

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 1**

BRIDGEWELL, INC.

Employer

And

Case No. 01-RC-336421

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 509**

Petitioner

DECISION AND DIRECTION OF ELECTION¹

Bridgewell, Inc. (Employer) is a Massachusetts nonprofit corporation operating a comprehensive human services organization that provides support to individuals with developmental and psychiatric disabilities at facilities in the Greater Boston area. Service Employees International Union, Local 509 (Petitioner) currently represents an existing unit of approximately 720 employees working at Bridgewell.² Petitioner now seeks an *Armour-Globe* self-determination election to ascertain whether about 7 unrepresented registered nurses (RNs) and 18 licensed practical nurses (LPNs) working for Bridgewell wish to join the existing unit.³ The Employer does not contest the election petition with regard to the LPNs, but takes the position that the RNs are supervisors within the meaning of Section 2(11) of the Act and should be excluded from the unit on that ground.

Having considered the parties' positions, the evidence, and the entire record, I find that the Employer has not met its burden of establishing the RNs are statutory supervisors. Accordingly, I find that the petitioned-for unit is appropriate and shall direct an election in that unit.

¹ The petition in this case was filed under Section 9(c) of the Act. The parties were provided opportunity to present evidence on the issues raised by the petition at a hearing held before a hearing officer of the National Labor Relations Board (the Board) on March 4, 2024. I have the authority to hear and decide these matters on behalf of the Board under Section 3(b) of the Act. I find that the hearing officer's rulings are free from prejudicial error and are affirmed; that the Petitioner is a labor organization within the meaning of the Act; that there is no contract bar or other bar to election in this matter; and that a question affecting commerce exists concerning the representation of certain employees of the Employer. Both parties filed briefs in this matter.

² The existing unit was certified on May 24, 2011, in Case No. 01-RC-022527. It consists of direct care employees, interpreters, aides, aide/driver, aide/DSP, a sleep overnight, a sleep/awake overnight, awake overnight, assistant program director, behavior support provider, case manager, clubhouse generalist, CNA, developmental specialist, direct support professional, driver, employment coordinator, employment specialist, evening shift coordinator, job coach, live-in personal support staff, per diem, mobile coordinator, monitors, service manager, shift supervisor, specialized service worker, senior clubhouse generalist, traditional employment coordinator, vocational developer, and weekend coordinator.

³ See *Armour & Co.*, 40 NLRB 1332 (1942); *Globe Machine & Stamping Co.*, 3 NLRB 294 (1937).

Facts

Overview of the Employer's Operations

Bridgewell's principal office is located at 10 Dearborn Road, Peabody, Massachusetts. Among other services, it maintains about 70 group homes in the Greater Boston area where it provides support programs for individuals with developmental and psychiatric disabilities. Each group home has 4 to 10 residents and is ranked by the level of residential care needed. Level 1 homes are for those most independent residents; Level 2 homes are for those who need more assistance; and Level 3 homes are for those who require more specialized support, including medical care, which is provided by RNs and LPNs.

Rather than working at a fixed location, the RNs work at the group homes where they are needed. The typical staffing structure at the 10 to 12 homes where the RNs work includes a residential supervisor, who oversees four group homes, and on staff at each home is a residential manager, who handles administrative work, direct support professionals (DSPs), and LPNs, although not all of those homes have LPNs on staff. The residential supervisor reports to Kelly Pottie, the VP of residential living, who in turn reports to COO Elaine White. The residential manager directly supervises the DSPs and LPNs by handling shift assignments, time and attendance issues, their annual evaluations, and other administrative matters. The residential manager is also responsible for ensuring that the group home is fully staffed and serves as the hiring official for LPNs.

The RNs are supervised by one of Bridgewell's three health care coordinators. For instance, Courtney Freeman, a health care coordinator of residential services, oversees the medical needs at 35 of the 70 group homes, which includes supervising half of the RNs at Bridgewell. Freeman reports to Kim Haley, the VP of behavioral health, who reports to COO White who, in turn, reports to CEO Chris Tuttle.

At hearing, the Employer called two witnesses, Health Care Coordinator Freeman and Chief Human Resources Officer Niovi Gkolemi. Freeman has worked for Bridgewell for 11 years. She started as an RN, but 2 years later, was promoted to her current position. In addition to supervising a team of RNs, Freeman's duties include assisting RNs with medically complex cases, rotating into the on-call system, facilitating admissions and discharges, helping process medication-occurrence reports, and holding a monthly team meeting to discuss caseloads and other matters, which the RNs attend. The Employer's second witness, Gkolemi, testified that she has a staff of 18 in the Human Resources Department, and reports to CEO Tuttle.

