

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

MCAULEY PLACE

Employer<sup>1</sup>

and

CASE GR-7-RC-21533

LOCAL 79, SERVICE EMPLOYEES  
INTERNATIONAL UNION, AFL-CIO

Petitioner

Mark D. Nelson, Attorney, of Chicago, Illinois, for the Employer.  
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,<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.
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.

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

<sup>2</sup> The Employer filed a brief which has 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 15 full-time and regular part-time registered nurses (RNs)<sup>3</sup> and licensed practical nurses (LPNs) employed by the Employer at its Muskegon, Michigan facility; excluding administrator, medical director, human resources/workers compensation, clinical resources manager, admissions director, activities director, accounts receivable, dining services supervisor, accounts payable/payroll, director of nursing services, social services coordinator/behavior management, staff development, medical records, central supply, environmental services supervisor/safety officer, clinical care coordinators, guards and supervisors as defined in the Act.<sup>4</sup> The Employer contends that all 15 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 Karen Messick.<sup>5</sup> The nursing department is organized under the supervision of Director of Nursing (DON) Laural Allison,<sup>6</sup> who typically works from 8:00 a.m. to 5:00 p.m., Monday through Friday, and is on-call 24 hours a day. The facility is divided into 3 halls with a total of 99 beds for residents; 36 beds on the 400 hall, 22 beds on the 500 hall (the Medicare unit), and 40 beds on the 600 hall.

There are 3 clinical care coordinators (CCCs)<sup>7</sup>, each assigned to a specific hall; Delander Johnson for the 400 hall, Kay Wallace for the 500 hall, and Angie Sutton for the 600 hall. The CCCs, who are all RNs, work 8:00 a.m. to 5:00 p.m., Monday through Friday, and are on-call evenings and weekends on a rotating basis. The Employer also utilizes a weekend and evening manager program whereby department managers are present at the facility on evenings and weekends on a rotating basis to serve as a resource for visiting families and also to assist clinical personnel with staffing or other issues. The CCCs share an office next to that of the DON in the 400 hall. The CCCs are responsible for coordinating the outcome of clinical care for residents, preparing resident care plans, and supervising the unit managers.

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<sup>3</sup> The parties stipulated to the professional employee status of the RNs.

<sup>4</sup> The parties stipulated that these specifically named classifications are excluded from the unit.

<sup>5</sup> Based on the evidence that Messick has the authority to discharge employees, I find that she is a supervisor within the meaning of the Act.

<sup>6</sup> Based on the evidence that Allison has the authority to discharge employees, I find that she is a supervisor within the meaning of the Act.

<sup>7</sup> Based on evidence that the CCCs have the authority to discharge employees, I find that they are supervisors within the meaning of the Act.

The unit managers and certified educated nurse aides (CENAs)<sup>8</sup> work three shifts; first shift hours are 7:00 a.m. to 3:00 p.m., second shift hours are 3:00 p.m. to 11:00 p.m., and third shift hours are 11:00 p.m. to 7:00 a.m. On the first shift, the 400 hall has 1 unit manager and 4 CENAs, the 500 hall has 1 unit manager and 2 CENAs, and the 600 hall has 1 unit manager and 4 CENAs. On the second shift, the 400 hall has 1 unit manager and 3 CENAs, the 500 hall has 1 unit manager and 2 CENAs, and the 600 hall has 1 unit manager and 3 CENAs. On the third shift, the 400 and 600 halls each have 1 unit manager, with the 500 hall shared between them, and each hall has 2 CENAs.

The scheduler, who works during the day, prepares the schedules for the CENAs and assigns them to particular days, shifts and halls. Michigan law dictates staffing numbers as well as the Employer's per patient, per day (PPD) staffing level.

The unit managers oversee the CENAs in the daily care of residents, provide clinical care, including the distribution of medications and provision of treatments, and complete patient documentation.

At the beginning of the shift, the unit managers make daily room assignments for the CENAs. The rooms are generally divided equally among the CENAs who routinely work the same room assignments.

When a hall is understaffed, it is the responsibility of the scheduler, DON or CCC to ensure adequate staffing levels. However, during times when none of those individuals is present at the facility, the unit manager must take the necessary steps to fill CENA vacancies or adjust the available staff to the workload. The procedure for remedying CENA staff deficiencies is outlined in the collective bargaining agreement. Unit managers are to call those CENAs who have indicated a desire to work additional hours, by order of seniority. However, unit managers cannot compel a CENA to report for work. If no call-ins are available, pursuant to the collective bargaining agreement unit managers can require a CENA from the prior shift to stay over, beginning with the lowest seniority employee on a rotating basis. When pre-authorized to do so, unit managers can contact temporary agencies for additional staff without seeking permission for a specific instance. The names and telephone numbers of the pre-authorized agencies are available at the nurses' stations.

