

Addison-Gilbert Hospital and Massachusetts Nurses Association, Petitioner. Case 1-RC-16777

January 6, 1981

DECISION ON REVIEW AND DIRECTION OF ELECTION

BY CHAIRMAN FANNING AND MEMBERS JENKINS AND TRUESDALE

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board. On March 28, 1980, the Acting Regional Director for Region 1 issued a Decision and Direction of Election in which he found appropriate a bargaining unit consisting of all full-time and regular part-time registered nurses employed by the Employer at its Gloucester, Massachusetts, location including charge nurses, the patient care coordinator, and certified registered nurse anesthetists, but excluding utilization review coordinators, the environmental control officer, all other employees, office clerical employees, confidential employees, managerial employees, guards, and supervisors as defined in the Act. Thereafter, the Employer timely filed a request for review in which it requested the Board to order testimony in regard to other professional employees whom it had claimed should be included in the unit with the registered nurses; that charge nurses be excluded from the unit; and that utilization review coordinators be included in the unit.

On April 28, 1980, the National Labor Relations Board by telegraphic order granted review to the extent it remanded the proceeding to the Regional Director to reopen the hearing to permit the Employer to present its evidence with respect to the appropriateness of the registered nurse unit. The Board denied the request for review as to the status of charge nurses and did not pass upon the issue concerning the utilization review coordinators.

Pursuant to the Board's direction the hearing was reopened and, thereafter, the proceeding was transferred back to the Board for decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record in this case, including the briefs of the Employer and the Petitioner, and makes the following findings:

The Employer operates a hospital in Gloucester, Massachusetts, where it offers acute patient care. The hospital is administratively organized into five major divisions: nursing service, professional services and planning, administrative services, fiscal

services, and development and public relations. Each division is headed by its own director and the directors are administratively responsible to the administrator. Below the level of administrator there is no supervision common to the different divisions.

At the original hearing in this proceeding, the Employer contended that other positions which it considered professional should be included with the petitioned-for registered nurses in an appropriate unit. These positions included staff social worker, staff pharmacist, physical therapist, medical technologist, laboratory section head, therapeutic dietitian, bio-medical engineer, staff accountant, and programmer analyst. The Board granted the Employer's request for review and remanded the case for further hearing to allow the Employer to present its evidence concerning the appropriateness of the unit. At the resumed hearing, the Employer presented evidence concerning those other alleged professionals in its employ. However, it declined at that time to take any position as to the inclusion or exclusion of the other alleged professionals in the petitioned-for unit of registered nurses. The Board has considered all of the evidence presented by the parties and concludes that the unit found appropriate by the Regional Director is an appropriate unit in this case.

With the exception of the two certified registered nurse anesthetists, who work in the anesthesiology department in the Division of Administrative Services, all of the employees in the unit found appropriate by the Regional Director work in the Division of Nursing Services. They are all registered nurses working in several patient care areas of the hospital, and are engaged in around-the-clock direct patient care, including the dispensing of medicines, changing dressings, providing for the hygiene and comfort of the patients, and other duties commonly associated with a staff nurse.

The nurses, approximately 125 in number, work in 3 shifts, 24 hours a day, 7 days a week. On the Employer's pay scale the nurses are paid at a grade 10 level. They receive overtime pay and a shift differential when working the evening or night shifts. Some of the nurses act as charge nurses on the evening and night shifts, overseeing the work of other employees on those shifts in the absence of the head nurses, who are supervisors. Nurses acting as charge nurses receive 25 cents more per hour than the other staff nurses. They also give "reports" to the charge nurse or head nurse on the next shift.

The nurses and other employees in each individual patient care area are supervised by a head nurse who in turn answers to a clinical supervisor in each of five major clinical divisions. The clinical supervisors and administrative supervisors in turn are re-

sponsible to the assistant director of nursing services and the director of nursing services.

The record reveals that the registered nurse in Massachusetts is required by law to have graduated from an accredited school of nursing and must have passed a uniform examination and been licensed by the Massachusetts Board of Registration in Nursing in order to perform as a registered nurse. In addition, the registered nurse is required to receive continuing education in the profession and to be relicensed biannually.

The record also reveals that a hospital such as the Employer is required by law to maintain a distinct nursing service under the direction of a director of nursing. The hospital is also required to provide inservice education to its nurses, to provide for the appropriate supervision of the nurses by registered nurses, and, *inter alia*, to staff its patient care areas with a set minimum of registered nurses.

