

## **LABOR LAW UPDATE:**

### **New Posting Requirements & Changes in Bargaining Units**

- **Starting November 14, 2011 ALL EMPLOYERS will be required to post a notice informing employees of their rights under the National Labor Relations Act.**
- **A recent decision by the NLRB opens the door for micro-bargaining units in a long-term care facility.**

The National Labor Relations Board (the “Board”) has been very busy recently. The Board published a final rule that will require all employers subject to the National Labor Relations Act (NLRA) to post in the workplace an official Notice containing a recitation of some employee rights that are guaranteed by the NLRA. Additionally, the Board released its decision in the case *Specialty Healthcare and Rehabilitation Center of Mobile*, a decision that will likely have a profound effect on how new bargaining units will be defined in long-term care facilities.

#### **The NLRA Rights Posting**

Beginning November 14, 2011 employers will be required to permanently hang an 11-by-17-inch Notice of labor rights in all places where rules and policies are customarily posted. Employers will also be required to post the Notice on an intranet or an internet site if personnel rules and policies are customarily posted there. Failure to post the notice may be treated as an unfair labor practice under the National Labor Relations Act and in some cases the failure may be considered evidence of unlawful motive in an unfair labor practice case involving other alleged violations of the NLRA.

A copy of the text to be contained is available on our website or at [www.NLRB.gov](http://www.NLRB.gov). Although the Board has not yet printed the actual notices, it is the employer’s burden to acquire and timely post the Notice. We will instruct you how to obtain an official copy as soon as they become available.

#### **The Specialty Healthcare Decision**

Reversing years of precedent, this past week the Board approved a long-term care bargaining unit consisting of only STNA’s. In the past, the Board has required bargaining units at a nursing facility to include a mixture of STNAs, rehabilitation and activities personnel, and less frequently dietary, laundry and/or housekeeping employees. This change in the application of the “community of interest” analysis may well lead to several bargaining units in the same facility, each with a separate contract having different terms and conditions of employment, each with a different expiration date and each represented by either the same or a *different* union(s).

Like the Board’s proposed new rule that will shorten the period within which union elections are held by 25-30 days (currently the time period between petition and election is between 35-42 days), *Specialty Healthcare* will act as yet another tool to help unions create discord in long term care workplaces.



Please contact us if you would like further information or assistance with these matters, or if you have any questions regarding this alert.



**Fred Englehart** 216.514.1100 ext. 230

[Englehart@RolfLaw.com](mailto:Englehart@RolfLaw.com)  
[www.RolfLaw.com/Englehart](http://www.RolfLaw.com/Englehart)



**Rob Pivonka** 216.514.1100 ext. 249

[Pivonka@RolfLaw.com](mailto:Pivonka@RolfLaw.com)  
[www.RolfLaw.com/Pivonka](http://www.RolfLaw.com/Pivonka)

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