

STATE OF WISCONSIN

PERSONNEL COMMISSION

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KAREN CHRISTOFFERSON,
 CLARA DAVISON,
 JANE FISCHER,
 JUDITH LEMBRICH,
 MARSHA McKINNON,
 SUE SCHERER,
 LYNN ZASPEL,

Appellants.

v.

Secretary, DEPARTMENT OF
 EMPLOYMENT RELATIONS, and
 President, UNIVERSITY OF
 WISCONSIN SYSTEM (Whitewater),

Respondents.

Case Nos. 90-0058, 0059, 0060,
 0061, 0062, 0063,
 0064-PC

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INTERIM
ORDER

After reviewing the proposed decision and order, the objections filed by the parties, and consulting with the hearing examiner, the Commission adopts the Proposed Decision and Order as an Interim Decision and Order, with the following modifications:

1. The following sentences should be added to the end of Finding of Fact 6:

These nurse clinicians' areas of interest and knowledge are not nursing specialties. The nursing specialty of these nurse clinicians is college health nursing.

2. The second sentence in Finding of Fact 3 should be modified to read as follows:

The appellants serve as adjunct professors of nursing for Gateway Technical Institute, overseeing the clinical training of nursing assistant students assigned to the SHS.

3. The following language is inserted immediately prior to the last sentence in the paragraph which begins on the bottom of page 11 and continues onto page 12:

One of the arguments offered by respondent in support of its position that the positions at the UW-Madison are stronger from a classification standpoint than those at the UW-Whitewater is that their work with student nurses is more complex. Although it can be inferred that the course of study for nursing student, such as those guided by UW-Madison nurse clinicians, is more complex than that for nursing assistant students, such as those guided by UW-Whitewater nurse clinicians, the record does not demonstrate what specific duties are carried out by nurse clinicians at either campus in carrying out this responsibility. As a result, it is not possible to make a valid comparison of these counterpart responsibilities at the two campuses. The record also shows that, in regard to direct care responsibilities, nurse clinicians at both campuses have individual areas of interest and knowledge but that these do not rise to the level of clinical specialities. In regard to indirect care areas such as quality assurance, research, and education, the assignments at both campuses are equivalent, i.e., the assignments are not permanent, they vary from year to year, and each nurse clinician has handled different areas at different times.

Dated: November 27, 1990 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

LRM/gdt/2


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

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PROPOSED
 DECISION
 AND
 ORDER

Nature of the Case

These are appeals of reallocation decisions. A hearing was held on August 23, 1990, before Laurie R. McCallum, Chairperson.

Findings of Fact

1. At all times relevant to this appeal, appellants have been employed in nursing positions in the classified civil service at the Student Health Service (SHS) at the University of Wisconsin-Whitewater. As the result of a personnel management survey conducted by the Department of Employment Relations, appellants' positions were reallocated to the Nurse Clinician 2 (NC 2) classification. Appellants filed timely appeals of these reallocations of their positions with the Commission.

2. 75-80% of appellants' time is devoted to direct patient care. 64% of the SHS's patients are first seen by one of the appellants; for 50% of the SHS's patients, one of the nurse clinicians is the only health care provider that they see. Appellants' direct care responsibilities include performing advanced physical, psychological, and psychosocial assessments of patients; and, on the basis of these assessments, establishing and implementing a plan of care, including ordering and interpreting diagnostic tests, administering medications, educating the patient as to treatment and prevention, initiating emergency procedures, and making referrals to other health care providers or facilities. The appellants serve as nursing staff for the general clinic, the allergy clinic, and the personalized reproductive clinic within the SHS on a rotating basis and serve as the scheduling nurse and the triage nurse on a rotating basis. The scheduling nurse establishes the nurse clinicians' schedules for the staffing of the clinics. The triage nurse evaluates the patients coming into the SHS, assesses treatment priorities, and refers patients to health care providers within the SHS. The nurse clinicians do not have disease or injury specialities and patient referrals to the nurse clinicians are not made on the basis of any such speciality. The appellants participate, with the SHS's nurse practitioners and physicians, in the drafting of treatment protocols which specify treatment steps for particular injuries and diseases. These protocols may not be applied until they are approved by an SHS physician.

