STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
DISTRICT 1199 NW, SEIU	)	CASE 15786-E-01-2628
	)	
Involving certain employees of:	)	DECISION 7558 - PECB
	)	
GRANT COUNTY PUBLIC HOSPITAL DISTRICT 2	)	ORDER OF DISMISSAL
	)	
	)	

Theiler, Douglas, Drachler and McKee, by *Paul Drachler*, Attorney at Law, appeared on behalf of the petitioner.

Amburgey and Rubin, by *J. Kent Pearson, Jr.*, Attorney at Law, appeared on behalf of the employer.

On April 27, 2001, District 1199 NW, SEIU (union) filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission under Chapter 391-25 WAC, seeking certification as exclusive bargaining representative of employees of Grant County Public Hospital District 2 (employer). Issues were framed at an investigation conference concerning the propriety of the bargaining unit and concerning the eligibility of several employees for inclusion in that unit. Hearing Officer Kenneth J. Latsch held a hearing on June 18 and 19, 2001. With the consent of both parties, the hearing was resumed by means of a conference call initiated by the Hearing Officer on June 21, 2001, whereupon the testimony of Eileen Adams was concluded. The parties submitted post-hearing briefs on August 15, 2001.

The Executive Director rules that the particular grouping of employees sought by the union is not an appropriate unit for the

purposes of collective bargaining, and dismisses the petition. Rulings on some of the eligibility issues are thus unnecessary.

PROCEDURAL BACKGROUND

In its original petition, the union sought a bargaining unit described as:

> All full-time and regular part-time employees of Public Hospital District 2 of Grant County (Quincy Valley Hospital), including the Convalescent Center, the Clinic, the WIC, and First Steps; excluding employees in the business office, medical records department employees, confidential employees, casual employees, supervisors, elected officials elected by popular vote, officials appointed to office for a fixed term of office, and security personnel.

The investigation statement issued on May 23, 2001, following the investigation conference held that day, identified issues for further proceedings, as follows:

1. The union amended its petition to exclude the WIC and First Step employees from its proposed bargaining unit. *The union further excluded all other non-RN professionals from the proposed bargaining unit. The union identified four job titles within this group* as social worker, medical technician, activities coordinator and occupational therapist.
2. The employer did not stipulate to the amended unit as appropriate. The employer's position is the appropriate unit should be more inclusive to include ultrasound, occupational therapy, business office, medical records and administra-

tion employees and the non-RN professionals.

3. The parties disagree on whether Linda Fishbourne, Michael Gregory and Nathan Mason should be excluded as supervisors.

4. The parties disagreed whether Cindi Lasley should be excluded as a confidential employee.

5. The parties disagreed on the eligibility status of Michelle Huber, Rob Miller, Bonnie Holt, Christi Brittian-Low, Verna Teeter, Mildred Stevens, Margaret Baker, Matthew Walker, Janet Jones, Eric Pollard, and Dora Keaton. These disagreements involved the employees' status as regular part-time or casual.

6. The parties further disagreed over the bargaining unit status of Melissa Culich, Irma Reyes, Cindy Fitzgerald and Elizabeth Webb and agreed to conduct further research on these positions prior to hearing.

The hearing was set for a date less than 30 days after issuance of the investigation statement, and less than 60 days following filing of the petition.

At the outset of the hearing, Hearing Officer Latsch restated the issues from the investigation statement, as follows:

> The union at that time amended its petition to exclude the WIC and first step employees from its proposed bargaining unit. *The union further excluded all other non-RN professionals from the proposed bargaining unit. The union identified four job titles within this group as social worker, medical technician, activities coordinator, and occupational therapist.* . . . The employer did not stipulate to the amended unit as appropriate. The employer's position is that the appropriate unit should be more inclusive to include

> *ultrasound, occupational therapy,* business office, *medical records*, and administration employees as well as the *non-RN professions*.

(emphasis added).

The union thereupon responded with a further amendment of its petition, as follows:

> [W]ith respect to the scope of the bargaining unit, at this time the union would amend its petition to include both first steps and WIC. So, in fact, the petition would conform to the original petition as filed by the union.

Nevertheless, the union has continued to seek exclusion of (or ignore) the medical records employees, laboratory technicians, emergency medical employees, and the "other non-RN professionals . . ." from the bargaining unit it seeks.

FACTUAL BACKGROUND

The employer provides a variety of health care services from a single campus located at Quincy, Washington. A board of commissioners consisting of five members elected by popular vote sets general policy for the employer. Hospital Administrator Alan MacPhee reports to that board, and oversees daily operations. Chief Financial Officer Michael Cafferky reports to MacPhee, and is responsible for the employer's business affairs.

The Employer's Operations

The employer has divided its operation into several units. MacPhee conducts monthly department head meetings which are used to address operational issues and as a forum to disseminate information about

decisions made by the commissioners. Financial issues are discussed at those monthly meetings, and department managers are encouraged to bring up issues for general discussion.

Convalescent Center -
The largest unit in the employer's operation is a 22-bed convalescent center that provides care for long-term residents. This unit is headed by Ellen Clifton, a registered nurse.

Acute Care Unit -
A 16-bed acute care unit is operated under the general direction of Vicki Anderson, a registered nurse. Patients in this unit receive intense care and treatment on an around-the-clock (24/7) basis.[1] The services provided include an emergency room, obstetrics and delivery, surgery, and a recovery room.

Medical Clinic -
A clinic located on the employer's premises provides family practice and OB/GYN services. The clinic operates into evening hours several days a week, and for a half day on Saturdays. Patients are seen at the clinic by three medical doctors, two doctors of osteopathy, and two individuals holding "advanced registered nurse practitioner" (ARNP) certification.[2]

Emergency Medical Services -
This unit provides on-site care in medical emergencies, as well as ambulance service. The unit is based on the employer's campus, and

---

[1] Six of the 16 beds are "swing" beds, which can be used to provide 24/7 care of a less intense nature.

[2] The ARNP certification enables these employees to make diagnoses and to prescribe a limited number of medications, but they cannot admit patients to the hospital and cannot treat complex cases independently.

is supervised by Darlene Gottschalk. Several individuals holding "emergency medical technician" (EMT) certification are employed in this unit, but there is no claim or evidence that any of the employees in this unit are "advanced life support technicians" within the meaning of RCW 18.71.200.

The Medical Staff

The medical staff consists of five physicians employed by the employer, as well as other local physicians. The medical staff members employed by the employer have admitting privileges. Others are allowed some "courtesy" access to the employer's facilities, but lack independent admitting privileges.

First Steps and WIC Programs -

The employer offers prenatal and parenting services for low income residents in the community, under the direction of Terry Gates. Both programs provide family education, nutrition education, health information, and parenting skills training for young families. The First Steps program targets families whose female head of household is pregnant, and provides more prenatal care and training than the WIC program. The First Steps program also emphasizes nutrition and general health information relating to pregnancy and childbirth. Unlike the other services detailed herein, the First Steps and WIC programs operate away from the employer's campus.

Medical Laboratory -

A medical laboratory staff consisting of Nancy Lewandowski and two medical technologists working under her direction is responsible for collecting specimens and performing various test procedures such as microbiology, blood gases and electrolytes, coagulation, immunology and urinalysis. The technologists also deal with therapeutic drug monitoring, and are responsible for maintaining the laboratory equipment.

Ancillary Services -

Apart from the medical staff and the nursing staffs in the acute care unit, the convalescent center unit, and the clinic, several health care professionals employed by the public employer provide specialized health care services:

- James Sober, a registered nurse anesthetist, serves as the anesthesiologist during surgical procedures.
- Virender Gautam, an occupational therapist, provides a variety of services to assist residents of the convalescent center in improving their physical abilities.
- Verna Teeter, a social worker, deals with emotional and psychological issues faced by residents of the convalescent center.
- Other individuals serve as physical therapists or speech therapists for the acute care unit and/or the clinic, working under the general direction of Amy York, who is herself a physical therapist.

Medical Records -

The medical records of patients are handled through multiple systems and locations:

- Records for patients in the acute care unit are kept at the nurses' station in that unit while a patient is receiving care there.
- Records for active clinic patients are kept at the main reception desk, where two employees perform multiple functions as receptionist, file clerk and backup switchboard operator.
- Records on former acute care patients and former clinic patients are moved to a centralized location when their

treatment has ended. As the medical records clerk, Irma Reyes assembles medical charts in a prescribed order and files closed charts.

Testimony at the hearing indicated the employer was in the process of consolidating closed medical records in a secure storage area in the same building where the business office is located, and that the employer was in the process of filling a vacant "medical records manager" position.

Pharmacy -
An independent contractor provides pharmacy services for the employer's operations. That individual stays in contact with the acute care unit to provide information about specific medications, and he comes to the employer's premises for brief periods of time for discussions with hospital staff and patients about the appropriate dispensing of medications.

Pathology Department -
Another independent contractor is responsible for testing of tissue samples and other specimen analysis.

Radiology Department -
A third independent contractor is responsible for analysis and consultation on x-rays and images produced from other diagnostic equipment.

Business Office -
The employer's business office is located in a separate building adjacent to the hospital. Mickey Gimlin serves as business office manager. The office-clerical employees in this unit perform a variety of duties associated with business functions such as patient billing (including charges, adjustments, payments and

insurance claims), accounts payable (including processing staff vouchers for certain approved reimbursements), and administering service codes (used for both billing and quality control purposes), and they do not have any role in patient care. Although located in the main hospital building, the admitting office is operated as part of the business office unit.

Community Relations -
The employer's community relations director, Summer Friend, has her workstation in the business office, but reports directly to MacPhee. Friend is responsible for publicity about the hospital and she works with a number of local community groups to advertise the hospital's services. Friend publishes a regular newsletter and has organized promotional events including health fairs. Friend occasionally attends meetings of the board of commissioners, and she attends the monthly department head meetings.

DISCUSSION

The Appropriate Bargaining Unit

Statutory Unit Determination Criteria -
These parties are subject to the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. The legislature has delegated the determination of appropriate bargaining units, as follows:

> RCW 41.56.060 DETERMINATION OF BARGAINING UNIT--BARGAINING REPRESENTATIVE. The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. *In determining, modifying, or combining the bargaining*

> *unit, the commission shall consider the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. ...*
>
> (emphasis added).

The question before the Executive Director is whether the petitioned-for unit is appropriate. The purpose of the unit determination process is to:

> [G]roup together employees who have sufficient similarities (community of interest) to indicate that they will be able to bargain collectively with their employer. The statute does not require . . . the "most" appropriate bargaining unit. It is only necessary that the petitioned-for unit be an appropriate unit. Thus, the fact that there may be other groupings of employees which would also be appropriate, or even more appropriate, does not require setting aside a unit determination.
>
> *City of Winslow*, Decision 3520-A (PECB, 1990).

Units encompassing all employees of an employer are considered appropriate, although Commission rules prohibit bargaining units consisting of only one employee,[3] require separate units of employees eligible for interest arbitration,[4] generally require separate units for supervisors,[5] and generally exclude "casual"

---

[3] WAC 391-35-330.

[4] WAC 391-35-310. Under RCW 41.56.030(7)(h), the interest arbitration process applies to "employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer".

[5] WAC 391-35-340.

employees from bargaining units.[6] Short of "all employees" units, Commission precedents support creation of either "vertical" units (encompassing all of the employees in some department or other branch of the employer's table of organization) or "horizontal" units (encompassing all of the employees in a specific occupational type).[7] Of particular interest here, a long line of Commission precedents has recognized the propriety of separate treatment for office-clerical employees who work in support of the administrative functions of an employer.[8]

The union correctly notes that the starting point for the unit determination process is the petition itself:

> It is well established that the starting point for any unit determination analysis is the configuration sought by the petitioning union. *King County*, Decision 5910-A (PECB, 1997); *South Central School District*, Decision 5670-A (PECB, 1997); *Okanogan School District*, Decision 5394-A (PECB, 1997); *City of Auburn*, Decision 5775 (PECB, 1996); *Reardan-Edwall School District*, Decision 5549 (PECB, 1996); *Puget Sound Educational Service District*, Decision 5126 (PECB, 1995); *Spokane County*, Decision 5019 (PECB, 1995); *King County*, Decision 5018 (PECB, 1995); *City of Marysville*, Decision 4854 (PECB, 1994); *Lewis County*, Decision 4852 (PECB, 1994).