Petitioner also called two witnesses, Registered Nurses Laurie Alexandre and Angelina Mwihiia. Alexandre has worked for Bridgewell for 10 years and is an RN working under the title of residential health care supervisor. Petitioner's second witness, Mwihiia, has worked for Bridgewell for 20 years, and for the last 15 years, she has worked as an RN. Among the documents admitted into evidence were the RN job description, a staff recruitment and external hiring policy, two "interview guides," which contain notes on interviews of LPN

candidates, and two “skills review forms,” which are used annually to document the competency of LPNs in certain medical skills.⁴

The Duties and Responsibilities of the Registered Nurses

Regarding the duties of RNs, Freeman testified that the RN job description was current and accurate. It includes a summary of the RN’s principal responsibilities: “The professional registered nurse will coordinate health services for individuals with developmental and/or psychiatric disabilities living in Bridgewell residential or supportive living group homes.” Further, it states that responsibilities of an RN include “health care education, medical assessment and support for the individuals and their staff, advocacy and liaison with community health care providers, monitoring medical records, and medication administration oversight.” The job description does not state that RNs are supervisors or have any direct reports. The only chain-of-command reference is that RNs report to the residential coordinator. And the only references to LPNs are that an RN “[s]erves as a mentor and clinical field supervisor for the licensed practical nurse,” and “[p]rovides ongoing supervision for the licensed practical nurse to ensure optimal health care provision to Bridgewell recipients.”

Concerning planned care, Freeman testified that RNs complete health care records and routine medication audits, and determine what type of training staff might need to safely provide residential care. RNs also serve as Medication Administration Program (MAP) consultants under a state program that allows staff who are not licensed professionals to administer medications. In practical terms this means that if a staff member has a question when administering medication, they can contact the RN for guidance. RNs are also the individuals who receive reports of medication errors by other MAP-certified employees. In addition to planned care, Freeman testified that RNs, at times, may provide “episodic care” in emergency situations, and are required to rotate into an on-call system every 6 weeks.

The Registered Nurses’ Role in Hiring LPNs

Bridgewell’s Staff Recruitment and External Hiring Policy issued by the Human Resources Department (HR) provides a full description of the hiring process. In relevant part, it provides that, after posting, the assigned HR recruiter screens the applications. “[U]pon completion of the screening phase of the interview process, the assigned Human Resources Recruiter and appropriate supervisors review the applications and schedule interviews with the selected qualified applicants.” Further, the policy provides that although the recruiter and the hiring manager “work collaboratively” throughout the hiring process, “the hiring manager makes the ultimate hiring decision based on interview results, references obtained, verification of education and experience,” and the results of a criminal background check. If the recruiter and the hiring manager disagree, the policy requires that the decision go up a level to be “resolved by the Human Resources Director and the appropriate Leadership Team member.”

Consistent with that policy, Chief Human Resources Officer Gkolemi testified that, to set-up interviews, the HR recruiter works with the residential manager of the group home where

⁴ The job description for the LPNs was not proffered for admission into evidence.

an LPN will be hired. Although not mentioned in the hiring policy, she stated that it is their practice to include the program RN in the LPN interview along with the residential manager. Gkolemi testified that she has no personal knowledge of how the interviews are run, but that her understanding is as follows:

The residential manager can assess them and they can interview them from a basis they oversee that specific program. They can assess them in anything that has to do with those direct support care responsibilities, make sure if they're a right fit from a behavior and teamwork perspective in all those soft skills. But our residential managers are not skilled to be able to assess them from a nursing standpoint.

Similarly, Health Care Coordinator Freeman testified that the residential manager and the RN “co-conduct the interview,” and that the RN is in the interview “to determine if that LPN has the skillset for that particular program.” She also testified that there are RNs who have never participated in an LPN interview because not all group homes utilize LPNs.

RN and Residential health care supervisor, Alexandre testified that she has participated in several LPN interviews. She stated that she has been asked to attend interviews mainly because she can describe the medical needs of the residents at the group home where the LPN would be working, and that she is the best person to describe “a day in the life of a nurse in the house and what that would look like.” In an interview, the residential manager will describe the group home and the residents, and she will describe the medical work needed and, at times, will ask questions about the candidate’s medical skills. In an LPN interview in 2019, Alexandre participated along with residential manager Yelena Kharzis. She testified that Kharzis led the interview, asked most of the questions, filled out the “interview guide,” and submitted the form to Human Resources.⁵ Alexandre testified that she was not asked to fill out anything to approve the hire, and neither Kharzis nor Human Resources asked for her approval. Before the interview, she was not told that she had any role in deciding whether to hire the LPN. Nor has she ever been told she had any responsibility in hiring, been asked to make a recommendation for hire, or been asked by anyone to approve the hiring of an LPN.

