

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

**AMERICAN RED CROSS BLOOD SERVICES,
NORTHERN OHIO REGION**

Employer

and

Case No. 8-RC-16337

**DISTRICT 1199, THE HEALTHCARE AND
SOCIAL SERVICE UNION, SEIU, AFL-CIO**

Petitioner

DECISION AND DIRECTION OF ELECTION

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

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.¹

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 non-professional employees employed by the Employer through its facility located at 3747 Euclid Avenue, Cleveland, Ohio, including employees in the following classifications: collection specialist II/charge, collection specialist II/non-charge, collection specialist I, collection technician II, education coordinator,

¹ The Parties have filed briefs, which have been carefully considered. Upon the entire record in this proceeding, the undersigned finds: the hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. 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. The labor organization involved claims to represent certain employees of the Employer. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and 2(6) and (7) of the Act.

marrow program recruiter, marrow program coordinator, equipment specialist, operations specialist, operations coordinator, donor management specialist, stock inventory assistant I, stock inventory assistant II, mobile unit supply clerk, administrative assistant II, volunteer recruitment representative, donor recruitment representative, clerical assistant II, scheduler, administrative assistant III, tele-recruiter, customer service representative, hospital services courier, hospital services technician, clerical assistant I, clerical assistant II, technical assistant, lab technician, lab technician II, senior lab technician, reference lab technician, buyer/administrative assistant, records management specialist, senior network specialist, communication specialist, donor counselor I, donor counselor II, help desk specialist, validation specialist, quality systems analyst, network specialist, equipment specialist, lead technician/QC labor, senior recruitment representative, hospital services technician I, hospital services technician II, and records management technician, but excluding all employees in the following positions: dock supervisor, operations supervisor, team supervisor, collections manager, manager of volunteers/chapter relations, donor recruitment manager, donor services supervisor, production planning manager, hospital services supervisor, manager, directors, lab supervisor, compliance supervisor, human resource associate I, human resources assistant, payroll specialist, executive assistant, chief operating officer, donor health & records specialist, quality systems supervisor, scheduling supervisor, customer service leader, reference lab supervisor, tele-recruitment supervisor, general services supervisor, mobile unit assistant, and all professional employees, office clerical employees, guards and supervisors as defined in the Act.²

There are approximately 395 employees in the unit found to be appropriate herein.

INTRODUCTION

The Employer is a blood bank affiliated with the American National Red Cross, a federally chartered corporation, operating out of its principal location at 3747 Euclid Avenue, Cleveland, Ohio, and other satellite facilities located in Northern Ohio. Among other things, it collects, processes and provides blood products and blood related services to acute care facilities in Cuyahoga county and 19 other counties in Northern Ohio. I find that the Employer is a health

² With the exception of the positions at issue, the unit description is substantially in accordance

care institution engaged in patient care within the meaning of Section 2(14) of the Act.³ There is no history of collective bargaining regarding the employees in the unit sought.⁴

The Petitioner seeks to represent a unit of the Employer's full-time and regular part-time non-professional employees. The Parties disagree over whether several positions should be excluded from the Unit.

The Employer contends that the position of Collections Specialist II "with charge responsibility" (CSII/Charge) is supervisory in nature and should be excluded from the unit, contrary to the position of the Petitioner.

The Petitioner contends that the positions of Senior Reference Lab Technician, Senior Lab Technician, Laboratory Technician II, and Operations Specialist are supervisory and should be excluded from the unit, contrary to the position of the Employer. Petitioner also seeks to exclude the positions of Donor Management Specialist and Operations Coordinator as either supervisory or managerial, as well as the positions of Education Coordinator, Marrow Program

with the stipulation of the parties.

³ The parties stipulated at the hearing that the Employer is a health care institution, defined in Section 2(14) of the Act as "any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm or aged persons." The determining factor in finding a blood bank to be a health care facility is whether the blood bank is engaged on a regular basis in patient pheresis and therapeutic phlebotomies; therapies that both involve patient care. **Syracuse Region Blood Center, 302 NLRB 72 (1991)**. Record evidence and my decisions in cases 8-RC-14813 and 8-RC-15906 amply reflects that the Employer in the instant matter meets the patient pheresis and therapeutic phlebotomy criteria set forth in **Syracuse**, supra. Therefore, in accordance with the stipulation of the parties, the record evidence and applicable law, I find that the Employer is a health care institution engaged in patient care within the meaning of Section 2(14) of the Act.

⁴ The Petitioner currently represents a unit of approximately 23 Mobile Unit Assistants employed at the Employer's facility, and a current collective bargaining agreement exists regarding those employees.

Recruiter and Marrow Program Coordinator as supervisory, managerial or professional, contrary to the position of the Employer.⁵

I find that the position of CSII/Charge is not supervisory under the Act and therefore I will include it in the unit. I further find the positions of Senior Reference Lab Technician, Senior Lab Technician, Laboratory Technician II, Operations Specialist, Donor Management Specialist, Operations Coordinator, Education Coordinator, Marrow Program Recruiter and Marrow Program Coordinator are neither supervisory, managerial nor professional in nature and I will include them in the unit. I outline my findings and rationale in the paragraphs that follow.⁶

CSII /Charge

The Employer contends the employees who hold this position are supervisors and should be excluded from the unit on that basis, contrary to the position of the Petitioner. For the reasons described below, I find that the approximately 40 CSII/Charge employees are not supervisors within the definition of Section 2(11) of the Act and include them in the unit.

⁵ The Petitioner has taken various positions regarding why the positions of Education Coordinator, Marrow Program Recruiter and Marrow Program Coordinator should be excluded from the unit. In stating its position for excluding the positions at the beginning of the hearing, Petitioner asserted that the position of Education Coordinator is supervisory and/or professional, and the positions of Marrow Program Recruiter and Marrow Program Coordinator are supervisory, professional and/or managerial. In stating its position for excluding the positions at the end of the hearing, the Petitioner stated that the three positions are managerial. In stating its position for excluding the positions in its Brief, Petitioner asserted that the positions are professional. Under these circumstances, I am compelled to consider all of the reasons asserted by the Petitioner for excluding the three positions.

⁶ In case 8-RC-15906, involving the same parties as in the instant case, a hearing was also held in June of 1999 on, among other things, the issue of whether the CSII/Charge staff were supervisors within Section 2(11) of the Act. The parties offered the transcript to the earlier hearing as a joint exhibit to the instant case, and stipulated that the record facts were correct as of the time of the prior hearing. While not explicitly stated, a fair inference based upon a reading of the record in the current case, is that the testimony developed in the most recent record serves to supplement the prior record with those facts that have changed since the prior record was adduced.

CSII/Charge staff work in the departments of Special Services and Collections. In Special Services, which handles aphaeresis donations and therapeutic atalogus, the nine CSII/Charges are supervised by four Team supervisors who are in turn supervised by Director of Donor Services Carolyn Keen. In Collections, which handles the collection of donated blood and bone marrow, approximately 40 CSII/Charges are supervised by 10 Team Supervisors⁷ who are in turn supervised by Personnel and Administration Operations Supervisor Kathleen Valent. Keen testified there is no difference between the CSII/Charge staff in the two departments; they operate under the same job description, review and complete similar forms in their work, and otherwise have similar duties and responsibilities.

The Employer conducts an average of 23 to 25 blood drives each day of the week. Each blood drive is overseen by a CSII/Charge, and the CSII/Charge is in charge of the drive even if a Team Supervisors drops in. The record did not explicitly state what staff positions work under the CSII/Charge at blood drives, although based upon scheduling records submitted by the Employer it appears that CSII/non-charge staff, Collection Specialist Is, Collections Technician IIs, and Mobile Unit Assistants do so. The record does not explain the differences between the positions, although Employer provided job descriptions show that Collections Technician IIs may be promoted to a CSII/Charge after a minimum of 6 successful months. Crew assignments vary daily and are made in the scheduling department. A crew assigned to run a drive may have as many as 30 employees or as few as one, who would be a CSII/Charge/driver. Sometimes

⁷ The Collections department Team Supervisors oversee a staff of approximately 140. Valent described their duties to include performing human resource functions, completing annual work performance reviews, issuing formal discipline up through and including a final warning, interviewing staff, working with donor services representatives to both deal with customer complaints and to visit potential new sites to determine if they are acceptable for holding a blood drive, serving as a charge employee at a drive if no CSII/Charge is available to work, and

more than one CSII/Charge is assigned to work a drive, although only one will be designated as the charge person.

CSII/Charge/driver Henry Zawacki described a typical day as follows. When he arrives at a site, he introduces himself to the site contact person, locates the donation area, determines the easiest way to get the equipment there, and unloads the equipment. By then his crew has arrived and together they set up the equipment. He assigns the crew to various set-up tasks such as setting up the health history station, the registration table, the processing table, and the canteen, and “quality control-ing” the supplies. If there are volunteers, he assigns someone to provide orientation to them. The driver of the mobile unit, in this case Zawacki, usually sets up the donor room. He may write down the assignments on an assignment sheet or he may give the assignments orally to a small crew. Then Zawacki collects the quality control paperwork and makes sure everything meets standard operating procedures. Thereafter, donors may be processed as follows. If a volunteer is present, he or she will staff the registration desk to greet donors and have them fill out an initial form. Then the donor moves to the health history station where the donor is asked a series of questions to make sure they are eligible to donate. Then the donor moves to the final station, where the donated blood is collected. To shut down a drive, Zawacki collects the registration, donor history and quality control paperwork and completes an operation log. The equipment is checked and loaded back into the mobile unit. The record is silent regarding what assignments each position are able to perform, except that technicians can perform a health history and that drivers generally perform blood draws. Zawacki estimated that he spends about 90 percent of his time during a typical day performing the same work as Technician IIs.

dropping in on blood drives. Even when a team supervisor is present at a drive, the CSII/Charge

Valent testified that the Employer provides a 3-day training for new charge staff employees. During training, Valent instructed them that they were expected to:

1. know the role responsibilities and job standards of each staff member they supervised (to this end, Valent reviewed staff job descriptions with them)
2. know the Employer's written policies, procedures and standards (to this end, Valent reviewed the current union contract covering mobile unit assistants, whom the CSII charge staff work with, with them)
3. know department expectations such as dress code⁸ and attendance policy
4. make written assignments
5. act promptly to address undesirable behaviors as soon as possible after it occurs.

In overseeing a blood drive, Valent testified that the CSII/Charge makes work assignments to the employees on their crew. She did not explain the decision making process involved therein, however, or what the CSII/Charge had the authority to do if an employee refused a work assignment. In the notes she submitted from conducting training of new CSII/Charges, it states that if an employee refuses work direction to "contact me or operations and we will deal with [the insubordinate employee] over the phone." Valent testified that blood drive staff "know what their job is" and if a CSII/Charge is late arriving to a donation site, the remaining staff are capable of setting up and beginning the blood collection without him or her. The Employer's standard operating procedures are kept in thick binders in each mobile unit, which are available to all employees.

Valent explained that CSII Charge Staff are expected to intervene when an employee is not following the Employer's regulated procedures by removing the employee from a task and to

is still considered in charge of a drive.

⁸ CSII's, including charge staff, and technician IIs wear a uniform of surgical style scrubs, and identification badges.

notify operations staff for further direction. She explained that “[d]epending on the analysis and the assessment of the charge person, . . . at that point it would be a joint decision as to how we would proceed.” For instance, if the assessment of the CSII/Charge is that an employee is “only having difficulty with one particular procedure, we would just remove that person from that particular procedure.” On the other hand, “[i]f it was determined that [the employee] had problems with all of the processing steps then we would make a decision at that point to perhaps send the person off duty until we could come up with a retraining plan.” All staff members are expected, however, to report to proper authorities any deviation from standard operating procedure.