Snohomish Public Hospital District 2, Decision 6687 (PECB, 1999).

---

[6] WAC 391-35-350.

[7] *City of Centralia*, Decision 3495-A (PECB, 1990).

[8] *See Quincy School District*, Decision 3962-A (PECB, 1993), *aff'd Public School Employees v. PERC*, 77 Wn. App. 741 (1995), and, most recently, *Longview School District*, Decision 7416 (PECB, 2001).

However, the unit configuration proposed by a petitioning union is not altogether excluded from scrutiny. An employer can dispute the propriety of a petitioned-for unit by setting forth a credible claim that the proposed unit configuration is *inappropriate*. The Commission must apply the statutory criteria and, sometimes:

> [P]etitioned-for bargaining units have been rejected as inappropriate. In *City of Vancouver*, Decision 3160 (PECB, 1989), the petitioned-for unit would have stranded certain employees in units too small for them to ever implement their statutory bargaining rights, and was therefore deemed inappropriate. Likewise, in *Forks Community Hospital*, Decision 4187 (PECB, 1992), a proposed clerical/service/maintenance/technical unit in a relatively small facility would still have stranded other "technical" positions, and so was found inappropriate. In *Port of Seattle*, Decision 890 (PECB, 1980), a petitioned-for unit was rejected because it would have artificially divided the employer's office-clerical workforce into two or more separate bargaining units. *When confronted with an inappropriate unit that cannot be rehabilitated by a minor adjustment, the Commission must dismiss the petition*.

City of Marysville, *supra* (emphasis added).

It is not enough for an employer to offer other alternatives on the broad range of unit configurations that could be found "appropriate" under the statute.

The NLRB Rule Concerning Hospital Units -

Under amendments adopted in 1974, the National Labor Relations Board (NLRB) has jurisdiction over private for-profit and non-profit hospitals. After several years of debate, the NLRB adopted a rule defining presumptively appropriate bargaining units in certain hospitals. The relevant text of the NLRB rule is:

Subpart C-Appropriate Bargaining Units

Sec. 103.30 Appropriate Bargaining units in the health care industry. (a) This portion of the rule shall be applicable to *acute care hospitals*, as defined in paragraph (f) of this section: Except in extraordinary circumstances . . . the following shall be appropriate units, and the only appropriate units, for petitions filed pursuant to section 9(c)(1)(A)(i) or 9(c)(1)(B) of the National Labor Relations Act, as amended, except that, if sought by labor organizations, various combinations of units may also be appropriate:

(1) All registered nurses.

(2) All physicians.

(3) All professionals except for registered nurses and physicians.

(4) All technical employees.

(5) All skilled maintenance employees.

(6) All business office clerical employees.

(7) All guards.

(8) All nonprofessional employees except for technical employees, skilled maintenance employees, business office clerical employees, and guards. Provided That *a unit of five or fewer employees shall constitute an extraordinary circumstance.*

(b) *Where extraordinary circumstances exist, the Board shall determine appropriate units by adjudication.*

. . .

(d) The Board will approve consent agreements providing for elections in accordance with paragraph (a) of this section, but nothing shall preclude regional directors from approving stipulations not in accordance with paragraph (a), as long as the stipulations are otherwise acceptable. . . .

(f) For purposes of this rule, the term:

(1) "Hospital" is defined in the same manner as defined in the Medicare Act, which definition is incorporated herein (currently set forth in 42 U.S.C. 139x(e), as revised 1988);

(2) *"Acute care hospital" is defined as: either a short term care hospital in which the average length of patient stay is less than thirty days, or a short term care hospital in*

> *which over 50% of all patients are admitted to units where the average length of patient stay is less than thirty days.* Average length of stay shall be determined by reference to the most recent twelve month period preceding receipt of a representation petition for which data is readily available. *The term "acute care hospital" shall include those hospitals operating as acute care facilities even if those hospitals provide such services as, for example, long term care, outpatient care, psychiatric care, or rehabilitative care, but shall exclude facilities that are primarily nursing homes, primarily psychiatric hospitals, or primarily rehabilitation hospitals.*
> . . . .

(emphasis added).

The Supreme Court of the United States affirmed the validity of the NLRB's hospital unit rules in *American Hospital Association v. NLRB*, 499 U.S. 606 (1991).

Application of Unit Determination Standards

The union urges that the petitioner "sets the tone" for the representation process by the description of the bargaining unit it proposes, that it has petitioned for an appropriate bargaining unit in this case, and that the Commission should conduct an election as quickly as possible. The union asks the Commission to adopt the system of bargaining units set forth in the NLRB rule, and it specifically seeks to invoke the "combination" feature of the NLRB rule here for a unit encompassing four of the eight categories described in the NLRB rule:

> (1) All registered nurses.
> ~~(2) All physicians.~~
> ~~(3) All professionals except for registered nurses and physicians.~~
> (4) All technical employees.

> (5) All skilled maintenance employees.
> ~~(6) All business office clerical employees.~~
> ~~(7) All guards.~~
> (8) All nonprofessional employees except for technical employees, skilled maintenance employees, business office clerical employees, and guards.

In so doing, the union would exclude at least the medical staff, employees providing emergency medical services, the medical technologists, employees providing ancillary services, and the medical records employees, in addition to the exclusion of office-clerical employees.

The employer argues that the proposed bargaining unit is not appropriate and that the petition must be dismissed. The employer contends the NLRB rule directed to "acute care hospitals" should not be applied to the proposed bargaining unit, which includes the convalescent center and clinic employees in addition to the acute care unit. The employer contends the Commission should use a traditional "community of interests" analysis under RCW 41.56.060 to determine whether the proposed unit is appropriate.[9]

NLRB Rule Not Binding

RCW 41.56.090 directs the Commission to adopt rules "consistent with the best standards of labor-management relations" and the Supreme Court of the State of Washington has held that decisions construing the National Labor Relations Act (NLRA) are persuasive

---

[9] The employer would seemingly be willing to stipulate the exclusion of the medical staff from the bargaining unit, as it contends the ARNP personnel should be excluded from the unit because they have training, duties and skills different from those of other registered nurses, and because they have more independent authority than nurses with respect to patient diagnoses and treatment.

in interpreting state labor acts *similar* to the NLRA. *Nucleonics Alliance v. WPPSS*, 101 Wn.2d 24 (1984). However, the Public Employment Relations Commission is not bound to slavishly follow NLRB rules and precedents where the state law differs from the federal law. The NLRB and PERC each make unit determinations and they each certify exclusive bargaining representatives, but the analysis cannot end there. Even where precedents are of long standing and have the blessing of our state supreme court,[10] the Commission honors the admonition of RCW 41.56.060 to make unit determinations "after hearing . . . in each application for certification" by making the presumptions concerning supervisors "subject to modification by adjudication" in subsection (3) of WAC 391-35-340. Moreover, the Commission has *NOT* adopted a rule defining presumptively appropriate bargaining units in the health care industry, and the Executive Director cannot accept or apply a rule adopted by another agency under another statute as trumping the explicit directive of RCW 41.56.060.

"Acute Care" Qualifier Renders NLRB Rule Inapposite

The evidence that the employer's convalescent center unit is larger than the acute care unit supports the employer's claim that the NLRB rule should be found inapposite here. Additionally, the medical clinic, the First Steps program, and the WIC program are clearly outside of the "acute care" focus of the NLRB rule. Even if the NLRB rule might have some persuasive value in ruling on

---

[10] The entire treatment of supervisors under state law is markedly different from the treatment of supervisors under the NLRA. *See Municipality of Metropolitan Seattle (METRO) v. Department of Labor and Industries*, 88 Wn.2d 925 (1977); *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, 29 Wn. App. 599 (1981), *review denied*, 96 Wn.2d 1004 (1981).

petitions limited to employees working in acute care hospitals operated by public employers, the NLRB rule is inapposite to a unit mixing employees that provide acute care, long-term care and clinic services for this employer.

NLRB's "Extraordinary Circumstances" Qualifier Applies

In putting heavy reliance on the "combination" feature of the NLRB rule, the union appears to have ignored the provision of that rule which prevents stranding of residual groups too small for the employees to effectively assert their statutory collective bargaining rights. Even after restoration of the First Steps and WIC programs to the proposed bargaining unit at the hearing, the union has continued to seek exclusion of several groups within the employer's overall workforce. Those groups are so small that they invoke the "extraordinary circumstances" qualifier found within the NLRB rule, and require disposition of this case by adjudication.

Application of Community of Interests Standards

The employer would have the Commission look at its various units as mutually exclusive segments, rather than as parts of an integrated operation. The argument is not persuasive.

In *City of Seattle*, Decision 3051-A (PECB, 1989), the Commission discussed its responsibilities under the statute, as follows:

> In determining the Legislature's motive, great weight is given to statutory declarations of purpose. In the situation at hand, RCW 41.56.010 contains the legislative declaration of purpose for the Public Employees' Collective Bargaining Act:
>
> RCW 41.56.010 DECLARATION OF PURPOSE. The intent and purpose of

> this chapter is to promote the continued improvement of the relationship between public employers and their employees by providing a uniform basis for implementing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in matters concerning their employment relations with public employers. [1967 ex.s. c 108 sec. 1.] . . .
>
> . . . [T]he courts of this state have given Chapter 41.56 RCW an expansive reading. The decisions of the Supreme Court in *Roza Irrigation District v. State*, 80 Wn.2d 633 (1972), *Zylstra v. Piva*, 85 Wn.2d 743 (1975), *Municipality of Metropolitan Seattle v. L&I*, 88 Wn.2d 926 (1977), and *Public Utility District No. 1 of Clark County v. PERC*, 110 Wn.2d 114 (1988), have maximized the coverage of the statute, extending it into nooks and crannies of the public sector that had once thought themselves exempt from its broad terms.

The legislature clearly intended to encourage collective bargaining across a wide spectrum of employment settings, and nothing in RCW 41.56.060 confines the unit determination process to the departmental structure set forth in an employer's table of organization.

The petition filed in this case came close to describing a unit encompassing "all employees of the employer" less "office-clerical" employees. Such "operations and maintenance" units have been found appropriate in various employment settings, and the record made here demonstrates that the employer's units work as an integrated whole. Even consumers in the First Steps and WIC programs, which provide educational services away from the employer's main campus, receive their medical services at the employer's clinic and hospital. On its face, only the proposed exclusion of "medical records" employees would have provided basis for concern under

Commission precedent, absent evidence that the medical records employees were somehow more aligned with the administrative functions of the employer than with its medical service functions.[11]

Notwithstanding the arguably appropriate unit described in its petition, the union moved away from an "operations and maintenance" unit configuration when it embraced the NLRB rule as the justification for its position at and after the Investigation Conference conducted in this matter. With the NLRB rule now stripped away as inapplicable in general and/or inapposite to this particular case, the unit configuration proposed by the union can only be justified by application of the "extent of organization" component of the statutory unit determination criteria to the inappropriate exclusion of the other criteria set forth in RCW 41.56.060.

Absent some viable explanation or justification for the exclusion of small groups from a wall-to-wall unit (e.g., claim and evidence that the members of the medical staff are supervisors, or claim and evidence that the ambulance personnel are eligible for interest arbitration), the bargaining unit proposed by the union in this case is found inappropriate for the same reasons found controlling in *Forks Community Hospital, supra*: The unit proposed in this relatively small facility would strand small groups of employees in a manner that would prejudice exercise of their statutory bargaining rights in the future. The record made here lacks sufficient

---

[11] Given the Commission's long-standing precedents concerning the duty to bargain "skimming" of work between groups within an employer's workforce, unit configurations that leave a legacy of "work jurisdiction" disputes are to be avoided. A concern arises here as to whether medical records would be passed back and forth between employees included in and excluded from the bargaining unit proposed by the union.

evidence to rehabilitate the unit strongly supported by the union at the hearing and in its brief.

Eligibility Issues

The parties framed a number of issues concerning the eligibility of various individuals for inclusion in the bargaining unit. The dismissal of this petition does not create any bar under WAC 391-25-030(2), and anticipating that the union may seek to continue its organizing effort involving employees of this employer, it is appropriate to provide some guidance to the parties:

- The union sought exclusion of the staff development coordinator for the Convalescent Center, Cindi Lasley, as a supervisor. The attention of the parties is directed to WAC 391-35-340, which codifies long-standing Commission precedents concerning the rights and unit placement of supervisors.

- The union sought exclusion of the services coordinator for the medical staff, Glenda Bishop. The attention of the parties is directed to the Commission precedents distinguishing office-clerical employees from plant clerical employees, based on whether they work in support of administrative or program functions.

- The parties framed issues as to whether "registry" employees and a so-called "temporary" employee should be excluded from the bargaining unit. The attention of the parties is directed to WAC 391-35-350, which codifies long-standing Commission precedents concerning "regular part-time" and "casual" employees.

- The debate concerning the unit placement of the medical staff and certain other positions included citation of Section

2(12)(a) of the NLRA, which defines "professional" employee and provides certain rights for employees in that category. The attention of the parties is directed to Chapter 41.56 RCW, which does not contain a definition of "professional" employee, and does not provide any special treatment for such a class, so that any unit placement for these employees must be based upon application of the "duties, skills and working conditions" component of the unit determination criteria set forth in RCW 41.56.060.

The conclusion that the petitioned-for unit is not appropriate obviates the need for a ruling on these issues at this time.

FINDINGS OF FACT

1. Grant County Public Hospital District 2 is a municipal corporation of the state of Washington, and is a public employer within the meaning of RCW 41.56.030(1). The employer does business as "Quincy Valley Medical Center" and offers a variety of health care services under the policy direction of a five-member board of elected commissioners and under the oversight of Hospital Administrator Alan MacPhee.

2. District 1199 NW, Service Employees International Union, a "bargaining representative" within the meaning of RCW 41.56.030(3), filed a timely and properly supported petition seeking certification as exclusive bargaining representative of certain employees of the employer.

3. The bargaining unit proposed by the union excludes employees who work in a business office housed in a separate building

near the main hospital and in an admitting office within the hospital facility. Those business office employees perform office-clerical functions in support of the administrative functions of the employer, and they have no direct role in patient care.

4. Notwithstanding the terms of the unit description set forth in the petition it filed to initiate this matter, during and since the investigation conference in this proceeding the union has insisted upon a unit configuration primarily justified by reference to a rule adopted by the National Labor Relations Board for its administration of the National Labor Relations Act.

5. The bargaining unit proposed by the union includes employees working outside of the 16-bed "acute care" unit operated by the employer, including employees working in a convalescent center unit larger than the acute care unit, in a medical clinic, and in two educational programs, so that the National Labor Relations Board rule concerning appropriate bargaining units in acute care hospitals is inapposite to the unit proposed in this case.

6. The bargaining unit proposed by the union excludes, without adequate explanation, various groups of employees so small as to invoke the "extraordinary circumstances" exception reserved by the National Labor Relations Board in its rule for determination by adjudication, so that the rule adopted by the National Labor Relations Board concerning appropriate bargaining units in acute care hospitals is inapposite to the unit proposed in this case.

7. The bargaining unit proposed by the union would strand various small groups of employees of the employer in a manner that would prejudice the future exercise of statutory collective bargaining rights by the employees in those groups.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-25 WAC.

2. The bargaining unit proposed by the union during and since the investigation conference in this proceeding is not an appropriate unit for the purposes of collective bargaining under RCW 41.56.060.

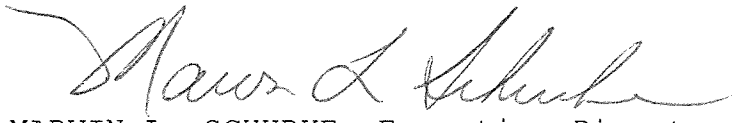
NOW, THEREFORE, it is

ORDERED

The petition for investigation of a question concerning representation filed in the above-captioned matter is DISMISSED.

ISSUED at Olympia, Washington, this 16th day of November, 2001.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-25-660.