3. The remainder of appellants' time is devoted to unit planning, health education, and outreach outside the scope of direct patient care. The appellants serve as adjunct professors of nursing for Gateway Technical Institute, overseeing the clinical training of nursing students assigned to the

SHS. In addition, the following is a summary of specific planning, health education, and outreach duties and responsibilities assigned to individual appellants at the time of the subject survey and which they carry out independently:

a. Karen Christofferson: planning and implementing each aspect of the tubercular testing program for UW-Whitewater student teachers; serving as a health consultant to the UW-Whitewater Employee Assistance Program; establishing and coordinating the unit's inventory control system; and overseeing the orientation of the medical technicians in the SHS laboratory.

b. Jane Fischer: serving as a health consultant for the UW-Whitewater Human Development Consortium, an interdisciplinary campus-wide committee; establishing and coordinating the SHS's tobacco cessation programs; coordinating the unit's quality assurance program and projects.

c. Judy Lembrich: coordinating the development of the unit's nursing procedures manual; serving as a consultant for the UW-Whitewater's Sexual Assault Task Force; coordinating the presentation of reproductive health education programs and serving as a campus consultant for reproductive health issues; coordinating the SHS's immunization program, including individual patient care as well as serving as a member of an advisory committee reviewing immunization practices and coordinating the campus-wide education program.

d. Marsha McKinnon: serving as a consultant for Minority Impulse, a campus committee established to study the impact of cultural differences on health care; and overseeing the unit's scheduling function.

e. Sue Scherer: coordinating the continuing education program for the SHS nursing staff, including both in-service and external; coordinating the SHS's nutrition education program; and coordinating community health service activities of the unit.

f. Lynn Zaspel: coordinating training of student employees who staff the SHS outreach posts; coordinating displays of health education materials on campus; and coordinating osteoporosis and calcium health education program.

4. Student health nursing is recognized as a nursing specialty.

5. The UW-Whitewater population which appellants' positions serve include traditional college students as well as the following non-traditional students:

a. 300 physically disabled students with their special health problems such as skin ulcers and other skin problems, respiratory problems, bowel problems, bladder problems, and psychological and psychosocial problems; UW-Whitewater has been targeted and designed to serve the physically disabled;

b. children aged 10 and even younger in the campus day care facility and on campus during the summer for special conferences and summer programs;

c. students over the age of 60 in adult education programs during the school year and on campus during the summer for special conferences and summer programs;

d. approximately 300 international students, some with diseases not typically seen in the United States, some with chronic health problems which have not been treated in their home countries, and some from cultures

which regard and treat health problems in a different manner than in the United States.

6. The UW-Madison employs nurse clinicians in the Urgent Care Clinic of its Student Health Service. These nurse clinicians are classified at the NC 3 level. The UW-Madison Student Health Service also has nurses in its general medical clinic, dermatology clinic, women's (reproductive health) clinic, sexually transmitted disease clinic, injection (allergy shot, immunization) clinic, community health (including communicable disease) unit, and environmental health (including water quality and testing, air quality and testing, and food service testing) units. The nurse clinicians assigned to the Urgent Care Clinic are not scheduled to work in any of these other clinics. The nurse clinicians assigned to the Urgent Care Clinic generally all perform the same direct care duties although certain of them have particular areas of interest, e.g., orthopedic injuries, alcohol abuse, and certain patients with problems in these areas may be referred to these nurses if they are available. 60-80% of these nurse clinicians' time is devoted to direct patient care. For 50% of the Urgent Care Clinic's patients, a nurse clinician is the only health care provider that they see. These nurse clinicians' direct care responsibilities parallel those of the nurse clinicians at UW-Whitewater. The assignments of most of these nurse clinicians in the Urgent Care Clinic at the UW-Madison in the areas of quality assurance, health education, outreach, and health research vary from year to year and each of them has handled each of these areas at one time. Assignments in each of these areas are generally shared by more than one nurse clinician.

7. The population served by the Urgent Care Clinic at the UW-Madison includes traditional college students as well as international students from 105

countries and children under the age of 10 as well as continuing students and conference students over the age of 60.

8. The nurses who staff the Student Health Service at the UW-Oshkosh do not perform advanced physical, psychological, or psychosocial assessments of patients and do not independently establish and implement a plan of care. In addition, these nurses do not have independent responsibility in the areas of unit planning, health education, quality assurance, or outreach. These positions these nurses occupy are classified at the NC 2 level.

