

COMMONWEALTH OF MASSACHUSETTS

**Division of Administrative Law Appeals
14 Summer Street, 4th Floor
Malden, MA 02148
www.mass.gov/dala**

Lori Carlson,
Petitioner

v.

Docket No. CR-23-0303

State Board of Retirement,
Respondent

Appearance for Petitioner:

Pro se

Appearance for Respondent:

John Durgin, Esq.
Senior Associate General Counsel
State Board of Retirement

Athila Soares Nunes
State Board of Retirement

Administrative Magistrate:

Kenneth Bresler

SUMMARY OF DECISION

A campus police officer is not entitled to Group 2 classification because she did not prove that she provided care to, instructed, or had custody of mentally ill or developmentally disabled people for more than 50 percent of her time.

DECISION

The petitioner, Lori Carlson, appeals the denial by the State Board of Retirement (SBR) of her application for Group 2 classification.

I held a hearing on March 25, 2025 by Webex, which I recorded. Mrs. Carlson

represented herself, testified, and was the only witness. I admitted two exhibits for Mrs. Carlson and 11 exhibits for SBR.

At the close of the hearing, Mrs. Carlson gave an oral argument in lieu of a brief. DALA received SBR's brief on May 23, 2025.

Findings of Fact

Mrs. Carlson's employment

1. Mrs. Carlson was a Campus Police Officer at various state hospitals from December 3, 1995 to May 20, 2023. In her last year of employment, she worked at Taunton State Hospital.

(Exs. 3, 4)

2. The Position Description / Form 30 for a Campus Police Officer I included this Detailed Statement of Duties and Responsibilities:

1. Patrols the buildings and grounds...to maintain site/facility safety and security and... prevent criminal activity.

2. Maintains order among the visitors, clients and employees. Issues keys, photo identification cards and other means of access control. Operates and monitors electronic security and fire detection systems.

3. Conducts screening of all visitors to the inpatient unit....

4. Issues parking citations or...control[s] illegal parking....

5. Assists the judicial system by the issuance of court papers to employees [and] clients....Provides security during court hearings....

....

7. Responds to medical and psychiatric emergencies, assists in the coordination of emergency response services, assists....local, state and federal agencies during disasters, performs routine inspections of fire alarm systems....

8. Maintains accurate documentation of all investigations, inquiries, inspections, and other safety/security occurrences....Prepares accurate and concise incident/accident reports.... Maintains the daily police log.....

....

10. Conducts investigations...

11. Transports clients and patients....

....

13. Communicates with staff members and clients (patients)...appropriate[ly]...and is able to refer or direct individuals to an appropriate person, service provider, or agency.

14. [S]upport[s] the provision of mental health services to patients and clients of the Department of Mental Health.

15. Supports patient/client care staff in management of potentially violent behavioral events.

....

(Ex. 10) The Form 30 was prepared in May 2018.

3. Taunton State Hospital had 10 units, including a unit or units for patients in the drug and alcohol recovery program. Some patients in the recovery program may not have been mentally ill. Some patients had been convicted of crimes.¹ (Testimony)

4. Hospital staff other than campus police officers controlled patients' entry and entrance into units. The staff generally locked and unlocked the units; campus police officers did so infrequently. (Testimony)

5. A unit housed between 18 to 22 people. (Testimony)

6. Mrs. Carlson worked the 7:00 a.m. to 3:00 p.m. shift. (Ex. 5)

Mrs. Carlson's duties on a typical day in her last year of employment

7. Mrs. Carlson did not attend meetings other than roll calls at the beginning of her shifts. Roll call typically lasted 10 minutes, although it could be as short as one minute. (Testimony)

8. From 7:30 to 8:30 a.m., Mrs. Carlson was stationed in the main cafeteria as residents ate breakfast. She conversed with patients and made sure that they did not confront each other. (Testimony)

9. Mrs. Carlson and fellow campus police conducted walkthroughs of the units, starting at approximately 10:00 or 11:00 a.m., depending on their other duties. Sometimes another duty,

¹ Mrs. Carlson said that she, as a campus police officer, was not privy to patients' diagnoses; the reason was privacy protections for the patients. After the hearing ended, I offered Mrs. Carlson the opportunity to have the hearing reopened and to call a witness to testify about the patient population, such as what percentage of patients were mentally ill or developmentally disabled. She declined my offer.

such as an emergency, would interrupt a walkthrough. (Testimony)

