

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
WISCONSIN COUNCIL 40, AFSCME, AFL-CIO
Involving Certain Employees of
WOOD COUNTY

Case 7
No. 50548
ME(u/c)-690

Decision No. 9140-F

In the Matter of the Petition of
WISCONSIN COUNCIL 40, AFSCME, AFL-CIO
Involving Certain Employees of
WOOD COUNTY

Case 84
No. 50549
ME-691

Decision No. 28382-C

In the Matter of the Petition of
TEAMSTERS GENERAL UNION LOCAL 662
Involving Certain Employees of
WOOD COUNTY

Case 151
No. 61665
ME-3896

Decision No. 30584-B

Dec. No. 9140-F
Dec. No. 28382-C
Dec. No. 30584-B

Appearances:

Yingtao Ho, Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., Attorneys at Law, 1555 North Rivercenter Drive, Suite 202, P.O. Box 12993, Milwaukee, Wisconsin 53212, appearing on behalf of Teamsters General Union Local 662.

Michael J. Wilson, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 8033 Excelsior Drive, Suite B, Madison, Wisconsin 53717-1903, appearing on behalf of Wisconsin Council 40, AFSCME, AFL-CIO.

Dean R. Dietrich and Bryan Kleinmaier, Ruder, Ware & Michler, L.L.S.C., Attorneys at Law, 500 Third Street, Suite 700, P.O. Box 8050, Wausau, Wisconsin 54402-8050, appearing on behalf of Wood County.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

The procedural posture of these cases as of August 29, 2003, is set forth in WOOD COUNTY, DEC. NOS. 9140-E, 28382-B, 30584-A (WERC, 8/03). With the consent of the parties, hearing on the consolidated cases was conducted in Marshfield, Wisconsin on January 14 and 15 of 2004. The parties submitted briefs and a reply brief or a waiver of a reply brief by July 1, 2004.

Having reviewed the record and being fully advised in the premises, the Commission makes and issues the following:

FINDINGS OF FACT

1. Wood County, herein the County, is a municipal employer which maintains its principal offices at P.O. Box 8095, Wisconsin Rapids, Wisconsin 54494-8095.
2. Teamsters General Union, Local 662, herein Teamsters, is a labor organization which maintains its principal offices at P.O. Box 86, Eau Claire, Wisconsin 54702-0086.
3. Wisconsin Council 40, AFSCME, AFL-CIO, herein AFSCME, is a labor organization which maintains its principal offices at 8033 Excelsior Drive, Suite B, Madison, Wisconsin 53717-1903.
4. Wisconsin Federation of Nurses & Health Professionals, AFT, AFL-CIO, herein WFNHP, is a labor organization which maintains its principal offices at 9620 West Greenfield Avenue, West Allis, Wisconsin 53214-2645.

5. The County provides services through a number of facilities located throughout Wood County, including its courthouse and annexes in Wisconsin Rapids. The Unified Services Department, herein USD, is the County's largest department, employing roughly 300 employees. The County formed USD in response to Chapter 51 of the Wisconsin Statutes, through which the State specified county responsibility for individuals with developmental disabilities, individuals with mental health needs and individuals with alcohol and drug abuse issues. To carry out this responsibility, USD contracts with local service providers and directly provides certain services. USD is administratively structured into institutional and community based programs. These divisions manifest functional and funding differences. The institutional programs are hospital-like services, funded through insurance as well as state and federal medical assistance funds. Community based programs tend to be rehabilitative in emphasis, with funds flowing from waiver dollars, block grants and other sources not typically applied to medical services.

The institutional programs center on the County's Norwood Health Center, herein Norwood, which is located in Marshfield, roughly thirty-seven miles from the courthouse in Wisconsin Rapids. Rhonda Kozik is Norwood's Administrator. The community based programs, including its group homes, report to Kathy Roetter, USD's Deputy Director. Roetter and Kozik report directly to David Bast, the Director of USD, and are part of USD's Administrative Team, which includes each of them as well as the USD's Accounting Manager, Services Coordinator and Office Manager. The Administrative Team seeks to coordinate the institutional and community based services provided by USD.

At the broadest level, USD community services programs seek to integrate individuals with developmental disabilities, individuals with mental health needs and individuals with alcohol and drug abuse issues into the community. USD institutional services address the same target population, but deal with individuals whose problems are sufficiently acute that they must be housed, temporarily or permanently, in an institution with limited, if any, contact with the community.

6. Norwood consists of three units: Admissions; Crossroads and Stepping Stones. The Admissions unit is licensed as a twenty-two bed specialty hospital, providing acute inpatient psychiatric care, including emergency detained alcohol and drug clients. The Crossroads unit is a sixteen bed licensed skilled care nursing facility for the chronically mentally ill. Each patient has a guardian. The Stepping Stones Unit is licensed as a sixteen bed, intermediate care facility for developmentally disabled patients.

As part of its community services programs, USD operates four Community Based Residential Facilities: the Airport Avenue Group Home; the Apple Avenue Group Home; the Peach Avenue Group Home; and the Adams Avenue Group Home. The Airport Avenue Group Home is located in Wisconsin Rapids and serves clients with alcohol and drug abuse issues. The other three group homes are located in Marshfield and serve clients with

developmental disabilities. The Apple Avenue Group Home was the County's first facility for integrating the developmentally disabled into the community, and traces its roots to a State decision to close the Northern Center, a facility which housed some County residents. The County, under its Chapter 51 responsibilities, determined to establish a facility to integrate the residents into the community. Because of the expertise developed in its Stepping Stones unit, the County had Norwood create the six-bed Apple Group Home, which opened roughly four years ago. Within the past two years, the County added the Adams and Peach Avenue group homes. The County, on January 1, 2004, administratively moved all three group homes to report to Roetter. The Airport Avenue Group Home opened in December of 2001. It replaced the Entrance and Exit Program which, until its termination, was housed in the Edgewater Haven Nursing Home. The Airport Avenue Group Home was designed to emphasize the integration of individuals with alcohol and drug abuse issues into the community, rather than to emphasize the custodial aspect of that care.

7. Case 7, No. 50548, ME(u/c)-690, herein Case 7, involves three unit clarification petitions, two filed by AFSCME and one by the County. On April 16, 2003, AFSCME filed a petition seeking to include six Licensed Practical Nurse (LPN) positions at Norwood in a non-professional bargaining unit represented by AFSCME Local 1751. On June 9, 2003, AFSCME filed a petition seeking to include the following positions in the non-professional bargaining unit represented by AFSCME Local 1751:

GROUP HOME TECHNICIANS AT PEACH AVENUE GROUP HOME,
ABOUT 5 FULL-TIME AND 4 PART-TIME, AND ADAMS AVENUE
GROUP HOME, ABOUT 5 FULL-TIME AND 4 PART-TIME,
MARSHFIELD.

On June 11, 2003, the County filed a petition seeking to include the following positions in a non-professional unit of County Courthouse and Annex employees represented by AFSCME Local 2486:

All CRP Technicians and Group Home Technicians employed at the Peach Avenue Group Home, the Adams Avenue Group Home, the Apple Avenue Group Home, and the Community Resource Program.

The County contends that all of the non-professional employees identified in the petitions, whether currently represented by AFSCME Local 1751 or not represented, should be accreted to the non-professional bargaining unit represented by AFSCME Local 2486. AFSCME takes the position that all of the non-professional employees identified in the petitions should be accreted to the non-professional bargaining unit represented by AFSCME Local 1751. The Teamsters take no position on the issues posed by Case 7 standing alone.

8. Case 84, No. 50549, ME(u/c)-691, herein Case 84, involves a unit clarification petition filed by AFSCME on April 15, 2002 to include the following professional positions at Norwood in a bargaining unit of County Courthouse and Annex professional employees represented by AFSCME Local 2486:

AODA COUNSELOR (1), SOCIAL WORKERS (5), QMRP (1), &
VOCATIONAL ACTIVITY COORDINATOR AT NORWOOD, CSW
CROSSROADS & GROUP HOMES (1)

At the January, 2004 hearing, AFSCME and the County stipulated that the Social Services Supervisor was a supervisory position and stipulated that the petition questioned the unit status of the following positions, which are occupied by municipal employees: Substance Abuse (AODA) Counselor; Vocational and Activity Coordinator; four Social Worker positions; and two Qualified Mental Retardation Professional positions. The County contends that these eight positions should be included in a unit of professional employees employed at Norwood, which would be subject to a representation election including the right to choose no representation. AFSCME contends that these eight positions should be accreted to the AFSCME Local 2486 (Professional) unit, without a representation election. Teamsters take no position on the issues posed by Case 84 standing alone.

9. Case 151, No. 61665, ME-3896, herein Case 151, involves a petition for election filed by the Teamsters on October 3, 2002 that seeks an election in the following unit:

All regular full time, regular part time and casual R.N. and LPN employees excluding supervisory, managerial and all other employees.

The petition states the "Approximate number of employees in the claimed unit" as "17". As of the January, 2004 hearing, the County employed at Norwood ten full-time RNs and four full-time LPNs. At the January, 2004 hearing the Teamsters amended the unit description to exclude casual employees from the unit. The County contends that there are six casual RN and LPN positions at Norwood: Staff RN AM/PM Admissions (Mark Duda); Admissions LPN AM/PM Float (Kelly Walter); Crossroads Staff RN (Donna Drexler); two Crossroads LPN Float positions (Jonetta Wolfe and Lana Ertl); and one Staff RN Float Stepping Stones (Brenda Schesel). The Teamsters and AFSCME contend that these positions are occupied by regular, part-time employees.

The County contends that the RN Shift Supervisor, RN Staff Nurse and LPN Staff Nurse positions are supervisory. The Teamsters and AFSCME contend that municipal employees occupy these positions.

The Teamsters request that municipal employees in RN and LPN positions below the level of Head Nurse at Norwood be afforded an election to determine whether or not they wish

to be represented, and whether the professional RN employees wish to include the non-professional LPNs in a single bargaining unit of nurses. The County contends that if any professional nursing employees are found to be municipal employees, they should be granted the right to vote in the election it supports regarding the professional employees subject to Case 84. AFSCME contends that professional nursing employees found to be municipal employees should be accreted, without a representation election, to the professional unit represented by Local 2486. Both AFSCME and the Teamsters seek to be on the ballot of any professional unit found appropriate by the Commission and granted a representation election.

10. Teamsters and WFNHP did not appear as parties at a hearing on Case 84 conducted by Examiner Stuart Levitan on July 2, 2002. Hearing on Case 151 was originally set for February 19, 2003, before Examiner Richard McLaughlin. Notice of that hearing was issued to Teamsters, WFNHP and the County. Examiner McLaughlin did not take evidence on that date, because of his view that the absence of notice to AFSCME was “procedurally fatal.” In a letter to the representatives of Teamsters, AFSCME, WFNHP and the County dated February 20, 2003, Examiner McLaughlin served a copy of Teamsters’ election petition on AFSCME, noted the potential relevance of a decision in Case 84 on the issues posed by Case 151, and sought the parties’ positions. The County responded with a Motion to Hold Matter in Abeyance, filed on February 24, 2003. WFNHP President Candice Owley responded to the February 20, 2003 letter by filing, on February 26, 2003, a letter stating:

. . . Many months ago I approached Mr. Reed, the personnel director of Wood County regarding accreting the RNs from Norwood to our bargaining unit. From discussions with Mr. Reed it appeared that the RNs were supervisory and therefore excluded from representation unless Mr. Reed wanted to voluntarily agree to their inclusion which he did not. Because we understood these nurses to be supervisors we did not indicate an interest in the current representation matter. We had not sought representation rights for the LPNs because we understood AFSCME to already have those rights.

. . . If following your review you determine that the RNs are in fact not supervisors, than I would suggest that the already existing unit of non-supervisory RNs represented by WFNHP is the appropriate unit for these positions and that they be accreted to that existing RN unit. As I indicated before WFNHP has no interest in the LPN positions because if they are not supervisors than we believe they are already part of the non-supervisory unit represented by AFSCME.

. . . I do not feel I need to be present at any future hearings that you have on this matter but would like to be kept informed regarding the out come of the case.

In WOOD COUNTY, DEC. Nos. 28382-A, 30584 (WERC, 3/03), the Commission issued an Order holding Case 84 in abeyance “pending completion of hearing . . . and submission of written argument in Case 151.” The Commission made “the record in Case 84 . . . part of the record in Case 151” and stated “all parties in Case 84 are entitled to be parties in Case 151.” In WOOD COUNTY, DEC. Nos. 9140-E, 28382-B, 30584-A (WERC, 8/03), the Commission issued an Order combining “for purposes of hearing” the petitions for unit clarification filed in Cases 7 and 84 with the election petition filed in Case 151.

11. Norwood applies an interdisciplinary approach to patient care in each of its units. Nurses, social workers and technicians team with doctors to coordinate patient care. On the Admissions Unit, social work and nursing staff work as a team and each morning perform a Total Patient Review on all unit patients. This involves assessing care needs and developing a care plan to move the patient toward discharge. On the Stepping Stones and Crossroads Units, the social work staff and nurses and Vocational Activity Coordinator work closely to develop and implement a care plan for the residents, particularly regarding admissions and discharges. The latter two decisions are the end points of the process defining anticipated time necessary to make the patient sufficiently stable to be returned to home, to a residential care facility or to a lower level of institutional confinement. For those patients who are too acute to be released the coordination is designed to promote the highest level of independence possible.

Each unit of Norwood is licensed or certified, depending on the level of care and nature of confinement, which can include involuntary confinement. As a function of licensure or certification, each unit of Norwood is subject to State and Federal regulation including staffing levels by number and by position type. Discharge from Norwood to a group home is possible, but not common. No Norwood resident transferred to a group home in the year preceding January 14, 2004.

12. The four group homes are certified and licensed by the State as Community Based Residential Facilities under Chapter 83 of the administrative rules of the Department of Health and Family Services. Each is designed to incorporate clients into the community as fully as possible. Each is subject to less stringent State and Federal regulation than Norwood. Each attempts to create as residential an environment as possible, and each has a strong vocational emphasis.

13. The most recent position description for Registered Nurse Shift Supervisor states the purpose of the position is “to supervise, coordinate and provide nursing care”. It adds the following:

Essential Duties and Responsibilities

...

- Utilizes the nursing process of assessment, planning, implementation and evaluation.
- Investigates conditions/incidents requiring immediate interventions and takes appropriate action.
- Performs skilled nursing functions as indicated by physician's orders such as administration of medications, changes dressings, venipunctures, etc.
- Transcribes physicians' orders and informs nursing or treatment team members.
- Receives and acts on complaints. Determines notification of physicians and/or administrative staff for emergency orders.
- Acts as administrative charge for entire facility in absence of Director of Nursing, Administrator or Client Services Manager.
- Directs and supervises patient care provided by all shift nursing personnel. Complies with nursing documentation guidelines and procedures. Monitors documents and observes care to ensure compliance with standards and requirements.
- Informs and instructs patients regarding medications, treatment and care.
- Schedules and assigns shift nursing personnel for adequate patient care.
- Provides consultation and referral information to counties with contract with facility, psychologists, psychiatrists, law enforcement, community treatment teams, crisis intervention teams, hospital medical staff and prospective patients and families for potential admission of person to Norwood Health Center.
- Screens prospective admissions. Ensures admissions comply with procedure and required forms are complete.
- Reviews clinical records and staff documentation's completed by subordinates for completeness and accuracy.
- Evaluates subordinates' work performance. Responds to questions, concerns and problems from staff. Provides technical and informational assistance as needed. Conducts individual conferences with unit staff members.
- Educates staff on mental illness, patient rights, nursing legal required and quality assurance (improvement) standards. Conducts in-service sessions and initiates on-the-job learning opportunities. Orients new staff.

- Monitors unit and facility safety. Conducts routine safety inspections.
- May gather, analyze, communicate, develop and present data regarding quality assurance (improvement).
- Participates in facility committees regarding nursing care. Attends and participates in continuing educational seminars, conferences, workshops, etc. Updates education materials, workbooks, policies and procedures.
- Writes treatment plans for patients and explains plans to patient and their families.

Additional Tasks and Responsibilities

While the following tasks are necessary for the work of the unit, they are not an essential part of the purpose of this classification and may also be performed by other unit members.

- Assists patient with feeding, toileting, ambulating, etc.
- Records meal consumption, outputs and restraint application.
- Takes and records patients vital signs. Checks patient's comfort.
- Attends and participates in residents' group activities.
- Makes beds and cleans rooms.
- Photocopies forms.
- Conducts census.
- Obtains and orders supplies, forms and materials for nursing care.
- Assists in subduing and/or restraining agitated/violent patients.

Minimum Training and Experience Required to Perform Essential Job Functions

Bachelor's degree or accredited nursing school degree, three years registered nursing experience with one year supervisory experience preferably dealing with mentally ill or developmentally disabled persons, or any combination of education and experience that provides equivalent knowledge, skills and abilities. Wisconsin licensed Registered Nurse required.

The position description for Staff RN states the purpose of the position is "to evaluate chronically mentally ill or developmentally disabled patients' physical and mental status, supervise psychiatric technicians, obtain and implement physician's orders, and notify appropriate persons regarding patient change in condition." It also states:

Essential Duties and Responsibilities

- Utilizes the nursing process of assessment, planning, implementing and evaluating.
- Evaluates patients for response to treatments and medications. Monitors patient vital signs. Reports change in status to physician. Obtains and implements physician's orders.
- Supervises work performance of subordinate nursing staff for proper technique and use of equipment, materials and supplies. Review subordinates' chart recordings for accuracy. Prepares written evaluations. Conducts staff in-service and new staff orientations.
- Maintains complete and accurate patient/resident charts for treatments, medications, etc.
- Administers oral medications, intramuscular and intravenous injections, range of motion exercises, catheterizations, enemas and other treatments.
- Prepares and implements patient/resident care plans.
- Converses with patients to assure they are comfortable. Explains recovery process, therapies, treatments, medications and changes in same. Answers resident's request for assistance.
- Answers questions and complaints from family members.
- Reassures and provides emotional support to residents.
- Accompanies physicians during rounds.
- Respond to resident/patient emergencies including critical illness, fire alarms, etc. Evaluates situations and takes appropriate action.
- Attends and participates staff meetings, in-service and continuing education.
- Orders medications, supplies and materials.

Additional Tasks and Responsibilities

While the following tasks are necessary for the work of the unit, they are not an essential part of the purpose of this classification and may also be performed by other unit members.

- Monitors unit for safety hazards
- Assists residents in eating, toileting, ambulating, repositioning and other daily living tasks. Answers patient calls for assistance.
- Notifies families regarding patient needs for personal items such as clothing, glasses, etc.
- Arranges transportation for patients.
- Distributes meals and snacks.

- Picks up residents rooms.
- Answers telephone.

Minimum Training and Experience Required to Perform Essential Job Functions

Associate degree in Nursing, one to two years nursing experience preferably working with chronically mentally ill or developmentally disabled persons, or any combination of education and experience that provides equivalent knowledge, skills and abilities. Wisconsin Registered Nurse license required.

The position description for LPN states the purpose of the position is “to perform . . . nursing service care and treatment to chronically mentally ill and developmentally disabled residents according to physicians orders and established nursing practices, rules and regulations. It also states:

Essential Duties and Responsibilities

- Sets up, administers, monitors and charts oral and intramuscular medications, catheterizations, enemas, venipuncture and other treatments. Performs Takes and charts residents’ blood pressure, temperature, blood sugar and blood pressure.
- Observes residents for changes in physical and/or emotional condition. Assesses crisis situations and takes appropriate action. Informs supervising Registered Nurse. Charts observations..
- Takes and records physician’s orders. Notifies all nursing and treatment team members such as pharmacists, technicians and other nursing shift personnel regarding changes.
- Supervises the work of psychiatric technicians.
- Reassures and provides emotional support to residents. Converses with residents to assure they are comfortable, explains therapies, treatments, medications and changes in same. Answers resident’s requests for assistance.
- Ensures that safety and security standards are complied with.
- Charts nutritional and fluid intake, bowel movements, fluid output, and other resident activities such as leaving the facility.
- Assists in maintaining supplies and medication inventories.
- Maintains knowledge of nursing principles, methods and standards, and health care, sanitation, hygiene and medical and psychiatric treatment.

The LPN position description does not contain an “Additional Tasks” or “Minimum Training” section.

Direct care not requiring a nursing license is provided for Norwood residents by Developmental Disabilities or Psychiatric Technicians. All Norwood Technician positions must be filled by a State-certified nursing assistant. An LPN license can be obtained by passing a state test after a one-year post secondary specialized course of instruction.

The position description for Norwood Substance Abuse (AODA) Counselor states the purpose of the position is to provide “assessment services and individual, group, and family alcohol and other drug abuse (AODA) counseling services (and) . . . (p)rovide consultation and education services to patients and staff of the Psychiatric Hospital Unit at Norwood Health Center.” The position description adds the following:

A. Essential Duties and Responsibilities

1. Conduct assessments utilizing appropriate assessment instruments and counseling techniques. This includes application of Uniform Placement Criteria Provide a written report of findings and recommendations.
Standard: Approximately 25% of this position’s time will be devoted to provision of direct client service in this responsibility area. . . .
2. Provide consultation prior to discharge to each patient who has a diagnosis pertaining to substance abuse, per HFS 75.07.
Standard: Approximately 25% of this position’s time will be devoted to provision of direct client services in this area. . . .
3. Act as a member of the Treatment Team by participating in the development and modification of the treatment plans, including detoxification and discharge plans, for patients who have diagnoses pertaining to substance abuse.
Standard: Approximately 15% of this position’s time will be devoted to this area. . . .
4. Maintain clinical records in a timely manner that document the assessment of AODA related problems.
Standard: Approximately 10% of this position’s time will be devoted to this area. . . .
5. Provide individual, group, family and couples counseling and education to clients with diagnoses pertaining to substance abuse.
Standard: Approximately 25% of this position’s time will be devoted to this area. . . .
6. Responsible to know and practice the Safety policies of the County. Perform all job tasks in a safe and prescribed manner.

B. OTHER JOB DUTIES

1. Provide consultation services to other agencies as time permits. Provide educational services as time permits.
Standard: The counselor will confer with the Client Services Manager in regard to consultation and educational services. . . .
2. Attend all staff meetings and inservice training.
Standard: The counselor will attend meetings and inservices as determined by Norwood policies. . . .

The position description states that the AODA Counselor must have a “Bachelor’s degree in Human Services field and AODA at Level III (CADC), or a minimum of 6 years direct AODA counseling experience and AODA certification at Level III.”

The position description for the Norwood Qualified Mental Retardation Professional (QMRP) states the purpose of the “position is to develop, provide, monitor, coordinate and assess professional and direct care services for residents with developmental disabilities”, and adds the following:

Essential Duties and Responsibilities

- Plans and schedules weekly treatment team meetings and annual resident staffings. Documents staffings.
- Assist in planning prescreening meetings of referrals and coordinate discharge staffings. Document appropriately.
- Reviews, analyzes, and documents resident treatment status and objectives on a monthly basis. Updates graphs and analyzes resident status data.
- Consults with Program Director regarding program issues.
- Assesses clients’ training needs, and creates training plans. Insures that these plans are carried out consistently.
- Investigates conditions necessitating immediate intervention and takes proper action.
- Observes and monitors staff for appropriateness of care and treatment. Consults with staff to resolve treatment issues and interpret relevant codes and statutes.
- Implements behavior management programs when needed, including physical management of clients.
- Reviews all incident reports and restraint forms. Takes appropriate follow-up actions as needed.
- Writes policies and procedures as assigned by Program Director.
- Maintains knowledge of current treatments and care for persons with developmental disabilities. Reviews professional journals/articles and books.

- Performs utilization reviews for Medicaid recertification.
- Develop and maintain individual Program Plans, including Active Treatment Plans and Behavior Management Programs when assigned by Program Director.
- Participates in and coordinates consultations with consultant staff, including psychiatrist when assessing client medication status, psychologist when assessing client behavioral challenges, speech pathology, occupational therapy, physician services, etc.

Additional Tasks and Responsibilities

While the following tasks are necessary for the work of the unit, they are not an essential part of the purpose of this position and may also be performed by other unit members.

- Presents staff training
- Investigates complaints on other living units as assigned.
- Performs physical management of residents
- Provides general supervision of residents.

The position description states that a QMRP must have a “Bachelor’s degree in Psychology, Social Work, Physical/Occupational Therapy or related field” and that “one to five years experience working with persons with developmental disabilities is preferred.”