In the event that additional staff is not available to cover shortages, staffing adjustments are made by the scheduler, DON or CCCs, or by the unit managers in their absence. CENAs can be moved from another hall to meet patient needs. The procedure, as outlined in the collective bargaining agreement, requires that the least senior employee, on a rotating basis, be reassigned. Unit managers can also reassign patient rooms among the CENAs on a hall to adjust to a staffing shortage. When CENAs have complained to CCCs about such temporary reassignments, the CCCs sometimes override the adjustments made by the unit managers. Unit

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<sup>8</sup> These employees are currently represented by the Petitioner under an existent collective bargaining agreement.

managers can also reassign restorative aides to direct patient care when necessitated by a staffing shortage. However, the record contains no information regarding restorative aides, their numbers or regular responsibilities, and provides no indication of the frequency of such reassignments.

Unit managers schedule the break and lunch periods for the CENAs, as outlined by the collective bargaining agreement which provides that such periods can be interrupted in an emergency. It is necessary that a staff person be present on each hall at all times.

Unit managers cannot authorize CENAs to take a day off and cannot authorize or approve vacation days. While the Employer asserts that unit managers can approve overtime, the only example of overtime work contained in the record is to cover staffing shortages by CENAs staying over from a prior shift. Unit managers sign the time cards to verify the overtime hours worked. On occasions when the workload allows, unit managers can allow CENAs to leave early upon notification of the CCC or DON.

Discipline is issued through the use of a form entitled "employee counseling memorandum." 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 (written), written warning, final written warning or suspension, and discharge. However, it is not clear to what extent the Employer follows progressive discipline. Both the contract language and the testimony indicate that the seriousness of the infraction is considered and the progression can be ignored.

The Employer asserts that unit managers have the authority to issue discipline to CENAs up to and including suspension. The unit managers, however, testified that they are authorized only to issue verbal and written warnings, including final written warnings, but not suspensions. The only example offered by the Employer of a situation wherein a unit manager might suspend a CENA was if a CENA fell asleep at work or engaged in other clearly inappropriate behavior. On such an occasion, the suspension would initiate an investigation by the DON. The record does not reveal what would occur thereafter. No other examples were provided of the issuance of a suspension by a unit manager as a disciplinary penalty. With respect to discharge, a unit manager can recommend discharge, but generally there is an independent investigation by the CCC and/or DON before a final decision is made. The record is silent as to the frequency of discharge recommendations by unit managers and to what extent they are followed. Unit managers are sometimes directed by upper management to issue written warnings to CENAs for matters of which they have no knowledge.

The record contains five disciplines issued to CENAs by unit managers. Three are verbal warnings for failure to perform patient care duties, only one of which issued within a year of the hearing date. The other verbal warning (actually a series of warnings issued on the same date in February 1999 to the same employee) was issued by a unit manager after being directed to do so by the staff development person. The last discipline was a final written

warning issued in January 1999 for a loud argument between two CENAs in a patient care area, in which the unit manager was directed to issue the discipline by management. Of the two unit managers who testified for the Petitioner, one had issued only one discipline in the past year, and that had been initiated by the human resources manager, and the other had not issued any discipline in the past year.

It is not clear how the level of discipline is selected. According to the Employer's testimony, the level of discipline is determined by the previous disciplines on record and the unit managers can check with the human resource manager or their supervisor as to what step to follow, although admittedly progressive discipline is not always imposed. Keys to the locked personnel files reside with the payroll person and human resource manager. Unit managers may have access to the personnel files upon request and presentation of a legitimate reason, although unit managers are not generally aware that they have such access.

The record contains four examples of disciplines issued to unit managers concerning conduct of CENAs: a verbal warning for failure to file an incident report concerning an injury on the job of a CENA; a verbal warning for failure to instruct CENAs on break times which resulted in the lack of staff on the hall; a written warning as a result of a resident's complaint about verbal abuse by a CENA wherein under "expected behavior" the unit manager is directed to report negative behavior to the DON and give written discipline; and a written warning due the failure of a CENA to perform patient care duties. In the latter instance, the unit manager protested not being allowed to issue discipline to the CENA before receiving discipline herself.

Unit managers sign the employee counseling memorandum on the line designated for a supervisor. It appears that generally unit managers meet with CENAs to deliver employee counseling memoranda, but not all unit managers have met with CENAs to present such discipline. Instead, unit managers may leave the employee counseling memorandum in the DON's office for transmittal to the CENA. Unit managers can and do request the presence of CCCs or the DON when presenting discipline directly to CENAs.

