

**COMMONWEALTH OF MASSACHUSETTS**

**CIVIL SERVICE COMMISSION**

100 Cambridge Street, Suite 200  
Boston, MA 02114  
(617) 979-1900

**DEBORAH MEINCKE,**

*Appellant*

v.

**DEPARTMENT OF PUBLIC HEALTH,**

*Respondent*

Docket Number:

C-24-119

Appearance for Appellant:

*Pro Se*  
Deborah Meincke

Appearance for Respondent:

David Markowitz, Esq.  
Deputy General Counsel  
Department of Public Health  
250 Washington Street, 2<sup>nd</sup> Floor  
Boston, MA 02111

Commissioner:

Christopher C. Bowman

**SUMMARY OF DECISION**

The Commission dismissed the classification appeal of a DPH employee based on the undisputed fact that she does not possess the minimum entrance requirements of the requested higher classification of Health Care Facility Inspector I.

**DECISION ON RESPONDENT'S MOTION TO DISMISS**

On July 16, 2024, the Appellant, Deborah Meincke (Appellant), pursuant to G.L. c. 30, § 49, filed an appeal with the Civil Service Commission (Commission) contesting the decision of the Department of Public Health (DPH) to deny her request for reclassification from Health Care Facility Specialist II (HCFS II) to Health Care Facility Inspector I (HCFI I). On September 3, 2024, I held a remote pre-hearing conference, which was attended by the Appellant, counsel for

DPH and other DPH representatives. DPH subsequently filed a motion to dismiss, and the Appellant filed an opposition.

The following facts are not in dispute:

1. The Appellant has been employed by DPH for approximately six years, during which time she has held the position of HCFS II.
2. On June 20, 2023, the Appellant filed a request with DPH seeking to be reclassified to the title of HCFI I.
3. On June 21, 2024, DPH denied the Appellant's request for reclassification, but did not include notice informing her of her right to appeal this determination to the state's Human Resources Division (HRD).<sup>1</sup>
4. On July 16, 2024, the Appellant filed an appeal with the Commission.
5. The minimum entrance requirement for HCFI I states:

Applicants must have (A) at least three years of full-time, or equivalent, part-time experience as a registered nurse in a recognized hospital, clinic or medical facility, and (B) of which at least one year must have been in a supervisory, administrative, or managerial capacity, or (C) any equivalent combination of the required experience and substitutions below:

Substitutions:

- I. A Bachelor's degree with a major in nursing may be substituted for a maximum of one year of the required (A) experience.\*
- II. A graduate degree with a major in nursing may be substituted for a maximum of two years of the required (A) experience.\*

NOTE: No substitutions will be permitted for the required (B) experience.

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<sup>1</sup> It was an error for DPH not to provide the Appellant with notice of her appeal rights to HRD and this should not be repeated on a going forward basis. However, since a review has shown that the Appellant could not have prevailed here, even if she had first filed an appeal with HRD, it would be futile to remand this matter to DPH to follow the proper procedures.

6. The above minimum entrance requirements are also included in the most recent Form 30 Job Description for HCFI I.
7. The Appellant serves as part of interdisciplinary health care teams at DPH that visit and inspect long term skilled nursing and other facilities in Massachusetts. Federal guidelines require that one member of the inspection team must be at least an RN and only RNs can sign-off on those aspects of the inspection related to patient wounds.
8. The Appellant is not an RN. She does not have a bachelor's degree with a major in nursing, but, rather, has a bachelor's degree with a major in physical therapy. The Appellant does not have a graduate degree.
9. Those working in the HCFS title are part of NAGE while those working in the HCFI title are part of the Massachusetts Nurses Association (MNA).

*Motion for Summary Disposition Standard*

When a party is of the opinion there is no genuine issue of fact relating to all or part of a claim or defense and he or she is entitled to prevail as a matter of law, the party may move, with or without supporting affidavits, for summary decision on the claim or defense. 801 CMR 1.01(7)(h). These motions are decided under the well-recognized standards for summary disposition as a matter of law—i.e., "viewing the evidence in the light most favorable to the non-moving party", the substantial and credible evidence established that the non-moving party has "no reasonable expectation" of prevailing on at least one "essential element of the case", and has not rebutted this evidence by "plausibly suggesting" the existence of "specific facts" to raise "above the speculative level" the existence of a material factual dispute requiring an evidentiary hearing. See e.g., Lydon v. Massachusetts Parole Board, 18 MCSR 216 (2005). Accord Milliken

& Co., v. Duro Textiles LLC, 451 Mass. 547, 550 n.6 (2008); Maimonides School v. Coles, 71 Mass. App. Ct. 240, 249 (2008). See also Iannacchino v. Ford Motor Company, 451 Mass. 623, 635-36 (2008) (discussing standard for deciding motions to dismiss); cf. R.J.A. v. K.A.V., 406 Mass. 698 (1990) (factual issues bearing on plaintiff's standing required denial of motion to dismiss).

