

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SEVENTH REGION

GENESYS REGIONAL MEDICAL CENTER

Employer

and

CASE NO. 7-UC-533

MICHIGAN COUNCIL 25, AND ITS LOCAL 2635,  
AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES (AFSCME), AFL-CIO<sup>1</sup>

Petitioner

APPEARANCES:

Joseph Furton, Jr., Attorney, of Detroit, Michigan, for the Employer.  
Renate Klass, Attorney, of Southfield, Michigan, for the Petitioner.

**DECISION AND ORDER**

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as 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 proceeding,<sup>2</sup> the undersigned finds:

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

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<sup>1</sup> The name of the Petitioner appears as amended at the hearing.

<sup>2</sup> The Employer and the Petitioner filed briefs in this matter, which have been carefully considered.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.

4. Genesys Regional Medical Center, the Employer, operates Genesys Health Park acute care hospital located in Grand Blanc, Michigan. The Employer has maintained a collective bargaining relationship with the Petitioner since approximately 1973 as the exclusive representative of certain non-professional employees.<sup>3</sup> The current contract runs from July 1996 through June 1999. By the instant unit clarification proceeding, the Petitioner seeks to accrete to the existing, certified unit the newly created classification of AAI Coordinator/House Supervisor. The Employer opposes such an accretion arguing that the newly created position possesses supervisory authority as defined in the Act.

The Board follows a restrictive policy in finding accretion because it forecloses employees' rights to select their representative. *Towne Ford Sales*, 270 NLRB 311 (1984), enf'd. 759 F.2d 1447 (9<sup>th</sup> Cir. 1985). However, unit clarification is appropriate for resolving ambiguities concerning the unit placement of employees who, for example, come within newly established job classifications, or whose duties and responsibilities have undergone recent, substantial changes which create real doubt as to their exclusion or inclusion in the unit. *Massachusetts Teachers Assn.*, 236 NLRB 1427, 1429 (1978); *Union Electric Co.*, 217 NLRB 666, 667 (1975). As the parties have been unable to resolve the unit placement of the newly created AAI Coordinator/Supervisor classification in negotiations, and as the existing contract is nearing its expiration, I find the instant unit clarification petition to be timely. *University of Dubuque*, 289 NLRB 349 (1988); *Crown Cork & Seal Co.*, 203 NLRB 171 (1973).

The Employer merged four hospitals in the Flint area into Genesys Health Park, a new medical center providing "Patient Focused Care" rather than delivering health care services by traditional means. Basically, under Patient Focused Care all services are delivered to the patient's bedside rather than transferring the patient from one department to another throughout the hospital for service. Thus, services such as admission registration, insurance verification,

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<sup>3</sup> The bargaining unit includes about 900 employees and is set forth in the collective bargaining agreement as follows:

All full-time and regular part-time Service Associates (SA's), Material Clerks, Support Helpers I and II, Administrative Associate I's (AAI's), Lab Assistants, Peri-OP Equipment Scrub Specialists, Pharmacy Clerks, Buildings & Grounds employees, Housekeeping employees, Laundry employees, Material Handlers, Food & Nutrition Service employees, Pharmacy Technicians, Radiology Clerks, Radiation Oncology Clerks and CPD Aids & Techs, but excluding Administrative Associate II's (AAII's), Emergency Department Technicians, Scheduling Clerks, Respiratory Therapists and Technicians, EEG Technicians, EKG Technicians, Registered Nurses, Graduate Nurses, Student Nurses, Licensed Practical Nurses, Dieticians, all Office-Clerical employees including the Secretaries in Buildings and Grounds, Housekeeping, Laundry, Food & Nutrition Services and Materials Management departments, all Supervisors, Guard Technical and Professional employees.

x-rays, physical therapy, pharmacy services and billing would be done with patients in the health care unit on the hospital floor to which they are assigned. In implementing Patient Focused Care, the Employer created four broad classifications of employees into which all existing classifications would be combined: Clinical Associate, Service Associate, Administrative Associate I (hereinafter AAI) and Administrative Associate II.

The AAI classification, consisting of approximately 250 to 260 employees, performs transcription of physician orders, enters necessary information on orders and charges, answers the phone, orders and schedules tests, does consults for the doctor, delivers blood specimens to the lab, makes packets for the floor, keeps the patient census log book, orders supplies, files clerical data reports, performs patient registration, insurance verification, medical records and cashier duties previously performed by office clericals.<sup>4</sup> Patient registration involves the registration and admission of patients to the unit by entering and maintaining patient information in the hospital computer, and then assigning and verifying medical record numbers. As part of this, an initial assessment is made as to whether the patient will likely be an outpatient, inpatient or clinic patient. Insurance verification follows thereafter by working with third party payers such as Blue Cross, HMO's and Medicare both to verify and pre-certify insurance coverage. In addition to entering this type of data in the computer, the AAI will work with patients who either are denied or have no insurance coverage and may need a payment plan. AAI's are hourly employees and work all three shifts. They report to the nurse manager on each floor. There are approximately 20 to 40 nurse managers.

