

PENDING NLRB DECISION MAY HAVE SIGNIFICANT IMPACT ON LONG-TERM CARE

A case currently pending before the National Labor Relations Board (NLRB), as mentioned [here](#), is expected to be decided and released within the next few months. This case, *Specialty Healthcare and Rehabilitation of Mobile*, has been pending before the Board since December of 2010, and, if decided as expected by those following the case, will have a significant impact on long-term care providers and the ability of employees to unionize. This decision could alter the standard by which groups of long-term care employees are able to elect to form a collective bargaining unit. Traditionally, such elections must be made by a majority of employees who share a "community of interest" at the workplace. *Specialty Healthcare*, if decided as expected, will alter the "community of interest" standard in favor of grouping employees together based on their job classification. This is a significant distinction because it permits employees with the same job, such as RNs or CNAs, to vote for collective bargaining powers solely for their job description. If the majority of employees with the same job elect to unionize, then all employees with that same job will be unionized. For example, if a nursing facility has 10 CNA employees, 6 of those CNAs could collectively agree to unionize all CNAs at the facility. The facility now will have a mix of union CNA employees with the remainder of employees at the facility non-union. This is a major change in the existing standard for determining the size of a bargaining unit, and has the practical impact of allowing unions to shrink the size of bargaining units they can try to organize. Unions may have a much easier time organizing non-union establishments, even those where unionization efforts have previously been rejected by a majority of employees. This analysis is purely speculative as the decision has not yet been released; however, providers must be aware of the pending decision and plan accordingly. Important issues remain unknown, such as which job categories will be grouped together, and how many job categories will be allowed. Should you have any questions, please contact: Travis Meek at 317.977.1489 or tmeek@hallrender.com; Todd Selby at 317.977.1440 or tselby@hallrender.com; Brian Jent at 317.977.1402 or bjent@hallrender.com; or David Bufford at 502.568.9368 or dbufford@hallrender.com, or your regular Hall Render attorney.