

COMMONWEALTH OF MASSACHUSETTS
Division of Administrative Law Appeals

Myriam Adrien-Carius,
Petitioner

v.

Docket No. CR-22-0063

State Board of Retirement,
Respondent

Appearance for Petitioner:

Myriam Adrien-Carius, *pro se*

Appearance for Respondent:

Yande Lombe, *Esq.*

Administrative Magistrate:

Timothy Pomarole, *Esq.*

SUMMARY OF DECISION

The Petitioner appeals the State Board of Retirement's decision to deny Group 2 classification for her Registered Nurse II/Admission Nurse position at Lemuel Shattuck Hospital. The decision is affirmed. The Petitioner has not met her burden of establishing that she provided Group 2-qualifying care to members of a Group 2 population for more than 50% of her working hours.

DECISION

The Petitioner, Myriam Adrien-Carius, timely appeals a decision by the State Board of Retirement ("Board"), denying her application for Group 2 classification. On April 10, 2024, I conducted an in-person hearing at the Division of Administrative Law Appeals ("DALA"). Ms. Adrien-Carius was the sole witness. I admitted Respondent's Exhibits 1–6 and Petitioner's

Exhibits 1–6 into evidence, which are cited as R1-6 and P1-6, respectively. The parties submitted closing briefs, the last of which was filed on April 26, 2024, at which point I closed the administrative record.

FINDINGS OF FACT

Based on the exhibits and testimony presented by the parties, I make the following findings of fact:

1. Ms. Adrien-Carius works for the Department of Public Health (“DPH”) as a Registered Nurse II/Admission Nurse at the Lemuel Shattuck Hospital. (Ex. R3; Ex. P5; Testimony).
2. Ms. Adrien-Carius works from 1:00 pm to 9:30 pm. (Testimony).
3. On average, Ms. Adrien-Carius performs four admissions per day. (Testimony).
4. Each admission takes about one and one-half to two hours to complete. The admissions process requires Ms. Adrien-Carius to review preliminary information about the patient for about 10-15 minutes. She then meets with the patient to go over the admissions package for about 15-20 minutes and then conducts a physical examination for approximately 15-20 minutes. About 2-3 times per month, she also changes dressings or treats wounds in conjunction with the examination. She then electronically documents the information gathered from the admission, which takes about an hour and a half. (Testimony).
5. Ms. Adrien-Carius helps create a treatment and care plan for patients during her assessments, then doctors and the other nurses carry out this plan. (Testimony).
6. Ms. Adrien-Carius is occasionally assigned to provide hands-on nursing care for a patient she admitted. This happens on average two to three times a week. She provides hands-

- on care to other patients as well, but the record does not disclose how much time is spent on this duty. (Testimony).
7. Before the COVID-19 pandemic, Ms. Adrien-Carius was primarily assigned to Unit 8 North, which is the Department of Correction (“DOC”) unit. (Ex. P3; Testimony).
 8. During the admissions process in Unit 8 North, Admissions Nurses are in direct contact with inmates, but DOC officers accompany the nurses for their protection. (Ex. R2; Testimony).
 9. Since the start of the COVID-19 pandemic in 2020, Ms. Adrien-Carius has “floated” to all the DPH units and conducts admissions on any unit as needed. If there are no admissions by 3:00 pm in Unit 8 North, she typically is assigned to another floor. (Ex. R2; Testimony).¹
 10. Nurses at Lemuel Shattuck Hospital may at times encounter challenging or unsafe situations in caring for patients with complex medical, psychiatric, or substance-use conditions. (Testimony).
 11. In November 2021, Ms. Adrien-Carius applied for Group 2 classification for her position as Registered Nurse II/Admissions Nurse. (Ex. R3).
 12. On January 27, 2022, the Board reviewed and denied Ms. Adrien-Carius’s request. (Ex. R1).

¹ One of Ms. Adrien-Carius’s exhibits is a collection of several dozen roster/assignment sheets for Unit 8 North for various dates from September 2021 to June 2024. (Ex. P2). On those dates, Ms. Adrien-Carius is on the roster for Unit 8 North and is assigned specific patients. It is not clear whether the roster dates included are those on which Ms. Adrien-Carius had no Unit 8 North admissions or whether she had admissions on those days in addition to her hands-on patient care assignments.

13. On February 14, 2022, Ms. Adrien-Carius timely appealed the Board's decision. (Ex. R2).

ANALYSIS

Contributory retirement system members are classified into four groups to determine what benefits they are entitled to when they retire. G.L. c. 32, § 3(2)(g). Group 1 includes “[o]fficials and general employees including clerical, administrative and technical workers, laborers, mechanics and all others not otherwise classified.” *Id.* Group 2 includes employees “whose regular and major duties require them to have the care, custody, instruction or other supervision of prisoners” or mentally ill persons. *Id.* The member’s “regular and major job duties” are those that she spends more than half of her working hours performing. *Forbes v. State Bd. of Ret.*, CR-13-146, 2020 WL 14009545, at *4-5 (Contrib. Ret. App. Bd. Jan. 8, 2020).

It is Ms. Adrien-Carius’s burden to establish by a preponderance of the evidence that her position is entitled to Group 2 classification. *Forbes, supra*. After careful consideration of the evidence, I have concluded that her position is not entitled to Group 2 classification because it does not require Ms. Adrien-Carius to engage in the care, custody, instruction, or other supervision of a necessary statutory population for the majority of her working hours.