The Employer contends that employees occupying the AAI position have new multi-tasked assignments in which they need support. Due to the large number of AAI employees, the nurse managers had difficulty monitoring and providing direction to AAIs. The Employer was also experiencing billing problems and delays because of mistakes or poor work performance by the AAIs, which the Employer believed needed correction by closer supervision or further training. As a result, in April 1998, the Employer created the new non-unit classification of Administrative Associate I Coordinator (hereinafter AAI Coordinator). Three unit employees were promoted from their positions of AAI to AAI Coordinator and received a three percent raise while continuing the same benefits. The purpose of this new classification was to provide quality assurance and support for the AAI's through various educational and supportive approaches, including overseeing the work of AAI's and reviewing insurance forms, patient admission forms and medical records for mistakes. Since its inception, AAI Coordinators received more responsibility to the point where they were doing investigations for errors, writing people up for errors, correcting employees, drafting and sitting in on disciplinary actions, and participating in evaluations.

After the filing of the petition in this matter, on May 27, 1999, the Employer sent a Memorandum to Administrators, Managers and Supervisors explaining how the AAI Coordinator position had evolved, would be taking on new supervisory responsibilities and

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<sup>4</sup> The classification of AAI was added to the unit description as originally certified by virtue of a Decision and Order issued by the Regional Director in a prior unit clarification proceeding in 7-UC-474 on October 18, 1995.

would be reclassified as AAI House Supervisors (hereinafter AAI Supervisor). The three individuals that were the AAI Coordinators were reclassified as AAI House Supervisors.

The AAI Supervisors' duties incorporated the duties of the former AAI Coordinator and the following new duties were added: performing and signing performance evaluations of AAI's, conducting interviews and hiring new AAI's, recommending and/or individually signing disciplinary actions with the nurse manager, transferring and assigning work, and authorizing overtime. AAI Supervisors will receive an increase in pay that works out to nearly \$2.00 an hour and management benefits will be added. The AAI Supervisors are salaried and work only the first shift. Furthermore the AAI Supervisors report directly to the Manager of Administrative Support Services.

The term "supervisor" is defined in Section 2(11) of the Act as:

[A]ny individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to 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.

Section 2(11) is interpreted in the disjunctive and an employee's possession of any one of the authorities listed in the section places them in the supervisory class. *Ohio Power Co. v. NLRB*, 176 F.2d 385 (6<sup>th</sup> Cir. 1949), cert. denied 338 U.S. 899 (1949).

While the Petitioner contends that the AAI Coordinator classification was simply renamed to AAI Supervisor, and the timing of the charge shortly before the hearing is suspicious, the unrebutted evidence in the record shows that substantial supervisory authority was bestowed upon the individuals in this classification. The AAI Supervisors now have the authority to interview, hire, and the autonomy to mete out discipline. There is no evidence that this exercise of authority is routine or clerical in nature, or will in some way be restrictive so as not to entail the use of independent judgment. In addition, the AAI Supervisors, unlike the AAI Coordinators, will receive a wage increase that works out to nearly \$2.00 per hour and will receive the management benefits package. Such differences in terms and conditions of employment are a secondary indicia that further militate in favor of finding supervisory status. *North Shore Weeklies, Inc.*, 317 NLRB 1128 (1995).

Although because of the recent grant of such authority there is no evidence that AAI Supervisors have exercised their authority to interview, hire or mete out discipline, it is long settled law that the existence of authority, not its exercise, determines supervisory status.

*Pepsi-Cola Co.*, 327 No. 183 (March 26, 1999); *New Jersey Famous Amos Chocolate Cookie Corp.*, 236 NLRB 1093 (1978); *Hook Drugs, Inc.*, 191 NLRB 189, 191 (1971).

Consequently, based upon the foregoing and the record as a whole, I conclude that the classification AAI Supervisor possesses supervisory authority and should be excluded from the unit herein.

**IT IS HEREBY ORDERED**, that the Petitioner's request to accrete the AAI Supervisors to the instant unit is denied, and the unit is hereby clarified to exclude AAI Supervisors.<sup>5</sup>

Dated at Detroit, Michigan, this 1<sup>st</sup> day of July, 1999.

(SEAL)

/s/ Stephen M. Glasser  
Stephen M. Glasser, Acting Regional Director  
Region Seven  
National Labor Relations Board  
Patrick V. McNamara Federal Building  
477 Michigan Avenue - Room 300  
Detroit, Michigan 48226-2569

177-8540-8060  
177-8520-0800

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<sup>5</sup> Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision and Order may be filed with the **National Labor Relations Board, addressed to the Executive Secretary, Franklin Court, 1099 14<sup>th</sup> Street N.W., Washington, D.C. 20570**. This request must be received by the Board in Washington by **July 15, 1999**.