Employer and Petitioner witness testimony is at odds regarding the responsibility of unit managers to prepare evaluations of CENAs and the procedure for doing so. The Employer witnesses testified that pursuant to a State requirement, unit managers prepare evaluations of CENAs annually using an Employer form. The unit manager then reviews the evaluation with the CENA and both sign the form which is then forwarded to the DON. Unit managers sometimes ask for the DON's input when preparing evaluations. Of the two unit managers who testified for the Petitioner, one had never done a CENA evaluation and the other had done only one which was forwarded to the DON without meeting with the employee to review it. The evaluations have no effect on the pay of a CENA and the record does not reveal any other consequence of the evaluations.

The collective bargaining agreement encourages employees to discuss any complaint with their immediate supervisor, which in practice has been the unit manager, and to attempt a resolution before a formal grievance is filed. Once a formal grievance is filed, the Employer is

represented by the DON and the administrator; the unit manager plays no part in the formal grievance procedure. No specific examples were provided of CENA complaints or disputes resolved by unit managers. While unit managers admit they do attempt to resolve CENA complaints, they are often bypassed when CENAs appeal to the CCCs.

CENAs' wages range from \$7.70 per hour to \$9.60 per hour. Unit managers' wages begin at \$12.29 per hour to a maximum of \$17.96 per hour. CCCs' pay begins at \$19.00 per hour with a maximum of \$19.71 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 vacations 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.

In February 1999, the administrator conducted in-service training for unit managers wherein various sections of the CENA collective bargaining agreement were reviewed, including management rights, orientation, discipline and discharge, probation, employee categories, break and lunch periods, work schedules and overtime, and the grievance procedure. Other meetings of the unit managers, and sometimes the CCCs, have been held by the DON concerning the State examination process.

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). 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 establishes that unit managers have no independent authority with respect to the hire, transfer, promotion, demotion, lay off, recall, or reward of employees. Although the job descriptions in the record indicate that the unit managers are responsible for recruitment and selection of nursing personnel, there is no record evidence that unit managers are involved in the hiring process. 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 to send them home, to effectively recommend transfers, to schedule CENAs, to authorize overtime, to adjust grievances, to evaluate CENAs, and to discipline and effectively recommend discipline. Further, the Employer asserts that the unit managers enjoy higher pay than the CENAs and are the highest ranking official present at the facility 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 hall is within the province of the scheduler. 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. 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). In the event of a staffing shortage, the unit manager will merely divide the workload among the CENAs present. If it becomes necessary to move a CENA to a different hall in order to equally divide the workload, the collective bargaining agreement specifies the procedure. There is no evidence that unit managers effect or effectively recommend permanent transfers. 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 to direct lesser skilled employees 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 CENAs to remedy staffing shortages, to keep staff past the end of their shift, and to call temporary agencies for additional staff. 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 and the unit managers are relieved of the responsibility whenever the DON or a CCC is present. The unit managers have no authority to require 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, unit managers have no authority to require CENAs to report to work. Under *Providence Hospital*, “[t]his limited authority requires only routine judgment.” The use of temporary agencies is pre-arranged and the unit managers merely contact the designated agencies when necessary. While the Employer asserts that the unit managers can authorize overtime, the only example of the possible assignment of overtime by unit managers involves having the CENAs stay over to the next shift to cover a staff shortage, as described above. No other examples of the assignment of overtime were provided and it appears that the unit manager’s only function is to initial the CENA time cards to verify that they actually worked the hours. Consequently, I find that unit managers perform nothing more than clerical responsibility in initialing time cards.

Likewise, the ability to occasionally allow employees to leave work early if the workload allows is considered routine. *Washington Nursing Home*, 321 NLRB 366 (1996). The record provides no such examples and presumably such authority is limited by mandated staffing levels beyond the control of the unit managers. The DON is notified when employees are allowed to leave early.

As to the alleged authority of the unit managers to evaluate CENAs, the record is unclear as to the regularity and frequency with which unit managers prepare evaluations and there is a dispute as to whether they review them with the CENAs. The record provides no evidence as to what effect, if any, these evaluations have on a 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 that unit managers have the authority to settle grievances between staff, the record evidence does not support this conclusion. Nothing more than a couple of vague hypothetical examples where a unit manager might utilize routine judgment to solve a problem, such as complaints about assignments or disputes between CENAs, are contained in the record.