Mwihia testified that during her 15 years as an RN, she never participated in an interview of an LPN. Among the 11 group homes at which she works, she works with only 1 LPN who, unlike the other LPNs at Bridgewell, does not do direct patient care.

The two “interview guides” submitted into evidence, which are used in LPN interviews, contain a list of prepared questions with space under each question for handwritten notes on answers that the candidate provided. At the top of the form, there are spaces to write in who participated in the interview. On each of the two forms, the “Hiring Manager” line was filled in with the name of the residential manager of the group home where the LPN opening existed, and the “Interview Team” line was filled in with two names, that of the residential manager and the program RN. Gkolemi testified that she does not know who fills out the interview guide, but that her expectation is that it contains feedback from the residential manager and the RN.

⁵ The interview guide for that 2019 interview lists Residential Manager Kharzis as “Hiring Manager,” and Alexandre as the RN on the “Interview Team.” See E-4.

On their face, the handwritten notes on the two interview guides appear to record the candidate's answers, and do not appear to reflect feedback or an evaluation of the candidate. The only clear documentary evidence in the record of an RN's comment on an LPN candidate is a statement in a post-interview email. In that email string, the residential manager wrote to the HR recruiter: "I recommend hire." Copied on the email, the RN then replied: "I agree she is a very strong candidate[.] I feel she would make a great addition to Salem Street." Gkolemi testified that when HR receives an email from the residential manager that says "hire," HR extends an offer to the LPN candidate. Gkolemi stated that she has never seen a situation where the RN disagreed with the residential manager's recommendation.

The Registered Nurses' Role in Evaluating LPNs

The residential manager of a group home at which one or more LPNs work handles all administrative tasks associated with the LPNs. Those tasks include scheduling their work, addressing unfilled shifts and attendance issues, such as an LPN calling in sick. And the residential managers prepare the LPNs' annual evaluations, which they submit to HR on an online form. Freeman and Gkolemi both testified that the residential manager completes the annual evaluations with feedback from the RNs.

Freeman testified that while the LPNs are administratively supervised by the residential managers, they are "clinically supervised" by the RNs. In describing clinical supervision, Freeman stated that the RNs orient new LPNs to the program, help mentor them, answer their clinical questions, observe their work, and annually complete a "skills review form" to document their competency in performing certain medical skills. As noted, the RN job description contains two references to LPNs. It states that an RN serves as "a mentor and clinical field supervisor" for the LPNs, and provides "ongoing supervision" to the LPNs "to ensure optimal health care provision to Bridgewell recipients." Under state law, an LPN is required to work under an RN's license.

The "skills review form," which RNs fill out annually to document an LPN's competency in performing certain medical skills, lists 8 skills that are to be assessed: vital signs, assessment, blood glucose monitoring, insulin administration, catheterization, glucagon review, documentation, and application of Libre Censor 2. Freeman stated that if an LPN lacks a skill, the RN will retrain the LPN on the particular task. She stated that retraining always comes first, but if the LPN still cannot perform the skill, the RN and residential manager will contact HR, and the LPN may be discharged. Gkolemi testified that she has no knowledge of that ever happening, and that HR would only get involved "to make sure that the process has been followed, that the person has received adequate training . . . and opportunity to be able to do their job." She stated that "[t]he whole idea is to be able to work with the nurses and the LPNs, and help them get to where they are supposed to be."

Alexandre testified that she has no role in drafting the LPNs' annual evaluations, and is not required to collaborate with the residential manager in evaluating the work of the LPNs. She described how the training of LPNs begins right after they are hired—"the first day is orientation with the residential manager," the "second day is a review of the protocols and . . . the medical needs of the individuals," the third day is when they shadow a nurse" on the evening shift when "all individuals are home" and they are able to observe "the nurse giving

out medications and performing the skills,” and finally, on the fourth day, the LPNs “perform the skills and basically the nurse that is on duty is observing them.” Alexandre testified that is her responsibility to annually observe and record the LPN’s performance of certain tasks, which she does by filling out a skills review form. She has never observed an LPN unable to complete a task, but if an LPN were unable to do so, then the LPN would need to shadow an RN to be retrained on the skill. Alexandre further testified that the skills review forms are kept in a binder in the group home, and that there is no particular time for her to complete the forms; she just looks at the date on the prior form, completes it, and then tells the residential manager.

Analysis

The Employer argues that the RNs are statutory supervisors because they have: (1) the authority to hire LPNs, or effectively recommend their hire, and (2) the authority to evaluate the LPNs’ clinical competencies which, it contends, can lead to their discipline. I find that those contentions are not supported by the record evidence.⁶ Accordingly, I find that the Employer has not met its burden of proving that the RNs are statutory supervisors.

