

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of	:	
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LABOR ASSOCIATION OF	:	Case 160
WISCONSIN, INC.	:	No. 41583 ME-2844
	:	Decision No. 26126
Involving Certain Employes of	:	
	:	
CHIPPEWA COUNTY	:	
	:	

Appearances:

- Mr. Patrick J. Coraggio, 2825 North Mayfair Road, Wauwatosa, Wisconsin 53222, on behalf of the Labor Association of Wisconsin, Inc.
- Mr. Merle Baker, Business Agent, P. O. Box 86, Eau Claire, Wisconsin 54701-0086, on behalf of General Teamsters Union Local 662.
- Mr. Melvin O. Bollom, Personnel Director, Chippewa County, Chippewa County Courthouse, 711 North Bridge Street, Chippewa Falls, Wisconsin 54729, on behalf of the County.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

On January 17, 1989, Labor Association of Wisconsin, Inc., filed with the Wisconsin Employment Relations Commission a petition for election, requesting the Commission to conduct a representation election, pursuant to Sec. 111.70(4)(d), Stats., involving certain employes of the County of Chippewa. The claimed appropriate bargaining unit was described as "all regular part-time and regular full-time nurses within the employment of Chippewa County, excluding supervisory, confidential, and managerial employes, employed within the Chippewa County Public Health Office." Hearing on the petition was held in Chippewa Falls, Wisconsin on March 3, 1989 before Hearing Examiner Stuart Levitan, a member of the Commission's staff. At that time, General Teamsters Union Local 662 moved for, and was granted, permission to intervene. A stenographic transcript was prepared and received on March 23, 1989. Submission of briefs and reply briefs was completed by June 6, 1989. 1/ The Commission, now having reviewed the record and the parties' arguments, and being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. Labor Association of Wisconsin, Inc., hereafter the Association or the Petitioner, is a labor organization with its offices at 2825 North Mayfair Road, Wauwatosa, Wisconsin.
2. General Teamsters Union Local 662, hereafter the Teamsters, or the Intervenor, is a labor organization with its offices, at P.O. Box 86, Eau Claire, Wisconsin.
3. Chippewa County, hereafter the County, is a municipal employer with its offices at 711 North Bridge Street, Chippewa Falls, Wisconsin.
4. The Teamsters are currently the exclusive representative for collective bargaining of a unit defined as "all regular full-time and regular

1/ The County's brief included certain documents. While it is certainly far more desirable for a party to present all of its documentary evidence at hearing, we have received same into the record.

part-time professional employes of the Social Services Department, Unified Services, and Institutions, in classifications, listed in the Appendix of this Agreement to include related positions, but excluding administrative, managerial, confidential, clerical, temporary and part-time employes employed less than 976 hours per year . . ." The referenced Appendix lists the following classifications: Coordinators, Psychiatric Social Worker, Social Worker III, II, I, Special Education Teacher, Volunteer Services Coordinator and Restitution Worker.

5. The County maintains a Public Health Office, under the policy direction of a Health Committee and the Board of Supervisors, and in association with the State Division of Health and Agency Advisory Board. The Office, under the direction of its Director, is divided into the following program/function areas: Executive Secretary and Clerical Staff; Women, Infants, and Children (WIC); Public Health (Public Health Nurses and Public Health Supervisor), and Home Care (Home Care Nurses, Home Care Aides, Personal Care Workers, Therapists and Home Care Coordinator). The County currently employs six (6) Public Health Nurses within its Public Health Office, whose job description is as follows:

Position Title: Public Health Nurse

Occupational Group: Health and Sanitation

Department: Public Health Nursing

Definition: This is a professional position under the supervision of the Public Health Supervisor. The public health nurse provides services necessary to implement agency programs including, but not limited to, maternal child health, school health, communicable disease control, disease and disability, jail health, and adult health. The public health nurse collaborates and cooperates with other professions, agencies and community organizations to avoid duplication. The public health nurse participates in the health education of allied professional and community groups.