Finally, the record evidence does not establish that the degree of disciplinary authority exercised by the unit managers confers supervisory status. The disciplines issued by unit managers concerned the failure of CENAs to perform routine patient care tasks, and it appears that the selection of a level of discipline by a unit manager is limited to a choice between an oral or written warning. The record does not support the conclusion that unit managers can suspend employees as a disciplinary penalty; they can only respond to flagrant conduct by sending employees home pending an investigation by the DON. Unit managers can secure information as to previous discipline issued to CENAs from the human resource manager or CCC, or from the personnel files, although it appears that the unit managers may not be aware of their right of access to these files. The Employer does not follow a strict progression of discipline and, therefore, there is insufficient evidence to conclude that oral or written warnings necessarily lead to more severe discipline or discharge. Discharge decisions are always made by the DON after an independent investigation. The record evidence is insufficient to conclude that unit managers effectively recommend discharge. 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 (1993). The Employer contends that disciplines were issued to unit managers for failure to discipline CENAs, but a review of these disciplines indicate that they were for failure to insure proper patient care according to the Employer's policies. Thus, I conclude that unit managers cannot adversely affect the job tenure or status of CENAs by the exercise of any disciplinary authority; nor can they discharge or effectively recommend discharge.

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). Furthermore, if the Employer's supervisory contentions were adopted, it would result in a "bizarre" supervisor to employee ratio of approximately 13:24, as opposed to a more normal appearing 5:39 ratio, which is consistent with the routine nature of the CENAs' work and responsibilities.<sup>9</sup> *NLRB v. Audubon Health Care Center*, 170 F.3d 662, 160 LRRM 2661 (7<sup>th</sup> Cir. 1998); *Northcrest Nursing Home*, 313 NLRB 491, 498 (1993).

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<sup>9</sup> These ratios do not include the department managers who are sometimes at the facility on evenings and weekends, and includes only the number of unit managers and CENA positions assigned to each hall and shift because the record does not reflect the total number of CENAs employed.

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 1380 Sherman Boulevard, Muskegon, Michigan; but excluding administrator, medical director, human resources/workers compensation, clinical resources manager, admissions director, activities director, accounts receivable, dining services supervisor, accounts payable/payroll, director of nursing services, social services coordinator/behavior management, staff development, medical records, central supply, environmental services supervisor/safety officer, clinical care coordinators, 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 vote for inclusion in such a unit. Accordingly, the desires of the RNs as to inclusion in a unit with LPNs must be ascertained.<sup>10</sup> 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 1380 Sherman Boulevard, Muskegon, Michigan; but excluding administrator, medical director, human resources/workers compensation, clinical resources manager, admissions director, activities director, accounts receivable, dining services supervisor, accounts payable/payroll, director of nursing services, social services coordinator/behavior management, staff development, medical records, central supply, environmental services supervisor/safety officer, clinical care coordinators, guards and supervisors as defined in the Act, and registered nurses (RNs).

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 1380 Sherman Boulevard, Muskegon, Michigan; but excluding administrator, medical director, human resources/workers compensation, clinical

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<sup>10</sup> *Sonotone Corp.*, 90 NLRB 1236 (1950).

resources manager, admissions director, activities director, accounts receivable, dining services supervisor, accounts payable/payroll, director of nursing services, social services coordinator/behavior management, staff development, medical records, central supply, environmental services supervisor/safety officer, clinical care coordinators, guards and supervisors as defined in the Act, and licensed practical nurses (LPNs).

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

The employees in the RN 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 votes of the LPN 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) vote against inclusion, they will not be included with the LPNs. 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 vote for inclusion in the unit with LPNs, 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 1380 Sherman Boulevard, Muskegon, Michigan; but excluding administrator, medical director, human resources/workers compensation, clinical resources manager, admissions director, activities director, accounts receivable, dining services supervisor, accounts payable/payroll, director of nursing services, social services coordinator/behavior management, staff development, medical records, central supply, environmental services supervisor/safety officer, clinical care coordinators, guards and supervisors as defined in the Act.

2. If a majority of the RNs do not vote for inclusion in the unit with LPNs, 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 1380 Sherman Boulevard, Muskegon, Michigan; but excluding administrator, medical director, human resources/workers compensation, clinical resources manager, admissions director, activities director, accounts receivable, dining services supervisor, accounts payable/payroll, director of nursing services, social services coordinator/behavior management, staff development, medical records, central supply, environmental services supervisor/safety officer, clinical care coordinators, 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 1380 Sherman Boulevard, Muskegon, Michigan; but excluding administrator, medical director, human resources/workers compensation, clinical resources manager, admissions director, activities director, accounts receivable, dining services supervisor, accounts payable/payroll, director of nursing services, social services coordinator/behavior management, staff development, medical records, central supply, environmental services supervisor/safety officer, clinical care coordinators, 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 30<sup>th</sup> day of April, 1999.

(SEAL)

/s/ William C. Schaub, Jr.  
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