

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

TEMPLE UNIVERSITY HOSPITAL NURSES :  
ASSOCIATION AND TEMPLE UNIVERSITY :  
HOSPITAL ALLIED HEALTH PROFESSIONALS :  
 :  
v. : Case No. PERA-C-10-379-E  
 :  
TEMPLE UNIVERSITY HEALTH SYSTEM AND :  
TEMPLE UNIVERSITY HOSPITAL :

**PROPOSED DECISION AND ORDER**

On October 15, 2010, the Temple University Hospital Nurses Association/PASNAP (TUHNA) and the Temple University Hospital Allied Health Professionals/PASNAP (TAP) filed with the Pennsylvania Labor Relations Board (Board) a charge of unfair practices alleging that Temple University Hospital (TUH) and the Temple University Health System (TUHS) violated sections 1201(a)(1) and (5) of the Public Employee Relations Act (PERA) by "institut[ing] a new 'Attire Policy' [] which includes unilateral changes and restrictions on protected Union activity." On November 9, 2010, the Secretary of the Board issued a complaint and notice of hearing directing that a hearing be held on February 23, 2011, if conciliation did not resolve the charge by then. No hearing was held, however, as the parties submitted the case for decision on stipulated facts. On May 6, 2011, each party filed a brief by deposit in the U.S. Mail.

The hearing examiner, on the basis of the stipulations presented by the parties and from all other matters of record, makes the following:

**FINDINGS OF FACT**

1. The Board has certified TUHNA as the exclusive representative of a bargaining unit that includes nurses employed by TUH. (Stipulation 3, Case No. PERA-U-03-318-E)
2. The Board has certified TAP as the exclusive representative of a bargaining unit that includes technical employees employed by TUHS. (Stipulation 4, Case No. PERA-R-05-498-E)
3. On June 23, 2010, TUH and TUHS implemented a "policy and procedure outlin[ing] the appropriate attire for hospital employees." The policy and procedure covers the nurses employed by TUH and the technical employees employed by TUHS. The policy and procedure provides under "Procedure:" as follows:

"F. Buttons, badges & other forms of insignia:

1. Items such as buttons, stickers, lapel pins or similar insignia or messaging that are vulgar, malicious, critical or disparaging of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital may not be worn in any area of the Hospital.
2. Only buttons, stickers, lapel pins, or similar insignia or messaging such as educational, service, national certification or professional society recognitions pins and lapel pins that are well recognized by the general public as promoting a disease prevention effort, such as breast cancer awareness ribbons and employer distributed lapel pins, badges and other forms of insignia, such as radiation badges and Union insignia lapel pins pre-approved by TUH management, may be worn in patient care areas. Patient care areas include, but are not limited to: patient rooms, operating rooms, patient treatment areas (e.g. x ray and therapy rooms); waiting rooms where patients may consult with doctors, nurses or family; and halls, stairways and elevators used for patient transport; and any other area where patients regularly receive care. Other than those mentioned above, buttons, stickers,

lapel pins or similar insignia or messaging, without regard to content, may not be worn at any time in patient areas."

(Stipulations 8-10, Exhibit D)

## DISCUSSION

TUHNA and TAP have charged that TUH and TUHS committed unfair practices under sections 1201(a)(1) and (5) of the PERA by "institut[ing] a new 'Attire Policy' [] which includes unilateral changes and restrictions on protected Union activity." TUHNA and TAP filed the charge after TUH and TUHS implemented "a policy and procedure outlin[ing] the appropriate attire for hospital employees," including nurses employed by TUH and technical employees employed by TUHS, on June 23, 2010 (finding of fact 3). The policy and procedure provides under "Procedure:" at paragraph F(1) that

"items such as buttons, stickers, lapel pins or similar insignia or messaging that are vulgar, malicious, critical or disparaging of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital may not be worn in any area of the Hospital,"

and at paragraph F(2) that "[o]nly . . . Union insignia lapel pins pre-approved by TUH management, may be worn in patient care areas." Id.

According to TUHNA and TAP, the policy and procedure is "overly broad in its restriction of protected activity and otherwise discriminatory in that it treats union expression differently from other forms of expression in the workplace." Brief at 2. TUHNA and TAP would have the Board find that employes have (1) the right to wear items that are "critical or disparaging of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital" in any area of the hospital and (2) the right to wear "Union insignia lapel pins" without pre-approval by TUH and TUHS.

