

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Enise Pierre,
Petitioner

Docket No.: CR-24-0675

v.

State Board of Retirement,
Respondent

Appearances:

For Petitioner: Enise Pierre, pro se

For Respondent: Marko Samardzic, Esq.

Administrative Magistrate:

Judi Goldberg

SUMMARY OF DECISION

Petitioner worked as a Respiratory Therapist III at Pappas Rehabilitation Hospital for Children. She performed a mix of activities, some of which involved direct patient care but many of which did not. Petitioner failed to establish that her regular and major duties involved providing direct patient care or that the patients she worked with were in a Group 2 population. As a result, she is not entitled to Group 2 classification.

DECISION

Petitioner Enise Pierre timely appealed Respondent State Board of Retirement's (Board) denial of her application for Group 2 classification based on her work at the Pappas Rehabilitation Hospital for Children (Pappas). I held and recorded an evidentiary hearing on February 4, 2026, during which I admitted 12 exhibits. Ms. Pierre was the only witness. Immediately after the hearing, counsel for the Board realized that Ms. Pierre may not have received the Board's pre-hearing filing that it had sent to a different email address than the one Ms. Pierre was currently using. As a result, I held a second day of hearing on March 12, 2026, to provide Ms. Pierre the

opportunity to receive and review the Board's pre-hearing filing and respond to any of the information the Board had submitted. At the end of the second day of hearing, the parties agreed that they would file closing memoranda; the Board filed a memorandum, but Ms. Pierre did not. I closed the record on April 9, 2026.

Findings of Fact

Based on the evidence in the record and reasonable inferences drawn from it, I make the following findings of fact:

1. Petitioner Enise Pierre worked at Pappas from July 2010 through September 2024 when she retired. (Ex. 1; Testimony.)

2. Pappas is a chronic care hospital that provides medical, rehabilitative, educational, recreational, habilitative, transitional, and alternative medical services to children and young adults who have multiple physical disabilities and complex medical needs. (Ex. 3; *see also* [Pappas Rehabilitation Hospital for Children | Mass.gov.](#))

3. During her tenure at Pappas, Ms. Pierre held two job titles. She first worked as a Respiratory Therapist II from July 1, 2010, through December 2, 2017, and then as a Respiratory Therapist III from December 3, 2017, through September 28, 2024. (Ex. 1.)

4. As a Respiratory Therapist III, Ms. Pierre's general duties and responsibilities appeared in a Form 30 job description:

The Respiratory Therapist III (Respiratory Care Coordinator) is responsible for the development, coordination, implementation and supervision of the Respiratory Care Program and is the liaison between all the departments and the Respiratory Care Committee. This position supervises and directs all respiratory care activities, as well as supervises the education and in-service programs related to respiratory care activities and equipment. Performs all other job-related duties as assigned by supervisor.

This Form 30 is dated April 2017. (Ex. 7.)

5. The Form 30 also contains a detailed statement of duties and responsibilities for each of the following categories of work:

- Assessment of patients;
- Care of patients;
- Education;
- Continuum of care;
- Improving organization performance;
- Leadership;
- Management of the environment, human resources, and information;
- Surveillance, prevention and control of respiratory distress;
- Oversight of compliance with patient rights and organizational ethics; and
- Other related duties.

(*Id.*)

6. The Form 30 indicates that the Respiratory Therapist III reports to the Assistant Director of Nursing, and that the Respiratory Therapist III supervises respiratory vendors and Respiratory Technician IIs. (*Id.*)

7. Ms. Pierre's performance evaluation from May 2024 included ten specific duties on which her supervisor evaluated her:

- Lead/direct staff to work toward achieving organizational mission;
- Assess and evaluate patient needs for respiratory care;
- Provide respiratory care to patients;
- Educate patients and families;
- Manage environment of care;
- Ensure continuum of care;
- Conduct surveillance prevention and control of infection;
- Identify areas of training and educational needs and consistently provide staff development regarding standards of practice and care;
- Adhere to hospital medical privacy policy; and
- Comply with all hospital policies.

(Ex. 4.)

8. While she worked at Pappas, Ms. Pierre typically began her workday at 8 a.m. or earlier. Some days she would leave at 4:30 p.m., but other days she stayed to work the evening shift (3 p.m. to 11 p.m.). (Testimony.)