Social Workers work in each of Norwood’s units. The position descriptions covering these employees vary from unit to unit, reflecting the acuity of the population served by the unit. Each position description demands the incumbent hold a Bachelor’s degree. The position covering the Admissions Unit requires a Bachelor’s degree in Human Services, but states a preference for a degree in Social Work. The position description covering the other two units requires a degree in Social Work. Each Social Worker is a member of the treatment team. Social Workers on the Admissions Unit serve as liaison between the physician or psychologist and the other disciplines involved in providing care, and most significantly in determining when and how to discharge a patient from Admissions. They function as case managers. Full-time Social Workers in Admissions devote roughly one-third of their time to direct resident care, one-third to documenting care and care-based issues and one-third on the phone with family members or a variety of service providers collecting and communicating information concerning care-based issues including legal and financial ramifications of providing institutional care. Social Workers in the Stepping Stones Unit spend one-fourth of their work time in client contact and the balance in documenting care and in case management type issues. Case management in the non-Admissions Units involves more custodial care issues, since the Admissions Unit deals with hospital-care issues rather than long-term custodial care.

The position description of the position of Vocational and Activity Center (VAC) Coordinator demands that the incumbent possess a “bachelor’s degree in Human Services or related field”, and states the following overview of the position:

. . . directs the Vocational & Activity Center of the Stepping Stones Program in accordance with applicable codes, policies, and procedures. Provides oversight to/on performance of DD Technicians during times they work on VAC. Helps insure the development, provision, and on-going assessment of services appropriate to the needs of the unit residents. Participates as a member of the unit management team in developing and maintaining the program. Participates as a member as a member of the unit interdisciplinary team in determining and carrying out appropriate individual program plans (IPP’s). Assists with development and implementation of activity programs of FDD and behavior programs.

The position description adds, under the subheading “Supervisory Responsibilities” of the heading “Job Responsibilities”, the following:

- A. Participates in the performance evaluations of DD Hab Techs and DD Techs with supervisor.

Bonnie Christner is the Vocational and Activity Center Coordinator, and is responsible for running the center in the Stepping Stones Unit; for complying with State and Federal laws regarding minimum wages; for supervising the job training program; for supervising the token program which seeks to prepare residents for work; for scheduling the day shift vocational and therapeutic activities of residents and the Technicians who serve them; for attending to necessary paperwork; and for maintaining the payrolls for the programs she oversees. Her work is split roughly equally between resident contact and administrative duties.

The AFSCME Local 2486 (Professional) unit includes the Social Worker position in the Social Services Department. It also includes, from the Unified Services Department, the following positions: Certifiable AODA Counselor; Community Support Program (CSP) Nurse; Mental Health Outpatient Therapist; Mental Health Therapist; and Psychotherapist.

Social Workers in the Department of Social Services provide assessment, counseling and case management in the provision of protective and juvenile court services to juvenile clients and their families. They also provide counseling and treatment to adult physically disabled and elderly clients. The position descriptions for these positions state the following under the heading “**EXPERIENCE, TRAINING, QUALIFICATIONS**”:

A Bachelor’s or Master’s Degree in Social Work or a directly related field is required. Possession of, or eligibility for, Social Work Certification in accordance with Chapter 457.08 is required.

They also demand, as a condition of employment, possession of a valid driver's license, as well as a licensed and insured automobile. One of the Social Worker position descriptions permits "transportation immediately available" to meet this requirement. The position description for AODA Counselor in the Unified Services Department states the "**GENERAL FUNCTION**" of the position thus:

Provide assessment and case management services, individual, group and family alcohol and other drug abuse (AODA) counseling services. Provide consultation and education services to clients, community organizations and agencies. Provide Operating While Intoxicated (OWI) assessments and monitor Driver Safety Plans.

It states the following under the heading "**EXPERIENCE, TRAINING, QUALIFICATIONS**":

Wisconsin AODA certification at Level II (CADC II) or Level III (CADC III) is required and must be maintained in good standing. A Bachelor's Degree is preferred. . . . A valid driver's license is necessary.

The position description for Community Support Program Nurse in the Unified Services Department states the "**GENERAL FUNCTION**" of the position thus:

Responsible for development and implementation of preventive and supportive services to adults diagnosed as chronically mentally ill and their families in North Wood County. Services will be tailored to the unique needs of the individual in such a way as to support and encourage independent functioning and personal initiative while ensuring that basic living needs are being adequately addressed.

It states the following under the heading "**EXPERIENCE, TRAINING, QUALIFICATIONS**":

State of Wisconsin licensure as a nurse is required; bachelors degree from an accredited college is preferred. Experience working with the chronically mentally ill in the community is desirable. . . . Must have a valid driver's license. . . .

The position description for Mental Health Therapist in the Unified Services Department states the "**GENERAL FUNCTION**" of the position thus:

Provide assessments, evaluations, and therapy services to residents of Wood County in the area of Mental Health. Provide education services to community organizations, service agencies, and other appropriate agencies.

It states the following under the heading “**EXPERIENCE, TRAINING, QUALIFICATIONS**”:

A Master’s Degree in a related field is required. Certification as a Master’s Degree Independent Clinical Social Worker, Marriage and Family Therapist, Professional Counselor or Psychologist is required

The position description for Mental Health Outpatient Therapist in the Unified Services Department states the “**GENERAL FUNCTION**” of the position thus:

Conduct intake assessments and individual, group or family therapy in the outpatient mental health/AODA clinic. Provide consultation service to human service agencies.

It states the following under the heading “**EXPERIENCE, TRAINING, QUALIFICATIONS**”:

A Master’s Degree in Social Work is required. Appropriate State licensure or certification is required. . . . Work as part of a multi-disciplinary team . . .

The bargaining unit represented by WFNHP, Local 5037 represents nurses in the positions of Registered Nurse, Public Health Nurse I and Public Health Nurse II.

14. Norwood provides direct resident care through the positions of Psychiatric Technician and Developmental Disabilities Technician. Norwood demands that an employee be a State Certified Nursing Assistant to fill either position. Certification as a Nursing Assistant involves a five to six week course of instruction. The position description for Psychiatric Technician summarizes the position thus:

Responsible for transportation of patients/residents for Clinic appointments and out-of-center activities, as needed. Assists in cleaning routines, provides personal care of patients/residents, routine nursing care procedures, first aid procedures, and patient/resident supervision and activities.

The position description for Developmental Disabilities Technician summarizes the position thus:

Provides direct care and training services to residents of the HSS-134 unit in accordance with the Individualized Program Plan (IPP) for each resident . . . performs assigned support services to program including cleaning, housekeeping, laundering, clothing repair, transportation, etc.

Psychiatric and Developmental Disabilities Technicians are each part of the interdisciplinary team that plans and implements individual care plans for residents and patients. Each position provides one-on-one assistance and care regarding daily needs and life activities, and each is responsible for recognizing behavioral problems and responding in an appropriate fashion.

The position of Group Home Technician provides the direct resident care provided at the County's Apple, Peach and Adams Avenue group homes. When Norwood created the Apple Avenue Group Home, it used the Developmental Disabilities Technician position description as a base to create the position of Group Home Developmental Disabilities Technician, which provided for the daily care of residents. That position description became the basis for the position description of Group Home Technician, which describes the position thus:

Provides direct care and training services to clients of the group home in accordance with the Individualized Service Plan (ISP) for each client and . . . performs assigned support services to program including cleaning, housekeeping, laundering, clothing repair, transportation, etc.

Group Home Technicians need not be State Certified Nursing Assistants, but must possess a valid driver's license.

Group Home Technicians and Psychiatric and Developmental Disabilities Technicians share many tasks, since all of them deal with the daily needs of patients or residents. Those daily needs and the attendant tasks vary on the acuity of the patient or resident. Norwood Technicians deal with clients who are unlikely to be incorporated into the community. Group Home Technicians administer medications to residents. In Norwood, nurses typically dispense medications. The acuity of Norwood residents and patients dictate differences in the daily needs' tasks, including medications. Group Home Technicians are less likely than Norwood based Technicians to be involved in restraint issues or with tube-fed individuals. Beyond this, Group Home Technicians, unlike Norwood based Technicians, are involved in meal preparation and in maintenance tasks such as lawn mowing and snow shoveling that are necessary to a residence, but not at an institution.

The Airport Avenue Group Home provides direct resident care through the position of Residential Aide. Residential Aides are not required to be Certified Nursing Assistants, but must have a valid driver's license. The position description for Residential Aide states its "**GENERAL FUNCTION**" thus:

To be responsible for the physical management of the Community-Based Residential Facility (CBRF) and assist the residents in meeting their physical needs. Keep specific records on each resident and monitor self-administered medications.

The duties of a Residential Aide are very similar to those of a Group Home Technician. Residential Aide work at the Airport Avenue Group Home is typically involved with residents with lower levels of disabilities than those of Technicians at the other group homes.

More vocational supportive services at the group homes and throughout the County are provided through the position of Community Resource Program Technician. Its position description states its “**GENERAL FUNCTION**” thus:

Responsible for training and support of adults with developmental disabilities, who live in the community, to function as normally and independently as possible primarily in their vocational situations, but also in psycho-social, and living situations. Services are tailored uniquely to the needs of the individual.

Employees in this position need not be Certified Nursing Assistants, but must possess a valid driver’s license. They support specific vocational programs that employ individuals directly or provide services necessary to make them employable in the community. Duties range from transport to job training to assistance with personal hygiene.

The non-professional bargaining unit currently represented by AFSCME Local 2486 includes the position of Social Work Assistant. Its position description states its “**GENERAL FUNCTION**” thus:

Provide training and support to adults served by Unified services in North Wood County who live in the community and are involved in community vocational opportunities. Services are tailored uniquely to the needs of the individual to promote and encourage independent vocational functioning and personal initiative.

Employees in this position need not be Certified Nursing Assistants, but must possess a valid driver’s license. The position provides vocational support similar to that provided by the Community Resource Program Technician position.

15. The 2002 pay rates for Norwood nursing and professional employees can be summarized thus:

Position	steps						
	1	2	3	4	5	6	7
Head Nurse	20.19	20.51	20.84	21.17	21.50	21.82	24.84
RN Shift Supervisor	18.57	18.87	19.17	19.48	19.78	20.07	22.86
Staff RN & QMRP	16.95	17.23	17.50	17.78	18.06	18.32	20.87

Social Worker; Vocational & Activity Center Coordinator; AODA Counselor	15.34	15.58	15.83	16.08	16.34	16.58	18.88
LPN	13.72	13.95	14.17	14.39	14.62	14.83	16.89

The labor agreement between the County and WFNHP, Local 5037 in effect for 2002 established a wage schedule for the Registered Nurse position that consisted of seven steps, ranging from a start rate of \$18.63 per hour to a top rate of \$20.03 per hour. The schedule moves a Public Health Nurse I to Public Health Nurse II after one year. The Public Health Nurse II schedule consists of seven steps ranging from a start rate of \$20.02 to a top rate of \$21.51. The labor agreement between the County and AFSCME, Local 2486 (Professional) in effect for 2002 sets a wage grid for Social Worker that consists of grades, steps and classifications. The minimum rate for 2002 was \$16.02 and the maximum rate was \$19.59. That agreement set the following hourly rates for the following positions: AODA Counselor-\$14.72; Community Support Program Nurse-\$17.40; Mental Health Therapist-\$21.08; Mental Health Outpatient Therapist-\$21.08; and Psychotherapist-\$21.08.

Norwood operates on a seven days per week, twenty-four hours per day basis. The workday is broken into three standard shifts: 6:30 a.m. through 3:00 p.m.; 2:45 p.m. through 10:45 p.m.; and 10:45 p.m through 6:45 a.m. Norwood RNs and LPNs work all three shifts. The Social Worker, Vocational & Activity Center Coordinator, AODA Counselor and QMRP typically work a day shift, although their duties often require work at nights or on weekends. Section 15.01 of the labor agreement between the County and AFSCME, Local 2486 (Professional) in effect for through December 31, 2002 states a normal workday for regular full-time employees that runs from 8:00 a.m. through 4:30 p.m.