TUH and TUHS contend that the charge should be dismissed (1) in part as moot because they have amended the policy and procedure since June 23, 2010, to delete the word "critical" and the phrase "or call into question the quality of care provided to patients of the Hospital," leaving the Board with no case or controversy to decide as to those parts of the policy and procedure, (2) because the imposition of an employe personal appearance policy is a managerial prerogative under PSSU Local 668 v. PLRB, 763 A.2d 560 (Pa. Cmwlth. 2000), (3) because the restrictions set forth in the policy and procedure are (a) consistent with Temple University Hospital, 38 PPER 38 (Final Order 2007) (Temple II) insofar as "patient care areas" are concerned and (b) prohibitive of non-protected activity or necessary to maintain production or discipline insofar as "non-patient care areas" are concerned (Brief at 1-2), (4) because the pre-approval requirement is not an outright ban on union expression, (5) because "[a]ll unions affiliated with [TUH and TUHS] other than TAP and TUHNA have agreed to obtain pre-approval before wearing Union insignia lapel pins" (stipulation 15) and (6) because TUH and TUHS "have approved every pre-approval request by a union to wear a Union insignia lapel pin" (stipulation 16).

## I

As a jurisdictional matter, whether or not the charge should be dismissed in part as moot will be addressed first. Notably, the record does not show that TUH and TUHS have amended the policy and procedure since June 23, 2010, to delete the word "critical" and the phrase "or call into question the quality of care provided to patients of the Hospital" as they contend; rather, at best, the record shows that they intend to so amend the policy and procedure (stipulation 11). If and when TUH and TUHS amend the policy and procedure as they intend, the charge may be moot in part. As of now, however, there is no factual basis for finding the charge to be moot in part as they contend.

Even if there were, the moot parts of the charge would not be subject to dismissal because by the simple expedient of amending the policy as soon as a charge is filed TUH and TUHS would be able to evade review of conduct that is capable of repetition. Thus, the merits of the charge in its entirety must be addressed. See Temple University, Case

No. PERA-C-08-433-E (Order Directing Remand To Hearing Examiner for Further Proceedings, January 25, 2011), citing APSCUF v. PLRB, 8 A.3d 300 (2010), reargument denied, 70 MAP 2009 (January 24, 2011) (a charge involving conduct that is capable of repetition yet evading review must be heard even though the conduct has ended, making the charge moot).

## II

The Board has determined that "employees in hospital settings possess a statutory right to reasonable communication through wearing pins, buttons, and solicitation and distribution of literature, at least in non-work areas and on non-work time." Temple II, supra, 38 PPER at 101, citing Temple University Hospital, 33 PPER ¶ 33149 (Final Order 2002) (Temple I).

In Temple I, the Board set up the analytical framework to be used in deciding whether or not an employer in a hospital setting has coerced its employees in the exercise of their statutory right to reasonable communication. As the Board explained:

"Upon review of Beth Israel Hospital [v. NLRB, 437 U.S. 483 (1978)], [NLRB v. Baptist Hospital[, Inc., 442 U.S. 773 (1979)]], and Baylor University Medical Center [v. NLRB, 662 F.2d 56 (D.C. Cir. 1981)], the Board hereby adopts the following policy and presumptions for bans on solicitation and distribution of literature in hospitals within the jurisdiction of the Board. In this regard, the Board recognizes four zones of interest within a hospital: 1) nonworking areas, 2) patient care areas, 3) immediate patient care areas, and 4) patient access areas.

Concerning solicitation and distribution in nonworking areas, the United States Supreme Court in Republic Aviation Corp v. NLRB, 324 U.S. 793 (1945) established that 'restrictions on employee solicitation during nonworking time, and on distribution during nonworking time in nonworking areas, are violative of §8(a)(1) unless the employer justifies them by a showing of special circumstances which make the rule necessary to maintain production or discipline.' Beth Israel Hospital, 437 U.S. at 492-93. Thus, a ban on solicitation during nonworking time is presumptively invalid, as is a ban on distribution in nonworking areas.

