

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

LOCAL 150, SERVICE AND HOSPITAL
EMPLOYEES' INTERNATIONAL UNION,
AFL-CIO

Case I
No. 17194 E-2816
Decision No. 12520

Involving Certain Employees of

ST. MARY'S HOSPITAL OF RHINELANDER,
INC., Rhineland, Wisconsin

Appearances:

Porter, Purtell, Purcell, Wilmot & Burroughs, S.C., Attorneys at
Law, by Mr. David V. Purcell, appearing on behalf of the
Employer.

Mr. Don Beatty, President, Local 150, appearing on behalf of
the Petitioner.

ORDER DISMISSING PETITION FOR ELECTION

Local 150, Service and Hospital Employees' International Union,
AFL-CIO, having petitioned the Wisconsin Employment Relations Commission
to conduct an election among certain employees of St. Mary's Hospital
of Rhineland, Inc., Rhineland, Wisconsin; and a hearing on such
petition having been conducted at Rhineland, Wisconsin on October 17,
1973 by Sherwood Malamud, Hearing Officer; and the Commission having
considered the evidence, and being satisfied that the unit proposed by the
Petitioner is inappropriate for the purposes of collective bargaining with-
in the meaning of Section 111.02(e) of the Wisconsin Employment Peace
Act;

NOW, THEREFORE, it is

ORDERED

That the petition filed in the instant matter be, and the same
hereby is, dismissed.

Given under our hands and seal at the
City of Madison, Wisconsin this 4th
day of March, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

by

Morris Slavney
Morris Slavney, Chairman

Zel S. Rice II
Zel S. Rice II, Commissioner

MEMORANDUM ACCOMPANYING
ORDER DISMISSING PETITION FOR ELECTION

At the outset of the hearing, the Employer corrected the name of the Employer as it appears in the petition from "St. Mary's Hospital" to "St. Mary's Hospital of Rhinelander, Inc." The Employer objected to the petition on the grounds that it was incomplete, specifically, in that petitioner failed to indicate the number of employees employed in the hospital at paragraph three of the Commission's petition form; and Petitioner's response to the inquiry made at paragraph six of the Commission's form that "A sufficient number of employees have requested Local 150 to represent them" did not provide the Commission with the factual information requested. Petitioner amended its petition to read at paragraph six that "A majority of employees. . .". This amendment is allowed and it meets the Employer's objection. The failure to indicate the number of employees employed by the Employer does not justify the dismissal of the petition. 1/

The Employer urges that the Commission adopt a policy requiring a petitioning labor organization to make a showing of interest at the time it files its petition. The Employer urges the Commission to single out the instant petitioning labor organization and require that it make a showing of interest; and that the Commission should not accept the claim of the Union that a majority of employees in the unit have requested to be represented by Local 150. The Employer supports its position by referring to the poor showing which Local 150 made in three other elections.

Nonetheless, the Commission reaffirms its policy of not requiring a showing of interest by a labor organization petitioning for an election in a unit where no recognized or certified bargaining representative exists. 2/

The Union described the following unit in its petition: "All regular full-time and regular part-time employees but excluding registered nurses, L.P.N.'s, supervisory and confidential employees." At the hearing, the Union expanded and redrafted the exclusions be limited to: "... Registered Nurses, all licensed and certificated personnel, members of a religious order, supervisory and confidential employees." The Union maintained that the licensed practical nurses should be excluded from the unit. With the exception of registered nurses and licensed practical nurses, the Union did not delineate any other groups of employees that should fall in the category of licensed or certificated personnel.

The Employer urges the Commission to dismiss the petition on the grounds that the unit sought is inappropriate within the meaning of Section 111.02(6) of the Wisconsin Employment Peace Act, and in support of its position, the Employer cites the Commission's recent decision in

1/ St. Vincent's Hospital, (9023-A) 8/69, St. Michael's Hospital, (10771) 2/72, Artistic Cleaners & Launderers, (4918-A) 11/58.

2/ Mercy Hospital, (12414) 1/74, St. Mary's Hospital Medical Center, (12017) 7/73.

Mercy Hospital, (Dec. No. 12414, 1/74). The Union supports its attempt to exclude registered nurses from the unit on the grounds that they are supervisory employees and do not share a community of interest with other employees of the Employer in that they traditionally belong to their own Nurses' association. The Union argues that licensed practical nurses should be excluded because they too lack the community of interest with other employees of the Employer and they traditionally belong to their own association. The Union contends that the unit it claims is a "normal" unit throughout the state and that, therefore, the Union did not request and saw no need for a separation vote for the R.N.'s or L.P.N.'s.

The Wisconsin Employment Peace Act defines an appropriate collective bargaining unit at Section 111.02(6) as "all employees of one employer except that when the majority of such employees engaged in a single craft, division, department or plant shall have voted by secret ballot to constitute such group a separate bargaining unit." The unit petitioned for herein does not include all the eligible employees of the Employer in that it excludes Registered Nurses and Licensed Practical Nurses. 3/

Inasmuch as the unit petitioned for by the Union is an inappropriate collective bargaining unit, the Commission, is dismissing the petition.

Dated at Madison, Wisconsin this 4th day of March, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Del S. Rice II
Del S. Rice II, Commissioner

3/ The Commission has determined that Registered Nurses, unlike Licensed Practical Nurses, are professional employees and, therefore, constitute a separate craft within the meaning of the Act. Therefore, the R.N.'s would be entitled to a separation vote had someone requested such a vote on their behalf. Bellin Memorial Hospital, (8518) 1/68; Holy Family Hospital, (9682) 5/70; St. Michael's Hospital, (10771) 2/72. The Commission has determined that Licensed Practical Nurses are not professional employees and, therefore, are not entitled to a separation vote. Mercy Hospital, Janesville, Wisconsin, (12414) 1/74. No one has contended in this matter that the licensed practical nurses are employed in a separate department. The L.P.N.'s cannot, therefore, be excluded from the unit desired by the Union.