Position Functions: (Illustrative Only)

Major:

1. Investigates reported or suspected cases of communicable disease implementing appropriate follow-up procedures.
2. Assesses nursing needs of individuals and families for the promotion and maintenance of health in all age groups.
3. Provides skilled nursing services to individuals and familiar, in all settings.
4. Provides anticipatory guidance, health supervision, and health counseling in homes, school and clinic settings.
5. Completes health assessments of individuals in home, school, jail, or clinic referring to and communicating with other health care providers as appropriate.

6. Coordinates services of other community resources to meet the needs of the individual or family.
7. Provides nursing services to students and faculty in assigned schools.
8. Provides health education to school, community, worksite, and WIC groups.
9. Coordinates activities with other agency professional staff.
10. Completes and submits reports according to agency policy.

Minor:

1. Evaluates own needs for professional development and plans to meet those needs.
2. Represents agency on boards and committees as requested by the Supervisor and authorized by the Director.
3. Recommends program procedures and guidelines to the Supervisor.
4. May supervise program aide.
5. Completes other assignments as directed by the Supervisor.

The listing of major and minor functions is not to be considered an exhaustive list of all duties which may be performed.

Essential Knowledges, Skills and Abilities:

1. Considerable knowledge and skills of current nursing practices and procedures.
2. Considerable knowledge of the practice of public health nursing.
3. Considerable knowledge of the use of community resources.
4. Ability to establish and maintain effective working relationships with staff and the general public.
5. Ability to communicate effectively both orally and in written format with a variety of groups.
6. Ability to seek and utilize supervision to improve professional practice.
7. Ability to implement current nursing practices and procedures.

Desirable Training and Experience:

1. A bachelor's degree from a nursing program accredited by the national professional nursing accrediting organization. The program shall include preparation in public health nursing, or
2. A master's degree from a nursing program accredited by the

national professional nursing accrediting organization. The program shall include preparation in public health nursing, or

3. A bachelor's degree from a nonaccredited nursing program and preparation in public health nursing in a program accredited by the national professional nursing accrediting organization, or
4. A public health nurse certificate issued by the department prior to November, 1984.

Special Requirements:

1. Currently licensed or eligible for licensure in Wisconsin to practice as a registered professional nurse.
2. Vehicle available for travel.
3. Valid driver's license.
6. The County currently employs five (5) Home Care Professional Nurses within its Public Health Office, whose job description is as follows:

POSITION TITLE: Home Care Professional Nurse

OCCUPATIONAL GROUP: Health and Sanitation

DEPARTMENT: Public Health Nursing

DEFINITION: This is a professional position under the general direction of the Home Care Coordinator. The home care nurse provides professional nursing care to the ill or disabled in their homes. May supervise the work of health aides or orderly. Does related work as assigned.

POSITION FUNCTIONS: (Illustrative Only)

Major:

1. Develops and implements the nursing care plan for the patient through planning with the patient, family, personal physician, community agencies, and team members for care which is appropriate.
2. Provides services, treatments, and diagnostic and preventive procedures requiring professional nursing skills.
3. Teaches, supervises, and counsels the patient and family members regarding the nursing care needs and other related problems of the patient at home.
4. Prepares and submits reports and maintains records according to agency policy.
5. Plans and manages caseload to provide nursing services in a defined geographic area.
6. Carries out the provisions of HHS 133.14 Wisconsin Administrative Code.

7. Participates in inservice programs.

Minor:

1. Works with agency personnel and others to promote and provide agency services.
2. Participates in self-appraisal to plan for and carry out continuous self-development.

The listing of major and minor functions is not to be considered an exhaustive list of all duties which may be performed.

ESSENTIAL KNOWLEDGES, SKILLS AND ABILITIES:

1. Considerable knowledge and skill in current nursing practices and procedures.
2. Considerable knowledge of the role of the nurse as team leader.
3. Considerable knowledge of and the ability to use community resources.
4. Ability to utilize supervision to improve professional practice.
5. Ability to communicate effectively both orally and in writing.
6. Ability to establish and maintain effective working relationships with staff and the general public.

DESIRABLE TRAINING AND EXPERIENCE:

1. One year recent work experience in an acute care or home care setting.
2. An equivalent combination of training and experience in nursing.