Regarding discipline, Valent explained that CSII/Charge staff are responsible for observing and documenting staff behavior that may lead to discipline or other adverse action against an employee. In training the CSII Charge Staff, Valent discussed with them how important it was that they “observe, document and confront” employees. She further instructed the Charge Staff to document employee behavior, both good and bad, in the Employer’s “anecdotal record,” and to send the record to an appropriate supervisor, which could be a team supervisor or herself. The “anecdotal record,” Valent explained, is the official mechanism for documenting any circumstances, positive or negative, outside of expected daily activities. Any employee of the Employer may fill out an anecdotal record for purposes of sending any information “up the line,” and, in fact, do so. Valent explained to CSII charge staff during training that information contained in the anecdotal record may be used to grant employees awards, investigate employees’ deviation from standard operating procedures, for disciplinary actions or for an employee’s work performance review. Anecdotal records submitted by charge staff do not, however, contain a recommendation regarding discipline.

Valent provided three recent examples of CSII Charge Staff documenting incidents that lead to discipline and/or discharge of employees. First, in May of 2000, a staff member failed to process a donor correctly and then falsified the documentation of the procedure that she did incorrectly. Valent testified that based upon the information the CSII/Charge provided, “we” contacted the donor to confirm that the procedure was done incorrectly and thereafter discharged the employee for falsification of records. Second, in July of 2000 an employee violated the dress code with her fingernail polish and fingernail adornments. Third, in February of 2000, a CSII/Charge reported inappropriate comments made by an employee. Based upon that information and the warning given to the employee by her Team Supervisor earlier that month that any further instance of inappropriate conversation would not be tolerated, the employee was discharged. Valent also provided an example of an anecdotal records completed by a CSII/Charge resulting in the Employer deciding to institute an “performance improvement plan” for an employee.

Regarding further responsibility of CSII/Charge staff, Valent testified that they are expected to identify when employees arrive to work under the influence of controlled substances or alcohol, and to notify operations. They are to observe and document tardy arrival of employees, and to alert the tardy staff member that their tardiness will be reported to their team supervisor. CSII/Charge Staff review and initial employee time sheets for accuracy. If there is a dispute regarding the accuracy of a time sheet, however, the CSII/Charge staff notify Valent of the problem Valent investigates it. CSII/Charge Staff “have the authority to request that a unit be closed” if they determine that a site is not appropriate for blood collection. Valent is not aware of a CSII charge staff ever shutting down a unit without the approval of others in

operations. CSII Charge Staff are also responsible for completing employee accident reports for purposes of Workers' Compensation requests.

In evaluating employees, Valent testified that the team supervisors solicit input from CSII/Charges and rely on the information provided to them. CSII charge staff do not, however, complete the actual evaluations. In evaluating CSII/Charges, Valent testified that they are evaluated with regard to their supervisory skills.

It is undisputed that CSII Charge Staff do not schedule employees for work, rather, the scheduling department performs this function. Time off requests are handled by the operations supervisor in charge of scheduling. In the event of employee illness, Valent testified that charge staff may let an employee leave work early, which occurred as recently as a couple of weeks ago. Valent did not know, however, whether a charge staff member has ever refused to allow an employee to go home early in the event of illness. If employees are sick and will not be in to work, they inform the scheduling department directly.

Valent testified that CSII/Charge staff have the authority to send employees home early based upon their application of the Employer's "staffing matrix," which identifies how many employees are expected to work for the number of donors expected to be present. CSII/charge staff have a "site card" that lists the expected number of volunteer donors per hour for each collection site. CSII charge staff may determine, after looking at the "site card" and talking to the volunteers at the site regarding their expectation of donor turnout, that the turnout is such that they "are eligible to send somebody home." If so, they notify a scheduler of that fact in the event help is needed elsewhere before they send an employee home. Valent did not explain how it is determined which employee is allowed to go home early.

On the other hand, if donor turnout is much higher than expected, CSII/Charge staff are expected to call the scheduling department to obtain additional staff. Valent testified that they also have the authority to “put [employees who stop by a blood site during their off hours] into staffing to help out” but could not recall the last occasion when that occurred, and did not explain whether the off-work employee had the right to refuse to work. CSII Charge Staff member Zawacki testified that he had never put a nonworking employee to work under such circumstances.

It is undisputed that CSII charge staff do not have the authority to hire, fire, or layoff employees, and are not part of the Employer’s formal grievance procedure for its non-union employees.

Regarding pay, CSII/Charge and noncharge employees are paid the same hourly rate, as opposed to Team Supervisors who are paid a salary. Valent explained that non-charge CSIIs have the additional duty of being an instructor, and that is why they receive the same pay as the charge CSIIs.

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, promoted, discharge, assign, reward or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a routine or clerical nature, but requires the use of independent judgment.

The burden of proving that an individual is a statutory supervisor rests with the party asserting it. **NLRB v. Kentucky River Community Care, Inc., 121 S.Ct. 1861, 1863 (2001).** In **NLRB v. Kentucky River Community Care, supra., at 1867**, the Court stated Section 2(11) of the Act sets forth a three-part test for determining supervisory status. Employees are statutory supervisors if (1) they hold the authority to engage in any 1 of the 12 listed supervisory

functions, (2) their exercise of such authority is not of a merely route or clerical nature, but requires the use of independent judgment, and (3) their authority is held in the interest of the employer.

I find that the Employer has not proven that CSII/Charge staff are statutory supervisors. The record establishes that CSII/Charge staff have no role in the hire, transfer, suspend, lay off, or recall of employees, or in the adjustment of their grievances. The Employer has shown only that CSII/Charge staff supply information to the Employer that the Employer uses to determine whether to promote, reward, discipline or discharge employees, but the CSII/Charge staff provide no recommendations nor are they otherwise involved in the foregoing. Such conduct is insufficient to establish supervisory status. **Crittenton Hospital, 328 NLRB 874 (1999)**.

The limited record evidence regarding work assignments CSII/Charge staff make is insufficient to establish supervisory status. The record was void of any explanation of the decision making process involved in making such assignments. Thus, the Employer failed to establish that the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. As the Supreme Court noted in **Kentucky River, supra**, individuals who merely direct the performance of discrete tasks rather than directing other employees have not engaged in responsible direction of work so as to confer supervisory status. **121 S.Ct. at 1871**. Additionally, both the Board and the courts have recognized that not every act of assignment, even of employees as opposed to job tasks, constitutes statutory supervisory authority. **Providence Hospital, 320 NLRB 717, 727 (1996)**. Accordingly, work assignments made to equalize employees' work on a rotational basis are routine assignments. **Ibid.** Assignments based on assessment of employees' skills when the difference in skills are well know have are also routine. **Ibid.** And, importantly, during training Valent instructed

CSII/Charge staff that if an employee ever refuses a job assignment or direction, the CSII/Charge is to contact her or another superior to deal with the insubordinate employee rather than deal with the situation alone. Exercise of judgment is not independent if the CSII/Charges have absolutely no authority to enforce the work assignments they make. Compare **Holiday Inn of Dunkirk-Fredonia**, 211 NLRB 461, 462 (1974).

Based on the above, I find CSII/Charge staff are employees who share a community of interest with the other unit employees and I shall include them in the unit.

Senior Reference Lab Technician

The Petitioner seeks to exclude this position as supervisory. The Employer contends that the employees who hold this position are not statutory supervisors under the Act and should be included in the unit.

The only information the record contained about Senior Reference Lab Technicians is that they differ from reference lab technicians only in that they have held the position for longer and earn a higher wage, and they possess the additional responsibility of reviewing testing procedures and can sign off on them. Based thereon, I find that the Petitioner has not proven that Senior Reference Lab Technicians possess any 2(11) authority.

Senior Laboratory Technician

The Petitioner seeks to exclude this position as a supervisory. The Employer contends that the employees who hold this position are not statutory supervisors under the Act and should be included in the unit. The record is void of evidence regarding this particular position. I find

therefore, that the Petitioner has failed to establish this position is supervisory and I include it in the unit.

Laboratory Technician II

The Petitioner seeks to exclude this position as supervisory. The Employer contends that the employees who hold this position are not statutory supervisors under the Act and should be included in the unit. I find that the Petitioner has failed to establish this position is supervisory and I include it in the unit.

Human Resources Director Steven Peter testified that this position previously held the supervisory duties of completing Work Performance Reviews, disciplining employees, and directing less senior employees in their work. In the past six months, however, the Employer has removed the supervisory responsibilities from this position and given it to the laboratory supervisor who works on each shift. Peters wasn't sure what the difference was between the Laboratory Technician I and II positions, but believed there were experience and educational differences. Peters was unsure whether this position still directed less senior employees in their work or not. Based on the forgoing, I find that the Petitioner has not proven that Lab Technician IIs possess any 2(11) authority.

Operations Specialist

The Petitioner seeks to exclude this position as a 2(11) supervisor. The Employer contends that the employees who hold this position are not statutory supervisors under the Act

and should therefore be included in the Unit. I find that the Petitioner has not proven the Operations Specialist possesses any 2(11) authority.

Valent explained the function of the operations specialist as reviewing the deviations from the procedures made by the collection staff, she “tracks” them, generates reports for tracking purposes, investigative purposes and for the FDA, and sends the information to the team supervisors for follow-up. Deviations are noted on a specific form called a deviation form. Valent is not aware of everyone who has the authority to complete these forms, but she knows that CSII/Charge staff may complete them. The operations specialist is supervised by the Operations Supervisor Compliance. The operations specialist does not work with the operations coordinator. Peters thought this was an hourly paid position, but was not sure.

The record fails to establish that this position is supervisory and accordingly it is included in the unit.

Donor Management Specialist

The Petitioner seeks to exclude this position as supervisory or managerial. The Employer contends that the employees who hold this position are not statutory supervisors under the Act and should be included in the Unit.

The only information in the record on this position is that the employee works in the quality department. Peters was unsure what the employee in the position does, but thought it had some involvement with determining donor suitability. I find that the Petitioner has not proven that Donor Management Specialist are managerial employees or shown that they possess any 2(11) authority.

Operations Coordinator

The Petitioner seeks to exclude this position as supervisory or managerial. The Employer contends that the employee who holds this position is not a supervisor nor a manager and should be included in the Unit. I find that the Petitioner has not proven that Operations Coordinator is a managerial employee or possesses any 2(11) authority.

The operations coordinator is the “central control point for problems out in the field.” For that reason, she is on call 24 hours a day, seven days a week, and wears a work pager at all times. As explained above, she is involved when CSII/Charge staff requests that a unit be closed. Valent testified that the process of shutting down a unit involves people working in multiple departments, however, the operations coordinator has the authority to shut down a site alone if he or she is unable to contact any of the others who are normally involved.

Additionally, Valent explained that the operations coordinator’s duties include reviewing all the daily paperwork that is generated on a blood mobile, answering donor questions, following up on customer complaints and problem solving with the charge staff. Valent indicated examples of problem solving situations with charge staff include: (1) a charge staff member calling the operations coordinator to state that the mobile unit has not yet arrived to a donation site and the site is late in opening; (2) not having enough blood bags to process donors; and (3) responding to reports that new thermometers are needed at a site.

The operations coordinator is paid on a salaried basis and reports to the operation supervisor of mobile operations. No employees report to the operation coordinator. Operations coordinators contact other areas of the collections department to facilitate the accomplishment of necessary tasks. Director of Human Resources Peter testified that, in his past three years as a

manager, or one or two occasions the operations coordinator attended the daily management meetings in which the previous days collections are discussed.

The Supreme Court has defined managerial employees those who “formulate and effectuate management policies by expressing and making operative the decisions of their employer.” NLRB v. Yeshiva University, 444 U.S. 672, 682 (1980). Managerial employees must exercise discretion within, or even independently of, established employer policy and must be aligned with management. The record is void of any evidence to establish that the operations manager meets this test and I find that this position is not managerial in nature. I also find the evidence adduced on the record insufficient to establish the position is supervisory under the Act.

Education Coordinator

The Petitioner contends that this position should be excluded as supervisory, managerial or professional, contrary to the position of the Employer. I find that the position is neither supervisory, managerial nor professional in nature, and include it in the unit.

There are five Education Coordinator positions. They are each assigned to one of the following departments: of collections, special services (apheresis donations), technical services, administrative staff and hospital services. Peters explained that every employee has a “master training list” of the training they must receive. The Education Coordinators maintain a log of the training that employees have attended and what they need to attend. They also score self-test forms employees take after completing a training course. Valent explained the job duties of the Education Coordinator in the department of collections consisted of arranging for instructors to train new staff, arrange classrooms, personally conduct training and develop training programs.

Education Coordinators are paid a salary and report to the education manager, who in turn reports to the chief operations officer. Education Coordinators do not participate in formulating education policy for the Employer, rather, this is done out of national headquarters with input from the regional Education Manager. The Collections department Education Coordinator is required to have RN degree, however, the Education Coordinators in the laboratory and hospital services departments are not. While Valent is unsure whether the Education Coordinator for the administrative staff and Special Services department are required to be RNs, she is aware that the current Special Services Education Coordinator does have an RN degree.

I find that the record fails to establish this position is professional, managerial or supervisory. The record is void of any evidence to establish that it is supervisory or managerial in nature.

The term “professional employee” is defined in Section 2(12) of the Act as:

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

(b) any employee, who has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

Section 2(12) of the Act defines a professional employee in terms of the work the employee performs, and it is the work rather than the individual qualifications that is controlling under that Section. **Aeronca, Inc., 221 NLRB 326 (1975).**

In the absence of a showing that the duties and responsibilities of this position require a high degree of technical competence and involves the consistent exercise of discretion and judgment in its performance, I find this position is not professional in nature. I shall accordingly include the classification of Education Coordinator in the unit.

Marrow Program Recruiter

The Petitioner also contends that this position should be excluded as supervisory, managerial or professional, contrary to the position of the Employer. I agree with the Employer and include the position in the unit.

Peters testified that these employees who report to the Marrow Program manager actively seek bone marrow donors through various marketing efforts including presentations at meetings. Peters was unsure what qualifications are required for the position.

In the absence of a showing that the duties and responsibilities of this position require a high degree of technical competence and involves the consistent exercise of discretion and judgment in its performance, I find this position is not professional in nature. I further find that the record fails to establish this position is managerial or supervisory in nature.

Marrow Program Coordinator

The Petitioner also contends that this position should be excluded as supervisory, managerial or professional, contrary to the position of the Employer. I agree with the Employer and include the position in the unit.

Peters testified that these employees coordinate bone marrow donations. They counsel the donor on the procedure and see the donor through the donation process. Peters believes that these employees have a nursing background, but is unsure what is required.

In the absence of a showing that the duties and responsibilities of this position require a high degree of technical competence and involves the consistent exercise of discretion and judgment in its performance, I find this position is not professional in nature. I further find that the record fails to establish this position is managerial or supervisory in nature.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, 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, 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. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **District 1199, the Healthcare and Social Service Union, SEIU, AFL-CIO.**

LIST OF VOTERS

In order to ensure that all eligible voters 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 that may be used to communicate with them. **Excelsior Underwear Inc.**, 156 NLRB 1236 (1966); **N.L.R.B. v. Wyman-Gordon Co.**, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this decision. **North Macon Health Care Facility**, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to

the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington, by April 18, 2002.

Dated at Cleveland, Ohio this 4th day of April 2002.

/s/ Frederick J. Calatrello

Frederick J. Calatrello
Regional Director
National Labor Relations Board
Region 8

177-8520-0100