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

UNIVERSITY PARK LIVING CENTER

Employer

and CASE NO. GR-7-RC-21477

LOCAL 79, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

Petitioner

Mark D. Nelson, Attorney, of Chicago, Illinois, for the Employer.
Bruce Tribble, and Marcella Clark, of Detroit, Michigan, for the Petitioner.

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter 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 this proceeding[1], 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 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 herein claims to represent certain employees of the Employer.

[1] The parties filed briefs which have been carefully considered.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

The Petitioner seeks to represent a unit consisting of 14 full-time and regular part-time registered nurses (RNs)[2] and licensed practical nurses (LPNs) employed by the Employer at its Muskegon, Michigan facility; excluding medical records secretary, central supply purchaser, staff development, clinical resource manager, aging service referral coordinator, service and maintenance employees, guards and supervisors as defined in the Act.[3] The Employer contends that all 14 RNs and LPNs are designated as "unit managers" and possess the authority of supervisors as defined in the Act. There is no prior bargaining history for the petitioned-for employees.

The Employer operates a nursing home facility run by Administrator Robert Johnson.[4] The nursing department is organized under the supervision of a director of nursing (DON)[5] who typically works from 8 a.m. to 4 p.m. or 5 p.m., Monday through Friday, and is on-call 24 hours a day. The record shows that at times the facility has also had an assistant director of nursing (ADON), although at present the position appears to be vacant. The facility is divided into 3 halls and houses about 99 residents. Approximately, 37 residents live on the 100 Hall, 22 residents live on the 200 Hall (also called the Medicare unit) and 40 residents live on the 300 Hall.

Each hall is supervised by a clinical care coordinator (CCC)[6] who works either a 7 a.m. to 3 p.m. or 8 a.m. to 4 p.m. shift. CCCs, who are all RNs, rotate their work schedules so that either a CCC, an RN or staff development person is scheduled each day of the weekend. The CCCs work eight hours at the facility each weekend. The CCC is also on-call 24 hours a day. Each CCC has an office

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[2] The parties stipulated to the professional employee status of the RNs.

[3] The parties stipulated to the exclusion of these classifications from the unit.

[4] Based on evidence that Johnson has the authority to discharge employees, I find that he is a supervisor within the meaning of the Act.

[5] At present, the facility has an interim director of nursing, Mary LeTourneau. Based on evidence that LeTourneau has the authority to discharge employees, I find that she is a supervisor within the meaning of the Act.

[6] Based on evidence that CCCs have the authority to discipline employees, I find that they are supervisors within the meaning of the Act.

located on her respective hall, close to the nurse's station. The 100 Hall CCC is Rebecca Donbrowski, the 200 Hall CCC is Theresa Summers and the 300 Hall CCC is Ann Snow. CCCs supervise the unit managers[7] and certified educated nurse aides (CENAs)[8] on their respective hall, perform assessment evaluations, monitor the long term care of residents, perform periodic evaluations of patients, develop the patient care plans, and review and assess residents' medication changes.

The medical records person, Ronnie Ferris, utilizing a master schedule, completes the biweekly schedule for CENAs, assigning them to a particular shift and to particular days. Ferris also produces a daily assignment sheet and both are available at each nurse's station. Michigan law dictates staffing numbers.

The unit managers and CENAs work three shifts; first shift hours are 6 a.m. to 2:30 p.m., second shift hours are 2 p.m. to 10:30 p.m., and third shift hours are 10 p.m. to 6:30 a.m. On the first shift the 100 Hall has 1 unit manager and 4 CENAs, 200 Hall has 1 unit manager and 2 CENAs, 300 Hall has 1 unit manager and 4 CENAs. On the second shift, 100 Hall has 1 unit manager and 3 CENAs, 200 Hall has 1 unit manager and 2 CENAs, and 300 Hall has 1 unit manager and 3 CENAs. On third shift, 100 Hall has 1 unit manager and 2 CENAs, 200 Hall has 1 unit manager and 2 CENAs, and 300 Hall has 1 unit manager and 2 CENAs. However, on third shift, 1 night per week, 100 and 200 Halls share a unit manager.

