

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

(Palo Alto, California)

UCSF STANFORD HEALTH CARE

Employer

and

Case 32-UC-363

**LOCAL 715, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO**

Petitioner¹

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding², the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is a California non-profit corporation engaged in the business of providing acute care and other health care services at its hospitals located in Palo Alto California. During the past 12 months, the Employer has provided services valued in excess of \$250,000 and during the same period of time has purchased and received products valued in excess of \$50,000 directly from points located outside the State of California. On this basis, I find that the Employer is engaged in commerce within the meaning of the Act and, accordingly, the assertion of jurisdiction is appropriate herein.

3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and represents certain employees of the Employer.

¹ Petitioner's name appears as stipulated to at the hearing.

² Briefs by the parties have been duly considered.

4. By its petition, the Petitioner seeks to clarify the service and maintenance bargaining unit, herein called the Unit, it currently represents to include about 15 patient admitting representatives (PARs) working in patient care areas. For the reasons discussed below, I find that said clarification is inappropriate, and accordingly, I will dismiss the petition.

On August 26, 1998, Petitioner filed a representation petition in Case 32-RC-4504 seeking to represent Unit employees employed by the Employer at its Stanford Hospital and Lucile S. Packard Children's Hospital location in Palo Alto, California. Prior to the election, the parties entered into a series of stipulations regarding the scope of the unit in which the election would be held. While the parties stipulated to the inclusion of certain specified classifications and the exclusion of certain other specified classifications, the parties also agreed that those PARs "working in locations other than the main admitting departments shall be permitted to vote subject to challenge; the basis of the challenge to be whether such employees are business office clerical employees according to NLRB standards" and should, therefore, be excluded from the Unit. This group of PARs consisted of about 15 out of a classification containing about 42 employees at the time of the election; the remaining PARs were stipulated to be excluded from the unit. On November 30, 1998 following an election on November 19, the Petitioner was certified as the exclusive bargaining representative of the employees in the Unit. The instant petition was filed to resolve the placement of the 15 PARs who work in patient care areas within Stanford Hospital who were allowed to vote subject to challenge.

The Employer operates two acute care hospitals, Stanford Hospital and the Lucile S. Packard Children's Hospital, herein called LPCH, as well as several clinics on its "South Campus" near the campus of Stanford University in Palo Alto, California. The main business offices serving the Employer's South Campus are located in two buildings approximately three to four blocks apart from each other and about two miles from the two hospitals. The billing functions for Stanford Hospital are performed at one of these buildings, herein called the Hanover Building, while the billing functions for LPCH are performed at the other building as well as the payroll and accounting functions for the entire South Campus.

All PARs at the South Campus are part of the Registration Department. Myriam Cabello is the Director of the Registration Department and works out of the main admissions office in Stanford Hospital. She reports to Larry Smith who is Vice-President of Financial Operations. Patricia Wilder is the assistant director of patient admitting services and reports to Ms. Cabello. Two line supervisors report to Ms Wilder. While PARs work at several different locations throughout the South Campus, they are supervised solely by Registration Department supervisors and managers. In this regard, all hiring, firing, disciplining, evaluating and assigning of PARs is performed by Registration Department supervisors and managers.

As of mid-April 1999, PARs worked at the following locations on the South Campus: Hanover Building (11), Main Admitting-Stanford (7), Main Admitting-LPCH (6.4), Emergency Department (8), Blake Wilbur³ (2), Ambulatory Surgical Center (1), Ambulatory Treatment Unit (1), MRI (1), Radiology South (2), and Surgical Admission Unit (2). The Petitioner seeks to include only the PARs working in the following departments: Emergency Department (ED), Ambulatory Surgical Center (ASC), Ambulatory Treatment Unit (ATU), MRI, Radiology South (R-S), and Surgical Admission Unit (SAU), all of which departments are located in Stanford Hospital.

All PARs perform essentially the same functions regardless of where they work, i.e., gathering demographic and financial data and procuring pre-authorizations from insurance companies for services that the Employer will be providing. This information is transmitted to the billing department to enable that department to collect for the patient services the Employer provides. All PARs use computers in their daily work to input the patient data into the Employer's computer system. All PARs at the South Campus use a software program called Shared Medical Systems (SMS) except for the PARs working in main admitting at LPCH who use Meditech software. The SMS system generates a series of computer screens in which the PARs input the patient data. There are two separate job descriptions covering PARs at the South Campus; one covering the six PARs at main admitting at LPCH and one for all the rest. However, these two job descriptions are functionally identical. Organizationally, the Registration Department is a separate cost center to which all PARs are a part regardless of where they work.

