

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

LATROBE AREA HOSPITAL, INC.¹

Employer

and

LATROBE TECHNICAL EMPLOYEES
ASSOCIATION/HEALTH CARE - PSEA/PSEA

Petitioner

Case 6-RC-11939

DECISION AND DIRECTION OF ELECTION

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

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Regional Director.²

Upon the entire record in this case,³ the Regional Director 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.

¹ The name of the Employer appears as amended at the hearing.

² 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, D.C. 20570-0001. This request must be received by the Board in Washington by April 5, 2001.

³ The Employer and the Petitioner timely filed briefs in this matter which have been duly considered by the undersigned.

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

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

The Petitioner seeks to represent a unit, as amended at the hearing,⁴ of all full-time and regular part-time technical employees of Latrobe Area Hospital, Inc., including acute care LPNs, radiologic technologists, mammography technologists, special procedures technologists, CT technologists, CT/MRI technologists, nuclear medicine technologists, medical sonographers, physical therapy assistants, respiratory practitioner RRTs, RCP tech partner RRTs, respiratory CR practitioner CRTTs, hospital occupational therapy assistants, radiologic diagnostic technologists, medical technicians, medical laboratory technicians, histology technicians, special procedures tech/cardiac lab techs, radiation therapists, dosimetrists, family practice and pediatric LPNs, surgical technicians, emergency technicians, emergency medical technicians and paramedics; excluding perioperative assistants/technicians, phlebotomists, assistant radiology manager/senior technician, staff orthopedic technician, supervisor Ligonier Ambulance, senior neuro-diagnostic technician (EEG tech), technical partners, support partners, radiology supervisors, medical technologists, cytologists, cyto-prep technician, histology supervisor, biomedical services technicians, small equipment technician, CT/MRI supervisor, home health occupational therapy assistant, pharmacy assistant, cancer registry technician, cardiac rehab special assistant, diet technician, telecommunications technician, home health department employees, senior coders, junior coders, ECG and EKG technicians, central service technicians, registered nurses, office clerical employees, service and maintenance employees, other professional employees, guards and supervisors as defined in the Act.

⁴ Although the Petitioner initially sought to include ECG and EKG technicians and central service technicians, the parties later stipulated that these positions should be excluded from any unit found appropriate herein. The parties further stipulated that surgical technicians are properly included in any unit found appropriate herein.

With certain exceptions, the Employer does not dispute that the above-described unit is appropriate in scope and composition and within the Board's Final Rule on Collective-Bargaining Units in the Health Care Industry (herein "the Rule").⁵ Thus, the Employer, contrary to the Petitioner, contends that certain classifications should be excluded from the petitioned-for unit. Specifically, the Employer contends that the positions of emergency technicians ("ETs") and emergency medical technicians ("EMTs") should be excluded inasmuch as they are not technical positions. In addition, the Employer contends that the family practice and pediatric practice licensed practical nurses ("LPNs"), paramedics and EMTs should be excluded inasmuch as they do not share a sufficient community of interest with other unit employees. There are approximately 150 employees in the petitioned-for unit. There is no history of collective bargaining for any of the employees involved herein.

THE EMPLOYER'S OPERATIONS

The Employer is a Pennsylvania corporation which is engaged in the operation of an acute care hospital and related facilities. In addition to its main hospital facility, the Employer also operates five family practice offices, two pediatric offices, Ligonier Valley Ambulance Service, and five home health and hospice offices.⁶

The Employer's primary place of business is a 221-bed short-term acute care hospital located in Latrobe, Pennsylvania, which provides in-patient and out-patient medical and professional services to the public.⁷ At the Employer's Latrobe, Pennsylvania main campus, which consists of a six-block area, there is a complex of buildings which include Latrobe Area Hospital's ("LAH") main facility, an adjacent unnamed "new" building, various houses, which are

⁵ The Rule is set forth at 29 CFR Part 103, 54 Federal Register No. 76, pp. 16347 – 16348, 284 NLRB 1579, 1596 – 1597 (1987), approved by the Supreme Court in American Hospital Association v. NLRB, 111 S.Ct. 1539 (1991).

⁶ The five home health and hospice offices are not at issue herein.

⁷ I find, based on the record herein, that the Employer is a health care institution within the meaning of Section 2(14) of the Act.

used by residents and other persons, a parking garage and numerous parking lots. The main Hospital facility is a six-story building with various wings. The new building, which consists of five wings, houses Latrobe Family Health Center, the Education Center and certain space which is leased to an outside dialysis service.

In addition to the Latrobe Family Health Center, the Employer also operates six other doctor's offices.⁸ These offices are located between approximately six to nineteen miles away from the main campus. These family practices and pediatric practices are ambulatory clinics that provide non-acute care. Ligonier Valley Ambulance Service ("LVAS") operates out of a separate facility that is located approximately twelve miles from the main hospital. One of the Employer's Home Health offices is located on the second floor of that same building.