Along those lines, since the business of a hospital is providing patient care, 'patient care areas' are 'work areas' under Republic Aviation, supra. Patient care areas not only include those areas where patients are treated, but also areas where procedures, tests or other treatment related tasks are performed outside the presence of patients. See Baptist Hospital, Inc., 442 U.S. at 781-82. While solicitation may not be banned while employees are in these locations on nonworking time, because they are work areas, a ban on distribution of literature in these areas of the hospital is presumptively valid. See Republic Aviation, supra.

In addition, the NLRB has recognized certain areas as 'immediate patient care areas' where the interests of the hospital in providing adequate patient care compels the presumption that solicitation and distribution of literature in these areas should be banned. These areas include patient's rooms, operating rooms, x-ray and therapy areas. In addition, immediate patient care areas include the halls, stairways and elevators through which patients may be transported, and waiting areas where patients may meet with physicians or family. St. John's Hospital [and School of Nursing, Inc. v. NLRB, 557 F.2d 1368 (10<sup>th</sup> Cir. 1977)].

There is also a fourth type of area to be recognized in a hospital, a 'patient access area'. Patient access areas may be nonworking areas where employee solicitation and distribution would be presumptively permitted. However, patients, who have an interest in a tranquil environment for their treatment, also have access and use these areas. These areas typically would include a cafeteria, gift shop, chapel, lobby, entrance, or other public area of the hospital. See St. John's Hospital, supra.

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To uphold a ban on solicitation and distribution in patient access areas, the hospital bears the initial burden of establishing that the time, place and manner

of solicitation or distribution has an effect on patient care. If the hospital fails in this respect, then its ban on solicitation and distribution in that area is an unnecessary restraint on Article IV rights and thus a violation of Section 1201(a)(1) of PERA. See NLRB v. Harper-Grace Hospitals, Inc., 737 F.2d 576 (6<sup>th</sup> Cir. 1984). If, however, it is shown that the solicitation or distribution has an impact on patient care, then the hospital's ban is presumptively valid. The union may rebut that presumption by establishing that it has a substantial interest in soliciting or distributing literature at that particular place and time, or in the chosen manner. In connection with the union's purported interests, either party may present evidence of the availability of alternative means for the union to communicate with bargaining unit members. See NLRB v. Southern Maryland Hospital Center, 916 F.2d 932 (4<sup>th</sup> Cir. 1990)."

33 PPER at 341-342 (footnote omitted).

In Temple II, the Board further explained as follows:

"In order to ban employees from wearing union buttons, or in this case stickers, in areas where they may be seen by patients, the hospital must show that its prohibition on wearing a particular button, is 'necessary to avoid disruption of health care operations or disturbance of patients.' Mt. Clemens General Hospital [v. NLRB], 328 F.3d [837] at 847 (quoting NLRB v. Harper-Grace Hospitals, 737 F.2d 576, 578 (6<sup>th</sup> Cir. 1984); Sacred Heart Medical Center, 347 NLRB No. 48 at 2 (quoting Beth Israel Hospital v. NLRB, 437 U.S. 483, 507 (1978)). Actual complaints from patients or family are not required, Temple I, it is enough for the Hospital to establish that by understanding the message of the button or sticker a reasonable patient or family member would be negatively impacted. In this regard, the Hospital is not required to provide patients to testify about the impact on them, but rather may show that the situation is likely to either disrupt patient care or disturb patients. In the latter circumstance, the employer may rely on the solicitation's objective impact on a reasonable patient."

38 PPER at 101.

Under the law as set forth in Temple I and Temple II, whether or not TUH and TUHS implemented the policy and procedure unilaterally is irrelevant. PSSU Local 668, *supra*, addresses whether or not a dress code is a matter of inherent managerial prerogative that an employer may implement unilaterally. That case is, therefore, inapposite, and TUH's and TUHS's reliance on it is misplaced.

### III

As noted above, the policy and procedure provides that "[i]tems . . . that are . . . critical or disparaging of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital may not be worn in any area of the Hospital." On its face, then, the policy and procedure applies with equal force to all four zones of interest identified by the Board in Temple I: (1) nonworking areas, (2) patient care areas, (3) immediate patient care areas and (4) patient access areas.

Whether or not the policy and procedure is coercive of the statutory right of employees to reasonably communicate in non-working areas will be addressed first, keeping in mind that under Temple I restrictions on the exercise of that right in non-working areas are presumptively invalid "unless the employer justifies them by a showing of special circumstances which make the rule necessary to maintain production or discipline." 33 PPER at 341.