First, although Ms. Adrien-Carius performs important duties, the record does not establish that she engaged in “care” (as that term is understood for purposes of Group 2 classification) for more than half of her working hours. Her principal job responsibility, performing admissions, does not, based on the evidence presented, involve a substantial amount of Group 2-eligible care:

- The admissions process takes between an hour and one-half to two hours, and most of that time (about an hour and one-half) involves entering information into a computer after speaking with the patient, which is not a Group 2-eligible activity.
- The 10-15 minutes she spends going over preliminary information about the patient is likewise a Group 2-ineligible activity.
- The 15-20 minute physical examination of the patient is closer to the line. There is some decisional law support for the proposition that a physical examination might, under some circumstances, constitute Group 2 care. *See Williams v. State Bd. of Ret.*, CR-12-229, 2017 WL 2538149, at *3 (Div. Admin. Law App. April 28, 2017) (skin assessments by infection preventionist included among member's Group 2 activities). Ample decisional law, however, provides that assessing patients to determine the care to be provided by others is not a qualifying Group 2 activity. *Potter v. State Bd. of Ret.*, CR-19-0519, at *9 (Div. Admin. Law App. Dec. 16, 2022) (collecting cases). The record here indicates that Ms. Adrien-Carius's physical examinations sometimes result in her performing hands-on care (wound care and dressing changes), but, based on the record, the focus of her physical examinations is to identify care needs for others to address. This is important work, but it is not Group 2 care.
- The record does not provide enough information to conclude that the 15-20 minutes she spends with the patient going over the admissions packet is Group 2-qualifying "instruction." *Cf. Long v. State Bd. of Ret.*, Docket Nos. CR-20-0440, CR-21-0287, 2023 WL 6900305, at *5 (Div. Admin. Law App. Oct. 13, 2023) (acknowledging, without deciding the issue, that "it is possible that [administrative assistant in county jail]

provided instruction when she gave detainees information about the waivers and other paperwork they were required to sign in order to participate in a bail hearing.”); *but see Colon v. State Bd. of Ret.*, CR-12-622, at *4 (Div. Admin. Law App. April 7, 2017) (“Providing [inmates] with legal services or translating for them does not entail instructing or supervising them.”).

Even if going over the admissions packet were included in the Group 2 tally, the fact remains that most of the work tasks involved in admissions, while important, cannot ground a Group 2 claim.

Ms. Adrien-Carius is occasionally assigned to provide hands-on care for a patient she admitted, but this occurs, on average, only two to three times per week. Ms. Adrien-Carius performs hands-on nursing care to other patients as well, but the record does not indicate how much time she spends on such care. In any case, the assessments that Ms. Adrien-Carius performs account for most of her work day (i.e., four assessments per day, each of which usually take between one and one-half to two hours). Thus, the occasional hands-on care cannot comprise half – or very nearly half (recalling that her physical examinations performed during admissions, itself, might involve some Group 2 care) – of her working hours.²

In sum, between her admissions work and her provision of hands-on nursing care, the record does not establish that she spends more than half of her working hours providing care that may ground a Group 2 classification.

² Ms. Adrien-Carius had frequent contact with prisoners and may have faced dangerous situations from her contact with prisoners or with patients who had mental health or substance abuse challenges, but such dangers would not warrant a Group 2 classification. *Long, supra*, at *4.

Moreover, even if Ms. Adrien-Carius spent more than half of her working hours performing Group 2 care duties, she would remain ineligible for Group 2 because the record does not establish that she provides such care for members of a Group 2 population more than half of her working hours. *See, e.g., D'Urso v. State Bd. of Ret.*, CR-08-167 (Div. Admin. Law App. Feb. 12, 2012) (RN who cared for a general population that included mentally ill persons did not qualify for Group 2 because he did not meet his burden to establish he worked with the statutory group for more than 50% of his time).

Although the patients on Unit 8 North, as prisoners, are an eligible Group 2 population, since the start of the COVID-19 pandemic Ms. Adrien-Carius has “floated” to multiple units in the hospital. She does not solely work on Unit 8 North; she conducts admissions and nursing care in any unit to which she is assigned. It is therefore not clear from the record that more than half of her patients are prisoners.

An individual also may qualify for Group 2 classification if they care for patients with mental illnesses. For purposes of Group 2 classification, the patient’s mental illness must “drive” or “govern” their care. *Hanson v. State Bd. of Ret.*, CR-22-0268, 2024 WL 4432417, at *3 (Div. Admin. Law App. Sept. 27, 2024) (quoting *Popp v. State Bd. of Ret.*, CR-17-848, 2023 WL 11806173, at *3 (Contrib. Ret. App. Bd. Nov. 16, 2023)). Here, although many patients Ms. Adrien-Carius admits or for whom she provides care may suffer from mental illness, there is no

evidence that the care most of Ms. Adrien-Carius's patients receive is driven or governed by their mental illnesses.³

In brief, the record does not establish that Ms. Adrien-Carius provides Group 2 care for a majority of her working hours to members of a Group 2 population.

CONCLUSION AND ORDER

Although Ms. Adrien-Carius performs vital and important work, for the reasons set forth above, she has not met her burden of establishing that her position is entitled to Group 2 classification. Accordingly, the Board's decision is affirmed.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Timothy M. Pomarole

Timothy M. Pomarole, Esq.
Administrative Magistrate

Dated: October 17, 2025

³ To be clear, Ms Adrien-Carius could pass the 50% threshold for Group 2 if she spent more than half her time providing direct care to prisoners *and* patients with mental illness. The record, however, does not demonstrate that is the case.