Section 2(3) of the Act excludes from the definition of the term employee “any individual employed as a supervisor.” In turn, Section 2(11) of the Act defines a “supervisor” as:

[A]ny individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

29 U.S.C. § 152(11). The statutory criteria for supervisory status set forth in Section 2(11) are read in the disjunctive, making possession of any one of the indicia sufficient to establish an individual as a supervisor. Therefore, individuals are statutory supervisors if: (1) they hold the authority to engage in any one of the 12 primary indicia listed in Section 2(11) of the Act; (2) their exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment; and (3) their authority is held in the interest of the employer. See *NLRB v. Kentucky River Community Care, Inc.*, 532 U.S. 706, 712-13 (2001); *Shaw, Inc.*, 350 NLRB 354, 355 (2007).

The Board analyzes each case in order to differentiate between the exercise of independent judgment and the giving of routine instructions; between effective recommendation and forceful suggestions; and between the appearance of supervision and supervision in fact. The exercise of some supervisory authority in a merely routine, clerical, or perfunctory manner does not confer supervisory status on an employee. See *Oakwood Healthcare, Inc.*, 348 NLRB 686, 693 (2006); *J. C. Brock Corp.*, 314 NLRB 157, 158 (1994). The authority effectively to recommend an action means that the recommended action is taken without independent

⁶ The Employer does not argue, and no evidence suggests, that that the RNs have the authority to transfer, suspend, lay off, recall, promote, discharge, assign, reward, to responsibly direct the LPNs, to adjust their grievances, or effectively recommend such action.

investigation by supervisors, not simply that the recommendation is ultimately followed. See *DirecTV U.S. DirecTV Holdings LLC*, 357 NLRB 1747, 1748-49 (2011); *Children’s Farm Home*, 324 NLRB 61 (1997); see also *Veolia Transp. Servs., Inc.*, 363 NLRB No. 98, slip op. at 5 (2016); *Ryder Truck Rental, Inc.*, 326 NLRB 1386 (1998). The Board has an obligation not to construe the statutory language too broadly because the individual found to be a supervisor is denied the employee rights protected by the Act. *Avante at Wilson, Inc.*, 348 NLRB 1056, 1057 (2006); *Oakwood Healthcare*, 348 NLRB at 687.

The burden of establishing supervisory status rests on the party asserting that such status exists. *NLRB v. Kentucky River*, 532 U.S. 706, 711; *Shaw, Inc.*, 350 NLRB at 355; *Croft Metals, Inc.*, 348 NLRB 717, 721 (2006). The party seeking to prove supervisory status must establish it by a preponderance of the evidence. *Croft Metals*, above; *Oakwood Healthcare*, above. As the Board stated in *Veolia Transportation*, above, “Purely conclusory evidence does not satisfy that burden. Lack of evidence is construed against the party asserting supervisory status.” 363 NLRB slip op. at 7 (citing *Lynwood Manor*, 350 NLRB 489, 490 (2007); *Dean & Deluca New York, Inc.*, 338 NLRB 1046, 1048 (2003)). It is well-settled that job descriptions, job titles, employee handbooks, and similar items that constitute “paper authority” do not, without more, demonstrate actual supervisory authority. *Golden Crest Healthcare Center*, 348 NLRB 727, 731 (2006); *Chi Lake-Wood Health*, 365 NLRB No. 10 at fn. 1 (2016); *Peacock Productions of NBC Universal Media*, 364 NLRB No. 104, slip op. at 2-3 and fn. 6 (2016). Likewise, conclusory statements are insufficient to establish supervisory authority. Rather, the statute requires evidence of actual supervisory authority visibly translated into tangible examples demonstrating the existence of such authority, rather than unsupported assertions that supervisory authority has been conferred on a particular person. *Golden Crest Healthcare Center*, supra at 731. Where the evidence is in conflict or otherwise inconclusive on particular indicia of supervisory authority, the Board will find that supervisory status has not been established, at least on the basis of those indicia. *Ibid.* (citing *Phelps Community Med. Ctr.*, 295 NLRB 486, 490 (1989)). See also *G4S Regulated Security Solutions*, 362 NLRB 1072, 1072-73 (2015); *Dole Fresh Vegetables, Inc.*, 339 NLRB 785, 792 (2003). Finally, the sporadic exercise of supervisory authority is not sufficient to transform an employee into a supervisor. See *Shaw, Inc.*, 350 NLRB at 357 n.21; *Oakwood Healthcare*, 348 NLRB at 693; *Kanawha Stone Co., Inc.*, 334 NLRB 235, 237 (2001).