16. The County paid the Group Home Technician position in 2004 on a seven-step system with a minimum hourly rate of \$9.41 and a maximum rate of \$10.87. The labor agreement between the County and AFSCME, Local 1751 in effect for 2002 sets a wage grid for Psychiatric, Developmental Disabilities and Community Resource Technician that consists of five steps: Start; 480 hours; 2880 Hours; 4800 Hours and 7680 Hours. The hourly wage corresponding to each step is: \$10.68; \$11.65; \$11.94; \$12.20 and \$12.37. The grid for Group Home Technician consists of the same steps and the following hourly rates: \$9.66; \$10.57; \$10.87; \$11.12; and \$11.29. The Local 1751 agreement covers non-professional positions at the Apple Avenue Group Home, dating from a recognition agreement executed by the parties in May of 1998. The labor agreement between the County and AFSCME, Local 2486 (Non-professional) unit in effect for 2002 sets the following hourly rates for Residential Aides at the Airport Avenue Group Home: P.M Residential Aide-\$11.50; Night Residential Aide-\$6.32; and Weekend Residential/Relief Aide-\$10.50. The agreement sets a wage rate for the position of Social Work Assistant that consists of four steps: Start; 6

Months; 12 Months; and 18 Months, and states the following rates: \$12.70; \$13.45; \$14.20; and \$14.94.

The Apple, Adams and Peach Avenue Group Homes operate on a twenty-four hours per day, seven days per week basis. The Airport Avenue Home grants access to the facility seven days per week, but is closed during the hours of 9:30 a.m. through 3:00 p.m. on Monday through Friday to induce residents to work, seek employment or participate in activities to foster recovery. Each of the group homes is a residential setting, to encourage integration into community life.

17. No Norwood nursing or professional position is supervised by a non-Norwood based manager, with the exception of the AODA Counselor. The day-to-day activities of the AODA Counselor at Norwood are supervised by the Client Services Director at Norwood. Due to certification requirements, however, the clinical activities of Norwood's AODA Counselor must be reviewed by an appropriately credentialed USD supervisor, the Program Manager/AODA, who works out of Wisconsin Rapids. Nursing employees at Norwood report to the position of Head Nurse, which reports to the position of Director of Nursing, which reports to the position of Norwood Administrator. Norwood Social Workers report to the position of Social Services Supervisor, which reports to the position of Client Services Director, which reports to the position of Norwood Administrator. The positions of QMRP and Vocational and Activity Center Coordinator report to the position of Developmental Disabilities Program Director, which reports to the position of Norwood Administrator.

Norwood develops and implements its own personnel policies, which are not screened through the County Human Resources Department in Wisconsin Rapids prior to their implementation.

18. Developmental Disabilities Technicians at Norwood report to the position of Developmental Disabilities Supervisor, which reports to the position of Developmental Disabilities Program Director, which reports to the position of Norwood Administrator. Psychiatric Technicians report through the same chain of command as do Norwood nursing positions. No Norwood based supervisor supervises the employees at any of the County's four Community Based Residential Facilities.

The Apple Avenue Group Home includes four full-time equivalent (FTE) and four one-half FTE Group Home Technicians and five FTE Community Resource Program Technicians. The Adams Avenue Group Home includes five FTE, five one-half FTE, and one .85 FTE Group Home Technician positions. The Peach Avenue Group Home includes five FTE, four one-half FTE and one 0.85 FTE Group Home Technician positions. The position of Group Home Technician reports to a Group Home Supervisor for each home. The three Group Home Supervisor positions report to the position of Group Home Manager, which reports to the position of Deputy Director, Unified Services. The position of Community Resource Program

Technician reports to the position of Community Services Manager, which reports to the position of Deputy Director, Unified Services. The position of Residential Aide reports to the position of AODA Program Manager, which reports to the position of Deputy Director, Unified Services.

19. Nursing positions at Norwood perform their duties within the Norwood facility. The Norwood facility is a two-story building with several wings. Those wings house Norwood's three units. The Admissions Unit is on the lower level. Crossroads is located directly above the Admissions Unit, and Stepping Stones is housed in three subdivisions of the facility. Unlike Stepping Stones, Admissions and Crossroads are each locked units. Staff can pass between the units, but residents must be escorted by staff members. Norwood has a break room located between the Crossroads and the Admissions unit. The facility has a cafeteria that serves the entire building. Staff use the break room and cafeteria as common areas to eat or rest in. The facility also has a smoking room, which is used in common by Norwood employees. The Admissions Unit has monthly meetings that involve all Unit staff. The Stepping Stones unit has such meetings quarterly, while the Crossroads Unit does not have regular staff meetings. Norwood does not have employee meetings that bring in non-Norwood employees, although certain inservice offerings may do so.

20. The workplace of Norwood Technician positions is stated in Finding of Fact 19. Technician positions at the three Marshfield-based group homes spend the bulk of their working time at an individual group home or at sites necessary to the work or care of an individual resident of that home. None work as a routine function of their duties at Norwood. Community Resource Technicians perform duties that may be performed at one of the group homes, or at one of the commercial sites within the community that employ USD clients, including CRP Ceramics, a USD sponsored business which makes and sells ceramics, promotional buttons, sewn crafts, quilts as well as performing mailing services. CRP Ceramics employs thirty-eight clients of USD to perform as much of the work as possible. CRP Technicians afford vocational support to this and to other vocational programs. CRP Ceramics, when initiated, was housed at Norwood. In March of 2000, it moved, and remains at its own facility at 604 East Fourth Street in Marshfield. Norwood still displays and sells CRP Ceramics products at the Norwood facility.

Those Technicians at the three Marshfield-based group homes who have State certification as a CNA are eligible to work, and some do work, hours at Norwood that cannot be filled by Norwood Technicians. Norwood employees who are qualified can also volunteer to pick up hours at the Marshfield-based group homes. The Lead Housekeeper position at Norwood purchases office and housekeeping supplies for Norwood and for the three Marshfield based group homes. She receives and fills orders for these group homes on a weekly basis. Employees of the group homes pick up and deliver the supplies.

21. The County employs 750 full-time employees and a large number of part-time and casual employees. AFSCME Local 2486 (Non-professional) represents 154 employees in a bargaining unit described thus in Section 2.01 of the governing collective bargaining agreement:

The Employer hereby recognizes the Union as the exclusive bargaining representative for all regular full-time and regular part-time employees of the Wood County Courthouse and annexes including all regular full-time and regular part-time non-professional and clerical employees of the Department of Social Services, regular full-time and regular part-time dispatcher/matron, regular full-time and regular part-time Sheriff's Department cooks, regular full-time and regular part-time Corrections Officers, all regular full-time and regular part-time non-professional employees of Unified Services, regular full-time and regular part-time Emergency Government employees, but excluding elected officials, department heads, supervisory personnel, custodial and maintenance personnel, law enforcement personnel, and registered nurses for the purposes of conferences and negotiations on questions of wages, hours and condition of employment.

AFSCME Local 2486 (Professional) represents 90 employees in a bargaining unit described thus in Section 2.01 of the governing collective bargaining agreement:

The Employer hereby recognizes the Union as the exclusive bargaining representative for all regular full-time and regular part-time professional employees of Wood County employed in the Department of Social Services, Unified Services, Public Health, Systems, Zoning, District Attorney, and Child Support, excluding supervisory, managerial, and confidential employees and public health nurses, for purposes of conferences and negotiations on questions of wages, hours and conditions of employment.

WFNHP, Local 5037, represents thirteen employees in a bargaining unit described thus in Section 1.1 of the governing collective bargaining agreement:

The Employer hereby recognizes the Union as the exclusive bargaining representative for all full-time and part-time registered and professional nurses employed by the Wood County Health Department, excluding the Director, Deputy Directors, confidential and supervisory employees, for the purposes of conferences and negotiations on questions of wages, hours and conditions of employment.

The preamble of these three agreements identifies the County as "Wood County." AFSCME Local 1751 represents 107 employees in a bargaining unit described thus in Section 2.01 of the governing collective bargaining agreement:

The Employer recognizes the Union as the exclusive bargaining agent for all regular full-time and regular part-time employees and Community Resource Program employees except the administrator, physician, registered nurse, supervisors, office personnel who are in charge of employees' confidential records, and seasonal employees, as to wages, hours, and all other conditions of employment.

The agreement's preamble identifies the "Employer" as "Wood County Norwood Health Center" and the Union as the "Norwood Health Center Employees, Local 1751, American Federation of State, County, and Municipal Employees."

The County also has a labor agreement with the Service Employees International Union, which represents a unit of 80 non-professional employees at the Edgewater Nursing Home in Port Edwards. In addition, the County has labor agreements with AFSCME, Local 344, which represents a bargaining unit of thirty Highway Department employees and a bargaining unit of twelve employees in the Parks and Forestry Department.

22. Commission certification of the professional bargaining unit represented by AFSCME, Local 2486 dates from WOOD COUNTY, DEC. NO. 9139 (WERC, 8/69) and WOOD COUNTY, DEC. NO. 26227-A (WERC, 12/89). The County and AFSCME Local 2486 have been parties to a series of labor agreements covering the unit. As of the hearing date in this matter, the most recent published labor agreement expired as of December 31, 2001. The parties agreed, however, to the establishment of wage schedules for the unit covering 2002. Professional employees at Norwood have not been represented nor formed into a bargaining unit. AFSCME Local 2486 has, however, attempted to accrete at least some of the professional positions at Norwood into the AFSCME Local 2486 (Professional) unit, including WOOD COUNTY, DEC. NO. 26277-B (WERC, 5/92) AT FOOTNOTE 1/ ON PAGE 1, in which the Commission noted that:

At the hearing, the parties voluntarily resolved another portion of the petition by entering into the following stipulation:

. . . in the event that the Union files an election petition regarding professionals employed by Wood County . . . at . . . Norwood . . . and should these employees vote. . . by majority vote to be represented by the Union, they will be accreted into the petitioned unit. . . .

This agreement did not cover RN positions.

23. Commission certification of the non-professional bargaining unit represented by AFSCME, Local 2486 dates from WOOD COUNTY, DEC. NO. 9140 (WERC, 8/69). The County and AFSCME Local 2486 have been parties to a series of labor agreements covering the unit. As of the hearing date in this matter, the most recent published labor agreement

expired as of December 31, 2001. The parties agreed, however, to the establishment of wage schedules for the unit covering 2002. AFSCME Local 1751 and the County have been parties to collective bargaining agreements since at least 1990. The most recent published labor agreement covering the Norwood non-professional unit expired as of December 31, 2001. The parties agreed, however, to the establishment of wage schedules for the unit covering 2002. LPNs have never been included in the unit represented by AFSCME Local 1751.

When Norwood created the group home which eventually became the Apple Avenue Group Home, the County and AFSCME Local 1751, on May 5, 1998, executed an agreement which states:

The County of Wood and Norwood Health Center Employee Local 1751, hereby agree on certain terms as they pertain to the staffing and operation of a Norwood Community Group Home.

Any item pertaining to wages, hours and conditions of employment not specifically addressed will be presumed to follow guideline of the existing labor agreement.

The County will recognize the Union as the exclusive bargaining agent for all group home technician positions established, regular full-time and regular part-time.

Compensation for technician positions will be in the same classification in the contract as is the Regular Switchboard/Receptionist.

. . .

Any Norwood employee who successfully posts to a Group Home position for the original staffing of the Home will have his/her rate grandparented.

. . .

In the event of illness or other bone-fide emergencies, a qualified Norwood employee may work at the Group Home on a temporary basis and receive his/her rate or the rate of the person being replaced, whichever is higher.

Some operations guidelines that will be followed include . . .

General benefits including health insurance, life insurance, vacation, leaves, holidays, retirement, fair share, etc. will apply as provided for in the Norwood labor agreement unless addressed specifically in this document or a successor.

During the bargaining that resulted in the creation of the 2002 wage rates for AFSCME Local 1751, the County and AFSCME Local 1751 reached a tentative agreement extending County recognition of Local 1751 as the exclusive bargaining representative for certain non-professional positions at the Peach and Adams Avenue Group Homes. The parties failed, however, to reach agreement on a successor to the expired agreement, and the tentative agreement has not been given effect. While Interim Administrator of Norwood, Roetter participated as a member of the County bargaining team that negotiated with AFSCME Local 1751. She stayed on the committee until a permanent replacement had been hired and trained. As USD Deputy Director, she is a regular member of the County bargaining team that negotiates with each unit represented by AFSCME Local 2486.

24. RN Shift Supervisors do not play a role in the hiring of Norwood employees, nor does the position RN Staff Nurse. Debra Genteman, a Norwood LPN, once sat for as part of a committee that interviewed a job applicant. The Director of Nursing asked the questions and did not seek a recommendation from Genteman. The Head Nurse position actively participates in the hiring process, including interviews.

RN Shift Supervisors, RN Staff Nurses and LPNs do not play a role in the promotion or transfer of Norwood employees.

RN Shift Supervisors, RN Staff Nurses and LPNs oversee the work of Norwood Technicians. RN Shift Supervisor is the position in charge of a unit when a Head Nurse or the Director of Nursing is not present. The RN Shift Supervisor in the Admissions Unit is the position in charge of Norwood when the Head Nurse or the Director of Nursing is not present. In the absence of the Director of Nursing, Head Nurse and RN Shift Supervisor, an RN Staff Nurse becomes the head of a unit. In the absence of an RN Staff Nurse, an LPN becomes the head of a unit. The position in charge of a unit will receive and approve or deny employee requests to take leave where the request had not been made well in advance of the shift. This may involve calling in another employee or moving an employee within Norwood to cover the absence. The position in charge of a unit will sign a time card, where a Technician or other employee seeks extra pay. The signature of the RN Shift Supervisor, RN Staff Nurse or LPN in charge of a unit is not subject to prior approval of any other position and must be obtained prior to a claim for extra pay. The approval of the RN Shift Supervisor, RN Staff Nurse or LPN in charge of a unit regarding extra hours or staffing is bound by written Norwood policy regarding minimum staffing and overtime call-in. Whenever possible, leave requests are referred to a scheduler, a position which maintains employee work schedules.

An RN Shift Supervisor, RN Staff Nurse or LPN in charge of a unit may complete and sign Norwood's formal evaluation form for Technicians, where the Head Nurse or Director of Nursing has not been able to directly observe the Technician's work. These signed forms are subject to the approval of the Head Nurse and Director of Nursing, and represent the direct observations of the signing RN Shift Supervisor, RN Staff Nurse or LPN in charge of a unit.

RNs and LPNs do not typically play an effective role beyond the verification of their direct observations. Alex Tilson, an RN Supervisor on the day shift, has filled out such evaluation forms and does not know what happens to them after his signature. Genteman has served as the sole LPN on the Stepping Stones Unit. She has never formally evaluated a Technician beyond being informally asked by an RN to give an opinion of a Technician's work.

An RN Shift Supervisor or RN Staff Nurse in charge of a unit may complete and sign a County "Disciplinary Action Form" concerning the conduct of Technicians without prior approval regarding verbal or written warnings. An RN Shift Supervisor, RN Staff Nurse, or LPN in charge of a unit may remove a Technician suspected of abuse from their shift at Norwood. The decision to impose discipline however, is not made by the RN Shift Supervisor, RN Staff Nurse, or LPN in charge of a unit. Such employees may be involved in documenting an investigation, but play no role beyond that.

25. On a daily basis on all shifts, RN Shift Supervisors, RN Staff Nurses and LPNs play an active role in assigning the work of Norwood Technicians. That role is more independent when the individual nurse is in charge of a unit. The assignment of Technicians is bound by the individual patient care plan, which is developed as a team effort involving Technicians, nurses, physicians and other professionals, Norwood policy and state and federal regulations. Whenever possible, Norwood assigns primary responsibility for a resident to an individual Technician. That responsibility can span shifts.

26. Depending on patient census, Norwood staffs the Admissions Unit on the first shift thus: 1 Head Nurse; 1 RN Shift Supervisor, 1 other nurse (RN or LPN), and 5 Technicians. Norwood's license as a hospital demands that there be an RN on duty at all times on the Admissions Unit. Five RN Shift Supervisors staff the Admissions Unit, and rotate weekends to provide coverage. Norwood staffs the second shift on the Admissions Unit thus: 1 RN Shift Supervisor, 1 other nurse (LPN or RN), and 5 Technicians. Norwood staffs the third shift on the Admissions Unit thus: 1 RN Shift Supervisor, and 3 Technicians. Depending on patient census, Norwood staffs the Crossroads Unit on the first shift thus: 1 Head Nurse, 1 other nurse (RN or LPN) and 3 Technicians. Norwood staffs the second shift on the Crossroads Unit thus: 1 Nurse (RN or LPN), and 3 Technicians. Norwood staffs the third shift on the Crossroads Unit thus: 1 Nurse (RN or LPN), and 2 Technicians. The night shift Crossroads Nurse (RN or LPN) also oversees the Stepping Stones Unit. Norwood staffs the first shift on the Stepping Stones Unit thus: 1 Head Nurse, 1 other nurse (RN or LPN), and 14 Technicians. Norwood staffs the second shift on the Stepping Stones Unit thus: 1 Nurse (RN or LPN), and 12 Technicians. Norwood staffs the third shift on the Stepping Stones Unit thus: 1 Nurse (RN or LPN from Crossroads), and 4 Technicians. The Stepping Stones Unit drops its staffing of Technicians on weekends to 8 on the first shift, 8 on the second shift and 4 on the third shift.

The Director of Nursing typically works the day shift from 8:00 a.m. through 5:00 p.m. The Head Nurses typically work Monday through Friday.

27. The 2004 wage rates for Norwood nurses can be summarized thus:

Position	Steps						
	1	2	3	4	5	6	7
Director of Nursing	26.55	26.99	27.41	27.85	28.27	28.71	32.69
Head Nurse	21.41	21.76	22.10	22.45	22.80	23.14	26.36
RN Shift Supervisor	19.70	20.02	20.34	20.66	20.98	21.30	24.25
RN Staff Nurse	17.98	18.28	18.57	18.86	19.16	19.45	22.15
LPN	14.55	14.79	15.03	15.26	15.50	15.74	17.92

An RN Staff Supervisor or RN Staff Nurse who fills the position of Head Nurse receives a \$0.70 hourly premium.

28. The positions of RN Shift Supervisor, RN Staff Nurse, and LPN possess incidental supervisory authority, which is exercised over an activity rather than over employees. Their pay reflects the increased responsibility of their nursing duties rather than a premium for supervising employees. The premium paid RN Supervisors and RN Staff Nurses for duties performed in the absence of the Head Nurse reflects the additional responsibility of managing the facility, including responding to patient care, to building maintenance issues, or to questions from other nursing personnel and Technicians. Individual incumbents in those positions spend a substantial majority of their time in the provision of nursing services and not in the supervision of employees. The effective authority to supervise nursing employees resides in the position of Director of Nursing, which relies on the position of Head Nurse for the effective recommendation of specific supervisory actions.

Employees holding the positions of RN Shift Supervisor, RN Staff Nurse and LPN do not possess supervisory responsibilities in sufficient combination and degree to be supervisors.

29. The annual hours worked by the employees claimed by the County to be casual can be summarized thus:

EMPLOYEE	DATE OF HIRE	HOURS WORKED	
		2002	2003
Drexler, Donna	10/18/2000	651.00	733.00
Duda, Mark	08/25/2003	0.00	561.25
Ertl, Lana	10/10/2002	226.75	681.00
Schesel, Brenda	05/24/2002	562.25	373.75
Walter, Kelly	12/10/2001	735.75	1224.75
Wolfe, Jonetta	03/21/2003	0.00	355.25

Norwood grants hours to the six employees noted above by sending them a monthly availability calendar and requesting them to fill in those days they are available to work. The employee can fill in as many days as the employee wishes. Norwood does not require an employee to request a minimum number of days, and has had employees indicate no availability at any time for the month. Duda, unlike the other employees, works a regular schedule of roughly three days per week, but the days may change from week to week. He is eligible to pick up hours above that schedule if or when he chooses. Drexler retired as a full-time Norwood employee, and since her retirement tries to work no more than seven shifts per month. Norwood has, however, accommodated her and other employee requests for prolonged vacations of perhaps a month or more.

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

CONCLUSIONS OF LAW

1. Each employee occupying the position of RN Shift Supervisor, RN Staff Nurse or LPN is not a supervisor within the meaning of Sec. 111.70(1)(o), Stats., and is therefore a municipal employee within the meaning of Sec. 111.70(1)(i), Stats.

2. A question concerning representation within the meaning of Sec. 111.70(4)(d)3, Stats., exists within the following collective bargaining unit found appropriate within the meaning of Sec. 111.70(4)d)2.a., Stats.

All regular full-time and regular part-time professional employees, employed by Wood County at the Norwood Health Center (and conditionally including all regular full-time and regular part-time Licensed Practical Nurses)excluding supervisors and confidential, managerial and executive employees.

3. Those Registered Nurses and Licensed Practical Nurses alleged by the County to be casual employees and noted in Finding of Fact 9 are regular part-time employees eligible to participate in the election directed below.

4. Those Licensed Practical Nurses who are eligible to vote in the election directed below, and who, as a result of the tallies of that election, cannot be included in a bargaining unit as described in Conclusion of Law 2 above, have a sufficient community of interest to be included in the bargaining unit represented by AFSCME Local 1751 and noted in Finding of Fact 21.

5. The non-professional Group Home positions noted in Finding of Fact 7, which are not already included in the non-professional bargaining unit represented by AFSCME Local 2486, have a sufficient community of interest to be included in the bargaining unit represented by AFSCME Local 2486 and noted in Finding of Fact 21.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

ORDER

1. An election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within 60 days of the date of this Order in the following voting groups for the following stated purposes:

Voting Group 1

All regular full-time and regular part-time Licensed Practical Nurses, employed by Wood County at the Norwood Health Center excluding supervisors and confidential, managerial, executive employees who were employed on February 28, 2005, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether they desire to be represented by Teamsters or AFSCME for the purposes of collective bargaining with Wood County, or desire not to be so represented.

Voting Group 2

All regular full-time and regular part-time professional employees employed by Wood County at the Norwood Health Center excluding supervisors and confidential, managerial and executive employees who were employed on February 28, 2005, except such employees as may prior to the election quit their employment or be discharged for cause, for the purposes of determining: (1) whether a majority of the employees in said voting group desire to be included in a single collective bargaining unit with the Licensed Practical Nurses; and (2) whether a majority of such employees voting desire to be represented by Teamsters or AFSCME for the purposes of collective bargaining with Wood County, or desire not to be so represented.

2 The non-professional Group Home positions noted in Finding of Fact 7, which are not already included in the non-professional bargaining unit represented by AFSCME Local 2486, are included in the bargaining unit noted in Finding of Fact 21 and represented by AFSCME Local 2486.

3 Those Licensed Practcial Nurses who are eligible to vote in the election directed above, and who, as a result of the tallies of that election, cannot be included in a bargaining unit as described in Conclusion of Law 2 above, are included in the bargaining unit noted in Finding of Fact 21 and represented by AFSCME Local 1751.

4. The unit clarification petition underlying Case 84, noted in Finding of Fact 8, is dismissed.

Given under our hands and seal at Madison, Wisconsin, this 28th day of February, 2005.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Paul Gordon /s/

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner

WOOD COUNTY

**MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

Background

In WOOD COUNTY, DEC. NOS. 9140-E, 28382-B, 30584-A (WERC, 8/03), we combined four unit clarification petitions for various professional and non-professional positions with the Teamsters' request for an election involving Norwood professional and non-professional nursing positions. We did so because the appropriate unit considerations are inseparable.

Fundamental to each petition is the question whether a bargaining unit of Norwood professional employees is appropriate. If Norwood professional employees are an appropriate unit, the issue becomes the scope of the unit, and more specifically whether nursing employees should be combined with other Norwood professionals. From that determination follow the eligibility issues of which Norwood nursing positions are supervisory, and whether any of the six employees claimed to be casual should be considered part of the unit. The inclusion of non-professional Norwood LPN positions in a Norwood professional employee unit is related to this series of determinations, since the Teamsters request inclusion of LPNs in the professional unit, assuming the necessary affirmative vote under Sec. 111.70(4)(d)2.a., Stats.

The determination of these appropriate unit matters forms the necessary background for the determination of the unit clarification issues posed regarding the non-professional group home employees.

The Parties' Positions

The Teamsters' Initial Brief

After an extensive review of the evidence, the Teamsters assert that under the Commission's seven-factor standard, the RNs and LPNs are not supervisors. Neither classification participates in the hiring process for Technicians, nor evaluates the performance of probationary employees.