10. A walkthrough entailed campus police officers' walking through a unit, conversing with staff and patients, ensuring that patients were acting appropriately and that conditions were in order, and monitoring the environment for tension or other factors that could lead to disruptions in routine functioning of the hospital. (Testimony)

11. For Mrs. Carlson to conduct a walkthroughs of a unit typically took 15 minutes. The morning walkthrough of all units typically took one-and-one-half-hours total. (Testimony)²

12. From 11:30 a.m. to 12:30 p.m., Mrs. Carlson was stationed in the main cafeteria as residents ate lunch, although she did not always stay there for the entire lunch. (Testimony)

13. After lunch, Mrs. Carlson and other campus police officers again conducted walkthroughs of the units. They aimed to complete the afternoon walkthroughs by 1:30 or 2:00 p.m.

14. Between 2:00 and 3:00 p.m., Mrs. Carlson's workday was winding down. She often wrote incident reports and took care of other paperwork. She sometimes walked the halls, encountering patients, and was sometimes called to a unit. (Testimony)

Mrs. Carlson's other duties

15. In addition to her daily routine duties, Mrs. Carlson had other duties as a campus police officer. (Testimony)

16. Mrs. Carlson typically took care of paperwork for five hours per week. (Testimony)

17. Mrs. Carlson responded to an average of one emergency per day. Emergencies lasted between 10 minutes and two hours, with an average of 30 minutes. (Testimony)

² Because 15 minutes x 10 units = 2.5 hours, I take as imprecise estimates Mrs. Carlson's testimony that a typical walkthrough took 15 minutes and that total walkthroughs typically took one-and-a-half hours.

18. Mrs. Carlson staffed the front desk of the hospital's main building for at most one hour per day. She sometimes searched patients who were returning from outside the hospital's campus. (Testimony)

19. Mrs. Carlson spent an average of five hours per week in a vehicle on the hospital's grounds, monitoring the grounds and people, either by driving on the grounds or being stationary. She sometimes chatted with patients. (Testimony)

20. Mrs. Carlson transported patients to medical and court appointments. (Ex. 5) Mrs. Carlson drove the vehicle to the appointments, while the patient sat with a mental health worker. (Testimony) It is unclear whether the mental health worker, campus police officer, or both had custody of the patient.

21. Mrs. Carlson transported patients to courts and provided security during court hearings. (Ex. 3)

22. Mrs. Carlson transported patients to court appointments approximately 12 times in her last year of employment. Each trip lasted five to six hours (two hours of transit and three to four hours in court). (Testimony)

23. When Mrs. Carlson transported patients to medical appointments, each trip lasted three hours (two hours of transit and one hour of appointment). (Testimony)

24. If a patient went to and stayed at a hospital for treatment, outside of Taunton State Hospital, Mrs. Carlson and other campus police officers sometimes conducted what was called a one-on-one for the duration of the hospital stay, depending on the legal status of the patient. That is, a campus police officer stayed in the hospital with the patient for an eight-hour shift. However, Mrs. Carlson did not conduct any one-on-ones in her last year of employment. (Testimony)

25. Patients could and did contact the campus police seven days a week, 24 hours a day. Sometimes patients contacted campus police officers multiple times during one shift. Patients reported, for example, that they didn't feel safe; they wanted to hurt themselves or someone else; they were not happy about their situations; or that the hospital staff was trying to hurt or lock them up. (Ex. 3; testimony) Campus police officers were often able to calm the patients. (Testimony)

26. If a patient wanted to file a complaint against another patient or a staff member, a campus police officer met with the patient, took the patient's statement, and explained how to file the complaint. (Testimony)

27. In her last year of employment, Mrs. Carlson took approximately seven complaints. (Testimony)

28. In her last year of employment, Mrs. Carlson took photographs of patients for identifications approximately one hour per week. (Testimony)

Still further duties

29. The record does not reveal how much time Mrs. Carlson spent on the following activities in her last year of her employment:

30. Mrs. Carlson transported patients to and from memorial services and funerals. They traveled to central Massachusetts, western Massachusetts, and Cape Cod. Such trips could take all day. (Testimony)

31. Hospital personnel called campus police officers to units when "high acuity" occurred. High acuity meant that one or more patients were getting loud or threatening, putting a unit into an uproar. Mrs. Carlson and other campus police officers responded as a show of force, deterred dangerous activity by patients, provided extra support to hospital staff, separated

patients, distracted and redirected patients, assisted hospital personnel in de-escalating volatile situations, and exercised hands-on control of patients. (Testimony)