9. The position standard for the NC 2 classification states, in pertinent part:

This is full performance professional staff nursing work involving the performance of direct and indirect patient care. The primary responsibility of employees at this level is the independent assessment and provision of direct patient care to meet the needs of assigned patients or an assigned patient population. In addition to the provision of direct patient care, employees at this level will provide leadership and act as a resource to other unit nursing staff; apply the appropriate parts of staff, patient or family educational programs to meet the needs of the assigned patients or other nursing staff; identify unit quality assurance, research or standards of care needs and conduct assigned portions of these projects; collect required data; or identify staff, patient or family educational needs relating to the specific patient population and provide input into the development of such resources. General supervision is provided by a supervising nurse.

10. The position standard for the NC 3 classification states, in pertinent part:

This is advanced professional staff nursing work involving the performance of direct and indirect patient care. Employees at this level are responsible for the independent management of direct care to meet the needs of a complex patient population requiring the use of advanced assessment skills. Employees at this level will also act as a consultant to staff regarding the specific patient population. In addition to the direct patient care responsibility, employees at this level will perform unit planning to structure staff and resources to meet the needs of the assigned patients or patient population; develop specific components of or act as a member of a group responsible

for the development, implementation and evaluation of broad staff, patient or family educational programs for the specific patient population; or develop specific components of or act as a member of a group responsible for the planning, implementation and evaluation of quality assurance, research or standards of care projects for the specific patient population. The work is performed under the general supervision of a supervising nurse.

11. Respondent's "Nurse Clinician Career Ladder--Guidelines for Evaluation for Progression" states as follows in relation to the NC 3 classification, in pertinent part:

On the basis of the class specification, positions must meet all of the following standards to be at this level:

1. Independently manage direct care to meet the needs of a complex patient population requiring the use of advanced assessment skills;
 2. Act as a consultant to staff regarding the specific patient population; and
 3. Perform at least one of the following major activities:
 - a. Perform unit planning to structure staff and resources to meet the needs of the assigned patients or patient population;
 - b. Develop specific components or act as a member of a group responsible for the development, implementation and evaluation of broad staff, patient or family educational programs for the specific patient population;
 - c. Develop specific components of or act as a member of a group responsible for the planning, implementation and evaluation of one of the following areas for the specific patient population:
 - 1) Quality assurance projects;
 - 2) Research projects; or
 - 3) Standards of care projects.
- I. Independently manage direct care to meet the needs of a complex patient population requiring the use of advanced assessment skills;

II. Act as a consultant to staff regarding the specific patient population:

- Serve as a preceptor to new or less experienced staff
- Contribute to the formal clinical performance evaluation of new or less experienced staff
- Orient new staff to the unit
- Assist staff in providing patient, family or staff education
- Conduct training or inservice education on new or revised methods, techniques or standards of care
- Act as a resource to staff on the unit for questions or advice on handling particular situation or for interpretations of patient care needs

III. Perform at least one of the following major activities:

A. Unit Planning:

B. Educational Programs:

- Assess unit/servicewide learning needs
- Plan and implement teaching programs/program components for peers which includes the assessment of learning needs, objectives, content outline and evaluation methods
- Select and apply educational methods which best meet identified learning needs
- Develop unit/servicewide programs utilizing available resources
- Read current literature applicable to the care of patients in the clinical specialty
- Develop and implement a defined area of the total unit educational program
- Participate as a clinical/program specialist on a interdisciplinary team responsible for the development of specific programs/program components of a staff, patient or family educational program
- Instruct individual or group training/educational programs

- Evaluate the efficacy of training/educational programs on the basis of the increased quality of patient care
- C. Quality Assurance, Research or Standards of Care Projects:

12. The duties and responsibilities of appellants' positions satisfy each of the three standards for classification at the NC 3 level and are more closely comparable to the duties and responsibilities of the NC 2 positions than those of the NC 3 positions offered for comparison purposes in the record.

Conclusions of Law

1. This matter is properly before the Commission pursuant to §230.44(1)(b), Stats.
2. The appellants have the burden to prove that the decision by respondents to reallocate their positions to the NC 2 level was incorrect and that their positions are more appropriately classified at the NC 3 level.
3. The appellants have satisfied their burden of proof.

Decision

The issue agreed to by the parties in this case is:

Whether the decision by respondents to reallocate appellants' positions to Nurse Clinician 2 (NC 2) was correct.

Subissue: Whether appellants' positions are more appropriately classified at the NC 2 or NC 3 level.

