

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of	:	
	:	
1199W, UNITED PROFESSIONALS	:	
FOR QUALITY HEALTH CARE	:	Case XLVI
	:	No. 31919 ME-2246
Involving Certain Employes of	:	Decision No. 20996-A
	:	
SHAWANO COUNTY (MAPLE LANE	:	
HEALTH CARE FACILITY)	:	
	:	

Appearances:

Cullen & Weston, Attorneys at Law, by Ms. Cheryl Rosen Weston, 20 North Carroll Street, Madison, Wisconsin 53703, appearing on behalf of the Union.

Mulcahy & Wherry, S.C., Attorneys at Law, by Mr. Ronald J. Rutlin, 408 Third Street, P. O. Box 1004, Wausau, Wisconsin 54401, appearing on behalf of the County.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

1199W, United Professionals for Quality Health Care, having on July 12, 1983, filed a petition requesting the Wisconsin Employment Relations Commission to conduct an election among all regular full-time and regular part-time professional and technical employes employed by the Employer at the Maple Lane Health Care Facility, excluding guards, supervisors and all other employes, to determine whether said employes desire to be represented for the purposes of collective bargaining by said Union; and hearing in the matter having been conducted on August 19, 1983, by Andrew Roberts, an Examiner on the staff of the Commission; and the stenographic transcript having been received by September 1, 1983; and briefs having been received by October 24, 1983; and the Commission having considered the evidence and the arguments of the parties and being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. That 1199W, United Professionals for Quality Health Care, hereinafter referred to as the Union, is a labor organization with offices at 1244 South Park Street, Madison, Wisconsin 53715.
2. That Maple Lane Health Care Facility is a nursing home care facility owned and operated by Shawano County, which handles chronically and mentally ill and developmentally disabled persons and drug and alcoholic commitments; that the facility has a capacity of one-hundred two (102) patients; that a Governing Board directs the facility; and that Administrator Thomas Arvey is responsible to said Committee.
3. That the facility has approximately eighty-two employes; that approximately sixty of those employes are in the following bargaining unit represented by Maple Lane Health Care Center Employees, Local 2648, AFSCME, AFL-CIO: all employes except the Administrator, Assistant Administrator, nurse or nurses, clerical employe, psychiatrist, dentist and building maintenance engineer; that there are approximately seven positions considered as department heads at the facility, including, among others: Director of Nursing Marge Larsen, Assistant Director of Nursing Kathleen Dey, and Volunteer Coordinator and Work Therapy Director Virginia Ruch, both of which are jointly held by Ruch; that the Union herein petitioned for an election among employes within the following proposed unit: all regular full-time and regular part-time professional and technical employes employed by the Employer at the Maple Lane Health Care Facility, excluding guards, supervisors and all other employes; that the County does not contest the appropriateness of said unit; that the Union and County have stipulated that Director of Nursing Marge Larsen, Assistant Director of Nursing

Kathleen Dey, Activity Director Ann Knapp, and Program Coordinator Beverly Nelson have supervisory and managerial responsibilities so as to be excluded from the proposed bargaining unit; that the Union proposes the following positions be included in said unit: eight (8) Licensed Practical Nurses (LPN), two (2) Registered Nurses (RN), and the combined positions of Volunteer Coordinator, Work Therapy Director and Assistant Activity Director, which three positions are held by Virginia Ruch; and that the County, contrary to the Union, contends that the eight LPN's and two RN's are supervisory employes and that Virginia Ruch is a managerial employe.

4. That Ruch is certified as an Occupational Therapist Assistant; that in the capacity of Volunteer Coordinator, Ruch reports to Director Arvey and is responsible for recruiting and utilizing the services of between forty-five to fifty volunteers by coordinating the interests of the volunteers with the needs of the patients; that Ruch develops a proposed budget for the Volunteer Program, which budget is approximately \$1,500 per year, and submits said proposal to the Director; that Ruch can make expenditures within the budget without prior approval; that as the Work Therapy Director, Ruch reports to Director Arvey and is responsible for administering a work therapy program for mentally ill patients through which the patients work in the Housekeeping, Laundry, Dietary, and Farm Departments, among others; that under the Work Therapy Program those patients also raise and sell produce such as apples and sweet corn, and, perform contracted work such as the assembly of plastic chicken eggs; that as part of her responsibility for the Work Therapy Program, Ruch assesses patient capabilities, implements patient placement, administers the remuneration program, sets the hourly rate of pay of the patients, which is either \$0.14 or \$0.28 per hour, determines the work hours for each patient, and, signs the paychecks for such patients; that generally the Work Therapy Program is self-funded from selling its products, but that occasionally the Governing Board has contributed funds to the program; that Ruch develops the budget for the Work Therapy Program, which is approximately \$3,000 to \$4,000 per year; that Ruch's duties as Assistant Activity Director include planning, implementing and conducting patient group activities as assigned by the Activity Director; that the Activity Department includes the Activity Director, the Assistant Activity Director, and an Activity Aide; that Ruch occasionally fills in for the Activity Director when she is absent; that Ruch assists the Activity Director in formulating a budget for the Activity Department, which is approximately \$27,000 per year and includes the wages paid the employes within the Activity Department; that Ruch spends approximately equal time at each of the three above-described positions; that Ruch coordinates her work with the Program Coordinator, who reviews various programs at the facility, including the Work Therapy Program, Volunteer Program, and Activity Department, to insure such programs are complying with regulatory requirements; that when State and Federal agencies inspect and evaluate the facility, the department heads are responsible for any alleged violations; that Ruch would be responsible for any such violation in the Work Therapy Program and Volunteer Program; that each year Arvey requires department heads to submit requests for capital items, and Ruch has requested various desired items, such as speaker stands, books, or bingo cards for the Work Therapy and Volunteer Programs; that Arvey and the facility's accountant review the annual proposed budget with each department head; that the facility's budget, which is approximately \$1.6 million per year, is submitted to the Governing Board and County Board for approval; that the budgets in the Work Therapy Program and Volunteer Program generally increase annually by approximately the annual rate of inflation; that Ruch is a member of, and gives input to, the Patient Care Policy Committee, which monitors and establishes policies for patient care at the facility; that Ruch is also a member of the Restorative Services Committee, which is involved with the Patient Rehabilitation Program and the Fire, Disaster and Safety Committee, which is responsible for compliance with the facility's pertinent health and safety regulations; that each of the above-described committees meets quarterly; and that Ruch recommends policy changes to such committees which bear on the Work Therapy and Volunteer Programs.

5. That the Medical Director, who is a part-time employe, directs the medical care to residents; that the medical treatment is generally implemented by the nursing staff; that Director of Nursing Marge Larsen, who is an RN, oversees said nursing services at the facility; that included within the Nursing Department are an Assistant Director, ten Charge Nurses (eight LPN's and two RN's) who report to Larsen, twenty-eight full-time Nursing Assistants and approximately five or six part-time Nursing Assistants who are limited term employes; that the Nursing Assistants work under the direction of the Charge Nurses; and that RN's are paid \$9.30 per hour base pay, LPN's are paid \$7.43 per hour base pay, and, Nursing Assistants are paid up to \$5.70 per hour.

6. That Larsen prepares a shift and days of work schedule for the Charge Nurses and Nursing Assistants on a monthly basis; that eleven full-time Nursing Assistants are assigned to the 7:00 a.m. to 3:00 p.m. shift, eleven full-time Nursing Assistants are assigned to the 3:00 p.m. to 11:00 p.m. shift, and six full-time Nursing Assistants are assigned to the 11:00 p.m. to 7:00 a.m. shift; that part-time Nursing Assistants rotate shifts; that LPN-Charge Nurse Sue Scheinert schedules wing assignments for Nursing Assistants on the day shift, while LPN-Charge Nurse Audrey Danke schedules such wing assignments on night shifts; that such assignments are essentially based on a mathematical formula to insure that the Nursing Assistants will rotate through all the patient groups; that Danke also assigns coffee and dinner breaks to Nursing Assistants on a rotating basis; that the facility has three patient sections, which are referred to as wings; that generally during the first shift one Charge Nurse is assigned to each wing, during the second shift one Charge Nurse is assigned two wings and one Charge Nurse is assigned the third wing, and during the third shift one Charge Nurse is assigned all three wings, or one Charge Nurse is assigned two wings and one Charge Nurse is assigned one wing; that RN-Charge Nurse Marilyn Hille spends most of her time evaluating the staffing necessary to meet the patients' needs, which primarily consists of reviewing patients' records; that under the County's policy only RN's may do such staffing; that RN-Charge Nurse Dorothy Huffman functions primarily as a Charge Nurse, though her duties also include reviewing reports and charts for utilization review; and that administrative regulations require at least one RN on the day shift, but generally both RN-Charge Nurses work on the day shift.