SPECIAL REQUIREMENTS:

1. A public health nurse, in addition to holding a certificate of registration as a registered professional nurse, shall have one of the following:
 1. A bachelor's degree from a nursing program accredited by the national professional nursing accrediting organization. The program shall include preparation in public health nursing.
 2. A master's degree from a nursing program accredited by the national professional nursing accrediting organization. The program shall include preparation in public health nursing.
 3. A bachelor's degree from a nonaccredited nursing program and preparation in public health nursing in a program accredited by the national professional nursing accrediting organization.

2. Currently licensed in Wisconsin to practice as a registered professional nurse under Chapter 441 Wisconsin Statutes.
3. Vehicle available for travel.
4. Valid driver's license.

7. The Public Health Nurses and the Home Care Professional Nurses are supervised by the Public Health Supervisor and the Home Care Coordinator, respectively, neither of whom have supervisory responsibility over any employees in the Teamsters unit. The Public Health Nurses and Home Care Professional Nurses share a single workplace, which building also houses certain employees in the Teamsters unit.

8. For the period 1986-1988, the County entered into a collective bargaining agreement with General Teamsters Union Local 662, covering the positions noted in Finding of Fact 4. For that same period, the County provided for the wages, hours and conditions of employment for a group of employees described as "Non-bargaining/nonrepresentative Professional Employees - FLSA (Exempt)." Included in the nonrepresented group are the following positions: Family Court Commissioner; Personnel Director; UW-Extension Agriculture Agent; UW-Extension 4-H Agent; Public Health Nurses; UW-Extension Farm Agent; Assistant District Attorney; WIC Nutritionist; UW-Extension Home Economics Agent, and Microfilming Coordinator. Provisions, for the two groups are substantially identical as regards holidays, sick leave, jury duty, retirement, health/medical insurance and longevity. Provisions for the two groups are substantially dissimilar as regards leaves of absence, discipline and discharge, grievances, seniority and posting, termination, hours of work, emergency leave, worker's compensation, mileage and merit designation.

9. The 1988 wages, based on hire/six months/18 months/30 months for the represented employees and the Public Health Nurses, are as follows:

Coordinators	13.14	13.68	14.24	14.78		
Psychiatric SW		12.69		13.51	14.41	15.23
Social Worker III	11.40	12.16	12.97	13.76		
Social Worker II, et.al.		10.63	11.35	12.13	12.90	
Social Worker I		9.44	9.91	10.51	11.32	
Public Health Nurse		11.50	11.96	12.43	12.90	

10. The existing professional employees bargaining unit was the subject of an Association election petition filed July 6, 1988, and was described as an appropriate unit in a stipulation for election executed by the Association, Teamsters and the County by September 16, 1988. Following an election on October 26, 1988, the Commission certified that Teamsters continued to represent the existing professional unit.

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

CONCLUSIONS OF LAW

1. A bargaining unit consisting of "all regular part-time and regular full-time registered nurses employed by Chippewa County, excluding supervisory, confidential and managerial employees, constitutes an appropriate bargaining unit within the meaning of Sec. 111.70(4)(d)2.a., Stats.

2. A question of representation within the meaning of Sec. 111.70(4)(d)3., Stats., currently exists among employes in the bargaining unit described in Conclusion of Law 1.

That 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

IT IS HEREBY DIRECTED that an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within 45 days of the date of this direction, among all regular full-time and regular part-time registered nurses employed by Chippewa County, excluding supervisory, confidential, and managerial employes, who were employed on August 21, 1989 except such employes as may prior to this election quit their employment or be discharged for cause, for the purpose of determining whether a majority of employes in said group desire to be represented by the Labor Association of Wisconsin, Inc., for the purposes of collective bargaining with Chippewa County on questions of wages, hours and conditions of employment, or to be unrepresented.

Given under our hands and seal at the City of Madison, Wisconsin this 21st day of August, 1989.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairman

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner

CHIPPEWA COUNTY

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

POSITIONS OF THE PARTIES

Association

In support of its position, the petitioning Association avers and asserts as follows:

Because the Chippewa County registered nurses are unique professionals who do not share a community of interest with other employes, they should be certified as a separate bargaining unit and allowed to vote to determine if they desire representation by the Association for the purposes of collective bargaining. The nurses should not be included in the existing professional unit of social workers, unified services, and institutions employes.