The Employer is governed by a Board of Directors, which consists of members from the community who serve as volunteers. Executive Director Doug Clark and Medical Director Tom Gessner, who report directly to the Board of Directors, oversee the nonmedical and medical affairs of the Employer, respectively.⁹ Reporting to Clark and Gessner are several directors and assistant directors including Jill Clements, Director of Human Resources and Organizational Development. Also reporting to Clark and Gessner are Lou Schiullo, Associate Director of Operations, and Shirley Stasiowski, Associate Director of Patient Care Services. Associate Director John Gray reports to Schiullo. Among Gray's areas of oversight are the Ambulatory Clinics for which Manager of Primary Care Services Fred Balzer is directly responsible. Various nurse managers and service line managers report to Stasiowski.¹⁰ Stasiowski has oversight over various internal patient care areas and units including the Emergency Room and LVAS. Manager of Prehospital Emergency Services David Hanig reports directly to Stasiowski.

⁸ These offices include separate family and pediatric practice offices located in Blairsville and Greensburg (Mountain View), respectively, and family practice offices located in Norvelt and Saltsburg, Pennsylvania.

⁹ The Employer also has a charitable foundation, whose President also reports to the Board of Directors.

¹⁰ As detailed below, each of the Family and Pediatric Practices has a nurse manager who reports to Balzer rather than Stasiowski.

As noted, while the parties are in agreement that the petitioned-for unit comprises a technical unit within the Board's Final Rule, the parties are in disagreement as to the unit placement of several employee classifications and the scope of the unit. In the rulemaking process, the Board discussed and analyzed a number of factors in support of its determination that technical employees at an acute care hospital constituted a separate appropriate bargaining unit.

Technical employees are found in major occupational groups including: medical laboratory, respiratory therapy, radiography, emergency medicine and medical records. The evidence presented at the hearings demonstrates that technical employees perform jobs involving the use of independent judgment and specialized training, as opposed to service and maintenance employees who generally perform unskilled tasks and need only a high school education [T]echnical employees occupy a high-prestige status distinct from other categories of non-professional employees because of the training requirements for their jobs.

Technical employees further are distinguished by the support role they play within the hospital, and by the fact that they work in patient care. Examples of their work include: routine clinical tests performed by medical laboratory technicians; general respiratory care administered by respiratory therapists; and x-rays, ultrasound procedures and CAT scans performed by various technicians.

. . . [A]t the hearings, the evidence shows that all health care technical employees have significant additional education and/or training beyond high school, including: community college associate degree programs which provide math and science background beyond that which high schools offer; vocational training programs run by hospitals; programs at accredited schools of technology and, in some fields, a full 4-year college degree.

Further, the evidence indicates that most hospital technical employees are either certified (usually by passing a national examination), licensed, or required to register with the appropriate state authority, although laws regarding such licensure, registration, training and qualifications vary throughout the country.

...Although, in general, hospitals apply similar benefit and labor relations policies to technical and other non-professional employees, the evidence shows that the wages and hours of

technical employees differ significantly from those of the other non-professionals. ...On the average, technicians earn \$2,000 per year more than service workers in this industry. ...[T]echnicians' wages are tied to the earnings of the more highly skilled technologists with whom they work, and they generally earn approximately 75% of what the technologists earn.

... There is no temporary interchange, and little permanent interchange between technical employees and other non-professionals because of the difference in skills, the specialized functions of the technicals, and the differences in their education. ...Contrary to statements of industry witnesses who maintain that a service worker could take a six-week training program and be able to read EKG equipment, we are persuaded that technical training requires full or nearly full-time education, and a high school education does not provide the mathematics and science background necessary.¹¹

284 NLRB at 1553 – 1556.

As described previously, the parties are in agreement that a unit of technical employees is an appropriate one in accordance with the Board's Final Rule. However, there is disagreement between the Employer and the Petitioner with regard to whether or not the classifications of ETs, EMTs and paramedics appropriately belong in a unit of technical employees. Because of the distinct nature of these classifications, I shall address the ETs separately from the EMTs and paramedics herein.

EMERGENCY TECHNICIANS

The Petitioner contends that the ETs are technical employees and should be included in the unit herein. The Employer, to the contrary, asserts that the ETs are not technical employees and thus should be excluded from the petitioned-for unit.

Various personnel work in the Emergency Department at LAH including physicians, registered nurses ("RNs"), nurse aide phlebotomists and nursing service clerks. The Employer

¹¹ The Employer does not contend that paramedics are not technical employees. However, as noted, it contends that the paramedics lack a sufficient community of interest to warrant their inclusion with other employees in the unit.

also employs five ETs who work in the Emergency Department. ETs are scheduled to work seven days a week on 12-hour shifts.

ETs primarily work in the triage area of the Emergency Department. However, they are often called upon to work in other areas of the Emergency Department or elsewhere in the Hospital. ETs take vital signs, insert Foley catheters, perform phlebotomy and CPR, give enemas, bathe, shave and lift patients, make splints, adjust crutches, set up trapeze units for casted patients, remove casts, transport the deceased, stock supplies and perform certain clerical functions. Some of these duties, such as stocking shelves and performing phlebotomy, are primarily performed by nurse aide phlebotomists who have been excluded from the unit. The duties of the ETs generally consist of very specific tasks for which they have received in-house training. The record reflects that ETs use little independent judgment in the performance of their duties, which are generally performed in the presence or under the direction of an RN or physician, who make any clinical decisions as to what constitutes appropriate care for the patients. Although ETs are not supposed to be alone in the triage area or to make decisions as to which patient should be treated first, this does occasionally occur.

To qualify to be an ET, the Employer requires a high school diploma or G.E.D., that the employee have Act 33 Clearance and have previous nurse aide or EMT training or experience for one year or more. Of the five current ETs, at least one had previous experience as a paramedic.¹² No post high school educational or certification requirements exist for this position and ETs generally receive on-the-job training. As is the case with nurse aide phlebotomists, the pay grade for ETs is Grade 33, which consists of wages between \$8.04 and \$12.46 per hour.

The Board has considered the position of emergency room technicians in two decisions. In The Jewish Hospital Association of Cincinnati d/b/a Jewish Hospital of Cincinnati, 223 NLRB 614, 621 (1976), the Board found that emergency service technicians were technical

¹² The record is unclear as to the specific background of the other ETs who are currently employed.

employees. In that case, the emergency room technicians had to have experience as a medical corpsman or have two years of on the job training. However, in Jewish Hospital of Cincinnati, supra, the Board noted that the emergency room technicians were used interchangeably with licensed practical nurses, and, in fact, received the same pay rate as the LPNs.

In the second case in which the Board considered this classification, Southern Maryland Hospital Center, Inc., 274 NLRB 1470, 1474 (1985), the Board excluded the emergency room technicians from a technical unit in a situation similar to the instant one. In Southern Maryland Hospital Center, supra, the qualification for the position was either a high school diploma or experience as a medical corpsman. In that case, as in the present one, the emergency room technicians performed routine procedures that do not require independent judgment. Supra at 1474.

In the present case, the job requires some training/experience beyond high school, either EMT or nurse aide training or experience of one year or more. However, this type of training is also required for positions which are generally included in nonprofessional residual units in health care cases. See generally St. Elizabeth's Hospital of Boston, 220 NLRB 325, 329 (1975); Rhode Island Hospital, 313 NLRB 343, 354-357 (1993). The job duties, as described above, are circumscribed and do not involve the use of independent judgment. Unlike the situation in Jewish Hospital of Cincinnati, supra, there is no evidence that the ETs are used interchangeably with LPNs, and the pay rate is considerably lower than that of LPNs.¹³ Thus, I find the ETs in the instant case more similar to those in Southern Maryland Hospital Center, supra, and I find the ETs in this case are not technical employees.

¹³ The pay grades for employees in categories that are not in dispute vary between Grade 35 (wage rates between \$8.95 to \$13.88 per hour) and Grade 41 (wage rates between \$16.73 and \$24.37 per hour). The pay grade for LPNs is Grade 36, with wage rates between \$9.62 and \$14.84 per hour. Herein, the parties are in agreement that LPNs are technical employees and the Board, under the Final Rule, has consistently found LPNs to be technical employees.

LVAS EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS

The Petitioner asserts, contrary to the Employer, that the EMTs are technical employees and should be included in the petitioned-for unit. The Employer, contrary to the Petitioner, asserts that the EMTs and paramedics lack a sufficient community of interest with the unit employees and should be excluded from the petitioned-for unit on this additional basis.

Prehospital Emergency Services Manager David Hanig and Nurse Manager Barbara Wick,¹⁴ who report to Stasiowski, share the oversight responsibilities in the Emergency Department. Thus, Hanig oversees the administrative responsibilities while Wick oversees the clinical responsibilities, including all patient care issues.

Hanig also oversees all of the ambulance services associated with the Employer, including LVAS, which is located approximately 12 miles from the main hospital.¹⁵ The LVAS service area consists of Ligonier Borough, Lingonier Township and Laurel Mountain Borough, all of which are twelve or more miles from Latrobe. In addition to LAH, LVAS also transports patients to other area hospitals, depending upon the patient's preference or geographic considerations.

The Employer employs thirteen EMTs and eleven paramedics who report to paramedic supervisor, Keith Stouffer, who, in turn, reports to David Hanig. Two EMTs and two paramedics are always on duty. In this regard, a team consisting of one EMT and one paramedic is assigned to each of the two ambulances that are available on a 24-hour basis. EMTs and paramedics, who are scheduled by Stouffer, can work up to 24 hours in a given shift.¹⁶

¹⁴ Wick is Nurse Manager of both the Emergency Department and Short Procedures Unit.

¹⁵ The Employer utilizes various ambulance services in the area to transport patients to LAH. LAH physicians issue medical orders from the Hospital's medical command center to personnel in all of the ambulance services, including LVAS.

¹⁶ Unlike other employees, EMTs and paramedics can work on 24-hour shifts for which they are paid for sixteen hours, with the third eight hours of their shift referred as "sleep time." They are paid for the entire twenty-four hours if they do not receive at least five hours of uninterrupted sleep due to a call. In addition, unlike other employees, EMTs and paramedics have a set schedule of assigned work days in order to facilitate their ability to work for other employers to supplement their incomes.

EMTs and paramedics report to the LVAS facility¹⁷ where they have certain basic duties to perform, such as checking equipment and supplies. Thus, EMTs and paramedics are generally responsible for ensuring that the vehicles and equipment are in functional condition. Although paramedics and EMTs do certain basic minor repairs themselves, arrangements have been made to utilize outside sources such as service stations for most repairs. In addition, EMTs and paramedics occasionally attend community events and give tours of the facility, acting in a public-relations capacity. It also appears from the record that both EMTs and paramedics complete certain paperwork relating to drug inventory and insurance forms. They are otherwise free of additional responsibilities until such time as an emergency call is generated.

The EMTs and paramedics receive orders and voice instructions over the radio or by telephone from physicians in LAH's central command, through the 911 system or from the central command of other hospitals. As noted, an EMT and a paramedic work as a two-person crew when responding to a call. Although the paramedic is considered to be the person "in charge" on a call, Stouffer and David Hanig, Manager of Prehospital Emergency Services, are available on a 24-hour basis by pager. At the scene, the EMT and paramedic are expected to make decisions within the scope of their training and based medically on written medical protocols and standing orders. Both EMTs and paramedics assist other medical personnel and fire department personnel in the extrication of victims from entrapment in accordance with training they have received.

EMTs generally drive the emergency medical vehicle to the site of the emergency. Although EMTs provide first-aid and emergency treatment, such as bandaging lacerations and splinting fractures, they are not permitted to do any invasive procedures or to administer medications. EMTs assist the paramedics in receiving and recording information regarding a patient's vital signs, such as blood pressure, pulse rate, respiratory rate, temperature, and

¹⁷ The facility has sleeping areas and showers that are used by the EMTs and paramedics.

general condition. EMTs also assist the paramedics in patient movement at the scene of the emergency and at LAH or other area hospitals.

EMTs are required by the Employer to have a valid drivers license, a high school education or its equivalent, and to be certified by the Department of Public Health as an EMT. State certification requires a candidate to take a training program consisting of approximately 120 to 130 hours. These courses may be offered through a community college where a final test is administered in order to demonstrate that the course has been successfully completed. A separate state certification test, which consists of both a written test and a practical test, is thereafter administered. All training is classroom and mannequin-based and no clinical time is spent in a hospital. The Employer also requires one year of experience to demonstrate competencies and recognize basic medical emergencies and level of trauma present. Finally, EMTs are required to take 24 hours of continuing education over a three-year period. The EMT position is at Pay Grade 30, which ranges from \$5.88 to \$9.61 per hour.

In contrast to the EMTs, paramedics provide basic and advanced life support and emergency pre-hospital care as needed.¹⁸ Thus, paramedics administer certain intravenous and other medications, read cardiac monitors, defibrillate patients, and perform CPR and invasive procedures such as drawing blood, starting IV lines and endotracheally intubating patients. Upon arrival at the scene, depending upon the severity of the illness or injury, paramedics begin advanced treatment based upon standing orders and protocols. Paramedics also maintain radio or other contact with the Hospital and Department supervisors and follow the physician's instructions on medical treatment.¹⁹ Upon arrival at the Hospital, the

¹⁸ The "position purpose" as described in the EMT job description is stated as follows: "Provide first-aid treatment, transportation and assistance to emergency medical team personnel to assist ill or injured persons." In contrast, the "position purpose" as described in the paramedic job description states: "Provides basic and advanced life support and emergency pre-hospital care to persons in medical emergencies or life-threatening situations."

¹⁹ Although there are numerous similarities reflected in the respective job descriptions, these two particular responsibilities, which are set forth in the paramedic job description, are not part of the EMT job description. Hanig testified that only the paramedics call and speak with the physicians.

paramedic provides a report to the Emergency Room physician or nurse. After the transfer of care has occurred, paramedics are required to complete certain paperwork called “trip sheets” which document the care that has been provided.²⁰

Paramedics are required by the Employer to have a high school education or its equivalent, and to be certified by the Pennsylvania Department of Public Health as a paramedic. Certification as a paramedic takes an additional 400 to 700 hours of training beyond the training required for EMT certification. This additional training generally takes approximately six months to complete. Paramedic training includes didactic training as well as clinical rotations through various facilities. For example, training could include up to 100 hours in an emergency department, 40 hours in a critical care unit and time spent in an operating room to practice intubation. Like the EMTs, paramedics must pass the tests that are administered by both the educational facility, such as a community college or the University of Pittsburgh, and the Commonwealth of Pennsylvania. In addition, the Employer also requires one to two years of experience as a paramedic to establish the ability to function independently and to accept standing orders and medical command. Finally, the Employer requires that paramedics have 18 hours of continuing education each year. The paramedic position is at Pay Grade 33, which ranges from \$8.04 to \$12.46 per hour.

EMTs and paramedics do not fill in for other classifications of employees in the Hospital. However, they are occasionally called into the Emergency Room of LAH to help out essentially as “an extra pair of hands.” This situation occurs only when the EMTs and paramedics are already on duty and neither of the two ambulances is in the process of responding to a call. On those occasions, they only perform duties that fall within the parameters of their normal duties. Thus, EMTs assist with taking vital signs and lifting and moving patients. In addition to those

²⁰ Although Prehospital Emergency Services Manager David Hanig initially testified generally that both EMTs and paramedics complete trip sheets, the job descriptions in evidence attribute this duty to the paramedics only. Hanig subsequently testified that after the patient has been transferred to the hospital, the paramedic prepares the trip sheet while the EMT cleans up the soiled linen from the call and replaces the supplies.

duties, paramedics are also permitted to start IVs, give certain medications and watch monitors. EMTs and paramedics are called to work in the Emergency Room on a limited basis, generally during the period between January and March,²¹ when the Emergency Room is short-staffed or is holding an excess number of patients who are waiting to be admitted to the floors. The Employer is attempting to alleviate the need for using EMTs and paramedics under these circumstances by hiring additional staff to work in the Emergency Room, and this is required of the EMTs and paramedics only as a “last resort.”

It appears that the Board has not yet made a specific analysis based on record evidence as to whether EMT's are technical employees. In its brief, the Petitioner cites Lifeline Mobile Medics, Inc., 308 NLRB 1068 (1992) in support of its position that EMTs are technical employees. However, in Lifeline, the Regional Director determined in the underlying decision that EMTs were technical employees and no party disputed that finding. Accordingly, the Board, with no factual analysis, assumed the EMTs were technicals for the purposes of that particular case. The underlying Regional Director's Decision was not made part of the Board's decision. In an earlier case, North Memorial Medical Center, 224 NLRB 218 (1976), also cited by the Petitioner herein, the Petitioner therein had petitioned for a unit limited to EMTs. The Board, in concluding that EMTs performed medical functions closely integrated with other hospital employees, found the requested unit to be inappropriate. However, the Board specifically noted that it did not need to and, indeed, specifically did not determine in that proceeding, whether EMTs were to be included in a unit of technical, as opposed to a unit of service and maintenance employees.

The Employer, while failing to cite any Board case authority that directly discusses the status of EMTs, argues in its brief that the training and judgment required of EMT's at LVAS is comparable to that of pharmacy technicians who have been excluded from technical units, citing

²¹ During the period between January and March, LAH historically has experienced a higher than normal volume of business in the Emergency Department as well as an increased problem with nursing staffing due to illnesses. The record reflects that EMTs and paramedics were called into the Emergency Department at LAH on seven occasions since January 2001.

Rhode Island Hospital, supra, 313 NLRB at 356 and Meriter Hospital, Inc., 306 NLRB 598, 601 (1992).

In the present case, I conclude that the EMTs are not technical employees. Thus, the EMTs work in close association with paramedics who are in overall charge of the team. Moreover, the team itself maintains radio or telephone contact with physicians at the command center, and can directly communicate with their superiors, Stouffer and Hanig, on a 24-hour basis. While EMTs administer first aid and emergency treatment, they are not permitted to administer medication or perform any invasive procedures, and the record fails to establish that they routinely²² are required to make decisions based upon the use of independent judgment.

It is recognized that EMTs must undergo a 120-hour training program which may be given through a community college, pass a test, become certified by the State, and obtain 24 hours of continuing education every three years in order to maintain their certification. However, I do not find that these requirements alone compel or warrant the conclusion that EMTs are technical employees. For example, in Rhode Island Hospital, supra, 313 NLRB at 356, the Board found pharmacy technicians not to be technical employees where, inter alia, they were required to have either one or two years of college or comparable work experience and, in addition, were required to complete a 15 week in-house training program. (Cf. Duke University, 226 NLRB 470, 472 (1976) wherein pharmacy technicians who had to complete a six month technical training course and have on the job training were found to be technical employees.) In contrast to the limited classroom training received by the EMTs herein, the paramedics are required to have an additional 400 to 700 hours of training, which includes clinical rotations through various units or facilities. I further note that EMTs receive a lower pay grade than other classifications of employees who have been included in the unit. EMTs are paid at the same

²² The record reflects that there may be some limited situations wherein paramedics and EMTs are separated physically at the site of a serious accident. In such circumstances, while the paramedic is focusing on the treatment of one patient, the EMT may independently be responding to another, less critical, patient and therefore, may not receive the customary direction from the paramedic. However, I do not find that based upon the record as a whole, EMTs routinely exercise as part of their regular duties the type of independent judgment that is customary of technical employees.

rate as nurse aide phlebotomists, who have not been included in the unit. Moreover, their pay grade is even lower than that received by ETs, whom I have also found not to be technical employees herein.

Accordingly, based on the above and the record as a whole, I find that the EMTs are not technical employees and, thus, I shall exclude them from the petitioned-for unit.²³

FAMILY AND PEDIATRIC PRACTICE LPNs

As noted above, the Employer operates five family practice offices and two pediatric offices. Latrobe Family Health Center is located in the new building which is adjacent to LAH. Blairsville Family Health Center, Blairsville Pediatrics, Mountain View Family Health Center, Mountain View Pediatrics, Norvelt Family Health Center and Saltsburg Family Health Center are located between six to twenty miles away from LAH.²⁴ The business hours of the Centers generally are between 8:00 a.m. and 8:00 p.m. three days per week, 8:00 a.m. to 5:00 p.m. two days per week, and two hours on Saturday mornings. All of these Centers provide ambulatory, non-acute care. Accordingly, they are covered by different regulatory standards than those applicable to LAH, and are separately inspected, surveyed and accredited by the Commonwealth of Pennsylvania as physician offices. In addition, the insurance contracts with the Centers are distinct from those of LAH. A total of seventeen LPNs work at these facilities.²⁵

Manager of Primary Care Services Fred Balzer, whose office is located at the Employer's main campus, oversees the administrative operations of the family and pediatric

²³ At the hearing, the Petitioner took the position that if the undersigned concluded that the EMTs are not technical employees, it did not seek to include the paramedics in the unit. Based upon the Petitioner's position in this regard, and my conclusion that the EMTs are not technical employees, neither party herein seeks the inclusion of the LVAS paramedics with the petitioned-for technical employees. Thus, I need not reach the issue as to whether the paramedics share such a community of interest with the Employer's other technical employees as to warrant their inclusion in the unit found appropriate herein.

²⁴ The family and pediatric practices occasionally will be referred to herein as "Centers" for ease of reference.

²⁵ Two or three LPNs work at each of the family practice centers and one to two LPNs work at the pediatric practices.

practices. Approximately once per month, Balzer visits each of the Centers. Clinically, each Center is run by a physician, referred to as a Unit Director, who ultimately is responsible for the medical care provided. In addition to the Unit Director, two to four attending physicians are assigned to each Center.²⁶ An RN Nurse Manager is also assigned to each Center, who together with the Unit Director, is responsible for the daily operation of the office. In addition to LPNs, each office employs between two and five secretaries, with some Centers having staff RNs, or an aide or medical assistant, as well. Practically speaking, the Nurse Manager generally oversees the business and logistic operations of the Center which encompasses such duties as scheduling employees and patients, managing the nursing and clerical staff and handing supplies.

Initial employment applications are submitted to the Employer's Human Resources Department. The nurse manager at each Center interviews and recommends applicants for nursing and clerical positions based upon the applications that have been forwarded to the Center by the Human Resources Department. The nurse manager makes a recommendation to the Human Resources Department, where the final decision is made. Job offers are made through the Human Resources Department. The nurse manager also prepares annual evaluations, which are used by the Employer to evaluate and to give feedback on performance, and not as the basis for salary increases.²⁷ The evaluations are submitted to and routinely initialed by Balzer, who then forwards them to the Human Resources Department, where they are maintained. The nurse manager also schedules vacations and grants time off from work. Although the nurse manager can independently issue written disciplinary warnings, she consults with Balzer, who, in turn, contacts the Employer's Human Resources Department, in disciplinary matters of a more severe nature. Human Resources Director Clements has the final authority

²⁶ Residents are also assigned to three of the Centers.

²⁷ Like all of the Employer's employees, wage increases to the Centers' LPNs are given incrementally, by steps, and are automatic based upon years of service.

on disciplinary matters.²⁸ Thus, the Centers are required to adhere to all of the personnel policies as set forth by the Employer's Human Resources Department.

LPNs who work in the Centers perform certain duties that are routine in nature. Thus, LPNs assist with the registration of patients and handling telephone calls. In addition, LPNs determine the reason for the patient's visit, retrieve or prepare patient charts, and note thereon items such as a brief medical history, symptoms and medications being taken. After taking vital signs, LPNs prepare and coordinate the flow of patients for examination by the physician. LPNs also administer immunizations and perform certain basic laboratory or diagnostic tests.

LPNs who work in LAH report to a nurse manager on the unit to which they are assigned, who in turn reports to either Associate Director of Patient Care Services Shirley Stasiowski or to one of the Service Line Managers. Due to the differences in the types of patient care received in an acute care hospital setting, the daily duties of the LPNs who work in LAH differ from those who work in the Centers. LPNs in the Hospital, who are scheduled to work on a three-shift basis, twenty-four hours a day, are assigned to a particular unit where nursing care is required "around the clock". The LPNs must undergo orientation and be proficient with respect to specific competencies involved with the particular unit within the Hospital to which they are assigned. The nursing policy manual used at LAH is different from that used by the Centers, again due to the differences in the nature of the care that is provided. However, much of the procedural information contained in the manual used by the Centers has been taken directly from the LAH nursing manual.

The Human Resources Department determines the wages and benefits for all of the Employer's employees. The pay grade for LPNs in both the Centers and LAH is Grade 36, which consists of wages between \$9.62 and \$14.84 per hour. All LPNs receive the same benefits and are subject to the same personnel policies. The Employer does not maintain

²⁸ The personnel policies and procedures appear to be basically the same at LAH, although Balzer is not involved. As noted above, Shirley Stasiowski oversees Patient Care Services at LAH.

separate seniority lists. All staff position vacancies for LAH and the Centers are posted both at the Hospital and in the Centers. Overall length of service with the Employer is considered when applying for any vacancies, and preference is given to LPNs who are already employed by the Employer over outside applicants. Eleven of the seventeen LPNs who currently work in the Centers came directly from LPN positions at LAH. Scheduling for vacations, however, is done by individual Center or Hospital departmental seniority. Although some in-service requirements may be the same for both Hospital and Center LPNs, others may be applicable only to the Center LPNs.

LPNs assigned to work at LAH do not work at the Centers on a temporary basis. Similarly, LPNs in the Centers rarely have occasion to go to LAH other than to attend occasional meetings or educational programs. The unit directors, nurse managers and certain representative clerical employees who work in the Centers do go to the LAH on a monthly basis for meetings with Balzer or other officials and then report back to the Centers' employees. Due to its proximity to LAH, LPNs who work in the Latrobe Family Health Center eat in the LAH cafeteria. However, there is little professional interaction between the LPNs at Latrobe Family Health Center and LAH.

The Employer has established diagnostic laboratories at three of the Family Health Centers. Certain radiologic diagnostic technologists, whom the parties have agreed are included in the unit, are assigned to work in these testing centers. Some of these employees rotate through LAH in addition to working in the various Centers. The diagnostic employees report to Manager of Diagnostic Testing Judy Raishart. Raishart, like Balzer, reports to John Gray, who has oversight responsibilities for the ambulatory clinics. While in the Centers, these radiologic diagnostic technologists work and interact with the LPNs with whom they share a "camaraderie." In addition, mammography technicians, who are also part of the unit, come to the Centers on a routine basis as part of a mammogram mobile unit.

The Rule, which sets forth appropriate units in acute care hospitals, does not address the issue of whether a single facility or multi-facility unit in the health care industry is

presumptively appropriate. In determining appropriate units for collective bargaining purposes, the Act requires only that the unit be “appropriate” so as to insure to employees in each case the fullest freedom in exercising the rights guaranteed by the Act. There is nothing in the statute which requires that the unit for bargaining be the only appropriate unit, or the ultimate unit, or the most appropriate unit. Morand Brothers Beverage Company, et al., 91 NLRB 409, 418 (1950), enfd. 190 F.2d 576 (7th Cir. 1951). See also, Omni International Hotel, 283 NLRB 475 (1987). In addition, the unit sought by the Petitioner is always a relevant consideration, and the Board first considers the appropriateness of the unit sought by the Petitioner. Overnite Transportation Company, 322 NLRB 723 (1996).

In the instant case, the Petitioner seeks a multi-facility unit consisting of all of the Employer's technical employees at its LAH and Family Health and Pediatric Centers.²⁹ The presumptive appropriateness of a single-facility unit is inapplicable where, as in this case, the petitioner seeks to represent a multi-facility unit. Capital Coors Co., 309 NLRB 322 (1992); Hazard Express, Inc., 324 NLRB 989 (1997); American Security Corporation, 321 NLRB 1145, (1996); Bry-Fern Care Center v. NLRB, 21 F.3d 706, 146 LRRM 2041 (6th Cir. 1994). In determining whether a petitioned-for multi-facility unit is appropriate, the Board evaluates the following factors: employees' skills and duties; terms and conditions of employment; employee interchange; functional integration; geographic proximity; centralized control of management and supervision; and bargaining history. Alamo Rent-A-Car, 330 NLRB No. 147, slip op. at p. 2 (March 17, 2000).

In the instant case, I find that the LPNs who work in the Family Health and Pediatric Centers share a sufficient community of interest with their counterparts at LAH to warrant their inclusion in the unit of technical employees. In making this determination, I note initially that all

²⁹ As previously noted, under circumstances where the LVAS EMTs are not found to be technical employees, the Petitioner does not seek to include any LVAS employees in the petitioned-for unit.

of the Centers are geographically proximate to LAH and are not separated by great distances.³⁰ I further note that the Employer's management and administration is centralized and the Human Resources Department services LAH as well as all of the Centers. While day-to-day labor matters are handled by the respective unit directors and nurse managers, these officials attend meetings at LAH on a monthly basis and report back to the employees. Moreover, they ultimately report up through the chain of command to the Executive Director and Medical Director who also oversee the Nursing Services at the Hospital. As noted, the personnel and labor relations policies formulated by the Employer are applied uniformly to LPNs at all facilities. All LPN jobs are posted and available for bid to LPNs on a system-wide basis. Accordingly, LAH LPNs are not given preference over Center LPNs for available openings at LAH based upon their seniority in the Hospital, and vice versa. All LPNs provide patient care and although specific training, orientation and duties differ between the Centers and LAH, similar differences exist between units within the Hospital itself. Also, the record reflects that LAH serves as a source of bidders for posted positions in the Centers. The record establishes that eleven of the seventeen LPNs currently working in the family and pediatric facilities previously worked at LAH. Moreover, LPNs in the Centers have routine contact with various other technical employees who have been included in the unit and who perform diagnostic or other work at the Centers. Thus, employees who work in diagnostic testing centers located in the Centers, or in the mobile mammography units, interact frequently with and share a camaraderie with LPNs in the Centers. Based on the foregoing, I conclude that the LPNs employed in the seven Family Health and Pediatric Centers share a sufficient community of interest so as to render appropriate their inclusion in the petitioned-for multi-facility unit. West Jersey Health System, supra; Presbyterian/St. Luke's Medical Center, 289 NLRB 249 (1988). Accordingly, I shall

³⁰ See, e.g. West Jersey Health System, 293 NLRB 749 (1989) (facilities located 9, 12 and 20 miles apart, respectively, were included as part of a system-wide unit); Capital Coors Co., supra 309 NLRB at 325 (employees employed at two facilities located 90 miles apart were included in single unit).

include the LPNs employed by the Employer at the Family Health and Pediatric Centers in the unit found appropriate herein.

Accordingly, I find that 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 technical employees, including acute care LPNs, radiologic technologists, mammography technologists, special procedures technologists, CT technologists, CT/MRI technologists, nuclear medicine technologists, medical sonographers, physical therapy assistants, respiratory practitioner RRTs, RCP tech partner RRTs, respiratory CR practitioner CRTTs, hospital occupational therapy assistants, radiologic diagnostic technologists, medical technicians, medical laboratory technicians, histology technicians, special procedures tech/cardiac lab techs, radiation therapists, dosimetrists, surgical technicians and family practice and pediatric LPNs employed by the Employer at its Latrobe, Pennsylvania, hospital facility, its Family Health Centers located in Blairsville, Latrobe, Greensburg (Mountain View), Norvelt and Saltsburg, Pennsylvania, and Pediatric facilities located in Blairsville and Greensburg (Mountain View), Pennsylvania; excluding perioperative assistants/technicians, phlebotomists, assistant radiology manager/senior technician, staff orthopedic technician, supervisor Ligonier Valley Ambulance Service, senior neuro-diagnostic technician (EEG tech), technical partners, support partners, radiology supervisors, medical technologists, cytologists, cyto-prep technician, histology supervisor, biomedical services technicians, small equipment technician, CT/MRI supervisor, home health occupational therapy assistant, pharmacy assistant, cancer registry technician, cardiac rehab special assistant, diet technician, telecommunications technician, home health department employees, senior coders, junior coders, ECG and EKG technicians, central service technicians, registered nurses, emergency technicians, Ligonier Valley Ambulance Service emergency medical technicians and paramedics, office clerical employees, service and maintenance employees and guards, other professional employees and supervisors as defined in the Act, and all other employees.

DIRECTION OF ELECTION

An election by secret ballot will be conducted by the undersigned Regional Director among the employees in the unit set forth above at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.³¹ Eligible to vote are those employees in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period and employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.³² Those eligible shall vote whether

³¹ Pursuant to Section 103.20 of the Board's Rules and Regulations, official Notices of Election shall be posted by the Employer in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. As soon as the election arrangements are finalized, the Employer will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed. The Board has interpreted Section 103.20(c) as requiring an employer to notify the Regional Office at least five (5) full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice.

³² In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc. 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that the election eligibility list, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, Room 1501, 1000 Liberty Avenue, Pittsburgh, PA 15222, on or before March 29, 2001. No extension of time to file this list may be granted, except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

or not they desire to be represented for collective bargaining by Latrobe Technical Employees Association/Health Care - PSEA/PSEA.

Dated at Pittsburgh, Pennsylvania, this 22nd day of March 2001.

/s/ Gerald Kobell

Gerald Kobell
Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD
Room 1501, 1000 Liberty Avenue
Pittsburgh, PA 15222

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