According to TUH and TUHS, the policy and procedure as applied to non-working areas is valid (1) because the employees' statutory right to reasonable communication does not extend to wearing items disparaging of TUH and TUHS and (2) because the policy and procedure's ban on wearing such items in non-working areas "is a 'precaution against discord and bitterness between employees and management, as well as to assure decorum and discipline' and, thus, is justified by special circumstances." Brief at 15. In support of

their contention, they rely on Raley's Inc., 311 NLRB No. 162 at 1246 (1993) ("Obscene or derogatory material may be denied protection. Language which improperly incites or results in an adverse impact on production may be barred in certain circumstances"); Southwestern Bell Telephone Company, 200 NLRB No. 101 at 670 (1972) ("as in other types of concerted actions, including union solicitation, considerations of production or discipline may well justify an employer to limit or bar the activity"); Caterpillar Tractor Co. v. NLRB, 230 F.2d 357, 359 (7<sup>th</sup> Cir. 1956) (the employer's "anticipation that 'Scab' buttons would prove disruptive of employee harmony in its plant and destructive of employee discipline was fully justified"); United Aircraft Corporation, 134 NLRB No. 153 at 1634 (1961) (the employer's apprehension that banned pins "would promote disorder and engender further divisiveness between the strikers and non-strikers" was "entirely reasonable"); Maryland Drydock Co. v. NLRB, 183 F.2d 538, 539 (4<sup>th</sup> Cir. 1950) (ban on "defamatory and insulting" union literature was lawful); and Midstate Telephone Corporation, 706 F.2d 401, 404 (2<sup>nd</sup> Cir. 1983) (banning t-shirts that had the "potential to serve as a 'constant irritant' to management" was lawful).

In Commonwealth of Pennsylvania, Pennsylvania State Police, 41 PPER 33 (Final Order 2010), aff'd sub nom. Commonwealth of Pennsylvania, Pennsylvania State Police v. PLRB, 626 C.D. 2010 (Pa. Cmwlth. 2011) (unreported opinion), the Board summarized the extent to which employes may engage in an activity without losing the protection of the PERA, as follows:

"As the Hearing Examiner correctly pointed out, under Board law, an employe's criticism of the employer will lose the protection of the [PERA] only if it is 'offensive, defamatory, or opprobrious,' and not if it is merely 'intemperate, inflammatory or insulting.' Washington County, 23 PPER ¶ 23040 (Proposed Decision and Order, 1992), 23 PPER ¶ 23073 (Final Order, 1992); see also, AFSCME, District Council 85, Local 3530 v. Millcreek Township, 31 PPER ¶31056 (Final Order, 2000) (employe's conduct will lose protection of the act where it is so obnoxious or violent as to render the employe unfit for service)."

Id. at 121. Under that standard, the employes' statutory right to reasonable communication includes in theory wearing items that are "critical . . . of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital," which TUH and TUHS do not contest, as well as wearing items that are "disparaging of the Hospital or its personnel."<sup>1</sup> None of the cases cited by TUH and TUHS compels a contrary result as each of those cases is distinguishable on the facts or consistent with Commonwealth of Pennsylvania, Pennsylvania State Police. Thus, the first part of TUH's and TUHS's contention is without merit.

The second part of TUH's and TUHS's contention also is without merit. In and of itself, banning the wearing of items that are "critical or disparaging of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital," is not necessary to maintain production or discipline. None of the cases cited by TUH and TUHS provides otherwise. Unlike the ban in the policy and procedure, the bans found to be lawful in those cases dealt with specific communications, putting any likely impact on production or discipline in context and making those cases distinguishable on the facts. As to non-working areas, then, the policy and procedure is invalid to the extent that it bans employes from wearing items "critical or disparaging of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital."

#### IV

Whether or not the policy and procedure is coercive of the statutory right of employes to reasonably communicate in patient care areas, immediate patient care areas and patient access areas will be addressed next, keeping in mind that under Temple I restrictions on the statutory right of employes to reasonably communicate in such areas are presumptively valid only if the restrictions are to avoid adversely impacting patient care and that TUHNA and TAP may rebut the presumption by showing that they have "a

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<sup>1</sup> Of course, whether or not a particular communication in fact goes beyond the employes' statutory right to reasonable communication to the point that it is unprotected under the PERA will have to be decided on a case by case basis.

substantial interest in soliciting or distributing literature at that particular place and time, or in the chosen manner.”<sup>2</sup> 33 PPER at 342.