The unit managers oversee resident care, direct CENAs in the daily care of residents, work with residents, distribute medications (if an RN) and complete paperwork. Approximately one hour of their day is spent in direct patient care and the balance is spent passing medications, noting doctor's orders, making appointments for patients, coordinating with other departments such things as X-rays, and personnel and conferring with the CCCs.

On a daily basis, unit managers provide CENAs with 24-hour reports and update CENAs with any special needs of residents. Unit managers and CENAs have contact throughout the day, and they share information as to changes in resident care and doctor's orders.

At the beginning of the shift, unit managers report to the nurse's station on their respective hall and, using pre-printed forms, make daily room assignments

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[7] Two or three years ago clinical care coordinators were called unit managers.

[8] These employees are currently represented by the Petitioner under an existent collective bargaining agreement.

for CENAs from the schedule and daily assignment sheet provided to them each day. CENAs routinely work the same room assignments, but the unit managers assign the floater CENA positions to other positions as needed depending upon patient census without consultation with the CCC. If a problem occurs, such as a patient requests a different CENA, the unit manager will make the appropriate reassignment.

When a hall is understaffed, unit managers, following protocol contained in the collective bargaining agreement, call in replacement CENAs to fill openings in the schedules by first using the seniority list developed by the DON, calling the most senior employees first, and calling those employees not scheduled. Unit managers do not have the authority to require a CENA to report for work. CENAs from the next shift may be asked by the unit managers to come in early. If a replacement is not found, and there are no volunteers, then according to the collective bargaining agreement, unit managers may mandate a CENA from the current shift to work over. However, an Employer witness, a unit manager, testified that, in practice, mandating is difficult to achieve and rarely occurs. The collective bargaining agreement states that work is assigned to the least senior employee by job classification. Employer witnesses testified that no approval from the CCC or DON is needed to call in staff, but Petitioner's witnesses testified that unit managers contact the on-call supervisor to discuss staffing needs prior to taking action.

Unit managers decide the order of the CENAs' two, 15-minute breaks and lunch. Break and lunch times are fairly standard and for the most part the CENAs usually work out the schedule among themselves. Those that take the first break usually take the first lunch. Unit managers, as outlined in the collective bargaining agreement, may call CENAs back from break early if needed.

Unit managers may also call in temporary help to satisfy staffing needs. In the last 10 months, the procedure has been in a state of flux, changing from unit managers being directed automatically to call in temporary help once the call in procedures are exhausted, to requiring unit managers to seek advance permission from the on-call supervisor nurse before contacting temporary agencies for staff.

Unit managers may decide among themselves to remove employees from their scheduled assignment to another assignment in order to meet patient needs. It is unclear as to whether this occurs without consultation with higher management. The procedure, outlined in the collective bargaining agreement, requires the Employer to assign work to the least senior employee, by job classification, on a rotating basis. Unit managers may send CENAs home before the end of their shift in situations where the CENA refuses to do the assigned task

or may direct a CENA to stay over if their work is not complete without consultation with the DON or CCC.

Unit managers cannot authorize CENAs to take a day off and cannot authorize or approve vacation days for CENAs. If a CENA works through an unpaid meal period or works overtime, the unit manager signs the employee's time card to signify that the overtime was worked but cannot authorize overtime on her own.

According to protocol, when the census is low unit managers may send employees home early without seeking prior permission from the CCCs. This occurs on a weekly basis. Often a note will be attached to the daily schedule from supervision instructing the unit manager to send employees home if the census reaches a certain number. If no particular employee is identified in the note, the unit manager asks for volunteers and sends staff home based on seniority if there are insufficient volunteers.

The record as to the authority of unit managers to independently discipline CENAs is controverted. Discipline is issued through the use of a form entitled "employee counseling memorandum." This form has been revised several times over the last several years. Currently, the form includes a blank for "progressive discipline," "past record," "future consequences/warnings," and also provides a signature line for the employee and a supervisor. The disciplinary levels under the collective bargaining agreement are oral warning (documented verbal discussion), written warning, suspension and discharge. However, it is not clear from either the contractual language or testimony that the Employer employs a progressive disciplinary system. Usually, the unit managers sign the form on the line designated for a supervisor.[9] Unit managers present and discuss counseling memoranda with employees, although Petitioner's witnesses claim they are instructed to do so by the CCC, DON or, for absenteeism, upon the direction of medical records personnel. These counseling memoranda have no effect on the pay of a CENA.