Testimony from both County and Association witnesses established that the nurses and social workers spend very little time interacting on a daily basis. This lack of interaction is significant in that it is similar to the situation cited by the Commission in determining that Assistant City Attorneys should not be combined with other non-represented professional employes in City of Madison, Dec. No. 23183 (WERC, 1/86).

Further, the duties and skills of the registered nurses, as compared to those of the social workers, are sufficiently different to justify a separate bargaining unit for the nurses. The main thrust of the social workers is in such areas as providing training and support for daily living skills; outreach to assimilate clients back into their community; and provide support and intervention necessary to prevent recurrent hospitalization. Such areas of concentration is different from those of the nurses, whose areas are divided into Public Health and Home Care. The Public Health Nurses are responsible for such things as skilled nursing services; assessing nursing needs; promotion of health and health education; and control of communicable diseases. The Home Health Care Nurses, working under a doctor's jurisdiction and with a greater role in direct health care, are responsible for more critical, technical care of their patients. There is also a significant difference in the education and training requirements between the two groups, which dichotomy further supports separate status for the nurses.

That there may be similarity between the wages, hours and working conditions of the nurses and those of the social workers is not surprising, in that the unilateral imposition of the terms applicable to the non-represented nurses following the negotiations between the County and Teamsters Local 662 made such orchestration by the County easy. Notwithstanding this, the disparate treatment accorded the nurses in terms of wages, compared to employes in the social worker unit, is further evidence of differences between the two groups.

Further, the two groups do not have any common supervision. Despite the County's efforts to confuse the issue of supervision, there is much evidence which will "separate the wheat from the chaff" and clearly establish that the nurses and the social workers have separate and distinct supervision. Even the County's Personnel Director admitted as much on cross-examination.

Testimony also clearly established that the eleven nurses all work out of one building and have a common place of employment separate from that of the social workers.

Moreover, creation of a separate bargaining unit for the eleven

registered nurses will not violate the anti-fragmentation policy set forth in the statutes, in that the community of interest shared by the nurses is sufficiently separate and distinct to outweigh such policy.

Also, the intervention of Teamsters Local 662 into this proceeding, premised on the recognition clause in their 1986-88 collective bargaining agreement with the County, is without merit. Said recognition clause clearly enumerates specific classifications which do not include professional nurses, and there was no testimony at hearing as to any argument, if any, the Teamsters Local was making in asserting coverage of the nurses within this clause. It is also noteworthy that, as recently as a representation election in October, 1988, neither the Teamsters nor the County included the nurses into a stipulated voting group.

Accordingly, because the professional nurses have a community of interest distinct from that of all other professional employes in the County; have duties and skills which do not compare with those of other professional employes; have a higher academic and licensure requirement; have not had control over their wages, hours and working conditions, do not share a common workplace with other professional employes; have had no bargaining history; and were not spoken for during an election less than seven months ago, the Commission should issue a Direction of Election allowing the Chippewa County nurses to form their own collective bargaining unit.

TEAMSTERS

In support of its position, Teamsters aver and assert as follows:

The public health nurses and the home care nurses are properly accreted to the professional unit; a majority of the statutorily-enumerated factors argue strongly for such inclusion, and no factor supports a separate unit for the nurses.

The similarity of wages, hours and conditions of employment is established by the fact that the various positions share the same daily work hours, on-call requirements, vacation, holiday, health insurance and longevity pay provisions, and their pay rates are within the same range. Regarding work place, the nurses and a majority of the Union professionals do share a common work place, and have a common parking lot, lunch room, staff room, and ancillary facilities.

The shared community of interest is shown by their sharing of many of the same clients, leading to interaction on a regular basis concerning individual cases, investigations and referral. Also, both groups perform field work and office work, and have considerable overlap in their duties of referral and interpersonal skills.