7. That a Charge Nurse provides nursing care to patients, which, among other responsibilities, includes: checking on patients, administering medications and treatments, and assigning duties to Nursing Assistants; that Nursing Assistants have been told that the Charge Nurse on their particular shift is their supervisor; that the job description of the Nursing Assistant states in part: "performs under the supervision and direction of a professional nurse those duties which implement the Nursing Department philosophy and nursing care goals for patients"; that the Nursing Department requires a minimum of seven Nursing Assistants and a maximum of eleven Nursing Assistants per day; that if a Nursing Assistant calls in sick, a replacement will not be obtained unless the absence results in less than the minimum number of Nursing Assistants to be on duty that shift; that if a Nursing Assistant must be called in under such circumstances, then a Charge Nurse calls in Nursing Assistants based on a seniority list; that Charge Nurses have the authority to change nursing assignments under unusual circumstances; that Charge Nurses do not participate in the hiring process or the grievance procedure; that Larsen may solicit the opinions of Charge Nurses concerning applicants or promotions; that when a Nursing Assistant has finished probationary status, Charge Nurses give input to Larsen on the performance of the Nursing Assistants with whom they had worked; that Larsen does the actual evaluation, which is the only evaluation given to employees, after personally observing the probationary Nursing Assistant's performance; that Larsen has, on occasion, terminated a probationary Nursing Assistant and has solicited the opinions of Charge Nurses in such instances; that a Charge Nurse may grant a Nursing Assistant's request to leave a shift early; that a Charge Nurse is responsible for checking a Nursing Assistant's work to be sure orders are properly carried out; that Director Larsen or Assistant Director Dey authorizes overtime of Nursing Assistants; that if an employe transfers from another department into a Nursing Assistant position, there is a contractual thirty-day trial period the employe must pass; that Larsen decides whether such an employe passes said trial period based on her observations, as well as input from Charge Nurses; that typically a Charge Nurse directs from two to four Nursing Assistants; and that under administrative regulations an RN-Charge Nurse is ultimately responsible for a Nursing Assistant's activities, though RN-Charge Nurses do not have supervisory responsibilities over LPN-Charge Nurses.

8. That most of the Charge Nurses attended in-service sessions on July 19, 1979, July 15, 1980, and July 28, 1981, at which they were told they had the authority under certain circumstances to discipline employees; that minutes from the last meeting state in pertinent part:

It is important for all charge nurses to react in this manner.
The respect for the nurse in charge must be restored.

If the charge nurse perceives a violation of policy, she must:

1. Call M. Larsen, K. Key or Mr. Arvey to witness the incident or
2. send the person in violation home and report the incident to the above persons as soon as possible. The charge nurse should have a contract available to which she can consult when addressing an issue that might arise with union members. The contract should be consulted and not left to memory since the issue may be quoted wrongly.

Management has the right to enforce the institutional policies, and has the right to supervise. Procedure and notification and documentation are of prime importance in taking the necessary steps to enforce the rules of this facility.

Documentation includes a verbal warning to the individual and a written report to M. Larsen of the incident. M. Larsen will then call in the individual along with a union member. If the incident continues, the next warning will be initiated in written form to the individual along with a suspension. The last warning of the same issue warrants dismissal.

that Charge Nurses have been told they may issue oral and written warnings, and must suspend employes under certain circumstances, including sleeping while on duty; that generally when a Nursing Assistant acts inappropriately, the practice has been for the Charge Nurse who is aware of it to report the circumstances of same to Larsen who then investigates the matter and who often solicits recommendations from the Charge Nurse as to the appropriate discipline to impose; that Larsen may follow the recommendations of the Charge Nurse; that generally Larsen herself has imposed the determined discipline on the Nursing Assistant; that Charge Nurses have issued oral reprimands to Nursing Assistants on at least one occasion for such matters as failing to shave a male patient; that when Larsen was on a leave of absence and Dey was the acting Director, Charge Nurse Danke issued suspensions on two occasions to Nursing Assistants for sleeping while on duty; that on at least one occasion, when Larsen was on active duty, Larsen suspended a Nursing Assistant for sleeping on the job after first receiving a Charge Nurse's report of the incident; that in a dischargeable situation, such as intoxication on the job, the Charge Nurse has the authority to immediately send the Nursing Assistant home, though apparently that has not occurred as of the time of the hearing; and that in such a situation, Charge Nurses must supply Larsen with information about the incident.

9. That Ruch possesses and exercises managerial authority in sufficient combination and degree to be deemed a managerial employe; and that Charge Nurses do not possess or exercise supervisory authority in sufficient combination or degree to be deemed supervisory employes.