Authority to Hire, or Effectively Recommend Hire

Although the Employer argues the RNs “possess and exercise independent authority to hire and/or effectively recommend for hiring to the LPN position,” there is no record evidence that the RNs have ever directly hired an LPN, nor that Bridgewell has endowed them with such authority. To the contrary, Bridgewell’s Staff Recruitment and External Hiring Policy specifies that it is “the hiring manager”—which in the case of LPNs is the residential manager of the group home where the vacancy exists—who “makes the ultimate hiring decision based on interview results, references obtained, verification of education and experience,” and a criminal background check. The lack of such independent hiring authority is also consistent with the testimony of RN Alexandre, in which she stated that she has never been told she had any

responsibility in hiring, been asked by anyone to approve the hiring of an LPN or effectively recommend them for hire.

The Employer maintains the RNs effectively recommend the hiring of LPNs by their participation in interviews, along with the residential manager, after which, the Employer asserts, the two jointly arrive at a recommendation to hire.

The record evidence indicates if there is an LPN vacancy at a group home where an RN works, Bridgewell has a practice of including the RN in the interview. Support for the Employer's assertion that the hiring recommendation is jointly arrived at through a collaborative process comes from Freeman's testimony regarding her "expectation" that interviews are "co-conducted" and that the two interviewers jointly determine whether to recommend hiring. Freeman's statements, however, were not based on her personal knowledge, and Gkolemi similarly testified that she has no personal knowledge of how the interviews are conducted. More importantly, Freeman's statements are directly contradicted by the specific example provided by RN Alexandre of her experience in a 2019 interview. Alexandre testified that residential manager Kharzis led the interview, asked most of the questions, filled out the interview guide, and submitted it to Human Resources. She further testified that before the interview, she was not told that she had any role in deciding whether to hire the LPN, and neither Kharzis nor Human Resources later asked for her approval.

The RNs' mere participation in the LPN interviews is insufficient to transform them into statutory supervisors. The Board has long held that participation in the interview process does not confer supervisory status, where others who are admitted supervisors (such as the residential managers here) also participate and thus are able to evaluate the suitability of candidates. *The Republican Co.*, 361 NLRB 93, 97 (2014) ("Absent additional evidence, an individual does not effectively recommend hiring where acknowledged supervisors also interview the candidates.") (collecting cases); *Connecticut Humane Soc'y*, 358 NLRB 187, 207 (2012) ("participation in the interviewing process is insufficient in itself to establish the requisite 2(11) supervisory authority to recommend hire," even where recommendations were made, because "the decisionmaker" also participated in the interview); *Los Angeles Water & Power Employees' Ass'n* 340 NLRB 1232, 1234 (2003) (similar). That result would not be affected by the fact that during the interviews, RNs may assess the medical skills of LPN candidates. See, e.g., *Aardvark Post*, 331 NLRB 320, 320-21 (2000) (editor was not a supervisor where his function was to let his superior know if applicants were technically qualified); *The Door*, 297 NLRB 601, 602 (1990) (assessment of technical ability is not indicative of supervisory status).

Finally, the record does not contain a single instance of an RN recommending that an LPN be hired. At best, there is one occasion in which an RN provided a comment on an LPN candidate, which is far short of a recommendation to hire. In a post-interview email string, the residential manager wrote to the HR recruiter: "I recommend hire." The RN then "replied all" with the comment that she thought the LPN would be "a great addition to the group home." Such compatibility assessments are not indicative of supervisory status. See, e.g., *Tree-Free Fiber Co., LLC*, 328 NLRB 389, 391 (1999) (participation in interviews to assess whether candidates "would make a good employee to work on their team," does not confer supervisory status). I therefore find that the Employer has not shown that the petitioned-for RNs have the authority to hire LPNs, or effectively recommend their hire, within the meaning of the Act.

Authority To Evaluate and potential impact on discipline

The Employer claims that the RNs are “involved in the discipline or effective recommendation of discipline for the LPNs” because they assess “the LPNs’ ability to meet the clinical competencies” by annually completing a “skills review form,” which, it asserts, “can lead to discipline and ultimately termination.” (Br. 16.) The record, however, does not contain a single instance of an LPN being disciplined or discharged on the basis of failing a skill during an annual assessment. Although Freeman and Gkolemi testified that such an outcome might be possible, such vague testimony is insufficient to support supervisory status.

Rather, multiple witnesses testified that the outcome for an LPN who failed a competency is retraining. Freeman stated that if an LPN lacks a skill, the RN will retrain the LPN on the particular task. She stated that retraining always comes first, but if the LPN still cannot perform the skill, the RN and residential manager will contact HR, and the LPN may be discharged. However, Gkolemi testified that she has no knowledge of that ever happening, and that HR would only get involved “to make sure that the process has been followed, and that the person has received adequate training . . . and opportunity to be able to do their job.” Gkolemi stated that “[t]he whole idea is to be able to work with the nurses and the LPNs, and help them get to where they are supposed to be.” Alexandre testified that if an LPN was unable to complete a task, then the LPN would need to shadow an RN to be retrained on the skill. But she also testified that she personally has never observed an LPN being unable to complete a task listed on the skills review form.