As the petitioned-for unit consists of only eleven employes -- and does not even include all the apparent professionals in the Health Division -- there is no doubt that creation of this sought unit would result in undue fragmentation.

The factor of common supervision does not support the petition, inasmuch as the current professional unit already encompasses employes under a number of separate supervisory structures, and there is separate supervision between the Public Health and the Home Care Nurses. Nor does the factor of bargaining history support the petition, as there is no history of such a nurses unit in Chippewa County.

The Association's apparent argument that a separate unit is inappropriate because it involves nurses is contrary to both the anti-fragmentation mandate and Commission precedent. Such precedent has frequently found nurses to be

appropriately included within units of other professionals. Such inclusion has been by election (e.g., City of Cudahy, Dec. No. 19507; Sawyer County, Dec. No. 25681; and Milwaukee Area VTAE District 9, Dec. No. 9736-B) by accretion (e.g., Wisconsin Indianhead VTAE District, Dec. No. 11380) and by merger (School District of Maple, Dec. No. 17463).

Accordingly, the Union asks the Commission to order inclusion of the subject positions into the existing professional unit.

THE COUNTY

In support of its position, the County avers and asserts as follows:

"Chippewa County does not take issue with (the) concept of its Public Health Nurses being represented by a Union. The County is neutral as to which union will represent the nurses. It is not conducting inservice programs regarding the advantages or flexibility of not becoming unionized. If the majority of nurses deems it in their interest to be unionized, the County strongly feels such representation should be via the recognized professional unit and that undue fragmentation would result by the creation of another separate union." (emphasis supplied.)

"The County does not object to having all professional employees, including nurses, vote to see which union would represent them."

Based on distinct differences between the duties and skills of the public health nurses and the home care nurses, professional unit employees perhaps have more of a community of interest and meet more WERC unit establishment criteria than do the two groups of nurses compared to each other.

The community of interest between the nurses and the social workers is shown by their common staffing and client service; common travel; common problem solving; similarity of work schedules, and daily contact and coordination. Cases cited include City of Cudahy, Dec. No. 21887; City of Seymour, Dec. No. 25201; Council 48 v. WERC, Dec. No. 18996-C; Juneau County, Dec. No. 18728-A; Wisconsin Indianhead VTAE District, Dec. No. 11380-B; Grant County, Dec. No. 21063; City of Cudahy, Dec. No. 19507.

Several current union members share the same building and facilities with all of the nurses in question.

The similarity of wages, hours and working conditions is shown by the fact that the labor agreements covering the nurse and the professional union are very similar and identical regarding all or part of 23 separate sections. Also, the nurses salary range is within that of the professional unit, and at time actually the same salary. This also establishes that, via bargaining history, the contracts reached for the union unit has been extended to the nurses.

The concept of common supervision is not a factor in WERC established units in Chippewa County, in that employes in different supervisory structures are still in the same union. A review of all WERC decisions regarding unit establishment reveals that while the concept of common supervision is sometimes quoted as a basis for a new unit, along with other criteria, it is much more often the "exception" as many more units were established without common supervisors than with common supervisors.

Unquestionably, the current professional unit can fulfill the interests

and desires of the nurses. To create a separate new mini-union would be added (and unnecessary) taxpayer expense for per diem expenses for board members during negotiations. The risk of additional costs (legal, etc.) associated with the increased number of interest arbitrations (always a potential) is a factor. Personnel costs related to creation of new contracts, interpretation thereof, added computer programming (added codes, etc.), more comparability issues, etc., all add to the County's argument that to create a new separate nurse's union is "undue fragmentation."

In its reply brief, the petitioning Association posits the following:

The Chippewa County nurses, with duties and skills not comparable to those of other professional employes, have a community of interest sufficiently distinct to justify a separate bargaining unit.

Because the County has had total control over the benefit levels accorded the nurses, the Commission should give no weight to any similarity between the wages, hours and conditions of employment of the nurses and the represented professional unit. It is only logical that the County would provide to the unrepresented employes benefits similar to those received by the represented professional employes.