Registration is either scheduled or unscheduled, inpatient or out-patient. A scheduled in-patient or out-patient registration begins with a physician informing the hospital of a scheduled procedure. Then a PAR, usually at Hanover, as part of the pre-admission procedure, will contact the patient and obtain the necessary demographic and financial data. Once this data has been obtained, the PAR will contact the insurance company to verify data and obtain authorization to admit the patient for a particular procedure. On the day of the scheduled procedure, the "pre-admitted" patient presents his/her self to the admitting unit, which is most often the main admitting office or the SAU. At that point, a PAR reviews and verifies the patient information obtained during pre-admission, has the patient sign a service agreement, copies the patient's insurance card, and for an inpatient creates an identification plate which is used to create an inpatient armband, and then armbands the patient. For patients who have not been pre-admitted, the registration procedure is essentially the same the only difference being that in that case all registration procedures are performed when the patient arrives at the hospital for treatment.

³ Blake Wilbur is a separate building just a few minutes walk from both Stanford Hospital and LPCH.

While the functions of all PARs at the South Campus are essentially the same there is some variation in how PARs in each location carry out their functions. For example, the PARs at the Hanover Building are primarily involved in pre-admitting patients by telephone and do not have regular in-person contact with patients while PARs in all other locations have in person contact with patients. In addition, in the Emergency Department, due to federal regulations, the order in which the PARs collect patient data differs somewhat from the typical order in other registration areas. In this regard, a health care professional must conduct a medical screening of each patient before a PAR can collect any billing or financial information from a patient. Thus, prior to the medical screening, the PAR performs only a short registration usually in the lobby outside the door to the emergency room, collecting only patient identifying information. Once the medical screening of a patient is completed, the PAR collects the remaining financial and insurance information often going into the patient care area to talk to the patient. In all other areas, the PARs do not collect any information in an area where patients are actually receiving treatment; instead, the collection is done in a lobby or area outside the areas where the patients actually receive treatment.

The record establishes that contact between Unit employees and PARs is minimal and incidental to the job functions of the PARs. In Hanover pre-admitting, Blake Wilbur, Radiology South, Stanford and LPCH main admitting, for example, no Unit employees are regularly present. Some bargaining unit employees regularly work in the Emergency Department and PARs working in that department do have some regular contact with some Unit employees. However, the ED PARs have much more contact with health care professionals such as nurses and nurse practitioners than Unit employees⁴. The record also establishes that PARs in the SAU have some contact with Unit employees who work near them.

While there is some contact between PARs and Unit employees in some locations, there is no evidence of interchange between PARs and bargaining unit employees in any locations. There is no evidence of either temporary or permanent transfers between PARs and bargaining unit employees. Further, there is no evidence that bargaining unit employees have ever substituted for PARs or vice versa. However, there is substantial evidence that PARs in some locations regularly fill in or substitute for PARs in certain other locations. For example, based on workflow, there is frequent substitution of PARs who work at Stanford main admitting which PARs are not being sought and those who work at Radiology South. These departments are located a short distance from each other on the main floor of Stanford Hospital. In this regard, PARs from Radiology South often work in Stanford main admitting during the first week of the month

⁴ For example, the PAR on the graveyard shift in the ED has frequent contact with nurses and nurse supervisors regarding the placement of patients in rooms and the order of patient flow into the emergency room. However, neither the nurse supervisor nor any non-registration employee directs the PARs as to how to perform PAR functions.

when patient volume is particularly high. Additionally, PARs from Stanford main admitting go into areas with only one PAR, such as ASC, ATU and MRI, on a daily basis to cover lunch periods, vacations and sick calls. On Friday afternoons, a PAR from main admitting goes into SAU to do registration because the SAU has no PAR assigned after 1:30 that day although the department is open until 5 p.m. Emergency Department PARs occasionally fill in for PARs in other areas although PARs from other areas only “infrequently” fill in for ED PARs. In departments where only one PAR is assigned, such as ASC, ATU and MRI, the PARs assigned to these departments do not substitute for PARs in other areas although PARs from other areas regularly cover for them. The Employer has involuntarily transferred PARs from one department to another and has begun a program to cross-train all PARs so that eventually all PARs will be qualified to work in every department where PARs work.

Of all the work areas where PARs work in Stanford Hospital, only the ED has its own break room which is open to all employees who work in that area including PARs. All employees have access to the Stanford Hospital cafeteria. Once every six months, the Registration Department holds a department wide staff meeting. Once a year, the Registration Department holds a “National Admitting Workers Week” when the department schedules a series of events for all Registration Department employees. The Registration Department also holds its own Christmas party each year. PARs do not wear uniforms.

ANALYSIS

The only issue raised herein is whether it is appropriate to clarify the Unit to include those PARs who perform their duties in patient care areas into the existing Unit even though these PARs constitute only a small part of the total number of employees in the PARs classification at the South Campus, the rest of whom the parties agreed to exclude from the Unit.

In deciding that the PARs cannot be clarified into the Unit and that the petition must be dismissed, I am guided by the Board’s decision in United Parcel Service, 325 NLRB No. 21 (1997). There the petitioning union sought to include into a nationwide bargaining unit only a portion of the employees in a job classification while excluding employees in the same position with similar duties who worked at other facilities throughout the country. The Board declined to clarify the unit as requested and dismissed the petition since to do otherwise would not “...promote...stable and efficient labor relations.” Id. sl. op. at 1.