In contrast to what has been revealed concerning the common interests of the registered nurses, the record shows that the other categories of employees about whom the Employer has submitted evidence do not share the same community of interest as do the nurses. With the possible exception of the medical technologists (the record is unclear as to their hours), the other alleged professionals work normal daytime hours, 5 days a week. They do not receive pay for overtime; do not wear the same uniform as a nurse, if they wear any type of uniform; they are not under the supervisory structure of the nursing department, but rather work in the various other divisions of the hospital; and with the exception of the physical therapist, who spends approximately 50 percent of working time on patient care, and the social worker, who spends an undetermined amount of time with patients, these employees are not involved with patient care or in regular contact with patients. Any day-to-day contact between these employees and the nurses appears to be minimal and a result of the nurses' broad responsibility pertaining to the care of patients. Also, the evidence shows that the nurses and other professionals do not as a rule attend the same meetings at the hospital.

Although the Employer emphasizes the fact that all of the alleged professionals, including the nurses, are under the same wage structure and personnel policies and enjoy the same fringe benefits, the same appears to be true of all of the hospital's employees. There are 21 pay grades in the Employer's pay structure, with an 8 percent difference between grades. As noted, the nurses are paid at grade 10. The other employees in question receive pay in the range of grades 9 through 12. The record is silent as to the pay grades of other em-

ployees not in issue here. Also, although employees are free to transfer from one position to another if they meet the qualifications for the sought-after position, there is no evidence of transfer between the position of registered nurse and the other positions dealt with here.

The educational requirements for the employees other than registered nurses vary. With the exception of the programmer analyst, all must have a college degree, and the staff pharmacist and physical therapist must be registered by the State.

A review of all of the evidence in this proceeding clearly shows that the registered nurses employed in the Division of Nursing Services and the two certified registered nurse anesthetists share a common community of interest separate and distinct from the other alleged professionals about whom the Employer has presented evidence. This is true not only in the type of work performed concerning direct patient care, but in educational and licensing requirements imposed by the State, the hours of work and the pay received, the separate supervision, and the obligations imposed by the State on the Employer concerning this category of employees.¹

Moreover, we note that the Petitioner represents exclusively units of registered nurses in scores of other health care institutions and desires to represent only the nurses here. Also, no other labor organization seeks to represent a unit different from that found appropriate by the Regional Director here, and, as the Employer declines to take a position in this case as to the exclusion or inclusion in the unit of other professionals, there is no opposition to the appropriateness of this unit.

The Employer wishes to include two utilization review coordinators in any unit found appropriate. The Regional Director excluded these employees from the unit he found appropriate, and we agree.

Utilization review coordinators are employed in the medical records department and report to its director, who in turn reports to the director of professional services and planning. It is not necessary to be a registered nurse to hold this position, although one of the two persons currently holding the position, who works part time, is a nurse. Their responsibilities include, *inter alia*, reviewing admissions and charts on patients in for an extended stay and, using approved criteria and standards, determining the need for such admissions and extended stays. They are in contact with physicians and families of patients concerning such items as Medicare

¹ See *Newton-Wellesley Hospital*, 250 N.L.R.B. 409 (1980), wherein we set forth the criteria by which we will determine the appropriateness of registered nurse units. It appears that in most respects the facts here are quite similar to the facts of that case.

coverage and maintain a liaison with other divisions of the hospital to facilitate the continuity of patient care. Generally, it appears that their function is to attempt to provide for the most effective and efficient utilization of the hospital's facilities.

The utilization review coordinators do not provide any patient care and their contact with nurses appears limited and of an administrative nature. Although this position requires knowledge of medical terminology and the health care field in general, the employees do not have to be nurses, or possess the education or license of a nurse. The full-time utilization review coordinator works 8 to 4:30, 5 days a week, and spends much of her worktime in an office. We agree with the Regional Director that this position is administrative in nature and that these employees do not share a community of interest with the registered nurses. We will exclude them from the unit.

Accordingly, for the foregoing reasons, we find that 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:

All full-time and regular part-time registered nurses employed by the Employer at its Gloucester, Massachusetts location including charge nurses, the patient care coordinator, and certified registered nurse anesthetists, but excluding utilization review coordinators, the environmental control officer, all other employees, office clerical employees, confidential employees, managerial employees, guards and supervisors as defined in the Act.

[Direction of Election and *Excelsior* footnote omitted from publication.]