Objectively, a reasonable patient would be disturbed by seeing an item that is “critical or disparaging of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital” in that items of that sort reflect poorly on the services provided by TUH and TUHS. Indeed, the Board found as much in Temple II in upholding a ban on the wearing a sticker that read “Bring Back Janell Safety for All Our Staff” in areas where they might be seen by patients. As the Board explained in that case,

“[i]t is not unreasonable for patients upon reading ‘Bring Back Janell Safety for All Our Staff’ that they may become concerned about their own safety. A reasonable patient may likely question, “Is the hospital unsafe without Janell?” or “If the staff is unsafe, am I safe?” The fact that a patient may have to inquire to find the answer to these questions does not dissolve the conclusion that a reasonable patient upon reading ‘Bring Back Janell Safety for All Our Staff’ may question their own safety and become disturbed by the message.”

38 PPER at 101. Thus, the policy and procedure is presumptively valid as applied to patient care areas, immediate patient care areas and patient access areas unless TUHNA and TAP rebutted the presumption by showing that they have a substantial interest in communicating in those areas.

TUHNA and TAP do not contend that they have rebutted the presumptive validity of the policy and procedure as applied to patient care areas, immediate patient care areas and patient access areas, however; rather, they contend that the policy and procedure may not be found to be presumptively valid in the first place because TUH and TUHS did not present substantial evidence that the restrictions are to avoid adversely impacting patient care. According to TUHNA and TAP, any finding that patients would be disturbed by seeing an item that is “critical or disparaging of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital,” is unsupportable as speculation under the circumstances. TUHNA and TAP cite Mt. Clemons General Hospital v. PLRB, 328 F.3d 837 (6<sup>th</sup> Cir. 2003), as controlling authority. In that case, the court held that speculation about the possible effect that wearing a button would have on patients provided an insubstantial basis for finding that they would be disturbed by the wearing of the button. In Temple II, however, the Board employed a different standard: “the employer may rely on the solicitation’s objective impact on a reasonable patient.” 38 PPER at 101.<sup>3</sup> TUHNA’s and TAP’s contention is, therefore, without merit. As to patient care areas, immediate patient care areas and patient access areas, then, the policy and procedure is valid to the extent that it bans employees from wearing items “critical or disparaging of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital.”

## V

As also noted above, the policy and procedure implemented by TUH and TUHS requires employees to obtain pre-approval from TUH and TUHS to wear “Union insignia lapel pins” in patient care areas. No pre-approval is required for any other kind of lapel pin. The policy and procedure, therefore, discriminates on the basis of union affiliation and as such is coercive of employees in the exercise of their statutory right to reasonable communication. See Middletown Hospital Association, 282 NLRB 541, 124 LRRM 1260 (1987) (under analogous federal law, a pre-approval requirement for wearing items such as badges and buttons was coercive); accord Raley’s, supra.

<sup>2</sup>The referenced quote from Temple I only involved the analysis to be used to find that the presumptive validity of restrictions on the statutory right of employees to reasonable communication in “patient access areas” was rebutted, but the analysis applies with equal force to “patient care areas” and “immediate patient care areas” as well.

<sup>3</sup>Noting that in Washington State Nurses Association v. NLRB, 526 F.3d 577 (9<sup>th</sup> Cir. 2008), the court reversed Sacred Heart Medical Center, which the Board cited with approval in Temple II, TUHNA and TAP invite the Board to revisit the standard it employed in Temple II and require that any finding of disturbance to patients be supported by testimony from the patients themselves or from their families. Brief at n. 11. While the Board may certainly do so, the hearing examiner is bound by current Board precedent and will not revisit the standard.