Based upon the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSIONS OF LAW

1. That Virginia Ruch in her positions as Volunteer Coordinator, Work Therapy Director, and Assistant Activity Director, is a managerial employe and therefore is not a "municipal employe" within the meaning of Sec. 111.70(1)(b) of the Municipal Employment Relations Act and therefore is not eligible to vote in the election directed herein.

2. That the occupants of the position of Charge Nurse are not supervisory employes and are therefore "municipal employes" within the meaning of Sec. 111.70 (1)(b) of the Municipal Employment Relations Act and are eligible to vote in the election directed herein.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

DIRECTION OF ELECTION

That elections by secret ballot shall be conducted under the Direction of the Wisconsin Employment Relations Commission within forty-five (45) days from the date of this Directive in the following voting groups for the following stated purposes:

VOTING GROUP NO. 1

All regular full-time and regular part-time technical employes employed by Maple Lane Health Care Facility, excluding guards, supervisors, and conditionally excluding professional employes, and all other other employes who were employed on January 9, 1984, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employes voting desire to be represented by 1199W, United Professionals for Quality Health Care, for the purposes of collective bargaining with the Maple Lane Health Care Facility on questions of wages, hours and conditions of employment.

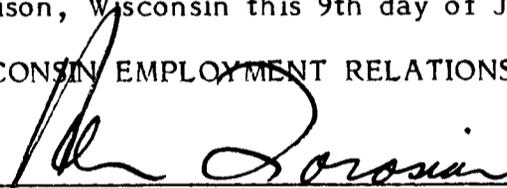
VOTING GROUP NO. 2

All regular full-time and regular part-time professional employes of the Maple Lane Health Care Facility, excluding non-professionals, guards, supervisors and all other employes, who were employed on January 9, 1984, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining: (1) whether a majority of the employes in said voting group desire to be included in the bargaining unit described as Voting Group No. 1; and (2) whether a majority of such employes voting desire to be represented by 1199W, United Professionals for Quality Health Care, for the purposes of collective bargaining with Maple Lane Health Care Facility, on questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin this 9th day of January, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Gary L. Covelli, Commissioner


Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

Position of the Union:

As Assistant Activity Director, Ruch is under the direct supervision of the Activity Director; and as Work Therapy Director and Volunteer Coordinator, Ruch reports to the Program Director with budgetary responsibilities for only minor and routine items. Moreover, her input in the budgetary process is quite restricted, being subject to the review of the Administrator, the Accountant, the Governing Committee and the County Board. In addition, there was no evidence, that she is involved in formulating policies for the facility.

The Charge Nurses are not supervisors. They have no responsibility with regard to hiring, transferring, promoting, laying off, or recalling employes. The only written evaluations for Nursing Assistants occur at the end of their probation and are prepared by Larsen. While two LPN-Charge Nurses assign work for Nursing Assistants, they use set mathematical formulas to rotate Nursing Assistants through all work assignments. Charge Nurses are not authorized to approve overtime, and when a Nursing Assistant must be called in, the Charge Nurse goes down a seniority-based list. Moreover, Charge Nurses do not adjust grievances, recommend promotions, or administer any reward system. With regard to discipline, the Charge Nurses have never discharged an employe, do not have independent authority to administer a suspension, and the only written warning the County offered was, in fact, administered by Larsen. Moreover, the Union contends the in-service training which the County gave to the Charge Nurses on discipline support the Union's position that Charge Nurses do not discipline or effectively recommend discipline of employes. In addition, the Union argues Charge Nurses are not paid more for any alleged supervisory responsibilities.

Position of the County:

Ruch is a managerial employe and therefore should be excluded from the unit. As Volunteer Coordinator, she has complete responsibility for the program, formulates the budget in a similar fashion as do other department heads, and, makes expenditures from that budget, and sits on committees which formulate policies. As Work Therapy Director, Ruch has control over compensation for patients who participate in such a program, and makes expenditures from its budget. In both of the above-stated positions, she reports directly to Arvey. As Assistant Activity Director, she works with the Activity Director in formulating policy and in the Activity Director's absence, she is responsible for its function.