9. The children attended school at Pappas from 8:30 or 9 a.m., came back to their unit for lunch at 11:30 a.m. or 12 p.m., returned to school around 1 p.m., and completed their school day at 3 or 3:30 p.m. (*Id.*)

10. Before the children went to school, three or four of them needed a nebulizer treatment that Ms. Pierre estimated could take between one hour and one and a half hours. Ms. Pierre sometimes, but not always, administered some or all of these treatments. (*Id.*)

11. When they returned for lunch, two or three children required treatment, which would take less time than the morning treatments. Ms. Pierre estimated that she sometimes, but not always, spent 15 to 30 minutes providing mid-day treatments. (*Id.*)

12. When the children returned to the unit after school was over for the day, she sometimes provided treatment to one or two children. There is no evidence about the duration of these treatments. (*Id.*)

13. Before April 2024, she did not provide treatments if there were enough staff working, which occurred once or twice per week. However, one of her staff members left in April and Ms. Pierre filled in for her between her departure and Ms. Pierre's retirement in September. (*Id.*)

14. While the children were in school, Ms. Pierre's duties included attending rounds and staff meetings, checking equipment, working on time-sensitive projects, engaging in quality control, scheduling staff, logging treatments, validating documentation, checking the oxygen

room, reviewing the contents of equipment bags and emergency carts, and ordering medical supplies. She also supervised and trained staff. (*Id.*)

15. By application dated October 8, 2024, Ms. Pierre applied for Group 2 classification for her work from July 2010 through September 2024. (Ex. 1.)

16. In conjunction with her retirement application, Ms. Pierre submitted a note stating that she was the “respiratory coordinator/supervisor at Pappas Rehabilitation Hospital for Children in Canton, MA and I oversee five staff in the department.” (*Id.*)

17. As part of the review of her application, a Board staff member contacted Ms. Pierre. The staff member documented Ms. Peirre’s description of her duties:

- Arrived at work around 7:00 a.m.
- Attended rounds around 7:15 a.m., which included verifying emergency carts and updating respiratory logs. She completed this work around 9 a.m.
- Participated in a Zoom meeting with department heads from 9:30 a.m. to 10 a.m., after which she conducted rounds with the doctors for approximately 15 to 30 minutes.
- Focused on administrative duties, including logging patient information, answering emails, coordinating supply orders, managing equipment issues, and stepping in to assist with patient care as needed. This lasted until 12 p.m.
- Around 12 p.m., assisted with treatments and ensured that supplies were adequate for the afternoon.

The recitation of Ms. Pierre’s hourly duties ends there, but the staff member also listed as responsibilities staff training and education, coordination with management about documentation changes and patient care protocols, and attendance at meetings. (Ex. 5.)

10. By letter dated November 1, 2024, the Board denied Ms. Pierre’s application. Ms. Pierre timely appealed from that decision.

Analysis

Section 3(2)(g) of Chapter 32 of the Massachusetts General Laws provides a system for classifying employees' jobs into four groups for retirement purposes. At issue in this case is Group 2, which includes "employees of the commonwealth . . . whose regular and major duties require them to have the care, custody, instruction or other supervision" of people with mental illnesses, developmental disabilities, or "wayward children." G.L. c. 32, § 3(2)(g). "Regular and major duties" means that an employee spends more than half of their time providing direct care to a Group 2 population. *See, e.g., O'Rourke v. State Bd. of Ret.*, No. CR-22-0288, 2025 WL 689848, at *2-3 (Div. Admin. L. App. Feb. 21, 2025). To receive a particular classification, the employee has the burden to show by a preponderance of the evidence that she satisfies each required element of the relevant statutory provision. *See, e.g., Peck v. State Bd. of Ret.*, No. CR-15-0282, 2021 WL 12298080, at *2 (Contributory Ret. App. Bd. Feb. 8, 2021).

To determine an employee's classification, the focus is on the employee's duties at the time of retirement. *See, e.g., Jameson v. State Bd. of Ret.*, CR-17-960, 2025 WL 2902417, at *4 (Contributory Ret. App. Bd. Aug. 20, 2025). An employee's job title and job description are also key information to determine their classification. *Gaw v. Contributory Ret. App. Bd.*, 4 Mass. App. Ct. 250, 254 (1976).