Thus, the Employer’s contention that the RNs effectively recommend discipline is not supported by the record evidence. Board law is clear that “the ability to evaluate others’ work performance—or report incidents of substandard performance—is not enough to render the evaluator/reporter a supervisor; this occurs only if the evaluation or report, ‘by itself, directly affects the wages and/or job status of the individual being evaluated.’” *Tracy Auto, L.P.*, 372 NLRB No. 101, slip op. at 26 (2023) (quoting *Modesto Radiology Imaging, Inc.*, 361 NLRB 888, 889 (2014) (brackets omitted)). Documented oral reprimands and written warnings do not constitute discipline, absent evidence that the Employer “uses a progressive discipline system or that the warnings otherwise affect job status.” *Id.*, slip op. at 1 n.4. “Warnings that simply bring substandard performance to the employer’s attention without recommendations for future discipline serve nothing more than a reporting function, and are not evidence of supervisory authority.” *Veolia Transp. Servs.*, 363 NLRB 902, 908 (2016). *Accord Frenchtown Acquisition Co. v. NLRB*, 683 F.3d 298, 309 (6th Cir. 2012) (documents that created “a possibility of discipline” were insufficient to show supervisory authority).

On this record, the requisite effect on the wages or job status of any individual LPN has not been shown, and there is no evidence that the skills review form has played any role in discipline. I therefore find that the Employer has not shown that the petitioned-for RNs have the authority to discipline LPNs, or effectively recommend their discipline, within the meaning of the Act.

Other Evidence

I note the presence of some secondary indicia of supervisory status, such as higher compensation, different hours of work, including on-call duties, RN attendance at monthly meetings with Freeman, and a job description that mentions the RNs as the clinical supervisors of the LPNs. The Board has long held, however, that secondary indicia are insufficient by themselves to establish supervisory status when there is no evidence presented that an individual possesses any one of the several primary Section 2(11) indicia. *Golden Crest Healthcare Ctr.*, 348 NLRB 727, 730 n.10 (2006); *Ken-Crest Servs.*, 335 NLRB 777, 779 (2001).

Conclusion

I find that the Employer has not met its burden of establishing that the petitioned-for RNs are supervisors under Section 2(11) of the Act. Accordingly, based upon the foregoing and the stipulations of the parties at the hearing, I find that the following employees of the Employer constitute a unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time Registered Nurses and Licensed Practical Nurses employed by Bridgewell, Inc.

Excluded: All office clerical employees, confidential employees, managers, guards, and supervisors as defined in the Act, and all other employees.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for the purposes of collective bargaining by **Service Employees International Union, Local 509**.

The Board has consistently and historically found registered nurses to be professional employees. *Centralia Convalescent Center*, 295 NLRB 42 (1989); *Mercy Hospitals of Sacramento, Inc.*, 217 NLRB 765, 766-768 (1975). Neither party here argues to the contrary. In view of the statutory requirement that the Board may not join professional and non-professional employees in a single unit without the desires of the professional employees being determined in a separate vote, they will be given a *Sonotone* choice. *Sonotone Corp.*, 90 NLRB 1236 (1950).

Therefore, the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the act:

Voting Group A – Professional – Registered Nurses:

Included: All full-time and regular part-time Registered Nurses employed by Bridgewell, Inc.

Excluded: All office clerical employees, confidential employees, managers, guards, and supervisors as defined in the Act, and all other employees.

Voting Group B – Non-Professional - Licensed Practical Nurses:

Included: All full-time and regular part-time Licensed Practical Nurses employed by Bridgewell, Inc.

Excluded: All office clerical employees, confidential employees, managers, guards, and professional employees and supervisors as defined in the Act, and all other employees.

The National Labor Relations Board will conduct a secret ballot election among the employees in the two Voting Groups in the unit found appropriate above.

The following two questions shall appear on the ballot for Voting Group A (Professionals):

1. Do you wish to be included with nonprofessional employees for 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 Service Employee International Union, Local 509? The choices on the ballot will be “Yes” or “No”

Voting group B will receive a ballot with only the second question.

If a majority of the professional employees voting in Voting Group A vote “Yes” to the first question, indicating their desire to be included in a unit with the non-professional employees, they will be so included, and their votes on the second question will be counted together with the votes of the non-professional employees in Voting Group B to decide the question concerning representation for an overall unit consisting of the employees in Voting Groups A and B and the existing unit represented by the Union. If, on the other hand, a majority of the professional employees voting in Voting Group A do not vote “Yes” to the first question, their ballots will be counted separately to decide the question concerning representation in a separate Unit A.