All Charge Nurses are supervisors. They have significant discretion to assign duties, responsibilities and patients to Nursing Assistants. In addition, they send Nursing Assistants home early when Nursing Assistants so request, call in employes and discipline or effectively recommend discipline to Nursing Assistants, and check the work and evaluate the performance of Nursing Assistants. With regard to discipline, while the Charge Nurses may not have had occasion in the past to discharge anyone, each has the authority to do so. Moreover, Charge Nurses have attended in-services where they were told they have the authority to discipline and where a uniform discipline policy was explained. It also is significant that Charge Nurses are the highest ranking employes in the Department on evening and night shifts. Moreover, the Nursing Assistant job description indicates Charge Nurses are their supervisors. It would be impossible to have other supervisors on all three shifts if the Charge Nurses are found to be not supervisory, especially when the Director of Nursing and Assistant Director of Nursing would then have to be in charge of all Nursing Assistants and Charge Nurses. The County also cites numerous Commission and NLRB decisions to support its position.

Ruch's Alleged Managerial Status:

The Commission has determined that managerial status is related to an employe's participation in the formulation, determination, and implementation of management policy and the effective authority to commit the employer's

resources. 1/ We find that Ruch's responsibilities are sufficiently aligned with the County to be considered a managerial employe. Of particular significance are her duties as Work Therapy Director. In that position she is essentially responsible for a program which is similar to a small retail or manufacturing firm. Here, patients work for the facility, raise produce or fabricate various items for sale to the public. Ruch assesses patient work capabilities, recommends patient work assignments to the Clinical Team, implements work placements, sets a pay rate for the patients, schedules their hours and signs their paychecks. In that regard she is responsible for a portion of the facility's revenue as well as a commitment of its resources. In addition, as Work Therapy Director and Volunteer Coordinator she acts as a department head, and, as are other department heads, she is responsible for any violations found by State and Federal agencies. She also plays a role in the budgetary process in those two programs, as well as the development of policies by her participation in various committees. Further, Ruch is responsible for implementing policy changes in the two programs and for the on-going administration of said programs. In those two positions she reports directly to Director Arvey, while the Program Director simply reviews her programs to insure that they comply with the various regulatory requirements. Based upon the foregoing, it is our conclusion, on balance, that she holds managerial status so as to be excluded from the proposed bargaining unit.

Alleged Supervisory Status of Charge Nurses:

The Commission has repeatedly considered the following factors in determining if a position is supervisory in nature:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employes;
2. The authority to direct and assign the workforce;
3. The number of employes supervised and the number of other persons exercising greater, similar or lesser authority over the same employes;
4. The level of pay, including an evaluation of whether the supervisor is paid for his/her skills or for his/her supervision of employes;
5. Whether the supervisor is supervising an activity or is primarily supervising employes;
6. Whether the supervisor is a working supervisor or whether he/she spends a substantial majority of his/her time supervising employes;
7. The amount of independent judgment exercised in the supervision of employes. 2/

The Commission has held that not all of the above factors need to be present, but if a sufficient number of those factors appear in any given case, the Commission will find an employe to be a supervisor. 3/

While Nursing Assistants are told, and their job description states, that Charge Nurses are their supervisors, the type of supervisory authority that is actually possessed is given greater weight in determining whether a position is supervisory. The record demonstrates that the supervision over the Nursing Assistants by the Charge Nurses at Maple Lane is primarily supervision of activities rather than of the employes. While Charge Nurses may allow Nursing Assistants to leave early when they so request, on other matters they do not exercise independent supervisory authority. For example, they do not participate in the hiring process or grievance procedure, or authorize overtime for Nursing

1/ Village of Brown Deer (Dept. of Public Safety) (19342) 7/82.

2/ Grant County (21063) 10/83; City of Manitowoc (18590) 4/81.

3/ Ibid.

Assistants. Though Charge Nurses give their observations of an evaluated employe who is on probation or on trial when requested, Larsen does the actual evaluation and decides whether that person will continue in the position. While two Charge Nurses assign Nursing Assistants to particular patients and assign Nursing Assistants to mealtimes and breaks, it is done through a set mechanical formula which insures adequate rotation of all Nursing Assistants. If a Nursing Assistant must be called in because of a shortage of such employes, the Charge Nurse simply goes down a call-in list which is based on seniority. Although a Charge Nurse may change a Nursing Assistant's patient assignment in unusual circumstances, such is essentially supervision and assignment of an activity, i.e., patient care, rather than supervision of an employe. It is also notable there is approximately a \$2.00 difference in wages paid between Nursing Assistants and LPN-Charge Nurses, and between LPN-Charge Nurses and RN-Charge Nurses, which would seem to indicate a differential based on training, not supervisory responsibilities. While the County contends the subordinate-to-supervisor ratio would be unduly high if the Charge Nurses were not excluded from the proposed bargaining unit, we find it significant that if they would be excluded they would only supervise between two and four Nursing Assistants. Moreover, the Director of Nursing is on call twenty-four hours per day when unusual circumstances arise.