The Employer's witnesses testified that for the most part unit managers report incidents involving CENAs by completing the employee counseling memorandum and have the authority to issue disciplinary actions to CENAs without consultation with the DON or CCC. Sometimes CCCs will direct a unit manager to write up a specific individual. Further, Employer witnesses testified that unit managers have full authority to decide the appropriate discipline, present the disciplinary form to the affected employees and discuss it with them. One

[9] The unit manager position was formerly titled "supervisor".

witness offered the example that unit managers may write up CENAs when they believe that patient care is not properly rendered. The Employer presented samples of the disciplinary forms into the record, which indicated the progressive disciplinary step was either verbal or written warning and were signed by a unit manager. One of the forms offered also contained the signature of the DON. Several of the forms were completed by unit managers, several were completed by Ronnie Ferris, the medical records person (who makes the schedules) and some were completed by an unidentified source. It is not clear from the record whether the unit managers have access to personnel files of employees.

The Petitioner's witnesses testified that unit managers, either independently or upon the direction of a CCC or medical records personnel, complete employee counseling memoranda and submit them it to the DON or ADON. An investigation is then conducted by supervision. The unit manager, the DON and other supervisory personnel then meet and discuss proper discipline. According to Petitioner's witnesses, recommendations for oral warnings issued by unit managers are followed with little independent investigation, but are reported to the DON beforehand. Unit managers may recommend a particular discipline, such as suspension or discharge on the counseling memorandum, and it may or may not be adopted by the DON after investigation. However, the decision as to whether disciplinary action is taken is made solely by the DON.

Employer and Petitioner witness testimony is at odds regarding several examples involving unit managers recommending discipline for CENAs. Past-ADON Janeen Dillon testified on the Employer's behalf regarding a situation where she was on-call and a unit manager called and informed her, after the fact, that she had sent a CENA home for walking off the job. Dillon further testified regarding another incident involving the discharge of a CENA by a unit manager asserting that the unit manager recommended discharge, she agreed and the administrator left the decision to terminate in this instance up to the unit manager. Dillon testified that while on occasion the administrator can be involved in making termination decisions, unit managers have the final authority to terminate employees.

To the contrary, Unit Manager Longnecker testified on behalf of the Petitioner that she was involved in the termination of the CENA described by Dillon above and that she called Dillon to report the incident and asked what she should do. Longnecker testified Dillon told her to terminate the individual and she did so only on the order of Dillon.

In another instance where a CENA left work after indicating she would work past the end of her shift, the unit managers completed a counseling form

recommending suspension and reported the incident to the DON, who had them rewrite the counseling form. The DON subsequently conducted an independent investigation and at a meeting involving the unit managers, DON and ADON, the decision was made by the DON to terminate the CENA.

The Employer also presented into evidence a memo signed by three unit managers informing a group of CENAs that they may not prepare to leave and/or leave the floor before the end of their shift, and informing them if they did so they would be disciplined. However, according to the Petitioner, the purpose of this memo was to provide documentation that the CENAs were informed of the policy in the event that the CENAs received write-ups for violating the policy.

The Administrator, DON and/or ADON participate in grievance meetings and settlements. Unit managers are not involved in this activity.

One example was provided where a unit manager completed evaluation forms for CENAs. The testimony was in conflict as to whether unit managers give the evaluations to the DON for review before presentation to the CENA, but it appears unit managers may discuss the evaluations with the CCCs prior to presentation to the CENAs. However, the evaluations do not affect the pay rate of the CENA.

Unit managers, CCCs or CENAs complete an "Employee Incident Report" when an accident or injury occurs involving CENAs. Unit managers typically complete the section marked "supervisor" and sign the form on the line marked "Supervisor Signature or Person In Charge." The record was unclear as to what effect, if any, these forms have on the employment of the CENAs.

