

William W. Backus Hospital¹ and District 1199, National Union of Hospital & Health Care Employees, RWDSU, AFL-CIO,² Petitioner and Backus Hospital Licensed Practical Nurses Unit #55, Connecticut Nurses' Association,³ Petitioner. Cases 1-RC-13632, 1-RC-13633, and 1-RC-13659

September 17, 1975

DECISION, ORDER, AND DIRECTION OF ELECTIONS

BY CHAIRMAN MURPHY AND MEMBERS FANNING AND PENELLO

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Robert Pucini of the National Labor Relations Board. Following the close of the hearing the Regional Director for Region 1 transferred this case to the Board for decision. Thereafter, the Employer and both Petitioners filed briefs which have been duly considered.

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 hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this proceeding, the Board finds:

1. The parties stipulated, and we find, that the Employer is engaged in commerce within the meaning of Section 2(5) of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. We find that Petitioners, District 1199 and LPN Unit #55, are labor organizations within the meaning of the Act.⁴

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. In Case 1-RC-13632, the Petitioner (District

1199) seeks to represent a unit of technical employees of the Employer; in Case 1-RC-13633, the Petitioner (District 1199) seeks to represent a unit of service and maintenance employees of the Employer; and in Case 1-RC-13659, the Petitioner (LPN Unit #55) seeks to represent a separate unit of licensed practical nurses (LPN's) of the Employer. District 1199 intervened in Case 1-RC-13659 at the hearing based on a showing of interest, contending that a separate LPN unit is appropriate. The Employer contends that the only appropriate unit consists of all full-time, regular part-time, and regular on-call employees of the Employer, excluding only all registered nurses (RN's), professional, managerial, and confidential employees, guards, and supervisors as defined in the Act. The parties stipulated to the exclusion of technologists registered by the American Society of Clinical Pathologists (ASCP technologists) and the social service person from any unit found appropriate.⁵ The parties also stipulated that certain employees should be excluded from any unit found appropriate based on their professional,⁶ supervisory,⁷ managerial,⁸ confidential,⁹ or student status.¹⁰

The Employer argues that because of the integrated nature of hospital activity which centers around the patient, the only appropriate unit would consist of a hospitalwide unit, excluding all professional, managerial, and confidential employees, ASCP technologists, and guards as defined in the Act. In support of this position, the Employer relies on the legislative history of the hospital amendments, which directs the Board to give "due consideration" to non-proliferation of bargaining units, and on preamendment Board decisions, which limited the number of bargaining units where a high degree of functional integration was shown to exist.¹¹ The Board recently considered such arguments and found that a unit composed solely of service and maintenance employees is appropriate.¹²

With regard to technical employees, the Board held, consistent with its well-established practice in other industries, that because of their differing inter-

⁵ These stipulations were reached without agreement on the professional status of these employees.

⁶ The group includes the pharmacists and physical therapists.

⁷ This group includes: chief technologist, clinical laboratory supervisors, laundry supervisor, assistant chief engineer, director of medical records, chief radiology technologist, assistant chief radiology technologist, supervisor of central supply, and supervisor of respiratory and inhalation therapy.

⁸ This group includes: public relations director, director of purchasing, chief engineer, and personnel director

⁹ This group includes: assistant administrators, administration secretaries and receptionist, personnel department interviewer and secretaries, and secretaries to the director of nursing.

¹⁰ The parties stipulated to the exclusion of the pharmacy intern or apprentice on the ground that he is a pharmacy student.

¹¹ Citing e.g., *Woodlawn Park Hospital, Inc.*, 205 NLRB 888 (1973); and *Kaiser Foundation Hospitals, et al.*, 210 NLRB 949 (1974).

¹² *Newington Children's Hospital*, 217 NLRB No. 134 (1975).

¹ Herein called the Employer or the Hospital.

² Herein called District 1199.

³ Herein called LPN Unit #55.

⁴ The Employer at the hearing refused to stipulate that the Petitioners are labor organizations within the meaning of the Act. The record evidence establishes that both Petitioners have employees participating in their organizations which are formed for the purpose of bargaining collectively with employers regarding wages, hours, and working conditions. We further take administrative notice of the fact that on many previous occasions District 1199 has been found to be a labor organization by the Board. See, e.g., *Nathan and Miriam Barnert Memorial Hospital Association d/b/a Barnert Memorial Hospital Center*, 217 NLRB No. 132 (1975). We find Petitioners to be labor organizations within the meaning of the Act.

ests, technical employees should be granted a separate unit when sought.¹³ In determining the composition of the technical unit the Board analyzed such factors as the distinctive training, experience, and functions inextricably allied with the status of a technical employee and found that LPN's are technicals.¹⁴ The Board, therefore, found that LPN's should ordinarily be included in a technical unit.¹⁵ Adhering to the unit determinations established by these cases, we find the following units appropriate in the instant case: (1) a service and maintenance unit, including hospital clericals; (2) a technical unit, including LPN's. In so doing we note that LPN Unit #55 stated at the hearing that it was unwilling to represent anything but an LPN unit. Thus, having found that an LPN unit is inappropriate and that the LPN's should be included in the technical unit, we shall dismiss the petition in Case 1-RC-13659.

Based on the available record evidence we make the following unit placement determinations for the units found appropriate herein:

Clerical employees: Consistent with our decisional guidelines on the unit placement¹⁶ of clerical employees, we will include the hospital clericals in the service and maintenance unit. Hospital clericals are those clericals who work side by side with service and maintenance employees in various departments throughout the hospital, performing clerical functions. Their work and working conditions are materially related to unit work; they have continual contact with unit employees and are generally supervised by the same supervisors that supervise unit employees. We find that the following employees, because they possess the above characteristics, are hospital clericals and shall therefore include them in the service and maintenance unit: dietary clerical, housekeeping clerical, laboratory clericals, maintenance clerical, operating room clerical, pharmacy clerical, radiology clerical, and ward clerks.

Also consistent with our decisional guidelines we will exclude the business office clericals from the service and maintenance unit. The community of interest of business office clericals is not related to that of the service and maintenance unit. They work in a department separate and apart from the service and maintenance employees, perform business office work which is, at the maximum, tangentially related to unit work, have minimal contact with unit employ-

ees, and are supervised by different individuals. We find the following employees, because they possess the above characteristics, fall within the category of business office clericals and shall accordingly exclude them from the service and maintenance unit: business office employees, including cashier, billing clerks, electrical data processing employees, and bookkeeper; information clerks; public relations clerical; switchboard operators; finance office clerks; purchasing department clericals; and stockroom clerk.

Medical records employees: The medical records department is located on the hospital's main floor separate and apart from the administration and business offices. There are 13 medical records employees, including a file clerk and her substitute and 4 transcriptionists. There is in addition one tumor registrar. These employees are responsible for sorting and filing medical records, retrieving charts, organizing and preparing final patient charts, and compiling statistics. In addition, the transcriptionists transcribe patients' medical histories, reports of surgical procedures, etc., dictated by physicians at dictation stations located on the nursing units and in the medical records department. When patients' charts are requested by doctors, they are sent to the floors via pneumatic tube or hand carried by the medical records department file clerk. During the evening and night hours, when medical records employees are not working, charts of unscheduled admissions are picked up and taken to the floors by the nursing supervisor. According to the uncontradicted testimony of Hospital Director Charles Lotreck, medical records employees spend the majority of their time within the department but are frequently called upon to go out of their department to the nursing units, business office, admitting offices, central supply, etc. Medical records employees have additional contact with nursing unit employees when the latter are sent to the medical records department to pick up patients' files.

The medical records employees at Backus, similar to those at *Sisters of St. Joseph of Peace*, 217 NLRB No. 135 (1975), deal primarily with patients' medical records rather than the types of records dealt with by business office employees. They work closely with physicians to construct and maintain permanent patient records, and, in addition, have substantial contact with service and maintenance employees. Accordingly, we find that the medical records employees have a significant community of interest with the service and maintenance employees and shall therefore include them in the service and maintenance unit.

Admitting clerks: The admitting office is located

¹³ *Barnert Memorial Hospital Center, supra; Newington Children's Hospital, supra.*

¹⁴ *St. Catherine's Hospital of Dominican Sisters of Kenosha, Wisconsin, Inc.*, 217 NLRB No. 133 (1975).

¹⁵ *Cf. Otis Hospital, Inc.*, 219 NLRB No. 55 (1975), *Bay Medical Center, Inc.*, 218 NLRB No. 100 (1975).

¹⁶ *Mercy Hospitals of Sacramento, Inc.*, 217 NLRB No. 131 (1975); *St. Catherine's Hospital, supra.*

across from the switchboard and adjacent to the finance and business office and operates from 7 or 8 a.m. to 12 midnight; at midnight the switchboard operator performs the admitting functions.¹⁷ The admitting office consists of four admitting clerks, one addressograph clerk,¹⁸ and one admitting person on the switchboard, all of whom are under the direction of the chief admitting clerk.¹⁹ The admitting clerks gather relevant information necessary for the patients' files and assign patients to units partially based on availability of beds and particularly on the patient's illness. Admitting clerks wear white uniforms and spend only about 50 percent of their time in the admitting office. The remainder of their time is spent taking patients to the nursing units or the laboratory, or going to the switchboard or the information booth. Admitting clerks, who are required to have a high school education, are paid at grade level 4.²⁰

We find the admitting clerks to be hospital clericals. They have continual contact with patients and other service and maintenance employees. Although located near the business office, they are physically separated from business office employees, work primarily with patients' records rather than the materials with which business office employees deal, and are not supervised by the controller as are business office clericals. Accordingly, we shall include, in this case, the admitting clerks in the service and maintenance unit.²¹

Emergency room clerks (ER clerks): The Employer employs four ER clerks (alternately referred to as business office clerks in the emergency department). ER clerks are stationed in the emergency room and their immediate supervisor is the emergency room head nurse. While ER clerks take orders directly related to patients from the head nurse, they are ultimately responsible to the controller who hired them and who is responsible for transferring or discharg-

ing them. The record indicates, however, that before taking such action the controller would probably first consult with the director of nursing. ER clerks are the only employees in the ER department performing clerical functions. Like admitting clerks, they interview emergency room admissions regarding financial, personal, and other critical data. They are responsible for seeing that patients' medical records contain the proper medical information and are completed and that these records are directed to the correct location when the patient leaves the emergency room. A "high school level" education and some business office experience (a minimum of 6 months in the billing department) are prerequisites to becoming an ER clerk.

We find that ER clerks are hospital clericals. They are engaged in functions similar to those of ward clerks and admitting clerks, whom we find herein to be hospital clericals. They have continual contact with patients and other emergency room personnel and work with patients' files rather than business office records. While they are ultimately responsible to the controller, their immediate supervisor is the emergency room head nurse. Furthermore, any action taken by the controller regarding their transfer or discharge is first taken up with the director of nursing. Accordingly, we shall include the ER clerks in the service and maintenance unit.²²

Radiology technicians: There are two types of radiology technicians within the radiology department: regular diagnostic technicians, registered and nonregistered, and radioisotope technicians. Both are supervised by the chief radiology technician and are ultimately responsible to him. The majority of X-ray technicians are registered by the American Radiology Group. Registered technicians are paid at grade level 9, whereas nonregistered technicians are paid at grade level 8. There is no evidence that registered technicians perform different or more difficult assignments than nonregistered technicians. Radioisotope technicians are paid at grade level 11. In addition to having graduated from either a hospital or associate degree radiology program, radioisotope technicians have been sent by Backus to Yale, where they have received additional, more specialized training. Like regular diagnostic technicians the work they do is diagnostic rather than therapeutic. In accordance with our decision in *Barnert Memorial Hospital Center, supra*, we shall include all radiology technicians, registered and nonregistered, in the technical unit.

Darkroom technicians: The darkroom technicians work in the X-ray department processing X-ray film. Like the radiology technicians they work under the

¹⁷ There is evidence on the record that both switchboard operators and admitting clerks must be cross-trained to perform one another's jobs due to the amount of interchange which occurs. Switchboard operators are responsible directly to the administrative assistant to the hospital administrator, Lotreck, remain at the switchboard, and have very little contact with service and maintenance employees. While the switchboard operators do perform admissions functions during the 12-8 shift, such interchange appears to be limited to that period. Further, the volume of such activity is necessarily low due to the hours involved and there is no evidence that switchboard operators have increased contact with service and maintenance employees as a result of this interchange. Accordingly, we shall exclude the switchboard operators from the service and maintenance unit.

¹⁸ Absent additional information regarding the work performed by the addressograph clerk, she will be permitted to vote in the service and maintenance unit, subject to challenge.

¹⁹ The parties did not stipulate that the chief admitting clerk is a supervisor and there is no evidence as to whether she has the authority to hire or fire admitting employees or effectively recommend their promotions or grant time off. Absent such evidence she will be permitted to vote in the service and maintenance unit, subject to challenge.

²⁰ Employees' grades run from a low of 1 to a high of 11.

²¹ Cf. *Sisters of St. Joseph of Peace, supra*; *St. Catherine's Hospital, supra*

²² *Mercy Hospitals of Sacramento, Inc., supra*

chief radiology technician. While the educational requirements for this position are not set forth in the record, the evidence does show that they are paid at the lowest grade level, labor grade 1. There is no evidence that the darkroom technicians perform technical duties or exercise judgment and their pay is comparable to that of service and maintenance employees. Accordingly, we shall include the darkroom technicians in the service and maintenance unit.²³

Laboratory technicians: The record shows that the Employer has four categories of laboratory technicians, I, II, III, and IV. The minimum qualification for a basic technician, laboratory technician I, is a high school education, some on-the-job training, and work experience. These employees are paid at grade level 3. Technicians II are certified laboratory assistants who have had 1 year of training at Backus or another hospital, are certified by the American Society of Clinical Pathologists, and are paid at grade level 7. Technicians III are medical laboratory technicians who have graduated from an associate degree program, are certified, and are paid at grade level 9. Technicians IV are ASCP technologists and the parties stipulated they are to be excluded from any unit found appropriate. Technicians I lack the specialized training required to become a technician II or III. There is no evidence that they have any expectation of advancement to technician II or III status. They are not certified and are paid at a salary level comparable to that of service and maintenance employees rather than technical employees.²⁴ Accordingly, we shall exclude technicians I from the technical unit and include them in the service and maintenance unit.²⁵ As to technicians II and III, we find they are technical employees. They have the specialized training and skill of technical employees, exercise independent judgment regarding technical matters, are certified, and are paid at a level comparable to that of other technical employees.²⁶ We shall, therefore, include technicians II and III in the technical unit.

Electrocardiogram technicians (EKG technicians): The Employer has two EKG technicians and one nursing assistant who is cross-trained to take EKG's in the absence of the EKG technician. They are part of the cardiopulmonary laboratory, which falls under the jurisdiction of the nursing department. EKG technicians are not licensed but receive approximately 6 weeks' on-the-job training. Frequently intelligent

nursing attendants are trained and upgraded to become EKG technicians. As such they are paid at grade level 3. They spend 50 percent of their time in the laboratory and the other 50 percent taking EKG's on patients throughout the hospital, including the emergency room and various patient care units. While part of the cardiopulmonary laboratory, there is no evidence that EKG technicians perform tests or operate equipment in conjunction with the inhalation therapists found herein to be technical employees.

Based on these facts we find the EKG technicians in the instant case comparable to the EKG technicians in *Barnert Memorial Hospital Center, supra*. In accordance with that decision, we find that the EKG technicians are not technical employees and therefore shall include them in the service and maintenance unit.

Electroencephalogram technicians (EEG technicians): The EEG department is located on the first floor of the hospital and contains the equipment necessary to take an electroencephalogram. The EEG department falls under the jurisdiction of the department of nursing and the EEG technician is directly responsible to the director of nursing. The Employer has one EEG technician and one nursing assistant who is cross-trained as an EEG technician. Electroencephalograms are taken exclusively within the EEG department since the equipment necessary for the tests is immobile. All of the department's clerical work is performed by the EEG technician. EEG technicians receive some formal education but this is not provided at Backus. The specific nature of the training is unclear. The record indicates that it can vary from 4 weeks to 4 years. The present EEG technician was formerly a nursing assistant, but the exact type of formal education she had to have to make this transition is not revealed. We find that EEG technicians are not technical employees and shall therefore include them in the service and maintenance unit.²⁷

Respiratory therapists and technicians: The respiratory therapy department is part of the cardiopulmonary laboratory. It falls under the jurisdiction of the department of nursing and its employees are ultimately responsible to the director of nursing. Employer's three full-time respiratory therapists and two full-time and one part-time respiratory therapy technicians are supervised by the chief respiratory therapist. Respiratory therapists come to Backus from either a combined hospital and associate degree or college program of respiratory therapy approved by the American Medical Association and are required to take a national registration examination in order to practice. They spend 90 percent of their time

²³ *Barnert Memorial Hospital Center, supra*

²⁴ *Barnert Memorial Hospital Center, supra*

²⁵ If additional evidence not included in the record would establish that technicians I are inappropriately placed, the parties may challenge these votes.

²⁶ *Barnert Memorial Hospital Center, supra*

²⁷ *Barnert Memorial Hospital Center, supra*.

on various patient care floors throughout the hospital, administering such therapy as carbon dioxide treatment, oxygen therapy, postural drainage, and nebulizer treatment as prescribed by physicians. While respiratory therapists work independently, taking their orders directly from patients' charts, they work closely with the RN's particularly in critical cases. In addition to administering therapy, inhalation therapists inspect and maintain the equipment used by the department. They are paid at grade level 7. Unlike respiratory therapists, respiratory therapy technicians are not certified; they have, however, a year of formal training. Respiratory therapy technicians are paid at grade level 6. Both therapists and technicians work two shifts, 7 days a week; and, when neither is available, nursing department employees, trained through inservice programs run by the respiratory therapy department, administer the necessary treatments.²⁸

In light of their educational preparation, their certification, and therein use of independent judgment, we find respiratory therapists to be technical employees.²⁹ Accordingly, we shall include them in the technical unit. We also find that respiratory therapy technicians have a community of interest with other technical employees. While not certified, they have received a year of preparatory training in respiratory therapy before coming to Backus, are paid at a level comparable to that of other technical employees, only one grade below respiratory therapists, and like therapists are engaged in the function of providing respiratory therapy to patients pursuant to doctors' orders.³⁰ Accordingly, we shall also include respiratory therapy technicians in the technical unit.

Surgical technicians: The employer has from six to eight surgical technicians; they are supervised by the operating room supervisor, who is an RN. Surgical technicians do not circulate (go in and out of the operating room) as do RN's; instead they remain stationary, working beside the surgeon, passing instruments. In addition surgical technicians along with LPN's act as scrub technicians helping the other operating room employees scrub and gown for surgery. If a surgical technician is not available to do this job, the responsibility is assigned to an LPN. At some point in the past Backus Hospital sponsored a 6-

month on-the-job training program for nursing assistants and orderlies to become surgical technicians. The record is not clear as to how many of the current surgical technicians come from this program or the educational requirements for the position generally. Some have been military corpsmen, some are high school trainees, others have graduated from a junior college program, and apparently none are currently certified. It appears that regardless of their preparatory background, surgical technicians are paid at grade level 6.

We find that although the surgical technicians are not certified, licensed, or registered, they are technical employees. They are used interchangeably with LPN's, are paid at a salary level comparable to that of other technical employees, have been trained for a minimum of 6 months, and have achieved a sufficient level of familiarity with surgical tools and procedures to assist physicians during surgery.³¹ Accordingly, we shall include the surgical technicians in the technical unit.

Librarian: The librarian works in the hospital's library, which is located on the ground floor of the hospital annex. The library is primarily used by physicians, RN's, and LPN's. The librarian is supervised by the director of nursing. The current librarian does not have a degree in library science and is paid at grade level 4. Since there is only one such employee, who is paid at a level comparable to that of the service and maintenance employees and who would otherwise remain permanently unrepresented, we shall include her in the service and maintenance unit.

Graduate technicians (grad techs): The Employer applies this title to registered nurses who have graduated from a 3-year school of nursing or a 4-year college nursing program in a foreign country but are not licensed as RN's in the State of Connecticut. While the training and experience of grad techs is equivalent to that of RN's, they cannot serve as such because they are not licensed. Grad techs are a job classification separate and apart from either RN's or LPN's, but their functions at Backus closely parallel those of the LPN's. Like the LPN's, they are supervised by RN's and paid at grade level 6. However, while grad techs have received advanced training beyond that of LPN's, they cannot be utilized to perform all the same functions. For example, they are not permitted to give medications as are LPN's. The Employer currently employs three grad techs and assigns them primarily to medical-surgical floors. There is no evidence on the record indicating that grad techs must pass the State's registered nursing examination in order to maintain their jobs.

²⁸ Included in its list of relevant job classifications Employer lists the cardiopulmonary technician. This is apparently an additional employee classification not discussed on the record and presumably working in the cardiopulmonary laboratory. The cardiopulmonary technician is paid at grade level 8, above respiratory therapists and technicians. Absent additional evidence we will permit the cardiopulmonary technicians to vote in the technical unit, subject to challenge.

²⁹ *Barnert Memorial Hospital Center, supra.*

³⁰ *Barnert Memorial Hospital Center, supra; Trumbull Memorial Hospital, 218 NLRB No. 122 (1975).*

³¹ *Cf. Kanawha Valley Memorial Hospital, Inc., 218 NLRB No. 135, fn. 4 (1975).*

Despite the fact that grad techs cannot perform all of the functions performed by LPN's, we conclude that they share a community of interest with LPN's and other technical employees.³² They do much the same work as LPN's, are on the same salary scale as LPN's, and comprise a job classification in their own right. Accordingly, we shall include grad techs in the technical unit.

Graduate practical nurses (GPN's): These individuals have completed 1 year of required vocational training to become LPN's but have not taken, or are awaiting the results of, the State's practical nurse licensing examination. The record does not reveal whether continued employment is conditioned upon passing the state licensing examination. Furthermore, unlike the grad techs who have a separate job classification, Employer's exhibits give no indication that GPN's are considered anything other than entry-level LPN's.

We find that GPN's share a community of interest with LPN's and other technical employees. They have received the same educational training as LPN's, are hired with the expectation that they will pass the licensing examination, and from all indications are paid as entry-level LPN's. Accordingly, we shall include them in the technical unit.

Hemodialysis technician: The hemodialysis technician works directly under the head nurse of the hemodialysis department. She is responsible for certain technical functions, assists with patients, and handles the hemodialysis equipment under the direction of the head nurse. She is not, however, permitted to do venapunctures, a function which the RN is trained to perform. Hospital Director Lotreck testified that the individual currently occupying the position of hemodialysis technician is extremely qualified and were she to leave the hospital, Backus would probably employ an LPN, or RN, or an individual with at least 1 year's experience with hemodialysis equipment to take her place. The record shows that the hemodialysis technician is paid at grade level 6.

We find the hemodialysis technician to be a technical employee. Her salary is equivalent to that of other technical employees and her work requires the specialized training and skills necessary to make independent judgments in technical matters. Accordingly, we shall include the hemodialysis technician in the technical unit.

We therefore find the following units appropriate for the purpose of collective bargaining within the

³² In *Barnert Memorial Hospital Center*, *supra*, at fn. 34, the Board found a comparable group of employees shared a community of interest with RN's and therefore excluded them from the technical unit found appropriate therein. However, unlike those employees, there is no evidence here that the grad techs must pass the registered nurse examination or lose their jobs

meaning of Section 9(b) of the Act:

All regular full-time and part-time technical employees including X-ray technicians, respiratory therapists and respiratory therapy technicians, licensed practical nurses, graduate practical nurses, graduate technicians, hemodialysis technicians, and laboratory technicians II and III employed by the Employer at its hospital facility located at Washington Avenue, Norwich, Connecticut, but excluding all service and maintenance employees, business office clerical employees, confidential employees, professional employees, guards and supervisors as defined in the Act.

All regular full-time and part-time service and maintenance employees,³³ including nursing assistants, ward clerks, admitting clerks, emergency room clerks, dietary employees, housekeeping employees, laundry employees, laboratory technicians I, EKG technicians, EEG technicians, librarian, medical records employees, and hospital clerical employees employed by the Employer at its hospital facility located at Washington Avenue, Norwich, Connecticut, but excluding all technical employees, business office clerical employees, confidential employees, registered nurses, professional employees, guards and supervisors as defined in the Act.

ORDER

It is hereby ordered that the petition in Case 1-RC-13659 be, and it hereby is, dismissed.

[Direction of Elections omitted from publication.]³⁴

MEMBER PENELLO, dissenting

For the reasons set forth in the dissenting opinions in *Barnert Memorial Hospital Center*³⁵ and in *Newington Children's Hospital*,³⁶ I disagree with the decision of my colleagues to exclude the technical employees from the service and maintenance unit herein, and to establish a separate unit for them.

Mindful of the congressional mandate, as evi-

³³ The Employer includes the gift shop clerk in its list of relevant employees. The gift shop clerk is hired by the hospital auxiliary, a volunteer organization, which runs the gift shop, and is supervised by the director of volunteers. While the Hospital's personnel department evaluates the job itself and the Hospital apparently pays the clerk's salary, it is reimbursed by the auxiliary. Based on these facts we find that the gift shop clerk is not a hospital employee and therefore is not eligible to vote.

The position of child technician was vacant at the time of the hearing and Hospital Director Lotreck was unable to predict when or whether the position would be filled. Accordingly, we will not pass on the unit placement of the child technician at this time.

³⁴ [Excelsior fn. omitted from publication.]

³⁵ 217 NLRB No. 132 (1975).

³⁶ 217 NLRB No. 134 (1975).

denced by the legislative history preceding the passage of the 1974 health care amendments to the National Labor Relations Act,³⁷ to avoid proliferation

of bargaining units in the health care industry, I would require, unlike my colleagues, that all technical employees, including LPN's, be included in the service and maintenance unit herein.

³⁷ S. Rept. 93-766, 93d Cong., 2d sess. 5 (1974); H. Rept. 93-1051, 93d Cong., 2d sess. 7 (1974).