In order to satisfy the requirements for classification at the NC 3 level, appellants' positions would have to satisfy the three standards set out in Finding of Fact 11, above. Respondents do not dispute that appellants' positions independently manage the direct care of their patients and utilize advanced assessment skills in doing so. Although it appears as though respondents may

have disputed at one point in the litigation of this case that the patients of the UW-Whitewater constituted a complex patient population, respondents' classification expert conceded in her hearing testimony that the UW-Whitewater Student Health Service "probably has a complex patient population." This is consistent with the record in this regard which indicates that UW-Whitewater serves patients of diverse ages and diverse nationalities and cultures as well as a disproportionate number of physically disabled students. (See Finding of Fact 5, above).

Appellants' positions also serve as nursing consultants in their area of specialization, i.e., student health nursing. Respondents' classification expert based her conclusion that this consultant component was missing from appellants' positions on the fact that appellants did not see a particular type of patient, i.e., did not have a nursing speciality. However, the record clearly establishes that student health nursing is an acknowledged nursing speciality. The record also establishes that appellants' positions perform "consultant" duties in student health nursing as those are defined in respondent DER's Guidelines for Evaluation for Progression (See Finding of Fact 11, above). Specifically, appellants' positions serve as preceptors to and evaluators of new or less experienced staff, including student nurses from Gateway Technical Institute; they orient new nursing and medical technician staff to the Student Health Service; they assist in providing patient, family or staff education; they conduct training or inservice education on new or revised methods, techniques or standards of care; and they act as a resource to staff of the Student Health Service on handling particular situations or for interpretations of patient care needs, e.g., through participation in the drafting of treatment protocols.

Finally, appellants' positions have independent responsibility for unit planning, for developing educational programs, and for quality assurance, research or standards of care projects. Respondent disputes that this responsibility should be considered an NC 3 level responsibility by arguing that none of the individual appellants has independent overall responsibility on a continuing basis for one of these major components, i.e., no single nurse clinician at the UW-Whitewater Student Health Service has independent overall responsibility on a continuing basis for health education, no single nurse clinician at the UW-Whitewater Student Health Service has independent overall responsibility on a continuing basis for quality assurance, etc. However, the language of the NC 3 position standard refers to developing specific components of such programs or serving as a member of a group responsible for developing such programs. The record clearly shows that each of the appellants has independent responsibility for developing a specific component or components of such programs and/or for serving as a member of a unit and/or campus group responsible for developing such programs. This interpretation of the NC 3 position standard language is borne out by the language of respondent DER's NC 3 Guidelines for Evaluation for Progression which refers to planning, developing, and implementing teaching program components and developing and implementing a defined area of the total unit educational program.

Respondents attempted to draw a distinction between the duties and responsibilities of the appellants and the nurse clinicians at the Urgent Care Clinic at the UW-Madison Student Health Service. However, the record indicates that their direct and indirect care duties and responsibilities are comparable and, although the nurse clinicians at the UW-Madison serve a

larger patient population, no showing was made that this patient population was significantly more complex than that at the UW-Whitewater. It could even be concluded from the record that the appellants are required to have a broader knowledge base than the nurse clinicians at the UW-Madison since they are assigned to the immunization clinic and the reproductive health clinic as well as the general clinic while the UW-Madison nurse clinicians are assigned to the urgent care clinic only. The Commission concludes that the duties and responsibilities of appellants' positions are comparable for classification purposes to those of the nurse clinician positions at the Urgent Care Clinic at the UW-Madison Student Health Service.

The duties and responsibilities of appellants' positions are not comparable to those of the NC 2 positions at the UW-Oshkosh Student Health Service either in terms of the direct care or the indirect care provided by these positions. These positions perform "staff nursing" duties, i.e., they assist physicians in performing assessments of patients and perform only very routine direct care themselves. In addition, these positions do not have independent responsibility in the areas of unit planning, health education, quality assurance, or outreach.

Based on the above, the Commission concludes that appellants' positions are more appropriately classified at the NC 3 level than at the NC 2 level.

Order

The action of respondents in this regard is rejected and this matter is remanded for action in accordance with this decision.

Dated: _____, 1990 STATE PERSONNEL COMMISSION

LAURIE R. McCALLUM, Chairperson

LRM/lrm/gdt/2

DONALD R. MURPHY, Commissioner

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