While RNs can issue oral and written warnings, LPNs cannot. There is no evidence an RN can effectively recommend a suspension or discharge. Under Commission case law, this is insufficient to manifest supervisory authority. Beyond this, there is no evidence that "prior warnings increase an employee's chances of being suspended or discharged for an offense." Under NLRB case law, the sort of reportorial function at issue here cannot demonstrate supervisory authority. That an RN or LPN can send a Technician home in cases involving

patient abuse shows no more than the exercise of a legally required nursing function rather than the exercise of independent judgment. Nor does the filling out of an evaluation form by an RN or LPN indicate anything past a data-reporting function.

That LPNs and RNs “have some nominal powers to assign and supervise work” shows no more than the discharge of a professional responsibility. It is, under Commission standards, the supervision of an activity rather than the supervision of employees. Similarly, their oversight of patient care provided by Technicians shows the supervision of the activity of complying with a care plan rather than the exercise of independent judgment. The evidence shows that the power of RNs and LPNs to assign staff “is constrained by extensive facility rules and procedures, and is random where the rules and procedures do not control.”

RNs and LPNs can acknowledge leave requests, but lack the effective authority to approve leave. A review of the evidence establishes that the Head Nurse, rather than an RN Supervisor, exercises to evaluate and approve a leave request. Nor will the record support the assertion that an RN or LPN can authorize overtime or independently re-assign employees. When a nurse approves overtime or responds to a staffing need, the approval is policy-guided and does not require an act of independent discretion.

An examination of the pay rates of Technicians, LPNs and RNs establishes that each classification is paid for their level of skill and training and not for the exercise of supervisory authority. LPNs and RNs spend the “vast majority of their time performing professional nursing responsibilities.” Staffing ratios cannot obscure this, and Commission case law does not require any specific ratio of supervisors to unit members.

An examination of the record affords no basis to distinguish, under the Commission’s seven-factor standard, the duties of employees classified as RN Supervisor from any other RN. Their responsibility for the building is an indication of their professional status, but no reliable indication of supervisory authority. The responsibility to respond to an emergency or to an admission need not require “re-deployment of staff” and is bound by management policy. Evidence on the authority of an RN Shift Supervisor regarding evaluation of probationary employees is internally inconsistent. The evidence indicates the role is one of data-gathering. That the day shift RN Shift Supervisor has not evaluated a probationary employee underscores that the function is data-gathering, since it is limited to those RN Shift Supervisors who work when the Head Nurse and Director of Nursing cannot independently review employee work performance. That the job description does not mention the function underscores this. An examination of the record establishes that the RN Shift Supervisor commands no supervisory premium, and spends the majority of their work day performing nursing duties. The organizational chart further confirms that the County does not regard RN Shift Supervisors as anything other than an RN.

The petitioned-for employees are not casual. The evidence establishes the employees work no less than “almost 10 hours per pay period” and up to “close to 25 hours per week.” That employees can turn down work does not, in itself, establish casual status.

The petitioned-for unit is appropriate, and the employees should not be accreted to any existing units. The petitioned-for unit combines employees performing nursing duties, who work under common supervision at the same facility. Wage rates and hours of work align the LPNs more closely to RNs than to any classification represented by AFSCME either in a professional or in a non-professional bargaining unit. That AFSCME has not sought to represent nurses makes an accretion inappropriate under Commission case law. Employee right to choose in this case outweighs undue fragmentation concerns. That the Teamsters can be expected to more closely align itself to the interests of nursing employees than AFSCME must be given weight. That nursing employees have always been outside of the AFSCME unit further argues for the direction of an election.

The County’s Initial Brief

After an extensive review of the evidence, the County notes that the record “is voluminous and the issues rather confusing”, but contends that “there is clarity to the County’s position.” More specifically, the County argues that the five RN Shift Supervisor, five Staff RN and eight LPN positions perform supervisory duties and “are not eligible for inclusion in any proposed bargaining unit.” Noting that the case law defining supervisory status is well established, the County contends that the case law is no less instructive regarding facts analogous to those posed here. That Norwood is operated on a round-the-clock basis highlights the need for supervision for shifts not staffed by the Director of Nursing and the Head Nurse. Licensure requirements for the Admissions Unit underscore this, but all of Norwood’s units demand supervision when the Head Nurse and Director of Nursing cannot be present.

Each of the nursing positions is responsible for “assigning work to technicians, observing and monitoring the work of technicians, and correcting technicians, when necessary.” The eighteen disputed positions are responsible for the supervision of twenty-nine technicians to the PM and Night shifts on weekdays in the three units and of forty-one technicians during all three weekend and holiday shifts. The disputed positions also evaluate technicians. This responsibility is arguably shared for shifts covered by the Head Nurse and Director of Nursing, but is the sole responsibility of the disputed positions for shifts not covered by these administrators. These evaluation duties extend to probationary and non-probationary employees.

The disputed positions are also responsible for approving vacation and other leave requests. Norwood leave request forms establish the approval authority of RNs and LPNs. The positions also are responsible for approving overtime and other extra duties. These

positions have the authority to discipline when necessary, and have actually done so. The evidence does not indicate such decisions must be referred to the Head Nurse.

Beyond the evidence of supervisory authority, three RN and three LPN positions are not eligible for inclusion in any proposed bargaining unit because the incumbents are casual employees. None of the employees work set schedules, and each has “the discretion to accept or reject work as they please.”

In the event the Commission determines that one or more of the RN or LPN positions is or are occupied by municipal employees under MERA, the County contends that they should be combined with the eight positions at issue in Case 84. The Commission should then run an election or elections to determine whether the employees wish to form bargaining units at Norwood. This reflects that there is no community of interest “between the positions at Norwood and the positions at the County’s other facilities.”

As with the established community of interest criteria, the determination whether to permit employee choice is within the Commission’s discretion. More specifically, the County argues that supervision of the positions at Norwood is distinct and separate from the supervision of County employees not employed at Norwood. Supervision of the employees within the Local 2486 (Professional) unit is by “department heads in the Courthouse departments and the Social Services and Unified Services departments.” Similarly, non-Norwood based nursing positions are supervised by non-Norwood based supervisors. Non-professional Norwood employees in the Local 1751 bargaining unit are each supervised by Norwood personnel. Thus, there is “no common supervision between employees at Norwood and employees who do not work at Norwood.”

Similar considerations concern the work site. Norwood positions do not share a common workplace “with the positions in the County’s other facilities”. The skills and duties of Norwood employees are similarly distinguishable from other County employees. The interdisciplinary approach to client and resident care means Norwood employees share a bond not shared with non-Norwood based County employees. That Norwood provides institutional, rather than community-based care underscores this. Examination of the duties of Norwood-based Social Workers compared to other County Social Workers highlights this point. The distinction flows to the hiring process, where Norwood “concentrates on work experience rather than educational experience.” Similar considerations extend to the Vocational Activity Center Coordinator positions as well as the AODA Counselor position. Beyond this, professional employees at Norwood “are subject to different, and more, state and federal regulations than the positions at the County’s other facilities.” Reflecting this, Norwood policies are not subject to review by the Human Resources Department or by the Director of Unified Services.

Bargaining history provides another basis supporting “a finding that the positions at Norwood should not be automatically accreted into an existing unit.” The eight professional positions at issue in Case 84 were never brought into the bargaining involving Local 2486. That Local 1751 has not been included in the bargaining concerning other County non-professional employees underscores that bargaining history points away from accreting Norwood employees into a non-Norwood based unit. That County employees in the Edgewater Haven Nursing Home have not been included with the Local 2486 employees offers further evidence that bargaining history points away from including Norwood employees in a non-Norwood based unit.

To the extent the Commission determines any of the LPNs at Norwood are municipal employees, they should be afforded an election to determine which, if any, union should represent them. To the extent the professionals choose not to have them included in a Norwood professional unit, the LPNs should “be accreted into Local 1751, unless, of course, the LPN positions elect not to be represented.”

Non-professional County employees at the group homes should be accreted into the Local 2486 (Non-professional) unit. The Teamsters have taken no position on this issue, while AFSCME seeks an accretion into Local 1751. The community of interest considerations regarding professional employees are similar regarding these employees. More specifically, Norwood and non-Norwood employees do not share a community of interest. Supervision of group home employees is not shared with Norwood employees. The chain of command for Norwood is distinct from that of the group homes. Non-Norwood employees do not share a workplace with Norwood employees. Rather, they work from community based facilities at some distance from Norwood. Group Home Technicians and CRP Technicians do, however, share a common workplace with positions already represented by Local 2486 in the professional and non-professional units. Job titles of employees at the group homes are already covered in the labor agreements covering the Local 2486 bargaining units. Edgewater Haven non-professional employees are represented by the SEIU, underscoring that non-Norwood employees do not share a bargaining unit with Norwood employees.

The duties and skills of the employees at the group homes are distinguishable from those of Norwood employees. The group homes provide community-based care, and Norwood is a stand-alone provider of institutional care. The group homes point their clients toward re-integration into the community. This is a marked contrast to the more custodial care afforded at Norwood. Similarly, employee certifications vary from Norwood to the group homes.

Viewing the record as a whole, the County concludes that the Commission should adopt the following positions:

The non-professional employees employed by the County at the Peach Tree Group Home, the Adams Avenue Group Home, the Apple Avenue Group Home, and the Community Resource Program should be accreted into Local 2486 (Non-pro).

The five RN Shift Supervisor, five Staff RN, and eight LPN positions at issue in Case 151 are all supervisory and, therefore, are not eligible for inclusion in any proposed bargaining unit. Additionally, three of the Staff RN positions and three of the LPN positions are causal positions and, therefore, are not eligible for inclusion in any proposed bargaining unit.

The eight professional positions at issue in Case 84 should not be automatically accreted into Local 2486 (Pro).

Assuming *arguendo* that the Commission determines that one or more of the RN Shift Supervisor or Staff RN positions is not supervisory or casual, the position(s) determined to not be supervisory or casual should be combined with the eight professional positions at issue in Case 84, and an election with a two-part ballot should be conducted: (1) an election among the professional positions to determine whether the employees want to be represented by AFSCME, to be represented by Teamsters, or no representation, and (2) a second question to determine whether the professional employees want to include the non-professional LPNs in the unit (assuming one or more the LPN positions is found not be supervisory or casual).

Assuming *arguendo* that the Commission determines that one or more of the LPN positions is not supervisory or casual, an election among the position(s) determined not to be supervisory or casual should be conducted to determine whether the employees want to be represented by AFSCME, to be represented by Teamsters, or no representation. This election would be held in conjunction with the election for the professional employees. However, if the professional positions at Norwood choose not to be represented, or if the professional positions at Norwood choose representation but elect to not include the non-professional LPN positions in the professional bargaining unit, the LPN positions should be accreted into Local 1751, unless, of course, the LPN positions elect not to be represented.

AFSCME's Initial Brief

Acknowledging that the "QMRP and RN positions were not at issue at the time case (84) was heard and argued" AFSCME "nevertheless" concludes that they "should be accreted without an election as originally argued." More specifically, the recognition clause of the

Local 2486 agreement and the subsequent agreement between Local 2486 and the County “to clarify recognition as extending to professionals at unified services/Norwood are controlling in the instant case.” The recognition clause extends to professional employees of “Unified Services.” Under Commission case law governing newly created positions, contract language is the Commission’s first consideration. Local 5037 cannot claim these employees since their contract extends only to Health Department employees. That Local 5037 can make a credible claim to be included on the ballot for an election concerning Nurses working through Unified Services cannot obscure that the recognition clause of the Local 2486 agreement contemplates the inclusion of the Nursing employees covered by the Teamsters’ petition.

AFSCME does not believe any of the RNs are supervisors under the Commission’s seven factor standard, but takes no position regarding the unit status of RN Shift Supervisors. Part-time RNs should either be accreted or be considered eligible voters. Casuals should not be. Anti-fragmentation and community of interest considerations should preclude splitting the nursing employees from other Unified Services professionals.

LPNs are neither supervisory nor professional and should be accreted “to the bargaining unit represented by Local 1751.” They are not professional employees under Commission case law. Although they “have been traditionally excluded for the 1751 bargaining unit as supervisory employees”, the evidence establishes that they “are not invested with any type of meaningful supervisory authority, either communicated or exercised.” It follows that the LPNs should be accreted to the Local 1751 bargaining unit.