With regard to disciplinary matters, the County argues Charge Nurses may discipline and/or effectively recommend discipline of Nursing Assistants. However, on close scrutiny the evidence indicates they have little authority to do so. While they may have been told they have such authority, at most Charge Nurses have only independently administered oral reprimands, e.g., speaking to a Nursing Assistant for failing to shave a male patient. Charge Nurse Danke suspended Nursing Assistants on two occasions; however, the circumstances were peculiar. Larsen was on a leave of absence when those suspensions were given for sleeping while on duty, which disciplinary action the Charge Nurses have been told they must administer under such circumstances. Moreover, it is significant that when Larsen was not on leave she was the one who suspended Nursing Assistants for sleeping while on duty. The record further reflects that, except for oral reprimands and for the two described suspensions administered by Danke, when a discipline situation occurs, the Charge Nurse reports the facts to Larsen. Larsen then investigates the matter and determines the appropriate, if any, discipline to be administered, thus indicating that, while Charge Nurses may give their recommendations to Larsen, she is not constrained by such an opinion. Thus, Charge Nurses exercise little independent discretion in the administration of discipline.

The foregoing demonstrates that, while Charge Nurses may have input on various supervisory functions, they are leadworkers who do not hold supervisory duties in sufficient combination or degree to be deemed supervisory employes.

Balloting Procedure:

The Commission has long held RN's are professional employes, in part because of their training 4/, while LPN's have been held not to be professional employes. 5/ Accordingly, when in an election proceeding a request is made to include professional employes in the same unit with non-professional employes, Section 111.70(4)(d) of the Municipal Employment Relations Act requires that the professional employes be given an opportunity to vote to determine whether they desire to be so included. In order to be so included, a majority of the eligible professional employes must vote in favor of such inclusion. Therefore, in this proceeding, the professional employes (Voting Group No. 2) will be given two ballots, (1) to determine whether they desire to be included in a single unit with non-professional employes (Voting Group No. 1) and (2) whether they desire to be represented by 1199W, United Professionals for Quality Health Care. The unit determination ballot will be a separate colored ballot, and the professional employes will be instructed to deposit their unit determination ballots in the ballot box. The professional employes who appear to vote will be previously instructed to place their representation ballots in a furnished blank envelope and to seal such envelope and deposit same in the ballot box.

4/ Monroe County (8166) 9/67; Outagamie General Hospital (6076) 8/62.

5/ See, e.g. Marinette General Hospital (7569) 4/66; and see also Brown County (Mental Health Center) (15054) 11/76.

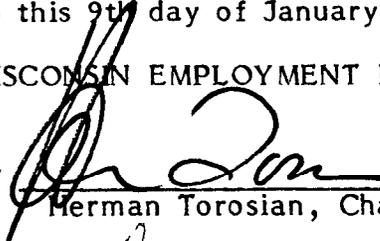
The unit determination ballots cast by the professional employees will be initially counted, and should a majority of the eligible professional employees vote in favor of being included in the unit of non-professional employees, the sealed envelopes, containing the ballots of the professionals with respect to representation, will be opened and their ballots will be commingled with the representation ballots cast by the non-professional employees, and thereafter the tally will include the representation ballots cast by all employees.

Should a majority of the professional employees eligible not vote in favor of being combined in a unit with non-professional employees, then the professional employees shall constitute a separate unit, and their representation ballots will not be commingled with the representation ballots cast by the non-professional employees, and, therefore, the representation ballots cast by the non-professional and professional employees will be tallied separately to determine separately their choice as to bargaining representative.

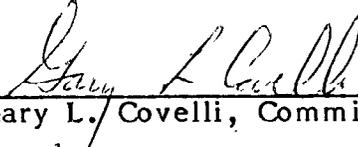
Dated at Madison, Wisconsin this 9th day of January, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

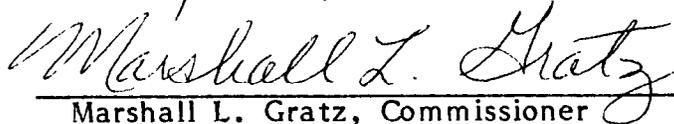
By



Herman Torosian, Chairman



Gary L. Covelli, Commissioner



Marshall L. Gratz, Commissioner