

**Annapolis Emergency Hospital Association, Inc.  
d/b/a Anne Arundel General Hospital and Mary-  
land Nurses Association, Inc., a/w The American  
Nurses Association, Inc., Petitioner. Case 5-RC-9128**

May 7, 1975

**SUPPLEMENTAL DECISION AND  
DIRECTION OF ELECTION**

BY MEMBERS FANNING, JENKINS, AND KENNEDY

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held on October 21, 1974, before Hearing Officer Hollace S. Jackson and a further hearing was held on January 9, 1975, before Hearing Officer Jacqueline Gardner.<sup>1</sup> Following the hearings and pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations and Statements of Procedure, Series 8, as amended, the instant case was transferred to the National Labor Relations Board for decision. The Employer and the Petitioner filed briefs.

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 reviewed the Hearing Officer's rulings made at the hearings and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this case, the National Labor Relations Board finds:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The Employer contends, and the Petitioner denies, that the Petitioner, herein also called the MNA, is not a bona fide labor organization, within the meaning of the Act, because it is allegedly influenced, dominated, or controlled by supervisors. The bargaining unit herein sought comprises the Employer's registered nurses.

The record reveals that the Petitioner herein is 1 of 18 state affiliates of the American Nursing Association, herein called the ANA. Membership in MNA derives from seven geographical Maryland affiliates known as districts, including District 3, the area in which the Employer's hospital is located. MNA requires that each district's membership be limited to licensed regu-

lar nurses. Apart from its district affiliates, the MNA organization also includes a board of directors, standing advisory committees not here involved,<sup>2</sup> professional councils, and 18 professional chapters. The board of directors is comprised of the six MNA officers, a representative from each district, and a representative from each of the two professional councils.

Of the two councils, the Council on professional employment activities, herein called the Council,<sup>2</sup> has as its main purpose the development and guidance of the professional chapters, hereinafter described. The duties of the Council include the development and implementation of the Petitioner's policy on professional chapters and employment level matters, the promotion and establishment of employment conditions for appropriate groups within each of the clinical divisions, and the study and evaluation of the economic position of the nursing profession in Maryland and the dissemination of the results thereof to nurse practitioners, administrators, and employees. Membership in the Council is limited to the chairman of each of the 18 professional chapters.<sup>3</sup>

According to MNA's bylaws, the professional chapters are organized at the employer level for the purpose of effectuating MNA's policies. In that regard, MNA has delegated to them its entire authority over collective bargaining. At the Employer's hospital, the professional chapter is identical in scope with the unit herein sought and is designated "The Registered Nurses of Anne Arundel General Hospital, Professional Chapter of the Maryland Nurses Association, Inc." Neither the ANA nor MNA, or its councils, districts, or any of its other components, is authorized to assert control over the professional chapter in collective bargaining, or over the results of such bargaining.

In regard to the Employer's contention that the Petitioner is subject to the influence, domination, or control by supervisors, although the parties did stipulate that the Petitioner's officers and directors include supervisors as defined in the Act,<sup>4</sup> they further stipulated that no supervisors hired by the Employer are included as its officers and directors. Furthermore, none of the Employer's supervisors serve on the Council of Professional Employment Activities, inasmuch as the policy of the Anne Arundel Professional Chapter, which is represented on the Council, excludes supervisors.

The Anne Arundel Hospital Professional Chapter has a negotiating committee which is elected by the general membership of the Employer's employees. The members take part in the bargaining process by select-

<sup>1</sup> At the initial October 21, 1974, hearing, the Employer contested the Petitioner's status as a labor organization. The Regional Director issued his Decision and Direction of Election on November 18, 1974, finding that the Petitioner was a labor organization within the meaning of the Act. Thereafter, the Employer and the Petitioner filed requests for review of the Regional Director's decision. The Board directed that the hearing be reopened to take evidence on the issues raised by the requests for review, and the later hearing on January 9, 1975, was held for that purpose.

<sup>2</sup> The other council is the council on practice, which is primarily responsible for the interpretation and implementation of professional standards of practice, education, and nursing service.

<sup>3</sup> The Council's interest in the professional chapters includes the exercise of fiscal controls over their finances.

<sup>4</sup> Approximately one-third of MNA's membership are supervisors.

ing the bargaining items and collaborating with the negotiating committee, and, according to uncontroverted testimony, an agreement, if reached, would be ratified by the membership. Should the Petitioner be certified, the membership of the Professional Chapter, working with the negotiating committee, would determine the bargaining goals and issues.

In the above circumstances, and inasmuch as the Petitioner, through its Anne Arundel Professional Chapter, has delegated its collective-bargaining authority respecting the Employer's employees to its Anne Arundel Hospital Professional Chapter, independent of ANA or other MNA influences, and as that chapter admits no supervisors to its membership, and has no employer supervisors as its officers or directors, we find, contrary to the Employer, that the Petitioner, in its collective-bargaining process is not subject to the influence, domination, or control of supervisors as defined in the Act. Accordingly, and inasmuch as the Petitioner otherwise satisfies the requirements set forth in Section 2(5) of the Act, we find that it is a bona fide labor organization within the meaning of the Act.<sup>5</sup>

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c) and Section 2(6) and (7) of the Act.

4. We find, in accord with the stipulation of the parties, 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 Franklin and Cathedral Streets, Annapolis, Maryland, location, but excluding all office clerical employees, all other employees, guards, patient care supervisors,

evening and night supervisors, the I.V. therapy supervisor, coordinators, and all other supervisors as defined in the Act.

5. The parties disagree as to the unit placement of seven PRN nurses, whom the Petitioner would include and whom the Employer would exclude as casual employees. The PRN's normally do not work pursuant to a prearranged schedule, but are generally on an on-call basis. They are, however, staff registered nurses who work throughout all of the various hospital units and perform the same functions, in the same manner and under the same working conditions and supervision, as the other staff nurses and wear the same uniform and identification. They generally appear to work a substantial number of hours per week, during most of the Employer's pay periods, and some of them may in fact work for longer periods of time and on a more frequent basis than the regular part-time nurses, whom the parties would include in the unit.

The only differences between the PRN's and the full-time staff nurses, apart from the hours worked, are that they do not work according to prearranged schedules and do not share in the Employer's fringe benefit program. The Board, however, has found these factors insufficient to warrant the unit exclusion of part-time employees who would otherwise qualify for inclusion in the unit.<sup>6</sup>

As it appears that the PRN's work on a regular, though unscheduled, basis covering most pay periods during the year, perform the same tasks, in the same areas as the registered nurses who are included in the unit and thus share a strong community of interest with them, we shall include the PRN's as regular part-time registered nurses in the unit herein found appropriate.

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

<sup>5</sup> *Carle Clinic Association*, 192 NLRB 512 (1971); *International Paper Company, Southern Kraft Division*, 172 NLRB 933 (1968)

<sup>6</sup> See *Scoa, Inc.*, 140 NLRB 1379 (1963); *Quigley Industries, Inc.*, 180 NLRB 486 (1969).