The sole issue concerning group home employees is which AFSCME-represented unit they should be placed in. Traditional community of interest criteria, including “common recruitment, job posting, shared overtime, maintenance, training, patient activities and supply purchases” establish that the employees should be placed in the Local 1751 bargaining unit. That the County and Local 1751 amended their recognition clause to include the Norwood Community Group Home employees underscores this conclusion, since that home became the Apple Group Home. Since the two newest group homes were patterned after this model, “those employees should also be accreted to the Local 1751 bargaining unit.” County attempts to distinguish between the position descriptions of some of the group home employees are “no more than an argument of convenience.” Local 2486 has no independent interest in these employees.

The Teamsters’ Reply Brief

The Teamsters contend that although the nurses exercise professional judgment as nurses, Commission case law distinguishes this activity from supervisory authority. The key point of distinction is the exercise of independent judgment, and the record establishes the allegedly supervisory nurses do not exercise a significant degree of independent judgment. Because they are overseeing an activity, they are not supervisors. More specifically, the

Teamsters note that the matching of patients to with Technicians is routine in nature, done under established policy or doctor's orders.

Similarly, the oversight of Technician work is evidence of the nurses' professional status rather than supervisory authority. What correction of Technician work occurs reflects the monitoring of a care plan, which reflects a professional activity, not supervisory authority.

The only arguable exercise of independent judgment regarding the approval of leave concerns last-minute requests for leave. The record establishes that only the Director of Nursing exercises effective authority over such requests. Beyond this, the record establishes that any warnings issued by the alleged supervisory employees are without effect. Rather, "the oral and written warnings document an employee's employment history, and are not discipline." That the employees can remove a Technician from the work site in cases implicating abuse reflects no more than standard operating procedure. That the alleged supervisors work during hours in which the Head Nurse and Director of Nursing is not present does not, standing alone, establish that any of the disputed employees assume the duties of those positions. That a nurse may have to respond to a fire alarm or other building emergency during shifts when administrators cannot be present falls short of establishing any actual supervisory authority. Whatever oversight of Technicians is required is "incidental to supervising the building, an activity."

Nor do any of the alleged supervisory positions "independently evaluate probationary technicians". To varying degrees, the individual RN Supervisors supply information, but none play an effective role in the retention decision regarding a probationary employee.

Commission case law does not demand slavish adherence "to the rule that there must be a supervisor on every shift." Rather, it demands case by case application of the indicia defining supervisory status. The record establishes that "the petitioned for employees are lead workers."

That certain part-time nurses can decline work does not establish that they are casual employees. That determination turns on "the actual frequency of the employee's work." The evidence establishes the disputed positions "are working at least one shift for the majority of pay periods." They are, then, regular, part-time employees.

The petitioned for unit is appropriate. The recognition clauses relied on by AFSCME are inconclusive, and thus the Commission's community of interest standards must be applied. The first five factors "strongly" demonstrate the appropriateness of the unit. The sixth factor should be applied by permitting the employees to choose their bargaining representative. AFSCME's failure to show interest in the petitioned-for employees should be considered determinative regarding their request to accrete the employees without an election. Nor does the unit implicate anti-fragmentation concerns. Including professional social workers in the

unit means it “will have more than 20 employees and sufficient power to bargain.” The seventh factor argues for an election, since AFSCME has no history of bargaining for any of the requested employees.

The County’s Reply Brief

AFSCME’s reading of Article 2 of the Local 2486 (Professional) unit agreement is “without merit.” The assertion that any of the Norwood positions is “newly created” is misplaced. Beyond this, the article cannot be meaningfully read to mean that Norwood employees should be accreted into Local 2486, since Norwood is part of Unified Services. This reading, if extended to the Local 2486 (Non-professional) unit agreement would read Local 1751 out of existence. The presence of the Local 1751 unit demonstrates that bargaining history reinforces the need to create a separate Norwood professional unit.

Nor can WOOD COUNTY, DEC. NO. 26227-B (WERC, 5/92) affect this conclusion. The stipulation reached in that case has no bearing here, since Norwood has substantially changed since then; since the proposed stipulation did not contemplate all of the positions disputed here; and since this record stands alone regarding the application of community of interest criteria.

The Teamsters mischaracterize evidence to undercut the supervisory authority of the Norwood nursing positions. Contrary to the Teamsters’ assertion, the evidence establishes that the disputed positions “assume the supervisory duties of the Director of Nursing and the Head Nurses during the PM and Night shifts and on all shifts on weekends and holidays.” That a Head Nurse or Director of Nursing can overrule the recommendation of an RN Supervisor regarding a probationary employee, does not undercut this. To accept the Teamsters’ view would mean only a chief executive could be a supervisor. Similar considerations govern the evidence of disciplinary authority, where the Teamsters’ highlight Brandl’s exercise of authority as Head Nurse cannot obscure her view that RN Supervisors have the independent authority to discharge. Nor can the Teamsters’ assertion that the record lacks evidence of time spent by the disputed positions exercising supervisory authority be credited.

AFSCME’s Reply Brief

AFSCME waived the filing of a reply brief.

The Propriety Of A Bargaining Unit Of Norwood Professionals

Section 111.70(4)(d) 2.a., Stats. provides in pertinent part:

The commission shall determine the appropriate bargaining unit for the purposes of collective bargaining and shall whenever possible, unless otherwise required under this

subchapter, avoid fragmentation by maintaining as few collective bargaining 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 groups constitute a collective bargaining unit.

When deciding whether the petitioned-for unit is “appropriate,” we measure the facts presented by the parties against the statutory language of Sec. 111.70(4)(d) 2.a., Stats. We use the following factors as interpretive guides to the statute:

1. Whether the employees 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 and skills 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 share 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.

ARROWHEAD UNITED TEACHERS v. WERC, 116 Wis. 2D 580 (1984).

We have used the phrase “community of interest” as it appears in Factor 1 as a means of assessing whether the employees participate in a shared purpose through their employment. We have also used the phrase “community of interest” as a means of determining whether employees share similar interests, usually – though not necessarily – limited to those interests reflected in Factors 2-5. This definitional duality is long standing and has received the approval of the Wisconsin Supreme Court. ARROWHEAD UNITED TEACHERS v. WERC, *supra*.

Factor 6 reflects our statutory obligation under Sec. 111.70(4)(d) 2.a., Stats. to “avoid fragmentation by maintaining as few collective bargaining units as practicable in keeping with the size of the total municipal work force.”

Factor 7 – (bargaining history) involves an analysis of the way in which the workforce has bargained with the employer or, if the employees have been unrepresented, an analysis of the development and operation of the employee/employer relationship. MARINETTE SCHOOL DISTRICT, DEC. NO. 27000 (WERC, 9/91).

It is well established that, within the factual context of each case, not all criteria deserve the same weight and a single criterion or a combination of criteria listed above may be determinative. See, e.g., MADISON METROPOLITAN SCHOOL DISTRICT, DEC. NOS. 20836-A and 21200 (WERC, 11/83) (common purpose); MARINETTE SCHOOL DISTRICT, *supra* (similar interests); COLUMBUS SCHOOL DISTRICT, DEC. NO. 17259 (WERC, 9/79) (fragmentation); LODI JOINT SCHOOL DISTRICT DEC. NO. 16667 (WERC, 11/78) (bargaining history).

Application of this law to the evidence warrants the conclusion that an overall unit of Norwood professionals separate from that represented by AFSCME Local 2486 is appropriate as is the potential inclusion of Norwood LPNs employees in the unit.

Certain prefatory points need to be addressed prior to an examination of these conclusions. The parties do not dispute the Commission’s long-standing view that RNs are professional employees, while LPNs are not, see SHAWANO COUNTY, DEC. NO. 20996-A (WERC, 1/84). Beyond this, AFSCME’s contention that the recognition clause of the Local 2486 (Professional) agreement demands accretion of the professional positions cannot be accepted. Reading the clause as AFSCME asserts would, under the Local 2486 (Non-professional) agreement, demand the accretion into the Local 2486 (Non-professional) unit of the non-professional Norwood positions now represented by AFSCME Local 1751. The parties do not read the clauses that way and neither can the Commission.

Application of Factor 1 points strongly toward a unit of Norwood professionals, including nurses. Norwood provides the institutional care to Norwood residents. Norwood professionals and non-professionals work as a team to provide that care, which is distinguishable from the community-based services provided through other USD programs. Norwood professionals and non-professionals do not typically travel from Norwood to provide services. A driver’s license is a more significant criterion on non-Norwood position descriptions than on Norwood based positions. Norwood clients are more acute, thus making the services rendered more custodial than rehabilitative as other USD clients. The care services provided to Norwood clients bonds Norwood employees across vocational lines more than it bonds Norwood-based employees to other USD employees.

Factor 2 and 3 can support linking Norwood-based employees to Norwood or to USD services generally. Local 2486 and WFNHP Local 5037 include professional nurses. Local 2486 includes professional Social Workers and other professionals with similar duties, skills and working conditions as Norwood professionals. These employees can share the skills and duties common to a shared substantive field, such as AODA counseling or the assessment and care of the developmentally disabled, but the employees, as noted above, provide more community-based services. Similarly, the wages of the professionals affords less than determinative guidance on whether a Norwood-based unit of professional employees is an appropriate unit, since relationships can be noted within Norwood and across the USD generally.

Factors 4 and 5 strongly support a unit of Norwood-based professional employees. The common worksite is evident and is distinguishable from that of other USD professionals. Norwood-based supervision is common to Norwood-based professionals, with the exception of the AODA Counselor. That exception is limited, however, to certain certification based issues. The supervision of the position's day-to-day activities is Norwood-based.

Factors 6 and 7 afford limited guidance. Nurses, social workers and other professional employees are already spread across two units, without regard to the Norwood-based positions. To create a Norwood-based unit of nurses leaves a small group of non-represented Norwood professionals at issue. Placement of non-nursing Norwood-based professionals into the Local 2486 (Professional) unit, or placement of Norwood professionals generally into a non-Norwood unit still leaves a substantial bargaining unit of Norwood employees. Thus, the issue of undue fragmentation begs the issue of whether Norwood-based employees share a common bond warranting a Norwood-based bargaining unit. AFSCME and the County have, in the past, considered whether to move Norwood-based employees into non-Norwood based bargaining units. That history affords no reliable guidance here, and there is no other evidence of bargaining history that would affirm or detract from the propriety of creating a Norwood-based unit of professional employees.

On balance, the seven factors establish that the community of interest of Norwood-based positions warrants the creation of a Norwood-based bargaining unit of professional employees. Teamsters assert that the unit should be restricted to nurses. This argument has support in Commission decisions, see, for example, CHIPPEWA COUNTY, DEC. NO. 26126 (WERC, 8/89). However, the Commission has not viewed the unique vocational interests of nurses to overcome the seven-factor case-by-case analysis noted above, *ibid.*; JUNEAU COUNTY, DEC. NO. 27877 (WERC, 11/93); and TAYLOR COUNTY, DEC. NO. 27360 (WERC, 8/92). Indicative of this is CITY OF MADISON (DEPT. OF PUBLIC HEALTH), DEC. NO. 14440 (WERC, 3/76) AT 4, in which the Commission noted "those occupational interests traditionally associated with Registered Nurses." However, in that case as in this one, community of interest considerations predominated. The shared purpose of Norwood professionals cuts across vocational interests, including those unique to nurses. The common interests of a team

of professional employees, including nurses and non-nurses, who provide services to a unique group of clients is evident. This community of interest points to the propriety of an overall unit of Norwood-based professionals.

These considerations also warrant granting the professional employees the opportunity to vote on whether they wish to include Norwood LPNs in the unit. By statute, this combination cannot occur without an affirmative vote of the professionals. Here, Teamsters request the combination of LPNs and RNs into a single unit. As noted above, this combination undercuts the demonstrated community of interest of Norwood-based positions, and leaves nursing employees spread across three units. However, the request persuasively highlights the shared interests of Norwood-based care providers. Technicians share this interest with other care providers, but the record here underscores noteworthy similarities in duties and responsibilities of LPNs and RNs, including the performance of the arguably supervisory duties addressed below. This warrants a decision among professional employees regarding whether they wish to include non-professional LPNs in the unit.