32. Mrs. Carlson responded to and assisted other hospital personnel with medical, psychiatric, and fire emergencies. (Ex. 3)

33. During medical and behavioral emergencies, Mrs. Carlson helped other hospital personnel to restrain disruptive patients and she calmed other patients, who were not experiencing the emergencies, such as by moving them to different locations. (Ex. 5)

34. When the sheriff's department brought forensic or Section 35 patients,³ campus police officers would provide support and comfort to the patients until direct care staff arrived. (Ex. 3)

35. In addition to the 10 units, the hospital had six cottages. When Mrs. Carlson responded to the cottages, it was normally because a patient was in crisis and needed to be transported to a hospital for evaluation. Mrs. Carlson and other campus police officers stood by at the cottage until an ambulance and sometimes state and local police arrived. (Testimony)

36. Mrs. Carlson and other campus police officers sometimes searched patients' rooms and units. (Testimony)

37. Mrs. Carlson and other campus police officers monitored patients who participated in the work program as they walked to and from the work areas on the hospital grounds. Mrs. Carlson had contact with patients as they walked through corridors or walked to and from the work programs. (Testimony)

³ The record did not explain who these patients were.

Miscellaneous

38. Establishing rapport with patients was an important part of Mrs. Carlson's duties.
(Testimony)

39. Mrs. Carlson received bonus money for state employees who, during the Covid epidemic, "provid[ed] direct patient or client care or who [we]re working in an area with patients/clients." (Attachment, dated Feb. 4, 2022, to Carlson's appeal letter)

Procedural history

40. On October 12, 2022, Mrs. Carlson applied for Group 2 classification. (Ex. 3)

41. On May 3, 2023, SBR notified Mrs. Carlson that it had denied her application. (Ex. 6)

42. On May 15, 2023, Mrs. Carlson timely appealed. (Ex. 7)

Discussion

Members of retirement systems fall into four groups. Group 1 is the general group. G.L. c. 32, § 3(2)(g). Other groups, including Group 2, use a more desirable calculation for retirement benefits than does Group 1. Group 2 is for various employees, including those "whose regular and major duties require them to have the care, custody, instruction or other supervision" of prisoners, parolees, and people who are mentally ill or have development disabilities. G.L. c. 32, § 3(2)(g). *See Anne Koch v. State Board of Retirement*, CR-09-449 *2 (CRAB 2014) (interpreting outdated term in statute to refer to developmental disabilities).

Mrs. Carlson did not prove that the patients were mentally ill or developmentally disabled, or that a majority of them were. *Michael Spellman v. State Board of Retirement*, CR-22-0401 (Div. Admin. L. App., Feb. 7, 2025) ("In cases involving a mixed patient population, some of whom fall within a Group 2 category and others who do not...the majority of the patients receiving the employee's care" generally must be "within an eligible category.").

However, DALA has previously found that Taunton State Hospital treats mentally ill patients. *E.g., Evelyn L. Wilber v. State Board of Retirement*, CR-09-340, CR-09-541 (Div. Admin. L. App. March 27, 2015).

It is well established that mere contact with members of these populations does not establish Group 2 eligibility. *E.g., Andrea Long v. State Board of Retirement*, CR-20-0440, CR-21-0287, 20232023 WL 6900305, at *4 (DALA 2023).

“A key factor in assessing a member’s ‘regular and major’ duties is the member’s job title and description.” *Peter Forbes v. State Board of Retirement*, CR-13-146 (CRAB 2020). *See Maddocks v. Contributory Retirement Appeal Board*, 369 Mass. 488, 495 (1976) (title and description of duties can be used to determine group classification). A job description can “serve as helpful evidence of actual duties” but is not dispositive. *Desautel v. State Board of Retirement*, CR-18-0080 (CRAB 2023).

Mrs. Carlson argued that she cared for, had custody of, and instructed patients; she did not argue that she supervised them. She argued that the following constituted taking care of patients: transporting them, controlling emergencies, assisting other staff with de-escalating and restraining patients, conversing with them in the units, and taking their complaints on the telephone. Mrs. Carlson’s transporting patients did not constitute caring for patients (although she may have had custody of them). Mrs. Carlson’s controlling emergencies may have constituted caring for patients. If Mrs. Carlson assisted other staff, who de-escalated and restrained patients, it did not constitute care for patients. Her conversing with and taking complaints from patients did not constitute caring for them.

Mrs. Carlson argued that talking to patients to de-escalate tense situations constituted instructing them. She conceded that direct supervision of patients was conducted by the unit

staff. (Testimony) Mrs. Carlson did not supervise patients.

Mrs. Carlson did not have custody of patients when she conducted walkthroughs. Custody in the units was maintained by unit staff, who generally controlled entry into and exit from the units, which were locked. When Mrs. Carlson and a mental health worker transported a patient to a medical or court appointment, it is unclear who had custody of a patient, Mrs. Carlson, the mental health worker, or both. Mrs. Carlson probably had custody of patients when she conducted one-on-ones with patients who stayed overnight in hospitals outside of Taunton State Hospital. However, she did not conduct one-on-ones in her last year of employment. Mrs. Carlson's application for Group 2 classification fails because she did not prove that her duties that did constitute caring for or having custody of patients took more than 50 percent of her time. *Forbes*. See *James Lima v. State Board of Retirement*, CR-09-1069 (Div. Admin. L. App., Dec. 21, 2012) (campus police officer at Taunton State Hospital was not entitled to Group 2 classification). See also *Richard D. Sykes v. State Board of Retirement*, CR-01-1029, (Div. Admin. L. App., Nov. 26, 2002) (campus police officer at Taunton State Hospital was a supervisor not entitled to Group 2 classification); *John Laukaitis v. State Board of Retirement*, CR-01-682, (Div. Admin. L. App., April 12, 2002) (campus police officer at Soldiers' Home in Chelsea not entitled to Group 2 classification because his regular and major duties of patrolling and protecting the grounds did not entail care, custody, instruction, or supervision of mentally ill patients).

I am aware of the following cases in which campus police officers were awarded Group 2 classification, but they are distinguishable from Mrs. Carlson's case:

- *William Madden v. State Retirement Board*, CR-95-21, (Div. Admin. L. App., Sept. 12, 1995), which held that a campus police officer at Taunton State Hospital had care and custody of

mentally ill or developmentally disabled patients and therefore deserved Group 2 classification. However, that two-page, 30-year-old decision is conclusory and describes job duties that barely overlap with Mrs. Carlson's.

- *George Melling v. State Retirement Board*, CR-95-231, (Div. Admin. L. App., April 12, 1996), which held that a campus police officer at the Massachusetts Mental Health Center deserved Group 2 classification. However, the petitioner in that decision escorted mentally ill patients, often in handcuffs, for three-quarters of his work time.

- *George Messina v. State Board of Retirement*, CR-05-352, (Div. Admin. L. App., Sept. 19, 2005), which held that a campus police officer at Worcester State Hospital deserved Group 2 classification. However, that decision did not have as much detail about the campus police officer's duties as this decision, and conclusorily held that his duties constituted care, custody, instruction, and supervision.

- *Philip Tomaszewski v. State Board of Retirement*, CR-16-431 (Div. Admin. L. App., Dec. 20, 2019), which held that a campus police officer at the Worcester Recovery Center and Hospital, who had roughly comparable duties to Mrs. Carlson's, deserved Group 2 classification. However, I do not accept that case as controlling this one. *Tomaszewski* did not specify which of the campus police officer's duties constituted care, custody, instruction, supervision, or any combination of them, but seemed to have concluded that he had engaged in all of them. In addition, the decision reasoned that the campus police officer deserved Group 2 because his duties were "patient-focused and involved ensuring the safety of the patients and preventing patients from harming others." That is not the measure of whether a duty entails care, custody, instruction, or supervision.

Mrs. Carlson argued that she had received a bonus and hazard pay during the Covid

pandemic that had been awarded to “direct care and essential personnel” (Resp. Ex. 8) and had been “classified and compensated as *critical staff with direct patient care responsibilities* during the COVID-19 pandemic.” (Carlson prehearing memorandum at 1) (emphasis in original)

However, a document related to her bonus revealed that the bonus was for personnel who “provid[ed] direct patient or client care *or* who [we]re working in an area with patients/clients.” (Attachment, dated Feb. 4, 2022, to Carlson’s appeal letter) (emphasis added) Mrs. Carlson may have received the bonus because she was working *with* patients, not because she provided direct care to them. In any event, the criterion or criteria for awarding the bonus to Mrs. Carlson does not control G.L. c. 32, § 3(2)(g) and her eligibility for Group 2 classification.

Conclusion and Order

The State Board of Retirement properly denied Group 2 classification to Mrs. Carlson. Its decision is affirmed.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/

Kenneth Bresler
Administrative Magistrate

Dated: August 8, 2025