
In the Matter of CAMBRIDGE PUBLIC HEALTH
ALLIANCE/SOMERVILLE HOSPITAL

and

MASSACHUSETTS NURSES ASSOCIATION

Case No. CAS-10-3758

34.2 community of interest

34.91 accretion

35.64 nurses

March 30, 2012

Marjorie F. Wittner, Chair

Elizabeth Neumeier, Board Member

Harris Freeman, Board Member

Andrew M. Fuqua, Esq. Representing the Cambridge
Health Alliance

Olinda Marshall, Esq. Representing the Massachusetts
Nurses Association

DECISION

Summary

On September 1, 2010, the Massachusetts Nurses Association (MNA or Petitioner) filed a unit clarification petition with the Department of Labor Relations (Department)¹ seeking to accrete the newly-created position of Clinical Informatics Analyst (CIA) to its bargaining unit of registered nurses (RNs) at the Cambridge Health Alliance's (CHA) Somerville Hospital site and satellite clinics. The MNA asserts that this title is appropriately accreted into its bargaining unit because CIAs are RNs who use their specialized nursing knowledge to perform their job functions. The CHA seeks to dismiss the petition on grounds that the CIA title does not share a community of interest with the other RNs in the MNA's unit.

The Department investigated the petition and both parties submitted position statements, documents and affidavits in response to the Department's queries.² Because it did not appear that there were any material facts in dispute, on February 2, 2012, the Department of Labor Relations issued a letter asking the parties to show cause why the Commonwealth Employment Relations Board (Board) should not resolve the unit placement issue based on the information contained in the letter. Neither party disputed any of the facts contained in the show cause letter. Based on these

1. Pursuant to Chapter 3 of the Acts of 2011, the Division of Labor Relations' name is now the Department of Labor Relations.

2. The CHA provided affidavits from Joan E. Bennett, the Senior Vice President of Human Resources; Judith Klickstein, Senior Vice President, Information Technology and Strategic Planning; Laura Nevill, Senior Director of Nursing Informatics; Cindy Reilly, the Senior Director Quality and Performance Improvement; and Mary Samost, Associate Chief Nursing Officer, Professional Development and Academic Integration. The parties also filed separate position statements supported by eight joint exhibits, which included all bargaining unit members' job descriptions.

facts and for the reasons set forth below, the Board concludes that the CIAs are appropriately accreted into the MNA's unit.

Statement of Facts

Background

Bargaining Unit

The MNA and the CHA are parties to a collective bargaining agreement (CBA) that was effective by its terms from July 1, 2007 to June 30, 2010. Article 1, Section 1.02 of the CBA states:

In accordance with Massachusetts General Laws Chapter 150E, the Hospital recognizes the [Massachusetts Nurses] Association as the sole and exclusive representative for bargaining with respect to rates of pay hours of employment and other conditions of employment for all registered nurses at Somerville Hospital and its on-site and satellite clinics, but excluding: all other employees, Nurse Managers, Nurse Coordinators, Clinical Operations and Nursing Administration, Ambulatory Nursing Administration, guards and supervisors as defined in Chapter 150E.

In 2011, the Petitioner's bargaining unit was comprised of approximately 99 Somerville Hospital (SH) employees. Roughly 95 of those employees are RNs and nurse practitioners involved in direct patient care in various clinical departments throughout SH, e.g., emergency department, endoscopy/GI, OR, ambulatory, etc. Most unit members are simply titled "RN." The other titles in the unit include Nurse Practitioner, Assistant Nurse Manager, and Permanent Charge RN. All RNs report to their respective departments' Nurse Managers. The Nurse Managers in turn report to Associate Chief Nursing Officers, who ultimately report to CHA's Chief Nursing Officer. All RNs involved in direct patient care must have current RN, MA licensure and have successfully completed a course of study at an accredited nursing school, preferably with a BSN degree.

The bargaining unit also includes four unique titles that do not work in clinical departments: Acute Case Manager, Clinical Nurse Specialist, Clinical Data Abstractor and RN Quality Analyst. These titles are described below.