CENAs wages range from $7.70 per hour to $9.61 per hour. Unit managers wages begin at $11.88 per hour to a maximum of $17.00 per hour. Clinical Care Coordinators pay rate begins at $15.80 per hour with a maximum of $17.50 per hour. Unit managers and CCCs receive the same life insurance, vacation accrual, medical and dental benefits. CENAs have the same medical and dental insurance, but CENAs receive a different life insurance benefit and accrue vacation differently than unit managers. CENAs receive one week of vacation after one year of service. Unit managers and CCCs accrue one week of vacation after six months of service, and two weeks after one year of service. Only CENAs receive Martin Luther King Day off as a paid holiday.

Section 2(11) of the Act defines a "supervisor" as:

> ...any 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.

An individual need possess only one of the enumerated indicia of authority in order to be encompassed by the definition, as long as the exercise of such authority is done in the interest of the employer and requires the use of independent judgment. ***Big Rivers Electric Corp.***, 266 NLRB 380, 382 (1983). A party seeking to exclude an individual as a supervisor has the burden of establishing such status. ***Northcrest Nursing Home***, 313 NLRB 491, 496 fn. 26 (1993). The legislative history of Section 2(11) indicates that Congress intended to distinguish between employees commonly referred to as "straw bosses" or leaders, who may give minor orders and oversee the work of others, but who are not necessarily perceived as part of management, from those supervisors truly vested with genuine management prerogatives. ***George C. Foss Co.***, 270 NLRB 232, 234 (1984). The exercise of some supervisory authority in a merely clerical, perfunctory or sporadic manner does not require a finding that an employee is a supervisor within the meaning of the Act. ***Somerset Welding & Steel***, 291 NLRB 913 (1988).

In ***NLRB v. Health Care & Retirement Corp.***, 511 U.S. 571, 146 LRRM 2321 (1994), the Supreme Court addressed the narrow issue of the legitimacy of the Board's analysis of the term "in the interest of the employer" as it applied to health care professionals. In that regard, the Court concluded that health care employees who gave independent, as opposed to routine, direction to employees incidental to patient treatment were acting in the interest of the employer as the employer's business was the providing of such care. Beyond this limited analysis, the Court left intact the Board's standards for determining the supervisory status of nursing personnel.

In the instant case, the weight of the evidence is that the unit managers have no independent authority with respect to the hire, transfer, promotion, demotion, lay off, recall, or reward of employees. The Employer asserts that the unit managers possess other indicia of supervisory authority which warrant a finding of supervisory status, namely to assign and direct the work of CENAs, to call CENAs in and allow CENAs to leave work early or to send them home for misconduct, to adjust workplace grievances, to evaluate CENAs, and to discipline CENAs.

Further, the Employer asserts that unit managers are the highest ranking official on-site for a substantial part of the work day.

Although the unit managers are denoted on various forms as being the immediate supervisors of the CENAs, there are few tangible examples of the exercise of true supervisory authority. The Board has repeatedly stated that conclusionary statements, unsupported by evidence of specific authority, do not demonstrate supervisory authority. ***Chevron U.S.A., Inc.***, 309 NLRB 59, 61 (1991); ***Sears Roebuck & Co.***, 304 NLRB 193 (1991).

With respect to the scheduling and assignment of CENAs, the record reflects that scheduling CENAs to a shift and a floor is within the province of the medical records person. The unit manager's assignment of CENAs to specific rooms or patients is essentially routine, and for the most part reflects a division of the workload. Most CENAs routinely handle the same daily assignments, and floaters appear to be assigned to handle any areas that are left over in order to meet mandated staffing requirements. This routine assignment of CENAs to patients does not reflect the exercise of independent judgment so as to bestow supervisory authority. ***Bozeman Deaconess Hospital***, 322 NLRB 1107 (1997); ***Providence Hospital***, 320 NLRB 717, 732 (1996). While unit managers schedule breaks and lunches for the CENAs, there is no indication that this requires any independent judgment beyond consideration of workload and adherence to a set break schedule.

While the Employer asserts that unit managers utilize independent judgment when directing the CENAs in their work, the record is devoid of any such evidence. What little record evidence exists amounts to nothing more than establishing that unit managers provide general work direction to CENAs and that they are responsible to observe, correct and assure that proper care is provided to patients. The Board has determined that the exercise of such limited authority over lesser skilled employees regarding assignment or direction does not entail the independent judgment necessary to establish supervisory status. ***Evangeline of Natchitoches, Inc.***, 323 NLRB 223 (1997); ***Rest Haven Nursing Home***, 322 NLRB 210 (1996); ***Phelps Community Medical Center***, 295 NLRB 486, 490 (1989).

