

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Adrianne Zoghopoulos-Brown,
Petitioner

v.

Docket No.: CR-22-0024

Date Issued: Feb. 7, 2025

State Board of Retirement,
Respondent

Appearances for Petitioner:

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Administrative Magistrate:

Kenneth J. Forton

SUMMARY OF DECISION

Petitioner Medical Records Clerk at MCI Concord was properly classified in Group 1 under G.L. c. 32, § 3(2)(g) because her regular and major job duties, such as managing medical files, scheduling appointments, and conducting intakes, were administrative in nature and did not require her to have the care, custody, instruction, or other supervision of prisoners.

DECISION

Petitioner Adrienne Zoghopoulos-Brown timely appealed under G.L. c. 32, § 16(4) Respondent State Board of Retirement's denial of her application to be classified in Group 2 for retirement purposes. On August 22, 2023, the parties filed a joint pre-hearing memorandum. On August 8, 2024, I conducted a remote hearing over Webex videoconference. Ms. Zoghopoulos-Brown testified on her own behalf. The Respondent called no witnesses. I admitted twelve exhibits. (Exhibits 1–12.) The parties submitted closing briefs, the last of which was filed on December 11, 2024, at which point I closed the administrative record.

FINDINGS OF FACT

Based on the evidence presented by the parties, I make the following findings of fact:

1. From 1996 to 2021 Ms. Zoghopoulos-Brown worked at MCI Concord in the Medical Records Department as a Medical Records Clerk. She described herself as the “keeper of records.” (Exs. 8, 12; Testimony.)
2. At the beginning of her career, Ms. Zoghopoulos-Brown worked under a contract with vendor Medical Correctional Services. (Testimony.)
3. From 2003 until 2013, UMass Medical School, also known as UMass Correctional Health, took over the contract. (Testimony.)
4. Ms. Zoghopoulos-Brown worked 8 hours per day. Her job responsibilities, listed by UMass Correctional Health, included maintenance of medical records, scheduling medical appointments, copying medical records, organizing and distributing medical records information, reviewing medical records with inmates prior to

court appearances, tracking monthly statistical information, and distributing medical devices such as eyeglasses, canes, TED stockings, hearing aid batteries, and adult diapers. (Ex. 7; Testimony.)

5. The Medical Records Clerk “general summary of position” from UMass Medical School states that the clerk is “responsible for the maintenance and organization of medical records and files pertaining to diagnoses, treatment, admissions, and discharges.” (Ex. 12.)

6. Ms. Zoghopoulos-Brown’s performance evaluations include positive feedback and emphasize how she was an asset to the division. A 2004 performance review states that she was “in charge of record copying,” “pull[ed] records on a daily basis,” and engaged in “little patient contact.” The evaluator answered “No” to the question “[d]oes the employee provide any patient care related services?” (Ex. 12.)

7. Her duties of reviewing medical records with inmates prior to court appearances and distributing medical devices were conducted privately to comply with HIPAA patient privacy rules. Ms. Zoghopoulos-Brown estimated that she provided eyeglasses to 5 to 10 inmates per day and each interaction lasted 5 to 7 minutes. (Exs. 3, 5, 7; Testimony.)

8. During the relevant period, MCI Concord was the entrance point for all prisoners entering the Massachusetts state prison system. Ms. Zoghopoulos-Brown, a nurse, and a nurse practitioner or doctor performed the new inmate admission intakes. Ms. Zoghopoulos-Brown was responsible for describing the process to request medical records and schedule medical appointments through the ‘sick slip’ process. She estimated

that there were 15 to 25 intakes per day and her portion of the intake would last around 15 minutes. (Exs. 3, 5; Testimony.)

9. Ms. Zoghopoulos-Brown was responsible for collecting the sick slips. She either received them directly from the inmates or retrieved them from a box in the “chow hall.” The inmate would then be added to a list, and she would schedule the requested appointments. She was occasionally confronted by inmates about the long wait times. (Ex. 5; Testimony.)

10. Ms. Zoghopoulos-Brown assisted the nurses during flu season by going to each inmate’s unit and explaining what the flu vaccine was and when it was going to be administered. She also kept track of which prisoners wanted the vaccine. (Testimony.)

