

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of	:	
LOCAL 2698, WCCME, AFSCME, AFL-CIO	:	
For Clarification of the Collective	:	Case XIX
Bargaining Unit Consisting of Certain	:	No. 18997 ME-1177
Employes of	:	Decision no. 13536-A
COLUMBIA COUNTY HOME 1/	:	

Appearances:

Mr. Darold O. Lowe, District Representative, appearing on behalf of the Union.
Mr. James R. Meier, Assistant District Attorney, appearing on behalf of the Municipal Employer.

ORDER CLARIFYING BARGAINING UNIT

Local 2698, WCCME, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission to issue an Order clarifying a certified collective bargaining unit consisting of "all regular full-time and regular part-time employes (employed 20 hours or more per week) excluding administrative, managerial employes, supervisory, registered nurses, registered therapists, registered dietitians and all other professional employes, temporary and part-time employes employed less than 20 hours per week; and hearing having been held in Portage Wisconsin, on April 22, 1975, Kay Hutchison, Hearing Officer, being present; and the Commission having reviewed the record and having considered the evidence and arguments of the parties, and being fully advised in the premises makes and files the following

ORDER

That the position of Licensed Practice Nurse II is appropriately included in the collective bargaining unit consisting of all regular full-time and regular part-time employes (employed 20 hours or more per week) excluding administrative, managerial employes, supervisory, registered nurses, registered therapists, registered dietitians and all other professional employes, temporary and part-time employes employed less than 20 hours per week.

Given under our hands and seal at the City of Madison, Wisconsin this 3rd day of July, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Slavney
 Morris Slavney, Chairman
Howard S. Bellman
 Howard S. Bellman, Commissioner
Herman Torosian
 Herman Torosian, Commissioner

1/ The name of the Municipal Employer was amended during the course of the hearing.

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT

The instant proceeding was initiated by the petition of Local 2698, WCCME, AFSCME, AFL-CIO, requesting the Wisconsin Employment Relations Commission to issue an Order clarifying the certified collective bargaining unit of employees of Columbia County Home. The Union asserts that the positions of Licensed Practical Nurse II, occupied by David Warnke and Chris Schmidt should be appropriately included in the certified collective bargaining unit 2/ comprised of:

"All regular full-time and regular part-time employes (employed 20 hours or more per week) excluding administrative, managerial employes, supervisory, registered nurses, registered therapists, registered dietitians and all other professional employes, temporary and part-time employes employed less than 20 hours per week."

Conversely, the Municipal Employer avers that the disputed positions are supervisory, and thereby are appropriately excluded from the aforementioned collective bargaining unit.

At the onset of the hearing, the parties stipulated that neither of the two LPN's II herein, have the authority to hire, layoff, recall, transfer, suspend, promote or discharge employes. However, the Municipal Employer, contrary to the Union, argues that Warnke and Schmidt assign and reward employes and may effectively recommend the adjustment of employe grievances.

The Columbia County Home houses approximately 185 residents. The Home operates 24 hours a day on three shifts. Each shift is staffed by a registered nurse, an LPN II, approximately eight to ten nursing assistants, and an undisclosed number of LPN's. Shirley Klausch, LPN II assigned to the day shift, has been included by the parties in the unit as a non-supervisory employe.

David Warnke is employed full-time as the LPN II on the 3:00 p.m. to 11:00 p.m. shift. At the time of the representation election cited above, Warnke was employed as an LPN and was mutually excluded as a supervisor. Subsequent to the certification of the Union as bargaining representative, the Municipal Employer hired RN's to staff every shift and thereby the dispute over the continued supervisory status of LPN II's arose herein. Chris Schmidt is regularly employed as an LPN II during the 11:00 p.m. to 7:00 a.m. shift.

The basic duties of the LPN II on the second and third shift are set forth in the following job description:

"Performs under the supervision of the professional nurse in charge those functions which implement the nursing department's philosophy and the nursing care goals for the Resident. Directs the activities of the Licensed Practical Nurse I and all levels

of nursing assistants. Prepares work assignments for the nursing assistants and L.P.N. I under his/her supervision. Is responsible for providing sufficient staff coverage when in charge under the supervision of a registered nurse. Assists nursing supervisor with nursing assistant and L.P.N. I evaluations.

