

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION ONE - SUBREGION 34**

LAWRENCE & MEMORIAL CORPORATION,
LAWRENCE & MEMORIAL HOSPITAL, AND
LAWRENCE & MEMORIAL PHYSICIANS
ASSOCIATION, INC. a/k/a L&M MEDICAL GROUP

and

AFT CONNECTICUT, AMERICAN FEDERATION OF
TEACHERS, AFL-CIO

Case Nos.01-CA-097374
01-CA-104058
01-CA-104694

**ORDER CONSOLIDATING CASES, CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED that Case Nos. 01-CA-097374, 01-CA-104058, and 01-CA-104694 are consolidated. These cases are based on charges filed by the AFT Connecticut, American Federation of Teachers, AFL-CIO (AFT CT) against Lawrence & Memorial Corporation (Respondent LMC), Lawrence & Memorial Hospital (Respondent LMH), and Lawrence & Memorial Physicians Association, Inc. a/k/a L&M Medical Group (Respondent LMPA), herein collectively called Respondent. This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, and alleges that Respondent has violated the Act as described below:

1(a) The charge in Case No. 01-CA-097374 was filed by AFT CT on January 30, 2013, and a copy was served on Respondent by facsimile transmission and regular mail on January 31, 2013.

(b) The first amended charge in Case No. 01-CA-097374 was filed by AFT CT on July 18, 2013, and a copy was served on Respondent by facsimile transmission and regular mail on July 19, 2013.

(c) The charge in Case No. 01-CA-104058 was filed by AFT CT on April 29, 2013, and a copy was served on Respondent by facsimile transmission and regular mail on May 1, 2013.

(d) The first amended charge in Case No. 01-CA-104058 was filed by AFT CT on July 18, 2013, and a copy was served on Respondent by facsimile transmission and regular mail on July 19, 2013.

(e) The charge in Case No. 01-CA-104694 was filed by AFT CT on May 8, 2013, and a copy was served on Respondent by facsimile transmission and regular mail on May 9, 2013.

(f) The first amended charge in Case No. 01-CA-104694 was filed by AFT CT on July 18, 2013, and a copy was served on Respondent by facsimile transmission and regular mail on July 19, 2013.

2. At all material times, Respondent LMC, with an office and place of business located in New London, Connecticut, herein called its New London facility; Respondent LMH, with an office and place of business located in New London, Connecticut, herein called its New London facility; and, Respondent LMPA, with an office and place of business located in Ledyard, Connecticut, herein called its Ledyard facility, have each been engaged in providing in-patient and out-patient medical services.

3(a) During the 12-month period ending July 31, 2013, Respondent LMC, in conducting its business operations described above in paragraph 2, derived gross revenues in excess of \$100,000 and purchased and received at its New London facility goods valued in excess of \$5,000 directly from points located outside the State of Connecticut;

(b) During the 12-month period ending July 31, 2013, Respondent LMH, in conducting its business operations described above in paragraph 2, derived gross revenues in excess of \$100,000 and purchased and received at its New London facility goods valued in excess of \$5,000 directly from points located outside the State of Connecticut;

(c) During the 12-month period ending July 31, 2013, Respondent LMPA, in conducting its business operations described above in paragraph 2, derived gross

revenues in excess of \$100,000 and purchased and received at its Ledyard facility goods valued in excess of \$5,000 directly from points located outside the State of Connecticut.

4. At all material times, Respondent LMC, Respondent LMH, and Respondent LMPA have each been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act, and a health care institution within the meaning of Section 2(14) of the Act.

5. At all material times, Respondent LMC, Respondent LMH, and Respondent LMPA have been affiliated business enterprises with common officers, ownership, directors, management, and supervision; have administered a common labor policy; have shared common premises and facilities; have provided services for and made sales to each other; have interchanged personnel with each other; and have held themselves out to the public as a single-integrated business enterprise.

