

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of

WISCONSIN COUNCIL OF COUNTY AND  
MUNICIPAL EMPLOYEES, COUNCIL #40,  
AFSCME, AFL-CIO

and

EAGLE RIVER MEMORIAL HOSPITAL  
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Case I  
No. 18037  
E-2865 R-5660  
Decision No. 12888-C

DIRECTION OF ELECTION AND REFERENDUM

Wisconsin Council of County and Municipal Employees, Council #40, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission to conduct an election and referendum among certain employees of Eagle River Memorial Hospital, pursuant to Sections 111.05 and 111.06 of the Wisconsin Employment Peace Act; and hearing on such petition having been conducted at Eagle River, Wisconsin, on July 9, 1974, before Dennis P. McGilligan, Hearing Officer; and the Commission, having considered the evidence and arguments of the parties, being satisfied that questions have arisen concerning both representation and an "All-Union Agreement" among certain of said employees;

NOW, THEREFORE, it is

DIRECTED

That an election and referendum be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this Directive among all regular full-time and regular part-time employees of Eagle River Memorial Hospital, excluding the administrator, assistant administrator, supervisory and confidential employees, registered nurses, and temporary (summer) employees, who were employed by the Employer on October 21, 1974, except such employees as may prior to the election and referendum quit their employment or be discharged for cause, for the purpose of determining (1) whether a majority of such employees desire to be represented for the purposes of collective bargaining by Wisconsin Council of County and Municipal Employees, Council #40, AFSCME, AFL-CIO, and (2) whether the required number of such employees favor an "All-Union Agreement" between the said Labor Organization and said Employer.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 21st  
day of October, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MEMORANDUM ACCOMPANYING  
DIRECTIONS OF ELECTION AND REFERENDUM

The instant proceeding was initiated by a petition filed by Wisconsin Council of County and Municipal Employees, Council #40, AFSCME, AFL-CIO, hereinafter referred to as AFSCME, wherein it requested the Commission to conduct an election and referendum among all regular full-time and regular part-time employees of Eagle River Memorial Hospital, excluding the Administrator, Assistant Administrator, registered nurses, and temporary (summer) employees. At the outset of the hearing AFSCME amended its petition to include the registered nurses in the claimed appropriate unit. The Employer agreed to said amendment. The Wisconsin Nurses Association, hereinafter referred to as WNA, was permitted to intervene in the matter on its claim it represented the registered nurses, and the Wisconsin Nurses Association desired a separate unit of such nurses.

Thereafter, and on August 5, 1974 the Commission directed an election among all registered nurses in the employ of the Employer, excluding the Director of Nurses, for the purpose of determining whether the registered nurses desired to constitute themselves a collective bargaining unit separate and apart from the other employees of the Employer. Such election was held on October 2, 1974 and therein a majority of the eligible nurses voted in favor of establishing themselves as a unit separate and apart from the remaining employees of the Employer.

As a result of said election registered nurses cannot be included in the unit involved in the instant election and referendum, 1/ in accordance with Sec. 111.05(2) of the Wisconsin Employment Peace Act.

THE "OVERALL" UNIT

During the course of the hearing the Employer contended that the following individuals should be excluded from the eligibles on the claim that they were supervisors: 2/

Carl Oberlander, Head Maintenance  
Man

Richard Nixon, Chief X-Ray  
Technician

Mary Ann Woloschek, Supervisor of  
Housekeeping and Laundry

Larry Carr, Chief Laboratory  
Technologist

Frances Sarkauska, Dietary Supervisor

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- 1/ While during the course of the hearing the parties agreed on July 9 as the eligibility date, since more than four months has elapsed, the Commission has established the eligibility date as being the date of the issuance of this Direction, and the Employer is requested to submit to the Commission a list of employees in alphabetical order, employed in the unit involved, as of the date of this Directive.
- 2/ The parties agreed to exclude from the eligibles Grace Bliss, Secretary to the Administrator and Thomas Katisch, Head of Collection and Credit.

Carl Oberlander is the head engineer and maintenance person. As such Oberlander spends 75% of his time performing bargaining unit work. The bulk of Oberlander's "supervisory" duties are minor in nature and involve minimum inspection of one other employee's work, attendance at Supervisor's meetings (although another employee attends in his absence), set-up of routine work schedules and maintenance of records, plant plans and logs. Oberlander does not hire, fire, suspend, promote or transfer employees nor does he have the power to effectively recommend such action. Oberlander has minor disciplinary authority in that he can issue warning letters to employees in his department. All major decisions in the above areas are made by the Hospital Administrator. It is clear that Carl Oberlander, for the most part, performs unit work and is a "working foreman", and therefore, eligible to vote in the election and referendum.

Mary Ann Woloschek is the "supervisor" of housekeeping and laundry. Woloschek oversees and routinely assigns duties, but spends most of her time performing work identical to work performed by the other employees in housekeeping and laundry. She does not hire, fire, discipline, promote, or transfer employees, although she has some minor advisory input in these areas and may issue warning notices. Woloschek spends approximately 20% of her time overseeing the work activity of the two full-time and two part-time employees who work along with her. Most, if not all, major policy and practice decisions are made by the Hospital Administrator. Woloschek is, at most, a team leader, or "working foreman," and is included in the bargaining unit and is eligible to vote.

Richard Nixon is the Chief X-Ray Technician. He prepares the work schedule for himself and one other employee; maintains records; orders supplies and coordinates the x-ray unit with the other departments of the hospital. The Radiologist, who is not a regular employee of the hospital, participates in the operation of the unit and can reject the work product. A majority of Nixon's time is spent performing the regular x-ray work of the unit. He does not hire, promote, transfer, discipline (except for a warning letter 3/), or discharge employees, nor does he have the authority to effectively so recommend. It is clear that Richard Nixon is a "working foreman", and therefore, should be included in the unit and he is eligible to participate in the balloting.

Larry Carr is the Chief Laboratory Technologist. He spends 90% of his time performing the work of a Medical Technologist. Carr does not hire, fire, transfer, discipline, or promote the two employees with whom he works nor does he have the authority to effectively recommend. He has routine "supervisory" duties in that he sets the work schedule; attends Supervisor's meetings; helps to evaluate some of the employees and maintains record. The Hospital Administrator exercises primary responsibility and authority over the unit, and the evidence does not disclose that Carr's participation in the evaluation has been effective. It is clear that Larry Carr's activities are concerned primarily with activities within the unit, and he should be included in the unit; therefore, he is eligible to participate in the election and referendum.

Frances Sarkauska is the Head Cook and Dietary Supervisor. She directs the work of five full-time employees under her. Sarkauska does not hire, fire, transfer, discipline (except minor), or promote employees

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3/ The Commission has not held that the authority to issue warning notices in these cases indicates supervisory status because the record fails to indicate what effect, if any, is attached to these warnings.

although it appears that she has the power to effectively so recommend. Sarkauska does the ordering of supplies; maintains records; assigns the work and has the primary authority to make decisions in these areas. The degree of control and supervision which Frances Sarkauska exercises over the personnel under her supervision mandates she be excluded from the unit and therefore not participate in the balloting.

THE NURSES UNIT

Since the Wisconsin Nurses Association has indicated a desire to represent the nurses, we are also today directing an election and referendum to determine whether they desire to be represented by the Wisconsin Nurses Association and whether the required number of such employees desire an "All-Union Agreement" between said Association and said Employer. AFSCME has indicated a desire not to be on the ballot involving the nurses.

Dated at Madison, Wisconsin, this 21st day of October, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

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

Howard S. Bellman  
Howard S. Bellman, Commissioner