

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 31**

**CALIFORNIA NURSES ASSOCIATION,
NATIONAL NURSES ORGANIZING COMMITTEE**

and

Case No. 31-CB-12913

**HENRY MAYO NEWHALL
MEMORIAL HOSPITAL**

**COMPLAINT
AND
NOTICE OF HEARING**

Henry Mayo Newhall Memorial Hospital, herein called the Charging Party or Employer, has charged in Case No. 31-CB-12913 that California Nurses Association, National Nurses Organizing Committee, herein called the Respondent or Union, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. §151 *et seq.*, herein called the Act. Based thereon the Acting General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1. The original charge in this proceeding was filed by the Employer on October 20, 2010, and a copy was served by regular mail on Respondent on October 22, 2010.

2. (a) At all material times, the Employer, a corporation with an office and place of business in Valencia, California, herein called the Facility, has been engaged in the operation of a hospital providing inpatient and outpatient medical care.

(b) During the past year, the Employer, in conducting its business operations described above in paragraph 2(a), purchased and received at the Facility goods or services valued in excess of \$50,000 directly from points outside the State of California.

(c) During the period of time described above in paragraph 2(b), the Employer, in conducting its business operations described above in paragraph 2(a), derived gross revenues in excess of \$250,000.

(d) At all material times, the Employer has been an employer engaged in commerce within the meaning of Sections 2(2), (6) and (7) of the Act, and has been a health care institution within the meaning of Section 2(14) of the Act.

3. At all material times, Respondent has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been agents of Respondent, acting on its behalf, within the meaning of Section 2(13) of the Act:

Karleen George - Contract Negotiator

Adam Diaz CNA Representative

5. (a) The following employees of the Employer, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All full-time, regular part time, and per diem/casual Registered Nurses employed by the Hospital at its facilities located at 23845, 25727, and 25751 McBean Parkway, Valencia, California.

Excluded: All other employees, office clerical employees, managerial employees, confidential employees, contract employees including but not limited to travelers, guards, and supervisors as defined in the Act including but not limited to RN Clinical Coordinators, administrative RN House Supervisors, and RN Nursing Directors. Also excluded is any Nurse who habitually works fewer than eight hours in each two-week pay period.

(b) Since at least 2000, and at all material times, Respondent has been the designated exclusive collective-bargaining representative of the Unit, and since then the Respondent has been recognized as the representative by the Employer. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from January 22, 2009 to January 21, 2012.

(c) Since at least 2000, and at all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit employed by the Employer.

(d) At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of other appropriate

units employed by other employers, presently unknown to the Acting General Counsel.

6. (a) About April 2009, the Employer and Respondent reached complete agreement on terms and conditions of employment of the Unit, to be incorporated in a collective-bargaining agreement that was to be printed by Respondent with copies provided to the Employer.

(b) About October 2010, Respondent altered the terms and conditions of the collective-bargaining agreement described above in paragraph 6(a) by printing and distributing to Unit employees a copy of the collective-bargaining agreement that contained on the back cover a statement entitled "The Weingarten Rights."

(c) Respondent engaged in the conduct described above in paragraph 6(b) without the Employer's consent or agreement.

(d) At times presently unknown to the Acting General Counsel, Respondent altered the terms and conditions of collective-bargaining agreements it had reached with other employers, described above in paragraph 5(d), presently unknown to the Acting General Counsel, by printing the same "The Weingarten Rights" statement on or inside the cover of the agreements without the employers' consent or agreement.

(e) Respondent is currently a party to collective-bargaining agreements with employers, presently unknown to the Acting General Counsel, that contain "The Weingarten Rights" statement on or inside the cover of those agreements.

(f) The statement of "The Weingarten Rights" described above in paragraphs 6(b), 6(d) and 6(e) implies that employees must request a Union

representative during investigatory meetings, and therefore, employees are not free to exercise their Section 7 right to avoid union activity altogether.

7. By the conduct described above in paragraph 6 (b), (d), (e) and (f), Respondent has been restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(b)(1)(A) of the Act.

8. By the conduct described above in paragraph 6 (a)-(d), Respondent has been failing and refusing to bargain collectively and in good faith with employers within the meaning of Section 8(d) of the Act in violation of Section 8(b)(3) of the Act.

9. The unfair labor practices of Respondent described above affect commerce within the meaning of Sections 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before May 13, 2011, or postmarked on or before May 12, 2011**. Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically through the Agency's website. *To file electronically, go to www.nlr.gov, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.* The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a

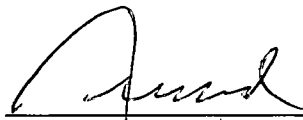
continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE that during the calendar call commencing on **August 1, 2011**, at **1:00 p.m.** at the National Labor Relations Board, Region 31, 11150 W. Olympic Blvd., Suite 700, Los Angeles, California, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. The precise order of all cases scheduled to be heard on this

calendar call will be determined no later than the close of business on the Friday preceding the calendar call. At the hearing, Respondents and any other party to this proceeding will have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Los Angeles, California, this 29th day of April, 2011.



James J. McDermott, Regional Director
National Labor Relations Board, Region 31
11150 W. Olympic Boulevard, Suite 700
Los Angeles, CA 90064

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD
BEFORE THE NATIONAL LABOR RELATIONS BOARD
IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO
SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such

(OVER)

argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

In the discretion of the administrative law judge, any party may, on request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge who will fix the time for such filing. Any such filing submitted shall be double-spaced on 8½ by 11 inch paper.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations, with respect to the procedure to be followed before the proceeding is transferred to the Board:

No request for an extension of time within which to submit briefs or proposed findings to the administrative law judge will be considered unless received by the Chief Administrative Law Judge in Washington, DC (or, in cases under the branch offices in San Francisco, California; New York, New York; and Atlanta, Georgia, the Associate Chief Administrative Law Judge) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously on all other parties, and proof of such service furnished to the Chief Administrative Law Judge or the Associate Chief Administrative Law Judge, as the case may be. A quicker response is assured if the moving party secures the positions of the other parties and includes such in the request. All briefs or proposed findings filed with the administrative law judge must be submitted in triplicate, and may be printed or otherwise legibly duplicated with service on the other parties.

In due course the administrative law judge will prepare and file with the Board a decision in this proceeding, and will cause a copy thereof to be served on each of the parties. Upon filing of this decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, on all parties. At that point, the administrative law judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the administrative law judge's decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be served on the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations. If adjustment appears possible, the administrative law judge may suggest discussions between the parties or, on request, will afford reasonable opportunity during the hearing for such discussions.