Acute Case Manager (ACM) - The ACM works in the Department of Case Management and Social Work and reports to the Case Team Manager. The incumbent assists a health care team in coordinating and tracking a patient's care and benefits from admission to discharge. The ACM, like other clinical RNs, works on the hospital floor and is involved in completing initial screening of all patients within 24 hours of admission. The title requires RN licensure and graduation from an accredited nursing school. Case managers must be available seven days a week and holidays.

Clinical Data Abstractor - The Clinical Data Abstractor works in a non-clinical setting in the Quality Management Department analyzing data regarding patient care. The responsibilities of this title include reviewing medical records and coordinating databases of patient care information for various Office of Quality projects and

reports to the Senior Director for Quality and Performance Improvement, Program Manager. The position requires an Associates degree in Business Administration Health Care or a related field with two years of experience working with ICD-9 and CPT-4 computer codes. RN, LON or coding certification is a "significant plus." It is a full-time position.

RN Quality Analyst II - Like the Clinical Data Abstractor, this title reports to the Senior Director for Quality and Performance Improvement. This title is responsible for providing quality and performance improvement measures and initiatives support to the Surgery, Anesthesia, Orthopedics and Rehabilitation Departments. This title has been in the MNA's SH unit since its inception. The incumbent spends the majority of time reviewing checklists for surgeries performance at CHA to determine CHA's rate of compliance with various protocols. The incumbent also observes surgeries to report on actual nursing practice and works on other specific performance improvement/quality measure initiatives. The incumbent spends approximately half of her time at the CHA's clinical sites collecting data and spends the other half in the Performance Improvement Department's offices, located about one-quarter of a mile from CHA's Cambridge Hospital campus. Although the job description indicates that a BS in Nursing is required, the incumbent holds only a diploma in nursing. No specific RN licensure is required in the job description.

Clinical Nurse Specialist, Med Surg - This is a training position that reports to the Director of Education in the Nursing Department. Before 2009, the incumbent in this title worked in the Hospital's Med/Surg unit and provided face-to-face nursing orientation for new nurses and nurse education to the nursing staff at SH one week a month. Somerville Hospital closed its Med/Surg unit in 2009. Since then, the incumbent has worked from home approximately eight hours a week on a per-diem basis, creating training modules for clinical practice. The title requires RN licensure and a Bachelor of Science (B.S.) in Nursing.

The Informatics Department, Generally

Judy Klickstein, CHA's Senior Vice President of Information Technology and Strategic Planning oversees a number of technology and marketing departments, including the Clinical Informatics Department, which has overall responsibility for building and modifying electronic health records (EHR) software applications to conform to and support CHA's clinical practices.

The Informatics Department is led by the Senior Director of Nursing Informatics, Laura Nevill. Nevill reports to Klickstein and has a secondary reporting relationship to the CHA's Chief Nursing Officer regarding nursing practice issues that may arise from the implementation of EHR applications, such as how a nurse's role and decision-making is reflected within electronic health records. As of 2011, Nevill supervises three CIAs and two Pharmacy Informaticists (PIs) whose duties are described below.³

3. CHA also employs two MD Informaticists. Unlike the CIAs and PIs, who report to Nevill, the MD Informaticists report to the Hospital's Chief Medical Information Officer

Clinical Informatics Analyst - This title was first created and posted on April 30, 2010. According to the affidavit Klickstein provided, the CHA created the Informatics titles because “informaticists with a practical and theoretical understanding of clinical practice bring knowledge and skill set to their EHR functions and are able to understand and communicate with clinicians about clinical practice that traditional software and systems analysts lacking such background do not possess.”