The Employer asserts that the unit managers are supervisors under the Act because they possess the authority to call in staff early, shift staff from hall to hall and keep staff past the end of their shift. Although the second and third shift unit managers have called in CENAs to cover for absent employees, the exercise of this authority appears to be pursuant to established procedures, and is limited since the scheduling person handles this function during the day. The unit managers

utilize a call list provided by the DON and have no authority to require the CENAs to report to work. CENAs, according to the provisions of the collective bargaining agreement, may be mandated to work over a shift in order to meet staffing needs. The authority to mandate emanates from the collective bargaining agreement. The unit manager has no inherent authority to do so. Therefore, the unit managers have no authority to require CENAs to come in and work but may only ask them to do so. Under ***Providence Hospital***, 320 NLRB 717, 732 (1996), "[t]his limited authority requires only routine judgment."

Likewise, the ability to occasionally allow employees to leave work early due to illness is considered routine, especially where as here the unit managers cannot otherwise excuse absences by CENAs. ***Washington Nursing Home***, 321 NLRB 366 (1996). The record provides no such examples and presumably such authority is limited by the mandated staffing levels beyond the control of the unit managers. For the same reason, unit managers occasionally send home CENAs when overstaffed. For the most part, these decisions are made by higher supervision. Any decisions made by unit managers as to sending staff home are routine and dictated by protocol.

As to the alleged authority of the unit managers to evaluate CENAs, the weight of the evidence indicates that the evaluations are discussed with either the CCC or DON prior to presentation to the CENA. The record provides no evidence as to what effect, if any, these evaluations have on CENA's status or tenure. The record in this regard is therefore insufficient to support a finding of supervisory status. ***Ten Broeck Commons***, 320 NLRB 806 (1996); ***Bayou Manor Health Center***, 311 NLRB 955 (1993); ***Passavant Health Center***, 284 NLRB 887 (1987).

While the Employer asserts unit managers have the authority to settle grievances between staff, the record evidence does not support this conclusion. Nothing more than a few hypothetical examples where a unit manager might utilize routine judgment to solve problems, such as trading problem patients between CENAs, are contained in the record.

As to overtime, the evidence is disputed as to whether a unit manager may require a CENA to work overtime. No specific examples are provided and it appears the unit manager's only function is to initial CENA time cards to verify that they have actually worked the hours. Consequently, I find that the Employer has not met its burden in showing that unit managers exercise anything other than clerical responsibility in initialing time cards.

Finally, the record evidence is in direct dispute as to the alleged authority of unit managers to discipline CENAs. The evidence offered by the Employer was directly contradicted by the Petitioner's witnesses. While it appears that unit managers do make recommendations as to the level of discipline, there is no indication that they have any knowledge of or access to CENAs' personnel files, that their recommendations are followed without an independent investigation, or that they function in more than a reportorial fashion. There is insufficient evidence to conclude that the discipline issued by unit managers has any adverse effect on a CENA's job tenure or status. Further, if the collective bargaining agreement provides for progressive discipline, then that virtually forecloses any possibility of the exercise of discretion with respect to discipline. ***Anamang***, 284 NLRB 621 (1987). Finally, that unit managers occasionally issue oral or written warnings on a sporadic basis does not confer true supervisory status. ***St. Francis Medical Center-West***, 323 NLRB 1046 (1997); ***Biewer Wisconsin Sawmill***, 312 NLRB 506 (993). Thus, I find that the Employer has not met its burden in proving that unit managers can effectively and independently discipline or recommend discipline.

The Employer's argument that unit managers are the highest ranking official at the facility for a substantial period of the day is not dispositive of their supervisory authority. Procedures and protocols are in place to handle most situations and there is always supervision available by pager or phone. Wages and benefit differences between CENAs and unit managers likewise is not an indicator of supervisory authority. The Employer's reliance on secondary indicia of supervisory status are insufficient to establish supervisory status in the absence of statutory supervisory indicia. ***J.C. Brock Corp.***, 314 NLRB 157, 159 (1994).

Inasmuch as I have found that unit managers do not possess the indicia set forth in Section 2(11) and do not responsibly direct other employees, I conclude that the petitioned-for unit managers are not statutory supervisors.