#### *Applicable Law Regarding Reclassification Appeals*

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

A manager or an employee of the commonwealth objecting to any provision of the classification affecting the manager or employee's office or position may appeal in writing to the personnel administrator. If the administrator finds that the office or position of the person appealing warrants a different position reallocation or that the class in which said position is classified should be reallocated to a higher job group, he shall report such recommendation to the budget director and the house and senate committees on ways and means in accordance with paragraph (4) of section forty-five. 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 or that the class in which said position is classified should be reallocated to a higher job group, it shall report such recommendation to the budget director and the house and senate committees on ways and means in accordance with paragraph (4) of section forty-five.

If the personnel administrator or the civil service commission finds that the office or position of the person appealing shall warrant a different position allocation or that the class in which said position is classified shall be reallocated to a higher job group and so recommends to the budget director and the house and senate committees on ways and means in accordance with the provisions of this section, and if such permanent allocation or reallocation shall have been included in a schedule of permanent offices and positions approved by the house and senate committees on ways

and means, such permanent allocation or reallocation shall be effective as of the date of appeal to the personnel administrator.

The provisions of this section, as they relate to appeals on the reallocation of a class or group of classes to a higher job group or job groups, shall not apply to any employee whose position is included in a collective bargaining unit represented by an employee organization certified in accordance with the provisions of section four of chapter one hundred and fifty E.

The Commission has often held that an Appellant cannot prevail on their reclassification appeal if they do not meet the minimum entrance requirements of the higher classification being sought. See, e.g., [Ly v. EOHHS](#) (2018) (Appellant's request for reclassification to Counsel II denied based solely on the undisputed fact that he did not meet the minimum entrance requirement of possessing a Juris Doctor degree and being a member of the Massachusetts Bar); [Hazel v. EOHHS](#) (2018) (Appellant's request for reclassification to Personnel Analyst III denied in part based on the conclusion that she did not the minimum entrance requirement of having professional or paraprofessional experience in personnel work, the major duties of which include classification, staffing, job analysis and/or job evaluation); [Quimby v. MassDOT](#) (2021) (Appellant's request for reclassification to Customer Service Representative IV denied in part based on the conclusion that she did not meet the minimum entrance requirement of having performed one year of supervisory responsibilities).

#### *Parties' Arguments*

DPH argues that the Appellant's appeal must be dismissed because of the undisputed fact that she does not meet the minimum entrance requirements of a HCFI I; that issues of pay equity raised by the Appellant as part of this appeal do not fall under the jurisdiction of the Commission as it relates to reclassification appeals; and that the Appellant's appeal is effectively a *class*

reallocation appeal (as opposed to a *position* reallocation appeal) for which the Commission does not have jurisdiction.

The Appellant appears to argue that the minimum entrance requirements contained in the job specifications and job description are outdated and are being used to deprive her of the opportunity to be properly classified; that her appeal should not be denied while she separately pursues issues related to pay equity; and that her appeal is not a request for a class reallocation.

### *Analysis*

The Appellant, a licensed physical therapist, performs a critical role serving as part of interdisciplinary medical teams that inspect long term skilled nursing and other facilities across the Commonwealth. It is undisputed, however, that the Appellant does not meet the minimum entrance requirements for the HCF Inspector position. She is not a registered nurse, and she does not possess a valid registration as a professional nurse under the Massachusetts Board of Registration in Nursing. Furthermore, the Appellant does not have at least three years of full-time, or equivalent part-time, experience as a registered nurse in a recognized hospital, clinic or medical facility.

These requirements do not appear to be based on outdated provisions that do not apply to the current work environment. Rather, even the Appellant acknowledges that the interdisciplinary teams that she serves on are organized in part on federal guidelines that require that one member of the inspection team must be at least a *registered* nurse and that only RNs can sign-off on those aspects of the inspection team related to any patient wounds. The Appellant has not pointed to any argument or evidence that she would present showing that these MERs are arbitrary or capricious. It may well be the case, as argued by the Appellant, that she performs 90% or more of the same duties as an RN during their facility inspections. That does not, however, supersede

or make the MERs moot and the Appellant cannot prevail in her appeal based on the undisputed fact that she is not an RN. Since this appeal can be dismissed based solely on this reason, there is no need to address the other two arguments raised by DPH.

I understand that this decision will not be received well by the Appellant. Ms. Meincke is, by all accounts, a dedicated public servant who cares passionately about the work she does on behalf of patients, including those who are not able to advocate on their own behalf. She has the Commission's gratitude for her dedication, and I am hopeful that her commitment and passion is not dimmed by this decision which is required by the applicable law and rules that relate to reclassification appeals.

#### *Conclusion*

For all the above reasons, the Appellant's appeal under Docket No. C-24-119 is hereby ***dismissed.***

Civil Service Commission

/s/ Christopher Bowman  
Christopher C. Bowman  
Chair

By a vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney and Stein, Commissioners) on November 14, 2024.

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 this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission 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:  
Deborah Meincke (Appellant)  
David Markowitz, Esq. (for Respondent)