In defense of the pre-approval requirement, TUH and TUHS cite Casa San Miguel, 320 NLRB 534 (1995), Washington State Nurses Association v. NLRB, 526 F.3d 577 (9<sup>th</sup> Cir. 2008), and Saint John's Health Center, 2010 NLRB LEXIS 158 (2010), for the proposition that a prohibition against wearing a union button in patient care areas is presumptively valid. They also point out that "[a]ll unions affiliated with Temple other than TAP and TUHNA have agreed to obtain pre-approval before wearing Union insignia lapel pins" (stipulation 15) and that they "have approved every pre-approval request by a union to wear a Union insignia lapel pin" (stipulation 16). They submit that there is, therefore, no basis for finding that the pre-approval requirement was an outright ban of the sort found to be coercive in Raley's, *supra*. In their view, "[i]mplicit in Raley's is the recognition that a process which results in approval would be appropriate particularly when there has been a history of a problem." Brief at 10. They cite Temple I and Temple II as proof of a history of a problem justifying the pre-approval requirement. In addition, they cite Eastern Omni Constructors, Incorporated v. NLRB, 170 F.3d 418 (4<sup>th</sup> Cir. 1999), Virginia Electric and Power Company v. NLRB, 703 F.2d 79 (4<sup>th</sup> Cir. 1983), Fabri-Tek, Inc. v. NLRB, 352 F.2d 577 (8<sup>th</sup> Cir. 1965), and Andrews Wire Corporation, 189 NLRB 108 (1971), for the proposition that anything less than an outright ban is not coercive.

The charge only involves the employees represented by TUHNA and TAP, however. Thus, neither the fact that "[a]ll unions affiliated with Temple other than TAP and TUHNA have agreed to obtain pre-approval before wearing Union insignia lapel pins" (stipulation 15), nor the fact that TUH and TUHS "have approved every pre-approval request by a union to wear a Union insignia lapel pin" (stipulation 16), is relevant. TUH's and TUHS's reliance on those facts is, therefore, unavailing. Moreover, as to the employees represented by TUHNA and TAP, the pre-approval requirement is absolute. Thus, contrary to TUH's and TUHS's contention, there is no basis for finding the pre-approval requirement to be something less than an outright ban. Furthermore, Temple I and Temple II hardly evidence a history of problems inasmuch as they involve but two incidents over an extended period of time. That being the case, TUH's and TUHS's contention is without merit.

## VI

Engaging in a protected activity is not among the terms and conditions of employment that an employer must bargain, so the charge does not state a cause of action under section 1201(a)(5), which prohibits an employer from refusing to bargain over terms and conditions of employment. Accordingly, the charge under section 1201(a)(5) must be dismissed.

## CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds:

1. TUH and TUHS are public employers under section 301(1) of the PERA.
2. TUHNA and TAP are employe organizations under section 301(3) of the PERA.
3. The Board has jurisdiction over the parties.
4. TUH and TUHS have committed unfair practices under section 1201(a)(1) of the PERA.
5. TUH and TUHS have not committed unfair practices under section 1201(a)(5) of the PERA.

## ORDER

In view of the foregoing and in order to effectuate the policies of the PERA, the hearing examiner

## HEREBY ORDERS AND DIRECTS

that TUH and TUHS shall:

1. Cease and desist from interfering with, restraining or coercing employes in the exercise of the rights guaranteed in article IV of the PERA.

2. Take the following affirmative action which the hearing examiner finds necessary to effectuate the policies of the PERA:

(a) Rescind the policy and procedure for members of the bargaining units to the extent that it prohibits them from wearing in non-working areas items such as buttons, stickers, lapel pins or similar insignia or messaging that are critical or disparaging of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital, and to the extent that it requires that only Union insignia lapel pins pre-approved by TUH management may be worn in patient care areas;

(b) Make whole any employe who was disciplined for wearing in non-working areas items such as buttons, stickers, lapel pins or similar insignia or messaging that are critical or disparaging of the Hospital or its personnel, or call into question the quality of care provided to patients of the Hospital, or for not obtaining pre-approval for wearing Union insignia lapel pins in patient care areas;

(c) Post a copy of this decision and order within five (5) days from the effective date hereof in a conspicuous place readily accessible to its employes and have the same remain so posted for a period of ten (10) consecutive days; and

(d) Furnish to the Board within twenty (20) days of the date hereof satisfactory evidence of compliance with this order by completion and filing of the attached affidavit of compliance.

**IT IS HEREBY FURTHER ORDERED AND DIRECTED**

that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty days of the date hereof, this order shall be final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this twenty-seventh day of May 2011.

PENNSYLVANIA LABOR RELATIONS BOARD

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Donald A. Wallace, Hearing Examiner