Nevill created the CIA job description. It states that CIAs are required to possess an active Massachusetts RN license and a B.S. in Nursing with a Masters’ preferred, along with five years of clinical nursing experience. The position also requires a minimum of two years experience on EPIC⁴ or a comparable electronic medical record system. All three CIA incumbents possess both B.S. in Nursing and Masters (M.S.) in Nursing degrees. Two of the three incumbents were previously clinical nurses in the Cambridge Health Alliance system.⁵

The CIAs’ two primary duties are 1) working with other IT staff, building, modifying and implementing EHR software and 2) facilitating end users’ ability to understand the software via training and one-on-one assistance. The CIA’s building and upgrading software functions are performed in conjunction with other IT professionals in CHA’s IT department, which is located in a non-clinical, office setting on Somerville Hospital’s sixth floor.

The amount of time the CIAs spend training end-users varies. Before CHA went “live” with a suite of EHR applications in Fall 2011, each CIA would spend approximately 2-3 hours every other week in outpatient clinics, providing in-person EHR support to clinical staff, including, nurses, doctors, etc. Until June 2011, the CIAs and PIs also rotated hosting a two-hour open house EHR support session each month sponsored by the IT department.

In fall 2011, CHA went live with a suite of in-patient EHR applications at its Whidden and Cambridge Hospital campuses in two separate two-week roll-out sessions. During this time the CIAs were assigned to the roll-out command center to fix system bugs and help manage the roll-out process. They did not provide end-user support.

The CIAs also rotate 24/7 EHR on-call telephone support duty with PI Analysts, the two MD Informaticists, the Chief Medical Officer and Nevill. Each person is on-call for one week at a time, taking calls from clinicians providing patient care, including nurses. Once or twice a month, the CIAs chair subject matter expert meetings for different EHR topics. These meetings are attended by personnel from all levels of the organization, including front-line clinical staff and other IT professionals. The CIAs have the independent authority to make changes to the EHR systems based on feedback they obtain at these meetings.

In addition to the two main duties, CIAs are sometimes deployed as part of general IT project teams to work on broader IT initiatives related to pharmacy and business-related applications. CIAs also

work with software vendors on EHR project planning management and coordination.

The CIAs are salaried employees. They take time off for holidays, vacation and sick time through CHA’s earned time system. MNA bargaining unit members receive an hourly wage for hours worked.

Pharmacy Informaticists - These titles require a Bachelor’s degree in Pharmacy and an active registered pharmacist license, as well as clinical information system experience. Like CIAs, PIs are responsible for building, implementing and support specific applications in CHA’s EHR systems. However, their support relates to the ordering, dispensing and administration of medications in inpatient and outpatient settings. In building their applications, the PIs meet with users to define system requirements. They also develop user and training documentation, provide live support, and assist in training users. They work in the same office environment as the CIAs, but travel to CHA’s different facilities as part of their information collection and implementation support roles. The PIs work full-time, earn a salary and are entitled to take time off for holidays, vacation and sick time through CHA’s earned system.

Decision

A unit clarification petition is the appropriate procedural vehicle to determine whether newly-created positions should be included or excluded from a bargaining unit or to determine whether substantial changes in the job duties of existing positions warrant either their inclusion or exclusion from a bargaining unit. *Sheriff of Worcester County*, 30 MLC 132, 136 (2004) (citing *North Andover School Committee*, 10 MLC 1226, 1230 (1983)). In analyzing whether an employee should be accreted into an existing bargaining unit, the Board uses a three-part test. It first determines whether the position was included in the original certification or recognition of the bargaining unit. Absent a material change in job duties and responsibilities, the Board will not accrete a position into a bargaining unit if it existed at the time of the original certification or recognition. *Town of Granby*, 28 MLC 139, 141 (2001). If that examination is inconclusive, the Board will next examine the parties’ subsequent conduct, including bargaining history, to determine whether the employee classifications were considered by the parties to be included in the unit. Finally, if that inquiry is inconclusive, the Board will examine whether the positions sought to be included in that unit share a community of interest with the existing positions. If the Board determines that the requisite community of interest exists, it will accrete the petitioned-for employee into the existing bargaining unit. *Id.* Because the CHA created the CIA title in April 2010, after the effective date of the most recent CBA, the first two prongs of the accretion test are inconclusive.