If a majority of valid ballots are cast for Service Employee International Union, Local 509, they will be taken to have indicated the employees’ desire to be included in the existing unit currently represented by Service Employee International Union, Local 509. If a majority of valid ballots are not cast for representation, they will be taken to have indicated the employees’ desire to remain unrepresented.

A. Election Details

The election will be conducted by United States mail. The Employer would prefer a manual election. However, as the eligible voters report to various locations at various times, I have determined that a manual election is not practical and have directed the mail ballot election suggested by the Petitioner. Regional Directors are entitled to broad discretion in determining the method by which an election is held. *San Diego Gas & Electric*, 325 NLRB 1143 (1998); *Ceva Logistics U.S.*, 357 NLRB 628 (2011). In reaching this determination I note the eligible

voters work at 10-12 different group homes across the Greater Boston area at locations that include Lynnfield, Peabody, Danvers, Lynn, Saugus, Dracut, and Billerica. They work a variety of scheduled shifts, including from 7:00 a.m. to 3:00 p.m., 8:00 a.m. to 4:00 p.m., 9:00 a.m. to 5:00 p.m., and one overnight shift from 11:00 p.m. to 9:00 a.m. Additionally, there is little predictability for the locations at which the RNs may work and some RNs might have on-call rotations. Under the guidelines set forth in *San Diego Gas and Electric*, a mail ballot election may be appropriate where eligible voters are “scattered” by geography and/or by work schedules which vary significantly, so that all employees cannot be present at a common location at common times to vote manually. Employees working unpredictable hours a significant distance from any proposed voting location would potentially be disenfranchised.

Accordingly, I find that a mail-ballot election is appropriate.

The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At 4:30p.m. on **Friday, June 28, 2024**, ballots will be mailed to voters from the National Labor Relations Board, Region 01, Thomas P. O'Neill Jr. Federal Building, 10 Causeway St, Room 1002, Boston, MA 02222-1001. 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.

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 1 office by close of business on Friday, July 19, 2024.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by **Monday, July 8, 2024**, should communicate immediately with the National Labor Relations Board by either calling the Region 1 Office at (617) 565-6700 or our national toll-free line at 1-844-762-NLRB (1-844-762-6572).

All ballots will be commingled and counted at the Region 01 Office on **Monday, July 22, 2024 at 2:00 p.m.** In order to be valid and counted, the returned ballots must be received in the Region 01 Office prior to the counting of the ballots.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **June 1, 2024**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date they mail in their ballots to the Board’s designated office.

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

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

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters. **Additionally, the Employer should provide separate lists for each voting group (professional/non-professional).**

To be timely filed and served, the list must be *received* by the regional director and the parties by **Monday, June 17, 2024**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

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

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

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

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

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where

notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice **no later than 12:01 a.m. on Tuesday, June 25, 2024**, 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.

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

IV. 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.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, 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.

Any party may, within 5 business days after the last day on which the request for review must be filed, file with the Board a statement in opposition to the request for review. An opposition must be filed with the Board in Washington, DC and a copy filed with the Regional Director and copies served on all the other parties. The opposition must comply with the formatting requirements set forth in §102.67(i)(1). Requests for an extension of time within which to file the opposition shall be filed pursuant to §102.2(c) with the Board in Washington, DC, and a certificate of service shall accompany the requests. The Board may grant or deny the request for review without awaiting a statement in opposition. No reply to the opposition may be filed except upon special leave of the Board.

Dated: June 13, 2024

A handwritten signature in black ink, appearing to read "Laura Sacks". The signature is fluid and cursive, with the first name "Laura" written in a larger, more prominent script than the last name "Sacks".

LAURA A. SACKS
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 01
Thomas P. O'Neill Jr. Federal Building
10 Causeway St, Room 1002
Boston, MA 02222-1001



United States of America
National Labor Relations Board
NOTICE OF ELECTION



PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. (See VOTING UNIT in this Notice of Election for description of eligible employees.) A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by secret ballot carried out through the U.S. mail under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Employees eligible to vote will receive in the mail *Instructions to Employees Voting by United States Mail*, a ballot, a blue envelope, and a yellow self-addressed envelope needing no postage.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off. In a mail ballot election, employees are eligible if they are in the VOTING UNIT during both the designated payroll period and on the date they mail in their ballots. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election, or, in a mail ballot election, before the date they mail in their ballots, are not eligible to vote.

CHALLENGE OF VOTERS: An agent of the Board or an authorized observer may question the eligibility of a voter. Such challenge must be made at the time the ballots are counted.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

METHOD AND DATE OF ELECTION

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At 4:30 p.m. on Friday, June 28, 2024, ballots will be mailed to voters from the National Labor Relations Board, Region 01, Thomas P. O'Neill Jr. Federal Building, 10 Causeway St, Room 1002, Boston, MA 02222-1001. 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 Monday, July 8, 2024, should communicate immediately with the National Labor Relations Board by either calling the Region 01 Office at (617)565-6700 or our national toll-free line at 1-844- 762-NLRB (1-844- 762-6572).

