

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

EVERGREEN HEALTH (KING COUNTY
PUBLIC HOSPITAL DISTRICT 2)

For clarification of an existing bargaining unit
represented by:

WASHINGTON STATE NURSES
ASSOCIATION

CASE 138341-C-24

DECISION 13894 - PECB

ORDER CLARIFYING BARGAINING
UNIT

Kristen Kussmann, Labor Counsel, for the Washington State Nurses Association.

Catherine Nelson, Manager Employee and Labor Relations, for Evergreen Health
(King County Public Hospital District 2).

The Washington State Nurses Association (union) represents a bargaining unit of nonsupervisory Registered Nurses at Evergreen Health (employer). *Evergreen Health*, Decision 13020 (PECB, 2019). Bargaining unit Registered Nurses work at various locations in the hospital, including Diagnostic Imaging and the Operating Room. The employer also operates the Evergreen Surgical Center Pre-Op Clinic (Clinic). The Registered Nurses working at the Clinic have historically been excluded from the union's bargaining unit because those positions worked remotely. The employer recently required the Clinic Nurses to work on-site. This change required the Clinic Nurses to be cross trained and perform similar duties as the bargaining unit Registered Nurses. On February 8, 2024, the employer filed a unit clarification petition asking this agency to place the Clinic Nurses in the union's nonsupervisory Registered Nurses bargaining unit. The union does not oppose the employer's petition and agrees that the Clinic Registered Nurses only belong in the union's bargaining unit.

The duties, skills, and working conditions as well as the extent of organization demonstrate that the Clinic Registered Nurses only shares a community of interest with the union's bargaining unit.

The Clinic Registered Nurses shall be included in the union's bargaining unit without the need of an election.

Applicable Legal Standard

The determination of appropriate bargaining units is a function delegated to this agency by the legislature. *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, *International Association of Fire Fighters, Local 1052 v. Public Employment Relations Commission*, 29 Wn. App. 599 (1981), *review denied*, 96 Wn.2d 1004 (1981). The goal in making bargaining unit determinations is to group together employees who have sufficient similarities (community of interest) to indicate that they will be able to bargain effectively with their employer. *Quincy School District*, Decision 3962-A (PECB, 1993).

Included in this agency's authority to determine an appropriate bargaining unit is the power to modify that unit, upon request, through a unit clarification proceeding. *University of Washington*, Decision 11590 (PSRA, 2012), *aff'd*, Decision 11590-A (PSRA, 2013); *see also Pierce County*, Decision 7018-A (PECB, 2001). Unit clarification cases are governed by the provisions of chapter 391-35 WAC. The general purpose of the unit clarification process is to provide this agency, as well as the parties to a collective bargaining relationship, a mechanism to make changes to an appropriate bargaining unit based upon a change of circumstances. *See, e.g., Toppenish School District*, Decision 1143-A (PECB, 1981). Unit clarification proceedings can be used to determine the bargaining unit placement of newly-created positions. WAC 391-35-020(1)(a).

An accretion may be ordered when changed circumstances lead to the existence of positions that logically belong only in one existing bargaining unit. *City of Auburn*, Decision 4880-A (PECB, 1995). In order for an accretion to be directed, the resulting unit must be appropriate. *Pierce County*, Decision 6051-A (PECB, 1998). An accretion will be denied if the positions could stand on their own as a separate bargaining unit or could appropriately be placed in any other bargaining unit. *City of Auburn*, Decision 4880-A. An accretion cannot be ordered where the number of employees to be added to the bargaining unit is so large as to call into question the union's majority status in the enlarged unit. *Port of Seattle*, Decision 11131 (PORT, 2011). The party proposing accretion bears the burden of demonstrating that conditions for accretion are present. *State* –

Enterprise Services (Contracts & Legal Services), Decision 11652-A (PSRA, 2013); *City of Auburn*, Decision 4880-A.

Application of Standard

The Clinic Registered Nurses logically belong in the union's bargaining unit because the at-issue positions share the same duties, skills, and working conditions as other employees in the bargaining unit. Furthermore, the extent of organization dictates that the Clinic Registered Nurses be included in the bargaining to avoid work jurisdiction issues.

The primary job requirements of the Clinic Registered Nurses and the bargaining unit Registered Nurses are identical. The Registered Nurses are required to hold a Bachelor's in Nursing within 5 years of employment if applicable. The employee must also be licensed as a Registered Nurse in the state of Washington and hold a Basic Life Support BLS certification by date of hire. Registered Nurses must also complete unit competencies for Pre-Op Clinic within probationary period or first 2 months if an employee transfers to a Pre-Op Clinic. All Registered Nurses must be able to identify EKG rhythms and related necessary interventions, understand pain management and related-pharmacology, and understand cardiac medication pharmacology.

The job duties of the Clinic Registered Nurses and the bargaining unit Registered Nurses are also identical. Both positions perform preoperative nursing assessments by telephone, provide preoperative teaching to patients and their families, and assess the comprehensive nursing needs of preoperative patients and their families. The positions continuously plan, implement, and evaluate patient care by incorporating the patient and the patient's family and significant others into the process. All Registered Nurses participate with physician partners and other interdisciplinary team members to develop and implement patient plan of care.

All Registered Nurses must meet the same competencies and are held to the same accountability standards, including maintaining skills competency annually as evidenced by testing and knowledge of the HIPAA privacy and security standards. The position must also adhere to the Standards of Nursing Practice and Standards of Professional Performance as defined by the American Nurses Association.

The extent of organization also supports the Clinic Registered Nurses inclusion in the existing Registered Nurses bargaining unit. When crafting bargaining units, this agency ensures that an employee or group of employees is not stranded in a unit too small to effectively exercise their right to collectively bargain. *Washington State University, Decision 10115 (PSRA, 2008)*. The extent of organization in the employer's workforce is a preference for horizontal bargaining unit configurations that include all employees in the Registered Nurse job class. The employer's requests to add the Clinic Registered Nurses to the existing Registered Nurses bargaining unit conforms to this historical pattern.

FINDINGS OF FACT

1. Evergreen Health (King County Public Hospital District 2) is a public employer within the meaning of RCW 41.56.030(12).
2. The Washington State Nurses Association is a bargaining representative within the meaning of RCW 41.56.030(2).
3. The union represents a bargaining unit of Registered Nurses that is currently described as follows:

All regularly scheduled full-time, regularly scheduled part-time, and per diem registered nurses engaged in patient care at the Hospital, excluding supervisors, nursing care coordinators, temporary nurses, students, and all other employees.

4. The employer also operates the Evergreen Surgical Center Pre-Op Clinic (Clinic). The Registered Nurses working at the Clinic have historically been excluded from the union's bargaining unit because those positions worked remotely.
5. The employer recently required the Clinic Nurses to work on-site. This change required the Clinic Nurses to be cross trained and perform similar duties as the bargaining unit Registered Nurses.

6. The primary job requirements of the Clinic Registered Nurses and the bargaining unit Registered Nurses are identical. The Registered Nurses are required to hold a Bachelor's in Nursing within 5 years of employment if applicable. The employee must also be licensed as a Registered Nurse in the state of Washington and hold a Basic Life Support BLS certification by date of hire. Registered Nurses must also complete unit competencies for Pre-Op Clinic within probationary period or first 2 months if an employee transfers to a Pre-Op Clinic. All Registered Nurses must be able to identify EKG rhythms and related necessary interventions, understand pain management and related-pharmacology, and understand cardiac medication pharmacology.
7. The job duties of the Clinic Registered Nurses and the bargaining unit Registered Nurses are also identical. Both positions perform preoperative nursing assessments by telephone, provide preoperative teaching to patients and their families, and assess the comprehensive nursing needs of preoperative patients and their families. The positions continuously plan, implement, and evaluate patient care by incorporating the patient and the patient's family and significant others into the process. All Registered Nurses participate with physician partners and other interdisciplinary team members to develop and implement patient plan of care.
8. All Registered Nurses must meet the same competencies and are held to the same accountability standards, including maintaining skills competency annually as evidenced by testing and knowledge of the HIPAA privacy and security standards. The position must also adhere to the Standards of Nursing Practice and Standards of Professional Performance as defined by the American Nurses Association.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to chapter 41.56 RCW and chapter 391-35 WAC.

2. Based upon findings of fact 3 through 8, the Registered Nurses working at the Evergreen Surgical Center Pre-Op Clinic only shares a community of interest with the bargaining unit described in finding of fact 3.

ORDER

The Registered Nurses working at the Evergreen Surgical Center Pre-Op Clinic are added to the union's bargaining unit described in finding of fact 3 without the need of an election.

ISSUED at Olympia, Washington, this 8th day of July, 2024.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MICHAEL P. SELLARS, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-35-210.



RECORD OF SERVICE

ISSUED ON 07/08/2024

DECISION 13894 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 138341-C-24

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