The same community of interest considerations warrant the accretion of LPNs into the Local 1751 bargaining unit if the professionals vote not to include them in a mixed unit of professionals and non-professionals, or if a vote regarding a combined unit produces a majority vote against representation. There is no claim that the relatively small number of LPNs will have any bearing on AFSCME's majority status in Local 1751, cf. MADISON METROPOLITAN SCHOOL DISTRICT, DEC. NO. 20835-A (WERC, 11/83). As noted above, that unit already includes non-professional positions which provide hands-on care to Norwood residents in the same team setting that includes professional employees. Against this background, there is no reason to question that the positions can appropriately be placed in either unit and should be placed in one of them. The unique confluence of LPN and RN duties at Norwood warrant their potential combination into a single unit. Failing that, however, the LPN positions manifest the same community of interests underlying the non-professional positions of Local 1751.

Supervisory Norwood Employees Below The Level Of Head Nurse

There is no dispute that the Director of Nursing and Head Nurse are supervisors. The issue concerns which, if any, of the RN Shift Supervisors, RN Staff Nurses and LPNs are supervisors. Section 111.70(1)(o)1, Stats., defines "supervisor" thus:

. . . any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or to adjust their grievances or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

When applying this statutory definition, we focus upon the following factors:

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

We have consistently held that not all of the above factors need to reflect supervisory status for us to find an employee to be a supervisor. Our task is to determine whether the factors are present in sufficient combination and degree to warrant finding an employee to be a supervisor. See *CITY OF MILWAUKEE*, DEC. NO. 6960-J (WERC, 5/89); *ONEIDA COUNTY*, DEC. NO. 24844-G (WERC, 6/98).

More specifically applicable to this matter is *BROWN COUNTY (MENTAL HEALTH CENTER)*, DEC. NO. 17585-A (WERC, 9/93). As in that case “where we have found RN’s, charge nurses, LPN’s, or other personnel in hospitals and nursing homes to be supervisory employes, the level of authority given to those employes was greater than in this case.” DEC. NO. 17585-A AT 24.

Here, there is no involvement of RNs or LPNs in hiring, promotion or transfer decisions. RNs and LPNs in charge of a unit have authority to issue oral and written warnings. There is, however, no effective authority in the discipline process beyond this level, other than to report fact. An RN or LPN in charge of a unit can remove a Technician from the unit in cases of suspected abuse. This authority, however, reflects more the impact of established policy and regulation on the nursing profession than the exercise of independent judgment. At most, the evidence indicates this type of incident would involve an RN as a reporter of fact rather than as an independent investigator or a decision maker, cf. *WAUSHARA*

COUNTY (HEALTH DEPARTMENT), DEC. NO. 21422 (WERC, 2/84). There is little persuasive evidence to indicate an LPN would play even this limited role. Evidence on the role of RNs and LPNs in the evaluation process falls short of establishing a role beyond the reporting of fact, cf. SHEBOYGAN COUNTY, DEC. NO. 21168-A (KNUDSON, WITH FINAL AUTHORITY, 3/84), cited with approval in BROWN COUNTY, DEC. NO. 17585-A, AT 24, and OZAUKEE COUNTY, DEC. NO. 2346 (WERC, 3/86). The position descriptions confirm this, since the authority of the Vocational Activity Center Coordinator, acknowledged to be non-supervisory, is more expansive than those of the nursing positions. Thus, while there is some evidence of supervisory authority on the first factor, it points more to the exercise of professional responsibility over an activity than the authority to supervise employees.

Application of the balance of the factors confirms this. RNs and LPNs show some authority to assign Technicians, but the amount of independent judgment and discretion exercised is limited, and reflects more the oversight of an activity than an independent determination linking specific tasks to individual employees. Care plans reflect team involvement, and work assignment involves linking Technicians with similar qualifications to patients with whom they often have an ongoing relationship as primary care provider.

The ratio of Technicians to RNs, particularly RN Shift Supervisors, who rotate weekends to provide RN coverage during times when a Head Nurse or Director of Nursing is unavailable, affords some indication of potential supervisory authority. However, this affords little support for considering RN Staff Nurses or LPNs to be supervisors. The presence of a Head Nurse on all three shifts during the week and of the Director of Nursing on the day shift during the week undercuts the force of the County's arguments viewed in the abstract. The supervisory authority of an LPN during certain night shifts on the Stepping Stones Unit reflects the lower level of activity at that time more than the presence of significant authority. More significantly, the evidence shows little actual exercise of supervisory authority by even RN Shift Supervisors.

The pay differentials reflect a level of professional responsibility more than the exercise of supervisory authority. The RN Shift Supervisors cover the institution when there are no supervisors available. As Genteman's testimony demonstrates, however, there is no reason to believe significant authority extends beyond the RN Supervisor on the Admissions Unit. Beyond this, the responsibility of that position is more significant as a professional matter than as a supervisory matter. None of the testifying witnesses other than Brandl and Kozik considered the authority to supervise employees in the position to be significant. Tilson and Genteman looked to their supervisors for direction in any situation not demanding immediate action as a health care matter. On balance, application of the seven factors to the evidence confirms that the nursing positions at issue here involve the indicia of supervisory authority that flows from overseeing the activity of providing health care. As Teamsters assert, the nursing positions below Head Nurse are occupied by municipal employees.

The Unit Status of Casual RNs and LPNs

As noted above, the County challenges whether six RNs and LPNs that Norwood refers to as “casual” nurses should be considered eligible to vote in an election. In VILLAGE OF BAYSIDE, DEC. NO. 27056 (WERC, 10/91) AT 7, most recently cited in CITY OF STEVENS POINT, DEC. NO. 30941 (WERC, 6/04), we stated the Commission’s standard for determining a casual employee:

A casual employe is one who works irregularly and sporadically, because of the on-call nature of his/her work and/or the rejection of offered assignments. However, where a regular amount of work is available for part-time employes, individuals who perform something more than a de minimis amount of that work on a regular basis will be found to be regular part-time employes despite their ability to reject work.

Duda, unlike the other employees, works a regular schedule of days, but can vary the specific days based on his personal preference. It is evident he has “a regular amount of work” and is not a casual employee. The record regarding the other employees is more mixed. There is evidence that Norwood has, in the past, scheduled casual nurses based on a policy that demanded they accept a minimum number of hours to remain eligible to work. That policy does not seem to be in effect any longer and employees can turn down work. As the County contends, this may point toward such cases as CITY OF MEDFORD, DEC. NO. 16846 (WERC, 2/79), which question the “regularity of employment” for employees workers who work a significant number of hours.

MEDFORD, however, questioned whether “the need for such services will continue with any regularity”, DEC. NO. 16846 AT 6. Here, although employees can turn down work and although Norwood’s census can vary, the underlying and ongoing need for casual nurses is demonstrable. The census may vary, but staffing demands are set by State and Federal regulation, and the ongoing need for the custodial care afforded by Norwood is evident. The scheduling of casual nurses is regular and routine, involving the monthly submission of a calendar, which the casual employees use to indicate their availability. That Norwood accommodates the extended vacation plans of some casual employees demonstrates less the lack of predictability of regular hours than the need for, and the ability of, Norwood to accommodate itself to the needs of nursing employees who are needed on a regular basis. The hours worked by the casual nurses affirms this. They perform well beyond a “de minimis amount of work on a regular basis”, and under the BAYSIDE standard, are each a regular part-time employee.

The Appropriate Unit For Group Home Non-professional Employees

This determination must be made under the seven-factor appropriate unit standard set forth above. Factors 3 and 6 afford no meaningful guidance on this record. AFSCME Local 1751 sets the wages and working conditions for the non-professional Technicians of the Apple Avenue Group Home. The Local 2486 (Non-professional) agreement does the same for the non-professional Residential Aides of the Airport Avenue Group Home. Each labor agreement includes positions comparable to those of the group homes. Placement in either unit has no impact on the existence of a Norwood-based, and a broader County-based unit of USD non-professional employees.

On balance, the remaining factors point more strongly toward representation in the Local 2486 bargaining unit than in the 1751 bargaining unit. As AFSCME forcefully points out, the Apple Avenue Group Home was developed by Norwood, and employees of that home who are certified as a CNA continue to be able to accept extra hours at Norwood. Supplies for the Marshfield based homes are ordered through Norwood. The parties came close to agreeing to voluntarily place employees of the Marshfield homes in the Local 1751 unit during their most recent round of collective bargaining.

These considerations are not, however, determinative under the seven-factor standard. Norwood developed the Apple Avenue Group Home as part of a larger initiative to move residents from institutional to community-based care. That trend has accentuated over time, weakening the link between the group homes and Norwood. Norwood continues to be the unique County provider of institutional care. There is little movement of residents from Norwood to the group homes. Unlike Norwood Technicians who routinely deal with acute care issues, the group home Technicians work with developmentally disabled persons who are capable of significant participation in the community. In this, the group home Technicians resemble other USD employees, who travel throughout the community to service clients who are live and work in the community, more than they resemble Norwood Technicians. Like other County USD employees and unlike Norwood Technicians, they must have a valid driver's license. This underscores a job purpose shared with non-institutional USD employees. This shared purpose is underscored by the ongoing process by which the County has administratively separated its institutional from its community based USD services, and tips application of the first factor toward the Local 2486 unit.

For similar reasons, the Factor 2 standard favors inclusion in the Local 2486 unit. Unlike Norwood Technicians, the non-professional positions in the Local 2486 unit deal with residents whose disabilities do not preclude integration into the community.

Factor 4 and 5 strongly support placement in the Local 2486 unit. There is no shared supervision between Norwood and any of the group homes. Supervision of the Technician positions at issue here is spread throughout USD, but none of that supervision is through

Norwood. Rather, it is spread by the program involved through the administrative hierarchy of USD community service programs. Like Norwood Technicians, Technicians within each home share a common worksite. They do not, however, share a worksite common to the entire classification. Like other USD community service classifications, they share a worksite that is more or less fluid, but ultimately linked to the community based needs of their clients.

Factor 7 supports placement in either unit, since the County and AFSCME have successfully bargained over comparable positions in each. That the parties came close to placing the Marshfield homes in Local 1751 has some bearing to the application of this factor. However, the Commission's authority over the unit placement issue is statutory and must follow the seven-factor standard. The support for placement in the Local 1751 unit under this factor is insufficient to overcome the application of the remaining factors noted above.

The Election Procedure

When in an election proceeding a request is made to include professional employees in a single unit with non-professional employees, Sec. 111.70(4)(d)2.a., Stats., requires that the professional employees 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 employees must vote in favor of such inclusion. Therefore, in this proceeding, the professional employees (Voting Group No. 2) will be given two ballots, (1) to determine whether they desire to be included in a single unit with the non-professional LPNs (Voting Group No. 1) and, (2) whether they desire to be represented by AFSCME or Teamsters. The unit determination ballot will be a separate colored ballot, and the professional employees will be instructed to deposit their unit determination ballots in the ballot box. The professional employees who appear to vote will be instructed to place their representation ballots in a furnished blank envelope and to seal said envelope and deposit same in the ballot box.

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 including the LPNs in the unit, then the sealed envelopes containing the ballots of the professionals with respect to representation, will be opened and their ballots will be co-mingled with the representation ballots cast by the non-professional LPN employees, and thereafter the tally will include the representation ballots cast by all employees. Should the tally produce a majority vote against representation in a mixed professional/non-professional unit, the LPN positions will be accreted into the bargaining unit represented by AFSCME Local 1751.

Should a majority of the professional employees eligible not vote in favor of including the LPNs in the unit, then the professional employees shall constitute a separate unit, and their representation ballots will not be co-mingled with the representation ballots cast by the non-professional employees, and, therefore, will be tallied separately to determine separately their choice as to bargaining representative, if any. The representation ballots cast by the non-

professional LPN employees will not be tallied, and the employees will be accreted into the bargaining unit represented by AFSCME Local 1751.

WFNHP Local 5037 has yet to indicate an interest in being included in the ballot. Because of the uncertainties posed by the unit clarification petitions on the appropriate unit for an election, AFSCME has yet to indicate precisely how it wishes its name, including any Local designation, to appear on the ballot. Other election details remain to be determined. Thus, we have decided to direct the election in a sixty day period, rather than the traditional forty-five. WFNHP shall be placed on the ballot if they so advise us within 20 days of the date of this Order.

Dated at the City of Madison, Wisconsin, this 28th day of February, 2005.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Paul Gordon /s/

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner

