with one another, and perform similar functions is relevant when examining whether functional integration exists. Transerv Systems, 311 NLRB 766 (1993). On the other hand, if functional integration does not result in contact among employees in the unit sought by a union, the existence of functional integration has less weight.

In this matter, the record reveals that petitioned-for employees often co-treat the same patients and work in tandem with each other in treating patients. Additionally, in fulfilling a patient’s treatment plan, petitioned-for employees may treat a patient at different phases or refer patients to each other to fully treat a patient. Accordingly, this factor weighs in favor of finding a shared community of interest.

5. Contact Among Employees

Also relevant is the amount of work-related contact among employees that exists, including whether they work beside one another. Thus, it is important to compare the amount of
contact employees in the unit sought by a union have with one another. See e.g., Casino Aztar, 349 NLRB at 605-06.

Here, all petitioned-for employees work out of the MDB. Several employees work in the same areas, have regular day-to-day contact, and often work beside one another: the physical therapist, physical therapy assistant, and chiropractor all work out of the physical medicine clinic in the MDB; the pharmacist and pharmacy technician both work out of the satellite pharmacy and the first floor MDB pharmacy; and the two medical laboratory technicians work out of the same medical laboratory in the MDB. Some employees have less regular contact with others, but all employees may refer patients to each other and interact with each other during the course of treating or providing service to the same patients. As such, this factor weighs in favor of finding a shared community of interest.

6. Interchange

Interchange refers to temporary work assignments or transfers between two groups of employees. Frequent interchange “may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills.” Hilton Hotel Corp., 287 NLRB 359, 360 (1987). As a result, the Board has held that the frequency of employee interchange is a critical factor in determining whether employees who work in different groups share a community of interest sufficient to justify their inclusion in a single bargaining unit. Executive Resource Associates, 301 NLRB 400, 401 (1991), citing Spring City Knitting Co. v. NLRB, 647 F.2d 1011, 1015 (9th Cir. 1981).

In this case, the petitioned-for employees only work within Kirtland AFB. The record further demonstrates that, within Kirtland AFB, employees in the petitioned-for unit regularly work at locations other than the MDB. Notably, the pharmacy technician and the pharmacist both perform work at the MDB pharmacy and at the BX pharmacy. According to the Employer’s pharmacy technician, over the approximately three years she has been employed by the Employer, she has worked out of the MDB pharmacy about 20 percent of her time. The time working in the MDB and BX pharmacies depend on a monthly rotation schedule. Although no evidence was provided as to the amount of time the pharmacist worked at the MDB or BX pharmacies, the pharmacy technician testified that currently, the pharmacist primarily works out of the BX pharmacy. In addition to the pharmacist and pharmacy technician, the Employer’s dietician spends half of her work time at the MDB and the other half she spends on outreach activities throughout the Kirtland AFB. Moreover, the Task Order PWS further states that work by the Employer’s employees is to be performed at the MDB, BX pharmacy, and at other locations throughout Kirtland AFB as required by the physical therapy department. As discussed above, the physical therapy department is comprised of the physical therapist and physical therapy assistant. Of the nine (9) job classifications of employees, five (5) either regularly work outside of the MDB or may be required to work outside of the MDB. Accordingly, this factor weighs in favor of finding a shared community of interest.

7. Terms and Conditions of Employment

Terms and conditions of employment include whether employees receive similar wage ranges and are paid in a similar fashion; whether employees have the same fringe benefits; and
whether employees are subject to the same work rules, disciplinary policies and other terms of employment that might be described in an employee handbook. That employees share common wage ranges and benefits or are subject to common work rules does not warrant a conclusion that a community of interest exists where employees are separately supervised, do not interchange or work in a physically separate area. Bradley Steel, Inc., 342 NLRB 215 (2004); Overnite Transportation Company, 322 NLRB 347 (1996). Similarly, sharing a common personnel system for hiring, background checks and training, as well as the same package of benefits, does not warrant a conclusion that a community of interest exists where two classifications of employees have little else in common. American Security Corporation, 221 NLRB 1145 (1996). Nevertheless, where there is also evidence of similar terms and conditions of employment and some functional integration, evidence of similar skills and functions can lead to a conclusion that disputed employees must be in the same unit, in spite of lack of common supervision or evidence of interchange. Phoenician, 308 NLRB at 827.

In this case, while job functions, duties, skills, education, and licensure or certification requirements differ for the petitioned-for job classifications, employees enjoy similar terms and conditions of employment as mandated by the Task Order PWS. Wages for pharmacy technicians, medical laboratory technicians, and physical therapy assistants must comport with the minimum wage and fringe benefit requirements in the SCA. Wages for social workers, physical therapists, chiropractors, dietitians, and psychologists are not regulated under the SCA. Beyond wages, however, the terms and conditions of employment, including, but not limited to work hours, work schedules, payroll periods, MTF training, attendance requirements, and vaccination requirements, under the Task Order PWS are the same for all employees in the petitioned-for unit. Regarding benefits not mandated by the Task Order, the Employer provides the same benefit opportunities, such as health care benefits and 401(k), to all employees.

A difference in the situs of employment does not in itself require establishment of separate bargaining units, especially when there is evidence of a shared community of interest between both groups. NLRB v. Carson Cable TV, 795 F.2d 879, 884–884 (9th Cir. 1986); McCann Steel Co., 179 NLRB 635, 636 (1969); Peerless Products Co., 114 NLRB 1586 (1956). Conversely, employees stationed away from the plant may be excluded from a production and maintenance unit where they do not have sufficient interests in common with the in-plant employees. Sealite, Inc., 125 NLRB 619, 620 (1959); Sheffield Corp., 123 NLRB 1454, 1456 (1959).

Here, the pharmacist and pharmacy technician work out of satellite pharmacy and the first-floor pharmacy at the MDB, and the dietitian works half of her time outside of the MDB nutrition clinic. Albeit at different locations, all the work and services performed by the pharmacist, pharmacy technician, and dietitian are performed at Kirtland AFB. Moreover, the PWS notes that, in addition to allowing telework, petitioned-for employees will perform their duties solely at Kirtland AFB.

Considering the similarity of terms and conditions of employment among the petitioned-for unit employees, this factor weighs in favor of finding a shared community of interest.
8. Supervision

In examining supervision, most important is the identity of employees’ supervisors who have the authority to hire, to fire or to discipline employees (or effectively recommend those actions) or to supervise the day-to-day work of employees, including rating performance, directing and assigning work, scheduling work providing guidance on a day-to-day basis. Executive Resources Associates, 301 NLRB at 402; NCR Corporation, 236 NLRB 215 (1978). Common supervision weighs in favor of placing the employees in dispute in one unit. However, the fact that two groups are commonly supervised does not mandate that they be included in the same unit, particularly where there is no evidence of interchange, contact or functional integration. United Operations, 338 NLRB at 125. Similarly, the fact that two groups of employees are separately supervised weighs in favor of finding against their inclusion in the same unit. However, separate supervision does not mandate separate units. Casino Aztar, 349 NLRB at 607, fn. 11; see also Texas Empire Pipe Line Co., 88 NLRB 631, 632 (1950) (difference in supervision is not a per se basis for excluding employees from an appropriate unit). Rather, the important consideration is the overall community of interest among the several employees, more important is the degree of interchange, contact and functional integration. Casino Aztar, 349 NLRB at 607.

In this case, government personnel serve as onsite supervisors, or observers, for the petitioned-for employees. With the exception of dietitian, whose onsite supervisor is a federal GS employee, military personnel serve as onsite supervisors for the petitioned-for employees. Government personnel, however, do not have the authority to hire, discipline, or terminate the Employer’s employees. Rather, government personnel communicate with the vice president of PSI’s health sector in the event that such action is recommended or requested by the government. The decision to hire, discipline, or terminate an employee in the petitioned-for unit is solely the Employer’s. Notably, the Employer terminated an employee in the social worker job classification after the government rejected the individual because of issues with the individual’s certification. Though the Task Order calls for an individual employed in the social worker position, the Employer did not hire any individual to fill that position.

The Employer contends that its employees report to six (6) separate government supervisors at Kirtland AFB and therefore does not directly supervise its employees. The evidence, however, reveals that the vice president of PSI’s health sector and the Employer’s clinical manager manage the petitioned-for employees, supervise their compliance with the Task Order, provide support for employment related issues, and manage the Employer’s contract remotely. The Employer’s human resources and payroll departments are also offsite, but all employees have similar access to each. Similarly, while employees are required to communicate with their respective government supervisor if an employee cannot go to work, employees must also contact the Employer to inform them of the absence. In the event of an unplanned absence, the Employer must contact the government and must find a replacement employee if necessary. Moreover, under the Task Order, the Employer is responsible for having a quality control plan outlining the quality control process covering every aspect of the Employer’s operations. Accordingly, this favor weighs in favor of finding a shared community of interest.
Applying the aforementioned traditional community of interest factors to these facts, I conclude the evidence establishes that the petitioned-for unit employees share a community of interest.

**B. The Petitioned-For Wall-to-Wall Unit at Kirtland AFB is Appropriate**

The record establishes that the Employer’s classifications are functionally integrated with one another such that there is an inherent community of interest among all the classifications with regard to the provision of services that forms the basis for the Employer’s operations. See *IBC of Pennsylvania*, 356 NLRB No. 168 (May 31, 2011) (Board reversed finding that the employer’s drivers and yard jockeys could not appropriately be included in a single unit with the employer’s production and warehouse employees as requested by the petitioner, concluding that there was an inherent community of interest between the groups of employees in relation to the flow of materials into and out of the plant such that a plant-wide unit was appropriate). See also *Airco*, 273 NLRB at 349 (finding plant-wide unit of drivers, mechanics, and operators appropriate despite evidence that each group “has very little in common with either of the other two” and the groups shared “little contact”); *Marks Oxygen Co. of Alabama*, 147 NLRB 228, 230 (1964) (plant-wide unit of truck drivers and plant employees was appropriate even where evidence demonstrated that truck drivers did most or all of their work away from the plant).

Furthermore, the Board has repeatedly recognized in the health care context that multiple, physically separate buildings function as one. See *West Jersey Health System*, 293 NLRB 749, 750-51 (1989) (finding separate healthcare facilities were functionally integrated into a systemwide unit); *Stormont-Vail Healthcare, Inc.*, 340 NLRB 1205, 1208 (2003) (finding a shared a community of interest between employees at separate buildings); and *St. Luke’s Health System, Inc.*, 340 NLRB 1171, 1172-73 (2003) (finding that separate clinics operated as a single network and were functionally integrated). Moreover, employees who spend most of their time away from the plant may be included in a plantwide unit if the petitioner is willing to represent such a unit and no other union seeks to represent them separately. *Marks Oxygen Co.*, 147 NLRB 228, 230 (1964); *International Bedding Co.*, 356 NLRB 1336, 1337 (2011).

The Employer asserts that, in addition to a lack of community of interest, the petitioned-for unit is not appropriate because employees work out of two separate facilities: the MDB and the satellite BX pharmacy. However, as demonstrated by Dietitian Makarewicz and the Employer’s Task Order PWS, employees in the petitioned-for unit may work throughout Kirtland AFB as required. Petitioner does not contest employees work in more than one building within Kirtland AFB. Petitioner’s willingness to represent such a unit at Kirtland AFB, coupled with the fact that no other union seeks to represent those employees separately, sufficiently refutes the Employer’s assertion that including those employees would render the petitioned-for unit inappropriate.

The Employer did not provide evidence in support of its position that an appropriate unit comprised of non-professional employees must include all non-professional employees nationwide. The Employer bears a “heavy burden” in rebutting the presumption in favor of the petitioned-for single location unit. See *Starbucks Corporation*, 371 NLRB No. 71, slip op. at 1 (2022); see also *Mercy Sacramento Hospital*, 344 NLRB 790, 790 (2005) (“As the party opposing the single-facility unit, the [e]mployer has the heavy burden of overcoming the
presumption.”) (citations omitted). Accordingly, the Employer did not meet its burden to expand the petitioned-for unit beyond Kirtland AFB.

Accordingly, I find that the petitioned-for wall-to-wall unit at Kirtland AFB of the Employer’s chiropractor, physical therapist, physical therapy assistant, psychologists, clinical pharmacist, pharmacy technician, dietician, medical laboratory technicians, and social worker share an inherent community of interest and that the Employer has failed to rebut the presumption that they constitute an appropriate unit.

C. The Sonotone Self-Determination Procedure is Appropriate

Section 9(b)(1) of the Act prohibits the inclusion of professional employees in a unit with employees who are not professional, unless a majority of the professional employees vote for inclusion in such a unit. To carry out the statutory requirement, the Board has long held that the Sonotone self-determination election procedure is the appropriate method to allow professional employees to decide for themselves whether they wish to be included in such a diverse unit. See Sonotone Corp., 90 NLRB at 1241–1242; Barnes-Hind Pharmaceuticals, Inc., 183 NLRB 301, 303 (1970); Firestone Tire & Rubber Co., 181 NLRB 830, 833 (1970); New England Telephone & Telegraph Co., 179 NLRB 527, 529–530 (1969).

The Board requires that there be a Sonotone election each time that there is an election in which professionals and nonprofessionals may be included in the same unit. Thus, subsequent Sonotone elections are required in the same unit regardless of whether the professionals have already voted for inclusion in the overall unit. American Medical Response, Inc., 344 NLRB 1406 (2005).

In this case, both the Employer and Petitioner agree that the petitioned-for unit includes both professional and non-professional employees. As such, a Sonotone election is appropriate.