6. Based on the operations described above in paragraph 5, Respondent LMC, Respondent LMH, and Respondent LMPA constitute a single-integrated business enterprise and a single employer within the meaning of the Act.

7(a) At all material times, Respondent LMC, Respondent LMH, and Respondent LMPA, have had substantially identical management, business purposes, operations, equipment, customers, supervision, and ownership.

(b) About 2009, Respondent LMPA was established by Respondent LMC, and has, since at least October 2012, served as a disguised continuance of Respondent LMH.

8. Based on the operations and conduct described above in paragraphs 7(a) and (b), Respondent LMH and Respondent LMPA are, and have been at all material times, alter egos and a single employer within the meaning of the Act.

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

(b) At all material times, Local 5123 AFT-CT, AFT, AFL-CIO (Local 5123) has been a labor organization within the meaning of Section 2(5) of the Act.

(c) At all material times, Local 5049 Lawrence & Memorial Registered Professional Nurses, AFT Healthcare, AFT-CT, AFL-CIO (Local 5049) has been a labor organization within the meaning of Section 2(5) of the Act.

10. At all material times, the following individuals held the positions set forth opposite their respective names, and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Bruce Cummings	---	President and CEO, LMC and LMH, and Director, LMPA
Pamela Kane	---	VP, Physician Practice Management, LMH, Executive Director, LMPA
Daniel Rissi	---	Chairman, LMPA, and VP and Chief Medical Operations Officer, LMH
Lugene Inzana	---	VP and Chief Financial Officer, LMC, and Director, LMPA
Kim Kalajainen	---	VP, Chief Information Officer, LMC and LMH, and Board Member, LMPA
Donna Epps	---	Vice President and Chief Human Resources Officer, LMH
Gary Cass	---	Director, Human Resources, LMH
Amy Leger	---	Director, Human Resources, LMPA
Dr. Henry Amdur	---	Physician

11. The following employees of Respondent each separately constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

- a. All full-time and regular part-time Healthcare Workers Union employees employed by LMH, as defined further in Appendix "A", but excluding all per diem employees who do not work an average of at least four hours per week, confidential employees, temporary employees, casual employees, managerial employees, registered nurses and all other professional employees, LPNs, technical employees, business office clerical employees, skilled maintenance employees, physicians, guards and

supervisors as defined by the Act (herein called the “service and maintenance” Unit).

- b. All Registered Professional Nurses regularly employed by the Hospital who work an average of eight (8) hours or more per week as set forth in the National Labor Relations Board Certification of Representative in Case No. 39-RC-386 dated February 9, 1983, but excluding all other employees, nurse managers, nursing supervisors, clinical coordinators, licensed practical nurses, case managers, infection control, psychiatric outpatient nurses, quality risk management coordinators, wound/skin care program manager, clinical nurse specialist/APRN, clinical nurse educators, mental health counselor, enterostomal nurse, diabetic nurse educator and guards and other professional employees and supervisors as defined in the Act (herein called the RN Unit).

12(a) At all material times, Respondent has recognized Local 5123 as the exclusive collective-bargaining representative of the service and maintenance Unit described above in paragraph 11(a). This recognition has been embodied in a series of collective-bargaining agreements, the most recent of which is effective by its terms from June 1, 2012 to March 15, 2015.

(b) At all material times, based on Section 9(a) of the Act, Local 5123 has been the designated exclusive collective bargaining representative of the service and maintenance Unit.

(c) At all material times, Local 5123 has been an affiliate of AFT CT, which has been authorized to act as its designated agent in certain aspects of collective bargaining for the service and maintenance unit.

(d) At all material times, Respondent has recognized the Local 5049 as the exclusive collective-bargaining representative of the RN Unit described above in paragraph 11(b). This recognition has been embodied in a series of collective-bargaining agreements, the most recent of which is effective by its terms from November 16, 2009 to November 16, 2013.