First and foremost, as demonstrated above, the PARs who are sought to be included in the existing unit have a close community of interest with the PARs who have already been excluded from the Unit and thus share with them a separate group identity. In that regard, as discussed above, the record unequivocally establishes that regardless of where a PAR works, each PAR performs essentially the same function as any other PAR on the South Campus,

i.e., collects demographic and financial information from patients as part of the registration process and except for the PARs working in LPCH have the same job description.⁵ In addition, all PARs have patient contact in performing this function, either by phone or in person. Further, there is substantial interchange between PARs working in the various departments on the South Campus but no interchange between PARs and non-PARs employees who work in the departments with the PARs. Finally, PARs are only supervised by Registration Department managers and supervisors and they are not supervised by the supervisors or managers in the departments where they work.

The Petitioner contends that the PARs in patient care areas should be added to the Unit because they share a sufficient community of interest with Unit employees who also work in the patient care areas. In support of this contention, the Petitioner cites a number of factors, including geographical proximity to Unit employees, day-to-day interaction with Unit employees, similarity in terms and conditions of employment between PARs and Unit employees, integration of functions with Unit employees and common supervision with Unit employees by nursing department supervisors at some locations.⁶ However, the record as a whole does not support the Petitioner's contention that the community of interest between the 15 PARs and Unit employees is such that they must be included in the existing unit.

In that regard, the record fails to establish that sought after PARs have anything more than a minimal amount of work-related contact with Unit employees, all of which is incidental to their primary registration function. The mere presence of Unit employees in some departments where the sought after PARs work is not sufficient to establish the community of interest to require the inclusion of the PARs in this unit. While some PARs work in the Hanover Building, some distance from Stanford Hospital, other excluded PARs work in main admitting in Stanford Hospital not far from where the sought after PARs work. While the registration function is, of necessity, totally integrated with other hospital functions, including those performed by Unit employees, this is to be expected in any hospital and obviously does not require that all non-supervisory employees be included in the same unit. Furthermore, there is no evidence that the duties of the sought after PARs are similar to those of any bargaining unit employees. And, contrary to the Petitioner's assertion, the record does not establish that the sought after PARs share any common supervision with bargaining unit employees.

⁵ As noted above, while there is a separate job description for PARs working in main admitting at LPCH, it is functionally the same as the job description covering the rest of the PARs.

⁶ Petitioner also contends that excluded PARs such as those working in the Hanover Building do not share the same working conditions as the PARs working in patient care areas because the Hanover PARs do not have in-person patient contact. Contrary to the Petitioner's contention, the fact that some PARs have in person contact with patients and while other PARs only have contact with patients over the phone is not significant since they all have substantial patient contact, especially in light of the fact that some of the excluded PARs, namely the Stanford and LPCH PARs, have substantial in-person patient contact.

Finally, Petitioner argues that it is not inappropriate to split the sought after PARs from the rest of the PARs who have been excluded from the Unit, in order to include them in the Unit because the Unit already contains some but not all employees in the classification of office assistant. However, while the record establishes that prior to the election the parties agreed to include some employees in the office assistant classification in the Unit while excluding others, the record as a whole clearly establishes that the classification of office assistant is entirely different than the PAR classification and the splitting of that classification does not in any way justify the splitting of the PAR classification. In that regard, unlike the homogeneous PAR classification, the office assistant classification is a “generic” classification containing positions with a multitude of different job descriptions, performing a variety of job functions in many different departments under different supervision. In fact, there are no office assistant positions with the same title which are split between Unit and non-Unit employees. Moreover, whatever split exists in the office assistant position between Unit and non-Unit employees resulted from a pre-election agreement between the parties, and does not in any way bind me. Mid-West Abrasive Co., 145 NLRB 1665 (1964); Macy’s San Francisco, 120 NLRB 69, 71 (1958) (The Board is not bound by a unit resulting from a consent election conducted pursuant to a unit stipulated by the parties rather than one determined by the Board.)

In sum, I conclude that it is inappropriate to include the PARs who work in patient care areas in the existing service and maintenance unit because they have a close community of interest and a distinctly separate identity along with the rest of the employees in the PAR classification at the South Campus whom the parties have agreed to exclude from the unit but who perform similar functions. Accordingly,

IT IS HEREBY ORDERED that the petition in this matter be, and it hereby, is dismissed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. This request must be received by the Board in Washington by July 6, 1999.

Dated at Oakland, California this 21st day of June, 1999.

/s/ James S. Scott

James S. Scott, Regional Director
National Labor Relations Board
Region 32
1301 Clay Street, Suite 300N
Oakland, California 94612-5211

32-1173

420-0642-0000
440-6750-3350-6700