Specific Duties and Responsibilities:

1. Performs nursing care procedures within the scope of the practical nurse training programs.
2. Assists in admission, transfers and discharges of patients.
3. Provides care to the acutely ill Resident under the direction of the registered nurse.
4. Administers oral and hypodermic medications upon special training of the institution if not received within the training program.
5. Prepares written nursing care plans upon identification of the Residents' needs and revises the plans as indicated under the supervision of the R.N.
6. Actively participates in weekly nursing care conferences (ward meetings). May lead these conferences in absence of the R.N.
7. Is responsible for charting all administered medications and treatments as well as changes in the Residents' condition.
8. Reports all changes in the Residents' condition to the registered nurse in charge. Reports significant changes in the Residents' condition to the physician on call.
9. Assist in ward rounds with doctor in the absence of a registered nurse.
10. Schedules ward assignments of the nursing assistants.
11. Is responsible for the collection of laboratory specimens and the recording of these in the chart.
12. Participates in hospital inservice education programs, workshops and seminars to promote further knowledge and skills that are applicable to the L.P.N.s further development in his/her field.

Qualifications:

Required:

1. High school graduation plus graduation from a recognized 1 year practical nurse program.
2. Must pass State Board of Nursing licensing examination and keep license current.
3. Ability to function as a team leader as needed and to assess Residents' nursing care needs. 3/

. . ."

At the outset of their respective shifts, Warnke and Schmidt confer with the Registered Nurse assigned to the preceding shift, check the condition of residents, review specific assignment areas of LPN I's and Nursing Assistants, and ensure that adequate staff is present for duty. In the event that there is a shortage of personnel due to employe absences, the LPN II may reassign job assignments within the shift and may call-in off duty or part-time employes to meet staffing requirements. At such times, the LPN II on duty consults the master schedule and ascertains the names of employes on their scheduled day off and unscheduled part-time employes and contacts them accordingly. The regular weekly schedule and master schedule are constructed on a five week basis by the assistant Director of Nursing.

Warnke and Schmidt, in addition to the RN's, attend the monthly supervisors' meeting. They may make recommendations with regard to the disposition of grievances or disciplinary matters. However, within the five-step contractual grievance procedure, the first level of appeal is to the Registered Nurse who, in practice, consults with the Director of Nursing. The second and third shift LPN II's have participated with RN's in the written performance evaluation of employes. Such evaluations are signed by the supervising registered nurse and not by the LPN II.

The Municipal Employer contends that Warnke and Schmidt perform supervisory duties within the meaning of Section 111.70(1)(o)1. The Municipal Employer argues that the incumbents apply independent judgment in reassigning employes on a day-to-day basis, participating in employe evaluation and recommending the disposition of employe grievances. Furthermore, the Municipal Employer asserts that the number of residents and employes and the absence of regular administrative staff during evening hours warrants the presence of two supervisory employes, namely an RN and an LPN II, on both the second and third shifts.

The Union argues that the aforementioned duties of the second and third shift LPN II's do not warrant Warnke and Schmidt's exclusion from the collective bargaining unit as supervisory employes. The Union avers that said positions' responsibilities in the areas of assigning evaluating and grievance recommendations are merely routine in nature, not requiring independent judgment. The Union asserts that the LPN II's function along the lines of a "lead worker" rather than as a supervisor of employes.

DISCUSSION:

The primary responsibilities of the LPN II positions occupied by David Warnke and Chris Schmidt appear to consist of participation in and overseeing of the nursing care of the home's residents. Whereas said LPN II's ensure sufficient staff coverage on their respective shifts through employe reassigning and/or call-in, such duties involve supervision of the staffing activity as opposed to the supervision of employes. 4/ Similarly, the Commission is satisfied that the LPN II's role in employe evaluation and grievance recommendations is routine in nature and is insufficient to warrant supervisory status. The Commission concludes that the positions of LPN II, presently occupied by David Warnke and Chris Schmidt, are not supervisory and, accordingly, are appropriately included in the existing collective bargaining unit.

Dated at Madison, Wisconsin this 3rd day of July, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

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