IV. CONCLUSION

Based upon the record evidence, and in accordance with the discussion above, I find that there is no voluntary recognition bar with respect to Petitioner’s election petition. Further, based on the foregoing and the record as a whole, 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 an employer as defined in Section 2(2) of the Act and is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.12

3. The parties stipulated, and I find, that Petitioner is a labor organization as defined in Section 2(5) of the Act.

4. The parties stipulated, and I find, a mail-ballot election is appropriate.

5. The parties stipulated, and I find, that there is no collective-bargaining agreement covering any of the employees in the unit sought in the petition; there is no history of collective bargaining between the Employer and Petitioner in the proposed bargaining unit sought in the petition; and there is no contract bar or other bar in existence to an election in this case.

6. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.

7. Petitioner is willing to proceed to an election in any unit found appropriate.

8. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

**INCLUDED:** All full-time, regular part-time, and on-call professional and nonprofessional employees employed by the employer at or from Kirtland Air Force Base, Albuquerque, New Mexico, in the following job classifications:

**VOTING GROUP - UNIT A (PROFESSIONAL UNIT):** Chiropractors, dieters, pharmacists, psychologists, physical therapists, and social workers.

**VOTING GROUP - UNIT B (NON-PROFESSIONAL UNIT):** Medical laboratory technicians, pharmacy technicians, and physical therapy assistants.

**EXCLUDED:** All other employees, clerical employees, managerial employees, guards, and supervisors as defined by the National Labor Relations Act.

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12 The Employer, QuarterLine Consulting Services, LLC, a Delaware limited liability company with a place of business located at Kirtland Air Force Base, New Mexico, is engaged in providing health care services to the United States Government. In conducting its business operations during the 12-month period ending March 18, 2022, the Employer performed services valued in excess of $50,000 in States other than the State of New Mexico and as a result has a substantial impact on the national defense of the United States.
V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. There will be two voting groups in the election as set forth above, Unit A and Unit B. Two questions shall appear on the ballot of the professional employees in Unit A:

1. Do you wish to be included with nonprofessional employees in a unit for the purposes of collective bargaining? The choices on the ballot will be “Yes” or “No.”

2. Do you wish to be represented for purposes of collective bargaining by INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, LOCAL LODGE 794? The choices on the ballot will be “Yes” or “No.”

The question on the ballot for the non-professional employees in Unit B will be “Do you wish to be represented for purposes of collective-bargaining by INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, LOCAL LODGE 794?” The choices on the ballot will be “Yes” or “No.”

If a majority of the professional employees voting in Unit A vote “Yes” to the first question on the ballot, indicating their desire to be included in a unit with non-professional employees in Unit B, they will be so included, and their votes on the second question on the ballot regarding whether or not they wish to be represented for purposes of collective bargaining by INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, LOCAL LODGE 794 will be counted together with the votes of the non-professional employees in Unit B to decide the question concerning representation for the overall unit consisting of the employees in Unit A and Unit B.

If, on the other hand, a majority of the professional employees voting in Unit A do not vote “Yes” to the first question on the ballot, their ballots will be counted separately to decide the question concerning representation in a separate Unit A.

A. Method of Election

Both the Employer and Petitioner agree that the petitioned-for unit includes professional and non-professional employees. As such, the appropriate method of election is the Board’s long-established special type of self-determination procedure under Sonotone.

B. Election Details

The parties have stipulated, and I have determined, that a mail ballot election will be held.

The ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At 2:00 p.m. (Pacific Time Zone) on June 30, 2022, ballots will be mailed to
voters from the National Labor Relations Board, Region 28. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by July 7, 2022, should communicate immediately with the National Labor Relations Board by either calling the Regional Office at (602) 640-2160 or the Agency’s national toll-free line at 1-844-762-NLRB (1-844-762-6572).

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 28 office by close of business on July 14, 2022. All ballots will be commingled and counted by an agent of Region 28 of the National Labor Relations Board on the earliest practicable date after the return date for mail ballots. In order to be valid and counted, the returned ballots must be received in the Regional Office prior to the counting of the ballots.

C. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending June 15, 2022, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

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.

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.

D. 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.

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13 If, on the date of the count, the Regional Office is closed, or the staff of the Regional Office is working remotely, the count will be done remotely. If the Regional Director determines this is likely, a reasonable period of time before the count, the parties will be provided information on how to participate in the count by videoconference.
To be timely filed and served, the list must be received by the Regional Director and the parties by June 27, 2022. 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.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

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.nlrb.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.

E. 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.
VI. **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 10 business 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 must be E-Filed through the Agency’s website and may not be filed by facsimile. To E-File the request for review, go to www.nlrb.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, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency’s E-Filing system or why filing electronically would impose an undue burden. 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. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated at Phoenix, Arizona this 23rd day of June 2022.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director