The Board must therefore consider whether a community of interest exists between the CIAs and the other positions in the MNA’s unit. To determine whether employees share a community of in-

4. CHA uses the EPIC EHR system.

5. The parties’ submissions do not contain information regarding the third CIA’s work history.

terest, the Board considers factors including: similarity of skills and functions, similarity of pay and working conditions, common supervision, work contact and similarity of training and experience. *Waltham School Committee*, 25 MLC 137, 139 (1999). The Board has consistently ruled that a community of interest is not the equivalent of an identity of interest, and that minor differences do not necessitate separate bargaining unit if employees perform similar functions under similar working conditions and share common interests that would be involved in collective bargaining. Separate bargaining units are required only when the differences are so significant as to produce conflicts in the collective bargaining process. *Hanover School Committee*, 24 MLC 83, 87 (1998) (accreting school nurses whose duties and certification requirements had changed to a bargaining unit comprised of teachers, school library media specialists, guidance counselors, school adjustment counselor and a school psychologist).

Here, the CHA focuses mainly on the difference in the CIAs' and clinical RNs' duties to argue that the two groups share no community of interest. The CHA argues that the CIAs are software and IT system analysts with sophisticated computer skills who do not perform direct patient care. The CHA notes other differences, including differences in supervision, pay status, and work environment.

We do not disagree that these differences exist. However, although the CIAs do not share common supervision with the clinical RNs, many of the RNs in the unit report to different supervisors, depending on the department for which they work. We therefore do not find this factor dispositive. Moreover, while the clinical RNs are not required to have the same level of sophisticated computer skills as the CIAs, the clinical RNs must have some degree of computer skills in order to use the EHR system that the CIAs develop for RNs' end-use. Furthermore, at least one other non-clinical bargaining unit position, the Clinical Data Abstractor, is required to possess specific computer programming skills to perform this title's major job function, data entry and analysis. As far as work setting is concerned, although the CIAs work in a non-clinical office setting, the same can be said of two other non-clinical bargaining unit members, the Clinical Data Abstractor and the Clinical Nurse Specialist, Surg. The RN Quality Analyst II spends only half of her time at the CHA's clinical sites and spends the other half in an office located in an office one-quarter of a mile away from the CHA's Cambridge Hospital site

Moreover, despite the differences in the CIAs' and clinical RNs' duties, they share a number of key similarities. The CIAs work in the same building as most other bargaining unit members. More critically, they interact with other bargaining unit members, both in-person and via telephone, to provide EHR training and support and to receive feedback from RNs regarding the EHR system. Although these interactions may not occur on a daily or even weekly basis, they are nonetheless crucial to the CIAs' role as Klickstein described it - to bring a "practical and theoretical understanding of clinical practice [such that they] are able to understand and communicate with clinicians about clinical practice that traditional software and systems analysts lacking such background to not possess." Consistent with this role, the Informatics Department requires CIAs to possess the same education degree (B.S. in Nursing) and license (RN) requirements as their clinical RN counterparts. The critical flow of EHR and clinical practice information between clinical RNs and CIAs, coupled with their common educational background and experience, persuades us that, despite the difference in their day-to-day duties, there is a sufficient community of interest between the RNs and CIAs to warrant the CIAs' accretion into the RNs' unit.

Finally, the record before us reflects that there are three CIAs employed by CHA at its Somerville site and approximately 99 members of the MNA's bargaining unit. Provided there is a sufficient community of interest, the Board favors broad, comprehensive units, rather than small, fragmented groups. *Hanover School Committee*, 24 MLC at 87 (citing *Framingham School Committee*, 18 MLC 1212 (1991)). Here, in the absence of evidence that the difference between the CIAs and the other bargaining unit members are so significant as to produce conflicts in the bargaining unit process, accretion of the CIAs in the RN unit at Somerville Hospitals is consistent with long-standing Board policy. *Id.*

Conclusion

For the foregoing reasons, we conclude that the CIA positions are appropriately accreted into the MNA's bargaining unit at Somerville Hospital.

SO ORDERED.

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