The eleven subject positions were, by stipulation between the County and the Teamsters, excluded from an election vote in October, 1988. The Teamsters won that election, but did not receive a majority vote of eligible voters (of 20 eligible voters, 15 votes were cast, nine of them for the Teamsters.) The inclusion of these eleven nurses would increase by more than one-half the current professional unit membership, and would definitely call into question desired representation. Accordingly, if the Commission includes the nurses within the professional unit, the Commission should also order a representation election to determine the new unit's choice of representation.

Regarding the attempt by the County to supplement the record, great exception is taken. Some of the material in the County's brief was explicitly ruled inadmissible at hearing, and some was never offered. The hearing should not be reopened to allow the County to reintroduce this evidence. Rather, the Commission should disregard all material not placed on the record at hearing, due to its lack of foundation and authenticity.

In its reply brief, the County further posits the following:

The County and the Union have cited numerous examples of WERC rulings where nurses were placed in multi-disciplinary professional unions; the Association provided no testimony, and cited no decisions, establishing Public Health Nurses as a separate union.

The Association is erroneous and misleading in characterizing several different types of professional positions as "Professional Social Workers", and in attempting to have the arbitrator believe that all the professionals in the Public Health Department are nurses.

Further major misstatements and errors of fact are the Association's statement that nurses have more qualifications than other County professionals, and that Bachelor or Master degrees are required of Home Care Nurses. New evidence not presented at the hearing should be disallowed and disregarded.

The Association argument that the County "orchestrated" an agreement that "just happens to parallel" Local 662, is not based on the facts. The County for many, many years had a nurses union and could have "orchestrated" parallel salary and fringe benefits to this union---but elected to pay Public Health Nurses considerably more. The contract that includes Public Health Nurses exceeds some of the benefits of Local 662.

The "disparate treatment" argument that non-degreed nurses and B.S. nurses should be paid more than Master's degree social workers, etc., is without foundation or justification.

According to the County, "misleading" is the best term for the Association's assertion that the nurses have a common workplace apart from the social workers. The record is clear that a few social workers are in an adjacent building, but many professional union employees are in the same building and share many common facilities.

The County further states that the Association statements that nurses must achieve a higher academic level than their other professional counterparts within the County and they all work out of one office which they do not share are false, unsubstantiated, and contradicted by the record.

If either the nurses or the Association had indicated the nurses had an interest in union affiliation, the County claims it would not have objected to allowing the nurses to participate in the representation election of October, 1988. To take a position that the nurses should be in a separate L.A.W. unit because the Teamsters and the County failed to put them on the eligibility list is without merit. In the same vein, adds the County, since L.A.W. is the raiding unit causing the election, why didn't L.A.W. seek a voting option for the nurses?

The County and the Union have both demonstrated a clear rationale for including the nurses in the Professional Union, summarizes the County. But the Association has failed to demonstrate in any way that the nurses would be subordinated by the interests of the professional bargaining group. Therefore, the County reasserts, undue fragmentation would occur by creating an additional "mini-union" in Chippewa County.

In its reply brief, the Teamsters further posit as follows:

The County is correct that the anti-fragmentation policy mandates inclusion of the subject positions within the existing unit; but the County is incorrect in asserting that there should be an election in the overall unit. Not only is there no pending question regarding representation in the existing unit, which only recently voted to reaffirm Local 662's representation. Moreover, there is a petition for interest-arbitration currently pending, making inappropriate the raising of a question of representation.

The petitioner, erroneously asserting separate appropriate unit status for the subject positions, misstates the record in several regards. Contrary to the Association's contention, the subject positions and the members of the existing unit do share a common workplace, they do interact frequently, they do have similar educational requirements, and they do share a common range of salary and benefits. The Association's reliance on City of Madison is not on point, and that, unlike the present case, the differences between the City attorneys and other City workers regarding salary, skills and working conditions were substantial.

The WERC has on numerous occasions found nurses to be appropriately included in the same bargaining unit as social workers and other professionals.

It should maintain that policy, and, recognizing the shared community of interest between the subject positions and the members of the existing unit, order the inclusion of the County nurses within the existing professional unit.

