

**COMMONWEALTH OF MASSACHUSETTS  
CIVIL SERVICE COMMISSION**

One Ashburton Place - Room 503  
Boston, MA 02108  
(617) 979-1900

**KAREN LEAHY,**

*Appellant*

v.

**CASE NO: C-20-179**

**DEPARTMENT OF PUBLIC HEALTH,**

*Respondent*

Appearance for Appellant:

Karen Lahey, Pro Se

Appearance for Respondent:

David Markowitz, Esq.  
Deputy General Counsel  
Department of Public Health  
250 Washington Street  
Boston, MA 02108

Commissioner:

Paul M. Stein

**DECISION**

The Appellant, Karen Leahy, appealed to the Civil Service Commission (Commission) pursuant to G.L. c. 30, § 49,<sup>1</sup> from the decision of the Massachusetts Human Resources Division (HRD) to affirm the denial by the Department of Public Health (DPH) of a request to reclassify her position at the Pappas Rehabilitation Hospital for Children (PRHC) from her current title of Registered Nurse II (RN-II) to Registered Nurse III (RN-III). The Commission held a pre-hearing via remote videoconference (Webex) on January 26, 2021, and a full evidentiary hearing on March 24, 2021, via remote videoconference (Webex) which was audio/video recorded.<sup>2</sup> Thirty (30) exhibits (*Resp.Exh.1 through Resp.Exh.21 and App.Exh.1 through App.Exh.9*) were received

---

<sup>1</sup> The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§ 1.00, *et seq.*, apply to adjudications before the Commission with and conflicting provisions of G.L. c.30, §49, or Commission rules, taking precedence.

<sup>2</sup> The full hearing was recorded and a link to the recording was provided to the parties. If there is a judicial appeal of this decision, the plaintiff in the judicial appeal is obligated to use the Webex recording to provide an accurate transcript, satisfactory to the court, to the extent that he/she wishes to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion.

in evidence. Both parties waived filing Proposed Decisions. For the reasons stated, this appeal is allowed.

### **FINDINGS OF FACT**

Based on the Exhibits entered into evidence and the testimony of the following witnesses:

*Called by DPH:*

- Donna Nickerson, RN-VI, PRHC Assistant Director of Nursing
- Mary Connelly, EOHHS Classification and Compensation Lead

*Called by the Appellant:*

- Karen Leahy, RN-II, PRHC, Appellant
- Debra Beaudette, RN V, PRHC Nurse Manager
- Dawn Beaulieu, RN-III, PRHC

and taking administrative notice of all matters filed in the case, pertinent law and reasonable inferences from the credible evidence, a preponderance of evidence establishes these facts:

1. PRHC is a pediatric chronic care hospital providing coordinated medical, rehabilitative, educational and other therapies in a hospital-based environment to patients ages 8-22 with physical disabilities which require medical management, assisting them to achieve their optimal level of independence in all aspects of life. There are currently approximately 60 to 70 patients who are housed in one of four units (with approximately 7 to 27 patients in a single unit). All patients attend school located on the hospital grounds operated by the Massachusetts Department of Elementary & Secondary Education. (*Administrative Notice [<https://www.mass.gov/locations/pappas-rehabilitation-hospital-for-children>]; Testimony of Appellant, Nickerson, Beaulieu & Beaudette*)

#### The PRHC Nursing Staff - 2011 to 2020

2. The patient units are staffed with approximately 90 nursing staff, including RNs, LPNs (Licensed Practical Nurses) and NAs (Nursing Assistants) on three shifts (Days -7:00 am to 3:30 pm; Evenings – 3:00 pm to 11:30 pm; and Nights – 11:00 pm to 7:00 am). Each shift is managed

under the direct supervision of a charge nurse who reports to a Nurse Manager or Unit Supervisor (with 24/7 responsibility over all three shifts), who, in turn, report to the Assistant Director of Nursing. (*Resp.Exhs.12 through 16 & 19; Testimony of Appellant, Nickerson, Beaulieu & Beaudette*)

3. From 2011 until approximately 2016, the Day Shift had two (2) RN-Vs, one of whom served as Nurse Manager of three units and one who served as Nurse Manager of two units plus the School. (*Resp.Exhs.12 & 19*)

4. In 2011, all Day Shift charge nurses, as well as the School Nurse, were RN-IIIs. The Day Shift unit charge nurses were responsible for three (3) to five (5) direct reports (RNs, LPNs & NAs). The RN-III School Nurse was responsible for two direct reports, neither of whom was an RN (rather, an LPN & NA). (*Resp.Exh.19*)

5. In 2012, the Appellant, Karen Leahy, an RN-II, was assigned to the position of charge nurse on the Ross Unit and another RN-II was assigned as the charge nurse on Nelson I (both positions that had previously been held by an RN-III). Their direct reports included LPNs and NAs but no RNs. (*Resp.Exhs.1 & 20; Testimony of Appellant*)

6. As of October 2015, Ms. Leahy remained in the position of a Day Shift unit charge nurse with two direct reports (LPN & NA). All other Day Shift unit charge nurses were RN-IIIs. The School Nurse was also an RN-III but no longer had any direct reports. (*Resp.Exh.12*)

7. By October 2020, the Day Shift had an RN-V Nurse Manager [Debra Beaudette] and two (2) RN-IV Unit Supervisors [Donna Connaughton and Theresa Beardsworth]).

- RN-V Nurse Manager Beaudette supervised a single unit, which had a vacancy in the RN-III Day Shift position, two RN-IIs and one NA; she also supervised the Day Shift “floaters” (then an RN-II and two NAs).

- RN-IV Unit Supervisor Connaughton supervised a single unit staffed by two RN-II day shift nurses, an LPN and four (4) NAs.
- RN-IV Unit Supervisor Beardsworth supervised three units and the School Nurse, the position then held by Ms. Leahy. (*Resp.Exh.13; App.Exhs.2 &7*)

8. As of October 2020, the Evening Shift was staffed by two additional RN-IV Hospital Supervisors along with the Nurse Manager and two Unit Supervisors.

- One unit had an assigned RN-III charge nurse and two (2) RNs, two LPNs and 4 NAs.
- Three units had two (2) RN-IIs and two (2) or more NAs; one also had an LPN.
- The “floaters” included one RN-II, one LPN and one NA. (*Resp.Exh.15*)

9. As of October 2020, the Night Shift was supervised by an RN-IV Hospital Supervisor in addition to the RN-V Nurse Manager and two RN-IV Unit Supervisors. The only RN-III on the Night Shift was Dawn Beaulieu, assigned as a “floater” in 2016 with no direct reports. Only one Night Shift unit had more than one RN-II. (*Resp.Exhs.16 & 21; Testimony of Appellant & Beaulieu*)

Ms. Leahy’s Work as the PRHC School Nurse

10. In June 2017, Ms. Leahy expressed an interest in transferring from her position as a unit charge nurse to fill the open position of School Nurse and she was selected. The transfer did not result in any change in shift, title or pay. (*App.Exhs.1 &2: Testimony of Appellant*)

11. The school day runs from 8:30 am to 3:30 pm. Ms. Leahy reports to work at 7:00 am and, when assigned, serves as a unit charge nurse until school starts. Prior to the start of each school day, Ms. Leahy must spend approximately an hour to research the written nursing reports prepared at the change of shift (Day to Evening; Evening to Night; Night to Day) for all patients across all

units.<sup>3</sup> She needs this information so that she is current, and can update the school staff on the medical condition and needs of all 60-plus patients while they are in school, which includes medication and other doctor's treatment orders, changes in diet and therapy, history of seizures, all of which are regularly subject to change. She is the first line for all nursing and medical issues, as well as concerns about physical therapy, occupational therapy, dietary and disability needs which she manages herself or refers to the appropriate personnel for assistance or guidance. (*App.Exh.2; Resp.Exhs.3 & 8; Testimony of Appellant, Nickerson, Connelly, Beaudette & Beaulieu*)

12. As the School Nurse, Ms. Leahy reports to RN-IV Unit Supervisor Beardsley. She generally works independently, estimating that she consults with her supervisor about 5% of the time. Ms. Leahy has no direct reports for whom she is responsible to prepare evaluations (EPRSs). She does exercise daily functional supervision over the 1 to 3 RNs, 1 to 3 LPNs and 12 NAs assigned to her during the school day. She also supervises up to 72 Educational Assistants (EAs), also known as Easter Seals due to their funding source, who provide "one-to-one" support to facilitate the learning of patients with disabilities. (*App.Exhs.2 & 7; Resp.Exhs.3, 8 & 11; Testimony of Appellant & Connelly*)

13. The school is open daily during the regular school year, save for weekends and holidays. During the summer, Ms. Leahy devotes most of her day to similar duties as part of her oversight of the day-long summer activities for the entire patient census at multiple venues, which includes the waterfront, pool, and barn. (*Testimony of Appellant*)

---

<sup>3</sup> This review of the entire patient population compares with the 5 to 10 minute oral report that an incoming unit charge nurse receives from the outgoing charge nurse at each shift change covering the specific 7 to 27 patients on that particular unit. (*Testimony of Appellant & Beaudette*)

14. In July 2020, Ms. Leahy submitted a request to the Executive Office of Health and Human Services (EOHHS) for reclassification of her position from that of RN-II to RN-III. She completed the required Interview Guide and responded to various follow up questions from the EOHHS Classification and Compensation Lead assigned to review her request. (*Resp.Exhs.1 through 6; App.Exh.2; Testimony of Appellant & Connelly*)

15. By letter from Ms. Connelly dated October 13, 2020, Ms. Leahy was informed that her request for reclassification was denied because Ms. Connelly had concluded that Ms. Leahy did not perform the duties of an RN-III because she did not provide nursing care to patients “across all shifts” or perform the other duties of an RN-III and that the majority of her duties were consistent with that of an RN-II. (*Resp.Exh.7: Testimony of Connelly*).

16. Ms. Leahy contested the denial of her reclassification request and appealed for review by the Massachusetts Human Resources Division (HRD). (*Resp.Exhs. 8 & 9*)

17. By letter dated December 8, 2020, Ms. Leahy was informed that HRD concurred with EOHHS that “the duties being performed by you do not warrant the reallocation of your position and, therefore, we must deny your appeal.” (*Resp.Exh.9*)

18. Ms. Leahy thereafter duly filed a timely appeal from HRD’s decision to this Commission. (*Claim of Appeal*)

Registered Nurse Classification Specification

19. The Classification Specification for the Registered Nurse series was promulgated by HRD on July 1, 1987. The basic purpose of the work of incumbents in this series is “to provide primary nursing care to patients in in-patient or out-patient hospital units, clinics, infirmaries or similar institutions. There are two “professional” levels and four “supervisory” levels within the series:

RN I is the entry-level professional job in the series.  
RN-II is the second-level professional job in the series.

RN-III is the first-level supervisory job in the series

RN- IV is the second-level supervisory job in the series

RN-V is the third-level supervisory job in the series

RN-VI is the fourth level supervisory job in the series

*(Resp.Exh.10) (emphasis added)*

20. The duties common to all levels in the series include providing primary nursing care and psychosocial support to patients, establishing plans of patient care, handling complaints by patients, admitting and discharging patients, reporting changes to patients; condition, responding to health and safety issues and preparing pertinent documentation. RNs at all levels must exercise independent judgment. *(Resp.Exh.10)*

21. In addition to the duties common to all levels, the Registered Nurse Classification Specification provides that an RN-II also:

1. Performs duties of charge nurse on a ward or unit for a single shift on a regular basis
2. May instruct ward or unit personnel in nursing techniques, procedures and equipment.

*(Resp.Exh.10) (emphasis added)*

22. The additional duties specified for an RN-III in the Registered Nurse Classification Specification include:

1. Oversee the nursing care of patients on assigned ward or unit for all shifts by insuring [sic] the development of an individual care plan for each patient, by marking [sic] nursing assignments, and by providing staff instruction and educational conferences to insure [sic] continuity of care and compliance with facility standards and regulations.
2. Evaluate nursing activities on all shifts by reviewing patient charts, observing nursing care, and visiting patients to insure [sic] that nursing care is carried out as directed, and treatment is administered in accordance with physicians' instructions.
3. Coordinate the implementation of clients' individual treatment service plans, as determined by an interdisciplinary team, by conferring with appropriate health care professionals in a hospital or institution; may serve as interdisciplinary team leader.
4. Coordinate the clinical and administrative activities of clinics by utilizing available resources, including personnel, equipment, etc., in order to make appropriate referrals and initiate necessary follow-up care.

5. Provide nursing services, such as infection control and employee health, on an institution-wide basis.
6. Coordinate the clinical and administrative activities of community-based facilities, such as halfway houses, community residences and inter- mediate care facilities.

*(Resp.Exh.10) (emphasis added)*

23. In terms of supervision, the Registered Nurse Classification Specification provides:

Registered Nurse I: Incumbents of positions at this level exercise direct supervision (i.e., not through an intermediate supervisor) over 1-5 licensed practical nurses and over 1-5 ancillary personnel such as ward clerks, mental health assistants, attendant nurses, orderlies, and/or volunteer personnel.

Registered Nurse II: Incumbents of positions at this level exercise direct supervision (i.e., not through an intermediate supervisor) over 1-5 licensed practical nurses and 1-5 ancillary personnel such as ward clerks, mental health assistants, attendant nurses, orderlies, and/or volunteer personnel. May upon assignment exercise functional supervision (i.e., over certain but not all work activities, or over some or all work activities on a temporary basis) over 1-5 registered nurses.

Registered Nurse III: Incumbents of positions at this level exercise direct supervision (i.e., not through an intermediate supervisor) over 1-5 registered nurses, 1-5 licensed practical nurses, and 1-5 ancillary personnel such as ward clerks, mental health assistants, attendant nurses, orderlies, and/or volunteer personnel.

*(Resp.Exh.10)*

#### Assigned Nursing Duties at PRHC

24. The Form 30s (job descriptions) and EPRS forms (personnel evaluations) for the RN-II and RN-III positions generally track the Classification Specifications. *(Resp.Exhs11, 17 & 21; App.Exh.7)*

25. The 2010 version of the Form 30 for a PRHC RN-II specifies the duties are to “render primary care to patients establish plans of nursing care for patients, with both short- and long-term goals; provide psychosocial support to patients, respond to inquiries regarding patient’s progress, and related work as required in an interdisciplinary setting.’ An RN-II supervises a direct reporting staff of LPNs, attendant nurses, ward clerks and volunteers, and exercises functional supervision of 1 to 5 RNs.*(Resp.Exh.17)*



26. The 2016 version of the Form 30 for a PRHC RN-III specifies that a nurse in that position “provides and supervises the provision of direct nursing care and treatment to pediatric patients of a unit [of a state hospital] by participating as a member of the multi-disciplinary team; assessing health care and educational needs of patients and their families, assisting in admission and discharge of patients, facilitating rehabilitation and supervising assigned staff” and other work as required. RN-IIIs work under the direction of an RN of higher grade and have RN-Is, RN-IIIs, LPNs and NAs as direct reports and indirect supervision of other LPNs and NAs.*(Resp.Exh.21)*

27. Ms. Leahy’s EPRS forms specify that, as part of her primary duties, she “performs duties of charge nurse on unit for a single shift” and “directs nursing care of patients on assigned unit by developing/reviewing/revising an individual care plan for each patient, making nursing assignments and holding conferences with staff regarding patient’s/students need to insure continuity of care and compliance with facility standards and regulations, provides nursing assessment for Evaluation Team meeting.” *(Resp.Exh.11: App.Exh.7)*

28. At PRHC, there is a separate department responsible for infection control, for staff health care and clinics, so none of the RNs who work on an assigned unit provide those services on an “institution-wide” basis as part of their regular duties. Similarly, none of the RNs at PRHC are assigned duties involving the clinical or administrative activities of community-based facilities. *(Resp.Exh.3; Testimony of Appellant, Nickerson, Beardsley and Beaulieu; App.Exh.5)*

29. RN-IIIs who are assigned as a charge nurse at PRHC receive a pay differential above the pay rate for an RN-II but below what an RN-III charge nurse would receive. *(Testimony of Appellant & Beaulieu)*

## **APPLICABLE LAW**

Section 49 of G.L.c.30 provides:

“Any manager or employee of the commonwealth objecting to any provision of the classification affecting his office or position may appeal in writing to the personnel administrator. . . Any manager or employee or group of employees further aggrieved after appeal to the personnel administrator may appeal to the civil service commission. Said commission shall hear all appeals as if said appeals were originally entered before it. If said commission finds that the office or position of the person appealing warrants a different position reallocation . . . it shall be effective as of the date of appeal . . .”

“The determining factor of a reclassification is the distribution of time that an individual spends performing the function of a job classification.” Roscoe v. Department of Environmental Protection, 15 MCSR 47 (2002). In order to justify a reclassification, an employee must establish that she is performing distinguishing duties encompassed within the higher-level position the majority of the time. See, e.g., Pellegrino v. Department of State Police, 18 MCSR 261 (2005) (at least 51%); Morawski v. Department of Revenue, 14 MCSR 188 (2001) (more than 50%); Madison v. Department of Public Health, 12 MCSR 49 (1999) (at least 50%); Kennedy v. Holyoke Community College, 11 MCSR 302 (1998) (at least 50%). What must be shown is that Ms. Leahy performs the “distinguishing duties” of an RN-III a majority her time and, in making this calculation, duties which fall within both the higher and lower title do not count as “distinguishing duties.” See Lannigan v Department of Developmental Services, 30 MCSR 494 (2017)

## **ANALYSIS**

Ms. Leahy occupies a unique position at PRHC. As the PRHC School Nurse, as DPH contends, she is principally performing duties substantially equivalent to that of a charge nurse more than 50% of her time. However, both an RN-II and an RN-III may serve in the position of an RPHC charge nurse, so that particular function is not a level-distinguishing duty that, alone,

resolves the issue of which position she is performing. Thus, I turn to the other distinguishing duties of the two titles.

First, there are three level distinguishing duties in the Classification Specification of an RN-III that none of the PRHC unit RN-IIIs perform – Duty 4 related to clinics; Duty 5 related to institution-wide infection control and employee health; and Duty 6 related to interaction with community-based facilities. Moreover, the PRHC Form 30 for the position of an RN-III does not include these duties. Thus, the fact that Ms. Leahy also does not perform these duties does not distinguish her job from those of any of the other PRHC RN-IIIs.

Second, according to the Classification Specification, both an RN-II and RN-III exercise direct responsibility over LPNs and NAs, and what is supposed to distinguish them in terms of direct supervision is that an RN-III also has one or more RNs as direct reports, while an RN-II may exercise “functional supervision” of other RNs over “certain but not all work activities” or over “some or all work activities on a temporary basis”. In practice, however, at PRHC, these distinctions have not been strictly observed. As Dawn Beaulieu testified, as an RN-III “floater”, she does not have any direct reports, although her Form 30 indicates that she should, and the 2020 organization chart indicated that she had one LPN direct report, which turned out to be incorrect.

Third, the PRHC organization charts for School Nurse show that the nurse who held the position before Ms. Leahy was an RN-III and had two direct reports from 2011 through 2014, but neither subordinate was an RN.

Fourth, all the RN-IIIs at PRHC are assigned to a specific shift and do not have responsibility for patient care “across all shifts” as described in the Classification Specification. That responsibility is vested with the RN-IVs and RN-V at the next higher level of supervision over the RN-IIIs and RN-IIs assigned to a specific unit and shift. As School Nurse, Ms. Leahy must

review the reports from all shifts each day; she has “charge” of the entire census of patients from all units (as opposed to shift nurses who are responsible for 7 to 27 patients in a single unit) and “functional supervision” over all staff (including RNs, LPNs, NAs and others) assigned to the school, five days a week, seven hours a day. During the summer, she is coordinating patient care for the entire patient population engaged in activities at multiple locations around the campus. Those duties carry considerably more functional responsibility “across all shifts” than many of the unit shift charge nurses, more than the limited “temporary” or “partial” responsibility described in the RN-II Classification Specification, and more responsibility than the RN-III floater on the Night Shift. Thus, Ms. Leahy’s duties are far closer to the description of responsibility “across all shifts” than any PRHC nurse below an RN-V nurse manager or the RN-IV unit and hospital supervisors.

Fifth, Ms. Leahy reports to an RN-IV, so restoring the position of School Nurse to an RN-III does not present organizational issues that would arise if she would be reporting to a supervisor of equal or lower rank.

In sum, as the PRHC School Nurse, Ms. Lahey has charge of 60 or more patients and a considerable staff assigned to the school five days a week. Unlike shift nurses, who are responsible for giving or received a 5-to-10-minute oral report at the change of shift, Ms. Leahy must spend an hour or more each school day to keep abreast of changes in all 60+ patients’ care plans across all shifts and, then manage and coordinate their care throughout the school day. In the unique position that she occupies at PRHC, the majority of her duties are most properly described to be more consistent with the responsibilities of an RN-III (the title that her predecessor held) than an RN-II.

## CONCLUSION

Accordingly, for the reasons state above, the appeal of the Appellant, Karen Leahy, under Docket No. C-20-179, is **allowed**. Her position as the PRHC School Nurse shall be reclassified, effective July 11, 2020, from RN-II to RN-III and documented appropriately in the Form 30 applicable to this position and in her EPRS Forms.

Civil Service Commission

/s/ Paul M. Stein

Paul M. Stein  
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Camuso, Ittleman, Tivnan & Stein, Commissioners) on February 10, 2022.

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:

Karen Leahy (Appellant)  
David Markowitz, Esq. (for Respondent)  
Michele Heffernan, Esq. (HRD)  
Regina Caggiano (HRD)