

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

UNIVERSITY OF WISCONSIN HOSPITAL AND CLINICS AUTHORITY

Requesting a Declaratory Ruling Pursuant to Section 227.41,
Wis. Stats., Involving a Dispute Between Petitioner and

**THE 1199W/UNITED PROFESSIONALS FOR QUALITY HEALTH CARE,
SERVICE EMPLOYEES INTERNATIONAL UNION**

Case 9
No. 58475
DR-369

Decision No. 29889

Appearances:

Cullen, Weston, Pines & Bach, by **Attorney Gordon E. McQuillen**, 122 West Washington Avenue, Suite 900, Madison, Wisconsin 53703, appearing on behalf of the 1199W/United Professionals for Quality Health Care, Service Employees International Union.

von Briesen, Purtell & Roper, by **Attorney Steven B. Rynecki**, 411 East Wisconsin Avenue, Suite 700, Milwaukee, Wisconsin 53202-4470, appearing on behalf of University of Wisconsin Hospital & Clinics Authority.

ORDER DISMISSING PETITION FOR DECLARATORY RULING

On January 24, 2000, the University of Wisconsin Hospital and Clinics Authority filed a petition with the Wisconsin Employment Relations Commission pursuant to Sec. 227.41, Stats., seeking a declaratory ruling as to certain issues arising from a demand by 1199W/United Professionals for Quality Health Care, SEIU that a grievance be arbitrated.

On February 16, 2000, 1199W filed a response asking that the petition be dismissed.

The Authority filed additional argument on March 8, 2000.

No. 29889

Having considered the matter and concluded that it is not appropriate to exercise jurisdiction over the petition, the Commission makes and issues the following

ORDER

The petition for declaratory ruling is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin this 9th day of May, 2000.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner

University of Wisconsin Hospital and Clinics Authority

MEMORANDUM ACCOMPANYING
ORDER DISMISSING PETITION FOR DECLARATORY RULING

Section 227.41, Stats., provides, in pertinent part, that:

Any agency may, on petition by any interested person, issue a declaratory ruling with respect to the applicability to any person, property or state of facts of any rule or statute enforced by it.

When determining whether to utilize its limited resources by exercising its discretionary jurisdiction over such petitions, the Commission considers the guidance, if any, which a decision might provide to parties around the State of Wisconsin as to matters of general applicability and the degree to which exercise of jurisdiction will denigrate other procedures available to the parties for resolution of their dispute. ASHWAUBENON SCHOOLS, DEC. NO. 14474-A (WERC, 10/77); MILWAUKEE BOARD OF SCHOOL DIRECTORS, DEC. NO. 17505 – 17508 (WERC, 12/79); GREEN LAKE COUNTY, DECISION NO. 22820 (WERC, 8/85); OAKFIELD SCHOOL DISTRICT (WERC, 11/87) UNPUBLISHED; CITY OF MILWAUKEE, DEC. NO. 27111 (WERC, 12/91). Where the focal point of the dispute is how a particular provision of a collective bargaining agreement should be interpreted, and where there are alternative contractual/statutory mechanisms for resolution of a dispute, the Commission has declined to assert its jurisdiction over such petitions. MILWAUKEE BOARD OF SCHOOL DIRECTORS, SUPRA; GREEN LAKE COUNTY, SUPRA; OAKFIELD SCHOOL DISTRICT, SUPRA.

Here, the interpretation of a collective bargaining agreement is at the core of the dispute. 1199W asserts the Authority has contractually agreed to bargain over per diem nurses and the Authority denies same. The parties have a contractually established grievance arbitration procedure for resolving alleged violations of contract.

Given the foregoing, if we were to assert jurisdiction over this matter, we would not be providing guidance as to legal matters of general state-wide applicability and we would be

denigrating the contractual procedure available for resolution of the contractual dispute. Thus, we do not assert jurisdiction over the petition.

Dated at Madison, Wisconsin this 9th day of May, 2000.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

B. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner