

**COMMONWEALTH OF MASSACHUSETTS
CONTRIBUTORY RETIREMENT APPEAL BOARD**

DAWNMARIE GREENWOOD

Petitioner-Appellee

v.

STATE BOARD OF RETIREMENT,

Respondent-Appellant.

CR-22-0066

DECISION

Respondent State Board of Retirement (SBR) appeals from a decision of an administrative magistrate of the Division of Administrative Law Appeals (DALA) allowing petitioner Dawnmarie Greenwood's application for Group 2 classification for her position as a Registered Nurse II at the Tewksbury Hospital pursuant to G.L. c. 32. § 3(2)(g). The magistrate held an evidentiary hearing by Webex on April 4, 2024 and admitted exhibits A - W.¹ Ms. Greenwood appeared and testified at the hearing, as well as Dr. Pradeep Reddy, Dr. Arianna O'Neill, Ms. Bonnie Spicer, Ms. Susan Doherty, and Mr. Gregg Baker. The magistrate's decision is dated June 7, 2024.² SBR filed a timely appeal to us.

After considering the evidence in the record and the arguments presented by the parties, we adopt the magistrate's findings of fact 1 - 38 as our own and incorporate the DALA decision by reference. We affirm the DALA decision for the reasons stated in the Analysis, adding the following comments.

Ms. Greenwood worked as a registered nurse II for the Department of Public Health (DPH) and was assigned to the Tewksbury Hospital. The Tewksbury Hospital had twelve (12)

¹ Petitioner's exhibits totaled 35 pages, and respondents exhibits totaled 70 pages. The hearing transcript totaled 140 pages. The magistrate admitted Exhibit V over the SBR's objection. The magistrate admitted Exhibit W, which was received *de bene*, over Ms. Greenwood's objection.

² The DALA decision totaled 6 pages.

units, seven (7) serving the DPH and five (5) serving the Department of Mental Health (DMH). Ms. Greenwood only worked in the DPH units. Patients that come to Tewksbury Hospital come from various institutions (such as acute care facilities, emergency rooms, and group homes) to be treated medically. Which unit patients are admitted to depends on various factors. Examples of units include the male sex offender unit, substance abuse disorder unit, and traumatic brain injury unit or Alzheimer's unit. Ms. Greenwood served as a floor nurse from May 11, 2003 to December 31, 2006 and from December 31, 2006 to September 30, 2012. From October 1, 2012 until November 24, 2021 when she retired, she was assigned to be an admissions nurse. Given that she was hired prior to April 2012, she sought to prorate her service while she served as the floor nurse and the admissions nurse, requesting that she be classified in Group 2. The SBR denied her request, and she appealed this decision to DALA.

Floor nurse from May 11, 2003 to December 31, 2006 and from December 31, 2006 to September 30, 2012:

The magistrate concluded that Ms. Greenwood was entitled to Group 2 classification for her work as a floor nurse. The SBR objected to the DALA decision based on the following grounds: (1) Ms. Greenwood's "regular and major" job duties did not entail her having the "care, custody, instruction, or other supervision" of a patient population in Group 2; (2) because the patients within Ms. Greenwood's care were being treated for non-psychiatric conditions and did not have primary diagnoses consisting of mental disorders, Ms. Greenwood was not providing the care specified in §3(2)(g) for Group 2 classification. We do not find these arguments persuasive.

"Regular and major" job duties are those that require the employee to spend more than half their time performing. *Forbes v. State Bd. of Retirement*, CR-13-146 (DALA Dec. 23, 2016, aff'd CRAB Jan. 8, 2020); *Curtin v. State Bd. of Retirement*, CR--13-317 (CRAB Jan. 8, 2020); *Burnes v. State Bd. of Retirement*, CR-21-0084 (CRAB 2025). Therefore, to be entitled to Group 2, the employee must be engaged in the "care, custody, instruction, or other supervision of parolees or persons who are mentally ill or mentally defective" for more than half their work time. *Richard, v. State Bd. of Retirement*, CR-16-72 (DALA Feb. 2, 2020).

After reviewing the evidence in the record, we conclude that the magistrate's determination that Ms. Greenwood is entitled to Group 2 classification for these periods is

reasonable. For the period May 11, 2003 to December 31, 2006, there is no dispute that as a floor nurse, Ms. Greenwood provided direct care to mentally defective individuals for more than half her time. This is reflected in the job description,³ and is supported by the testimonies of the witnesses.⁴ For the period December 31, 2006 to September 30, 2012, the magistrate also correctly determined that she provided direct care for a patient population specified in §3(2)(g). While the SBR focused on the treatment patients were being provided to deny her Group 2 classification, CRAB agrees with the magistrate that Ms. Greenwood engaged in ongoing care of a patient population contemplated in G.L. c. 32, § 3(2)(g) for more than half her workday. We do not read G.L. c. 32, § 3(2)(g) as limiting care to psychiatric or psychological treatment to be eligible for Group 2 classification. Rather, "[w]e interpret the language of the statute in accordance with its plain meaning, and if the language is clear and unambiguous, it is conclusive as to the intent of the legislature," *New England Auto Max, Inc. v. Hanley*, 494 Mass. 87, 91 (2024) (Statutes are to be interpreted in accordance with their plain words); See also *Commonwealth v. Hatch*, 438 Mass. 618, 622 (2003) (quoting *Sullivan v. Brookline*, 435 Mass. 353, 360 (2001) ("[S]tatutory language should be given effect consistent with its plain meaning and in light of the aim of the Legislature unless to do so would achieve an illogical result."¹¹)). We explained in *Popp* and reiterated in *Larose* that a strict application of the primary diagnosis analysis would deviate from the plain reading of § 3(2)(g). The purpose of the primary diagnosis test is to distinguish between mental illness diagnoses that are incidental to physical illnesses from principally mentally ill patients.⁵ Restricting § 3(2)(g) to providing psychiatric or psychological treatment produces an erroneous result by excluding prisoners or mentally ill persons, who receive various types of "care, custody, instruction or other supervision." • Thus, we

³Exhibit P; Findings of Fact 12-14, 19-20.

⁴FF17-18, 20-21; Hearing Trans. 19-23, 59-65, 75-90, 114-125, 130-133, 178-179.

⁵*Nowill v. State Bd. Of Ret.*, CR-08-558 (DALA decision July 21, 2011; affirmed by CRAB May 17, 2012; CRAB decision on motion for reconsideration as corrected July 10, 2012) (excluding patients admitted for treatment of neuromuscular disorders with secondary mental illnesses); *Pulik*, CR-10-605 at 7 (discussing the unimportance of symptoms that merely colTelate with a patient's principal illness); *Popp v. State Bd. Of Ret.*, CR-17-848 (DALA decision Oct. 22, 2021; affirmed by CRAB Nov. 16, 2023) (held that an LPN II is not excluded from Group 2 classification because the purpose of the patient's hospice diagnosis was to allow patients better access to care for dementia and that Popp's work was still centered on the patient's mental infirmities).

do not read §3(2)(g) as limiting care to psychiatric or psychological treatment. In line with our reasonings in *Popp v. SBR*, CR17-848 (CRAB Nov. 16, 2023) and *Larose v. SBR*, CR-20-357 (CRAB Sept. 4, 2024), Ms. Greenwood is entitled to be classified in Group 2 for her service as a floor nurse at the Tewksbury Hospital.

Admissions Nurse

To determine an employee's Group classification, we consider the job description and the actual duties performed. *Gaw v. Contributory Retirement Appeal Bd.*, 4 Mass. App. Ct. 250 (1976). As such, the magistrate's determination that Ms. Greenwood is entitled to Group 2 classification for her work as an admissions nurse is reasonable in light of the evidence in the record. While the job description lists duties that are administrative in nature, the testimonies, which the magistrate credited, described her actual, regular, and major job duties entailed "other supervision" of a patient population in Group 2.⁶ The magistrate credited Ms. Greenwood's testimony in determining her actual job duties. *Desautel v. State Bd. of Retirement*, CR-18-0080 (CRAB Aug. 2023). We give deference to DALA's subsidiary findings and substantial deference to findings that are based on credibility determinations. *Vinal v. Contributory Retirement Appeal Board*, 13 Mass. App. Ct. 85, 102 (1982).

Conclusion. The DALA decision is affirmed. Ms. Greenwood's major and regular job duties involved the "care, custody, instruction, or other supervision" of a Group 2 population pursuant to G.L. c. 32, §3(2)(g). Accordingly, Ms. Greenwood is entitled to Group 2 classification for her service as a floor nurse and as an admissions nurse at the Tewksbury Hospital for the periods in question. The DALA decision is affirmed. *Affirm.*

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD

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⁶ FF 29, 31-33, 35, 37; Hearing Trans. 49-51, 137-140.

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