In this case, Ms. Pierre must prove that her "regular and major duties," or at least 51% of her time, included providing direct care to a Group 2 population. The evidence does not show that Ms. Pierre spent more than half of her time providing direct care to patients nor is there evidence that she worked primarily with a Group 2 patient population. As much of the evidence focused on the direct care element pertinent to Group 2 classification, the analysis begins there.

Ms. Pierre's Form 30 anticipated that she would provide some direct patient care (e.g., assessment and care of patients) but primarily focused on administrative or supervisory responsibilities (e.g., staff supervision and training, leadership, management of information and human resources, general oversight, and improving organizational performance). Similarly, her performance evaluation from mid-2024 described a mix of clinical, supervisory, and administrative tasks. Her supervisor noted that she was capable and experienced in her clinical role, which included performing pulmonary function tests, assisting medical staff in obtaining arterial blood gases, and administering respiratory therapies. Her supervisor also described her administrative and supervisory work, including reviewing policies, attending rounds, consulting with pulmonologists, implementing plans to make sure that staff properly monitored respiratory equipment, interacting with nursing staff, maintaining equipment, and conducting staff training. Her performance goals included continuing to work on improving her management, leadership, and staff supervision duties. Both the Form 30 and Ms. Pierre's performance evaluation tend to indicate that she spent the majority of her time performing administrative and supervisory duties rather than direct patient care.

Ms. Pierre also described her day-to-day work at Pappas. As part of her retirement application process, a Board staff member contacted Ms. Pierre and had her describe her typical duties. She mentioned that she attended rounds, checked emergency carts, updated documentation, answered emails, ordered supplies, and managed equipment. Ms. Pierre also described assisting with patient care as needed and helping with midday treatments, but the staff member did not document how much time Ms. Pierre spent on direct care. During her testimony during this appeal, Ms. Pierre described her day-to-day work, which included many of the

administrative responsibilities listed above as well as filling in for absent staff and providing direct care.

Filling in for an absent subordinate may constitute Group 2 eligible work if it is with a relevant population. *See, e.g., Hurwitz v. State Bd. of Ret.*, No. CR-20-0642, 2024 WL 4345187, at *11 (Div. Admin. L. App. Sept. 13, 2024) (care provided by supervisor when covering for absent subordinate may qualify as Group 2 activity); *Harrington v. State Bd. of Ret.*, No. CR-17-0826 (Div. Admin. L. App. Apr. 2, 2021) (same). However, even considering the direct care Ms. Pierre performed to fill in for her subordinates, a generous view of her testimony supports the finding that she provided direct care for up to three hours per day when staffing was low.

Specifically, she testified that the children attended school for approximately five or six hours each day during her usual eight-hour shift. This means that they were present on the unit where Ms. Pierre worked for just a few hours from 8 a.m. and 4:30 p.m., which makes it difficult to understand how she could have provided direct care for more than half of her day. Indeed, using Ms. Pierre's own estimates, morning treatments totaled at most one-and-a-half hours, and lunchtime treatments totaled at most 30 minutes. There is no evidence about how long the after-school treatments took, but based on the other estimates, I infer that the afternoon treatments might have totaled 30 minutes. Thus, the maximum amount of time that she spent with students was two-and-a-half or three hours, which falls below the requisite threshold for Group 2 classification.

Neither the documentary evidence nor Ms. Pierre's own descriptions of her work reach the 51% threshold of the provision of direct care that an employee must show for Group 2 classification. Thus, I find that Ms. Pierre did not satisfy her burden of providing by a

preponderance of the evidence that her regular and major job duties involved direct care for purposes of Section 3(2)(g).

Even if Ms. Pierre had shown that she spent at least half her time providing direct care to the children, that alone would not create Group 2 eligibility. The children for whom she cared at Pappas had multiple disabilities and she treated those who had respiratory issues. However, there is no evidence to support a finding that the children she treated had mental illnesses or developmental disabilities or were “wayward children.” The work that Ms. Pierre performed was unquestionably important, but ultimately, she did not carry her burden of proof to demonstrate that she spent at least half of her time providing direct care to a Group 2 population.

Conclusion and Order

Based on the above analysis, I conclude that Ms. Pierre is not entitled to Group 2 classification. The decision of the Board is hereby affirmed.

Dated: May 1, 2026

/s/ Judi Goldberg
Judi Goldberg
Administrative Magistrate
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