(e) At all material times, based on Section 9(a) of the Act, Local 5049 has been the designated exclusive collective bargaining representative of the RN Unit.

(f) At all material times, Local 5049 has been an affiliate of AFT CT, which has been authorized to act as its designated agent in certain aspects of collective bargaining for the service and maintenance unit.

13. About November 14, 2012, Respondent removed work performed by employees in the service and maintenance Unit and the RN Unit in the OB/GYN clinic by transferring it from Respondent LMH to Respondent LMPA.

14. About November 14, 2012, by letter, AFT CT, on behalf of its constituent Locals 5123 and 5049, requested that Respondent bargain collectively about the transfer of work described above in paragraph 13.

15. About January 3, 2013, Respondent removed work performed by employees in the service and maintenance Unit and the RN Unit in the Psychiatric Services Department by transferring it from Respondent LMH to Respondent LMPA.

16. About January 3, 2013, AFT CT, on behalf of its constituent Locals 5123 and 5049, orally requested that Respondent bargain collectively about the transfer of work described above in paragraph 15.

17. The subjects set forth above in paragraphs 13 and 15 relate to the wages, hours, and other terms and conditions of employment of the Units described above in paragraphs 11(a) and (b), and are mandatory subjects of bargaining for the purposes of collective bargaining.

18. Respondent engaged in the conduct described above in paragraphs 13 and 15 without affording AFT CT and its constituent Locals 5123 and 5049 an opportunity to bargain with Respondent with respect to this conduct.

19. As a result of Respondent's conduct described above in paragraphs 13 and 15:

- (a) since about November 14, 2012, Respondent discharged, laid off, transferred and/or reduced the hours of employees in the Units described above in paragraphs 11(a) and (b) who worked in the OB/GYN clinic; and

(b) since about January 3, 2013, Respondent discharged, laid off, transferred and/or reduced the hours of employees in the Units described above in paragraphs 11(a) and (b) who worked in the Psychiatric Services Department.

20. By letter dated November 14, 2012 (attachment A), AFT CT, on behalf of its constituent Locals 5123 and 5049, requested certain information relating to the transfer of work described above in paragraph 13.

21. By letter dated March 12, 2013 (attachment B), AFT CT, on behalf of its constituent Locals 5123 and 5049, requested certain information relating to the transfer of work described above in paragraph 13.

22. The information requested by AFT CT, on behalf of its constituent Locals 5123 and 5049, as described above in paragraphs 20 and 21 is necessary for and relevant to Local 5123 and Local 5049's performance of their duties as the exclusive collective-bargaining representative of the Units described above in paragraphs 11(a) and (b).

23 (a) Since about November 14, 2012, Respondent has failed and refused to furnish AFT CT with the information requested by it as described above in paragraph 20.

(b) Since about March 12, 2013, Respondent has failed and refused to furnish AFT CT with the information requested by it as described above in paragraph 21.

24. By the conduct described above in paragraphs 13, 15, 18, 19, and 23, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective bargaining representative of its employees in violation Section 8(a)(1) and (5) of the Act.

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

SPECIAL REMEDIES

As part of the remedy for the unfair labor practices alleged above, the Acting General Counsel seeks an order requiring reimbursement of amounts equal to the difference in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no discrimination. The Acting General Counsel further seeks an order that Respondent be required to submit the appropriate documentation to

the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods.

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 consolidated complaint. The answer must be **received by this office on or before August 14, 2013, or postmarked on or before August 13, 2013.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. 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. When an answer is filed electronically, an original and four paper copies must be sent to this office so that it is received no later than 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, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the consolidated complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **October 21, 2013**, at **10:00 a.m.**, at the A.A. Ribicoff Federal Building, 450 Main Street, Suite 410, Hartford, Connecticut, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated 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 Hartford, Connecticut, this 31th day of July, 2013.

Jonathan B. Kreisberg, Regional Director
National Labor Relations Board
Sub-Region 34

Attachments