All ballots will be commingled and counted at the Region 01 Office on Monday, July 22, 2024 at 2:00 p.m. In order to be valid and counted, the returned ballots must be received in the Region 01 Office prior to the counting of the ballots.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.



United States of America
National Labor Relations Board
NOTICE OF ELECTION



VOTING UNITS

EMPLOYEES ELIGIBLE TO VOTE – VOTING GROUP UNIT A (PROFESSIONAL UNIT):

Those eligible to vote are: All full-time and regular part-time Registered Nurses employed by Bridgewell, Inc., who were employed by the Employer during the payroll period ending June 1, 2024.

EMPLOYEES ELIGIBLE TO VOTE – VOTING GROUP UNIT B (NON-PROFESSIONAL UNIT):

All full-time and regular part-time Licensed Practical Nurses employed by Bridgewell, Inc., who were employed by the Employer during the payroll period ending June 1, 2024.

EMPLOYEES NOT ELIGIBLE TO VOTE:

All office clerical employees, confidential employees, managers, guards, and supervisors as defined in the Act, and all other employees.

If a majority of the professional employees voting in Voting Group A vote “Yes” to the first question, indicating their desire to be included in a unit with the non-professional employees, they will be so included, and their votes on the second question will be counted together with the votes of the non-professional employees in Voting Group B to decide the question concerning representation for an overall unit consisting of the employees in Voting Groups A and B and the existing unit represented by the Union. If, on the other hand, a majority of the professional employees voting in Voting Group A do not vote “Yes” to the first question, their ballots will be counted separately to decide the question concerning representation in a separate Unit A.

If a majority of valid ballots are cast for Service Employee International Union, Local 509, they will be taken to have indicated the employees’ desire to be included in the existing unit currently represented by Service Employee International Union, Local 509. If a majority of valid ballots are not cast for representation, they will be taken to have indicated the employees’ desire to remain unrepresented.



**United States of America
National Labor Relations Board
NOTICE OF ELECTION**



Ballot for Voting Group - Unit A

<p style="text-align: center;">UNITED STATES OF AMERICA National Labor Relations Board 01-RC-336421</p> <p style="text-align: center;">OFFICIAL SECRET BALLOT</p> <p style="text-align: center;">For certain employees of BRIDGEWELL, INC.</p>	
Do you wish to be included with nonprofessional employees in a unit for the purposes of collective bargaining?	
MARK AN "X" IN THE SQUARE OF YOUR CHOICE	
YES <input style="width: 50px; height: 30px; border: 1px solid black;" type="checkbox"/>	NO <input style="width: 50px; height: 30px; border: 1px solid black;" type="checkbox"/>
Do you wish to be represented for purposes of collective bargaining by SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 509?	
MARK AN "X" IN THE SQUARE OF YOUR CHOICE	
YES <input style="width: 50px; height: 30px; border: 1px solid black;" type="checkbox"/>	NO <input style="width: 50px; height: 30px; border: 1px solid black;" type="checkbox"/>
<p>DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY. MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY. If you make markings inside, or anywhere around, more than one square, you may request a new ballot by referring to the enclosed instructions. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.</p> <p style="font-size: small;">The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.</p>	



WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.



**United States of America
National Labor Relations Board
NOTICE OF ELECTION**



Ballot For Voter Group – Unit B

	<p>UNITED STATES OF AMERICA National Labor Relations Board 01-RC-336421</p> <p>OFFICIAL SECRET BALLOT For certain employees of BRIDGEWELL, INC.</p>	
<p>Do you wish to be represented for purposes of collective bargaining by SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 509?</p>		
<p>MARK AN "X" IN THE SQUARE OF YOUR CHOICE</p>		
<p>YES</p> <input data-bbox="495 1218 625 1312" type="checkbox"/>		<p>NO</p> <input data-bbox="1144 1218 1274 1312" type="checkbox"/>
<p>DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY. MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY. If you make markings inside, or anywhere around, more than one square, you may request a new ballot by referring to the enclosed instructions. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.</p>		
<p>The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.</p>		

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.



United States of America
National Labor Relations Board
NOTICE OF ELECTION



RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union
- Choose representatives to bargain with your employer on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities
- In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- Threatening loss of jobs or benefits by an Employer or a Union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or the mail ballots are dispatched in a mail ballot election
- Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a Union or an Employer to influence their votes

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (617)565-6700 or visit the NLRB website www.nlrb.gov for assistance.