5. In view of the foregoing, the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time unit managers employed by the Employer at its facility located at 570 South Harvey St., Muskegon, Michigan; but excluding medical records secretary, central supply purchaser, staff development, clinical resource manager, aging service referral coordinator, clinical care coordinators, service and maintenance employees, guards and supervisors as defined in the Act.

The unit set forth above includes both professional (RNs) and nonprofessional (LPNs) employees. The Board is prohibited by Section 9(b)(1) of the Act from including professional employees in a unit with nonprofessionals unless a majority of the professional employees votes for inclusion in such a unit. Accordingly, the desires of the RNs as to inclusion in a unit of nonprofessional employees must be ascertained.[10] I shall therefore direct separate elections in the following voting groups:

VOTING GROUP (A): All full-time and regular part-time licensed practical nurses (LPNs) designated as unit managers employed by the Employer at its facility located at 570 South Harvey St., Muskegon, Michigan; but excluding medical records secretary, central supply purchaser, staff development, clinical resource manager, aging service referral coordinator, clinical care coordinators service and maintenance employees, registered nurses, guards and supervisors as defined in the Act.

VOTING GROUP (B): All full-time and regular part-time registered nurses (RNs) designated as unit managers employed by the Employer at its facility located at 570 South Harvey St., Muskegon, Michigan; but excluding medical records secretary, central supply purchaser, staff development, clinical resource manager, aging service referral coordinator, clinical care coordinators, service and maintenance employees, licensed practical nurses, guards and supervisors as defined in the Act.

The employees in the nonprofessional voting group (A) will be polled to determine whether or not they wish to be represented by the Petitioner.

The employees in the professional voting group (B) will be asked two questions on their ballots:

1. Do you desire to be included in a unit composed of all eligible employees of the Employer of the above-determined appropriate unit for the purposes of collective bargaining?

2. Do you desire to be represented for the purposes of collective bargaining by Local 79, Service Employees International Union, AFL-CIO?

If a majority of the RNs in voting group (B) vote "yes" to the first question indicating their desire to be included with all eligible employees, they will be so included. Their vote on the second question will then be counted together with the

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[10] ***Sonotone Corp.***, 90 NLRB 1236 (1950).

votes of the nonprofessional group (A) to determine whether or not the employees in the overall unit wish to be represented by the Petitioner. If, on the other hand, a majority of the RNs in voting group (B) votes against inclusion, they will not be included with the nonprofessional employees. Their votes on the second question will then be separately counted to determine whether or not they wish to be separately represented by Petitioner.

My unit determination is based, in part, upon the results of the election among the RNs. However, I now make the following findings in regard to the appropriate unit.

1. If a majority of the RNs votes for inclusion in the unit with nonprofessional eligible employees, I find that the following will constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time unit managers employed by the Employer at its facility located at 570 South Harvey St., Muskegon, Michigan; but excluding medical records secretary, central supply purchaser, staff development, clinical resource manager, aging service referral coordinator, clinical care coordinators, service and maintenance employees, guards and supervisors as defined in the Act.

2. If a majority of the RNs does not vote for inclusion in the unit with nonprofessional eligible employees, I find that the following two groups of employees will constitute separate units appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

(a) All full-time and regular part-time licensed practical nurses (LPNs) designated as unit managers employed by the Employer at its facility located at 570 South Harvey St., Muskegon, Michigan; but excluding medical records secretary, central supply purchaser, staff development, clinical resource manager, aging service referral coordinator, clinical care coordinators, service and maintenance employees, registered nurses, guards and supervisors as defined in the Act.

(b) All full-time and regular part-time registered nurses (RNs) designated as unit managers employed by the Employer at its facility located at 570 South Harvey St., Muskegon, Michigan; but excluding medical records secretary, central supply purchaser, staff development, clinical resource manager, aging service referral coordinator, clinical care coordinators, service and maintenance employees, licensed practical nurses, guards and supervisors as defined in the Act.

Those eligible to vote shall vote as set forth above and in the attached Direction of Election.

Dated at Detroit, Michigan, this 19th day of February, 1999.

/s/ William C. Schaub, Jr.

(SEAL)

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