DISCUSSION

The Association asks that we direct an election in a professional unit of all registered nurses employed by the County. Teamsters and the County urge us

to reject this request and instead to include the 11 employees in question in the existing professional unit of 20 employees represented by Teamsters.

Section 111.70(4)(d)2.a. Stats., specifies that upon receipt of an election petition, we are to:

determine the appropriate bargaining unit for the purpose of collective bargaining and shall whenever possible avoid fragmentation by maintaining as few units as practicable in keeping with the size of the total municipal work force. In making such a determination, the commission may decide whether, in a particular case, the employees in the same or several departments, divisions, institutions, crafts, professions or other occupational groupings constitute a unit. (emphasis added)

As is evident from the statutory language quoted above, the Legislature has recognized that a unit consisting of all employees in a particular profession may, in a particular case, be an appropriate unit for collective bargaining.

When implementing the directive in Sec. 111.70(4)(d)2.a. Stats., that we determine whether the unit in which an election is sought is "appropriate," we consider the following factors:

1. Whether the employee, in the unit sought share a "community of interest" distinct from that of other employees.
2. The duties and skills of employees in the unit sought as compared with the duties of other employees.
3. The similarity of wages, hours and working conditions of employees in the unit sought as compared to wages, hours and working conditions of other employees.
4. Whether the employees in the unit sought have separate or common supervision with all other employees.
5. Whether the employees in the unit sought have a common workplace with the employees in said desired unit or whether they share a workplace with other employees.
6. Whether the unit sought will result in undue fragmentation of bargaining units.
7. Bargaining history. 2/

Initially, we conclude that nurses, as members of a single profession, have an inherent and substantial community of interest simply by virtue of their similar educational and training backgrounds, shared career aspirations, and common purpose of providing health care.

The record also establishes that although the Public Health Nurses and

2/ Arrowhead United Teachers v. WERC, 116 Wis.2d 580, (1984).

the Home Care Nurses have different specific duties, the general function of all the nurses and the skills they all exercise are focused upon the provision of health care to County residents. While Teamsters and the County correctly note that the Nurses do have occasional interaction with other professionals and departments when carrying out their responsibilities, it is clear to us that there is a shared commonality of duties and skills among the nurses which far exceeds whatever overlap may exist with other County employes.

The nurses share precisely the same wages, hours and conditions of employment under the County's compensation plan for unrepresented employes. Thus, while it is again true, as Teamsters and the County argue, that there are some similarities in this regard between the nurses and employes in the existing Teamster unit, it is clear that there is a greater commonality among the nurses themselves.

As to the factor of supervision, the nurses are supervised by individuals who have no supervisory responsibilities over employes in the Teamsters unit. Although the County may be correct that employes in all of the existing bargaining units have little common supervision, the issue for us is whether the nurses have "common" supervision with employes in the Teamster unit or have "Separate" supervision from the Teamster employes. Clearly, this factor, as with those previously discussed, favors finding that the unit sought by L.A.W. is an appropriate one.

Looking at commonality of workplace, the record establishes that the nurses share a single workplace with a portion of the unit represented by Teamsters.

Turning to the factor of bargaining history, the record establishes that the nurses have always been excluded from the existing Teamsters unit. Clearly then, the factor of bargaining history is strongly supportive of establishment of a separate nurses unit in that such a result would honor the historical exclusion of these employes from the existing professional unit. 3/

The foregoing discussion demonstrates that the unit sought by the Association is an appropriate one unless it were to be concluded that establishment of the unit would result in undue fragmentation. When making this determination, we are cognizant of the unique interests and aspirations of the nurses discussed above as well as the very strong bargaining history evidence of the nurses' exclusion from the existing professional unit. On balance, we conclude that it would not constitute undue fragmentation of bargaining units to direct the election sought by the Association in the nurses unit. Thus, we have done so. 4/

Dated at Madison, Wisconsin this 21st day of August, 1989.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairman

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/

3/ City of Elkhorn Dec. No. 24790 (WERC, 8/87). City of Watertown, Dec. No. 24798 (WERC, 8/87).

4/ Teamsters advised the Commission that they did not want to be included in the ballot in the event that the Commission directed the election sought by the Association.

William K. Strycker, Commissioner