11. There were two Medical Record Clerks, including Ms. Zoghopoulos-Brown. They shared the job duties of assembling medical records for court, retrieving sick slips, delivering records for transfers when a prisoner was leaving MCI Concord, and answering inmates’ questions informally. Ms. Zoghopoulos-Brown was solely responsible for explaining to inmates how to access their medical records during intakes and handing out medical devices. (Testimony.)

12. MCI Concord is a medium security prison, meaning inmates are not confined to their housing units. Inmates performed jobs around the facility such as cleaning Ms. Zoghopoulos-Brown’s office. (Ex. 3, 5; Testimony.)

13. There were two Correction Officers assigned to the health unit, and if there were problems within the unit the Correction Officers were responsible for handling any trouble. (Testimony.)

14. On April 16, 2021, Ms. Zoghopoulos-Brown applied for prorated Group 2 Classification for her employment by UMass Medical School from July 1, 2003 through June 30, 2013. (Exs. 1, 3, 12.)

15. On December 30, 2021, the State Board of Retirement denied Ms. Zoghopoulos-Brown's request for Group 2 classification. (Ex. 2.)

16. Ms. Zoghopoulos-Brown was notified of the Board's decision on January 14, 2022. (Ex. 2.)

17. On January 19, 2022, Ms. Zoghopoulos-Brown timely appealed the Board's decision. (Ex. 1.)

CONCLUSION AND ORDER

Contributory retirement system members are classified into four groups to determine what benefits they are entitled to when they retire. G.L. c. 32, § 3(2)(g). Group 1 includes "[o]fficials and general employees including clerical, administrative and technical workers, laborers, mechanics and all others not otherwise classified." *Id.* Group 2 includes employees "whose regular and major duties require them to have the care, custody, instruction or other supervision of prisoners." *Id.* The member's "regular and major job duties" are "those she spent more than 50% of her working hours performing." *McKinney v. State Bd. of Ret.*, CR-17-230, CR-17-868, at *6 (DALA Sept. 29, 2023); *Forbes v. State Bd. of Ret.*, CR-13-146, at *7 (CRAB Jan. 8, 2020); G.L. c. 32, § 3(2)(g). She must prove her duties by a preponderance of the evidence. *Forbes*, *supra*.

Ms. Zoghopoulos-Brown contends that the interactions she had with inmates when conducting intakes, reviewing medical records, and retrieving sick slips qualifies her for Group 2 classification. The Board does not dispute that Ms. Zoghopoulos-Brown came

into direct contact with inmates. However, the Board argues Ms. Zoghopoulos-Brown's regular and major job duties were administrative in nature, and she did not engage in the "care, custody, instruction, or other supervision of prisoners." G.L. c. 32, § 3(2)(g).

After careful consideration of the evidence, I have concluded that Ms. Zoghopoulos-Brown is not entitled to Group 2 classification because she did not engage in the care, custody, instruction, or other supervision of prisoners. Her regular and major job duties were administrative, and her interactions with inmates were incidental to her clerical duties.

Group classification generally depends on the employee's current job duties at the time of retirement. *Maddocks v. Contributory Ret. Appeal Bd.*, 369 Mass. 488, 494 (1976). An employee's title and job description are "key" in determining an employee's eligibility for the appropriate group classification. *Forbes*, supra, at *7. The two job descriptions in the record include primarily administrative and clerical tasks such as managing medical records, scheduling appointments, and distributing records and medical devices. Ms. Zoghopoulos-Brown described herself as the "keeper of records."

Ms. Zoghopoulos-Brown has not demonstrated that she engaged in the care of prisoners. Ms. Zoghopoulos-Brown testified that she had direct contact with inmates while conducting admission intakes, distributing eyeglasses and other medical equipment such as canes, and while collecting sick slips. Additionally, when inmates requested their medical records, she individually reviewed them with the inmate. However, "mere contact with patients and the incidental provision of care as part of an administrative role is not sufficient to qualify an individual for Group 2 classification." *Desautel v. State Bd. of Ret.*, CR-18-0080, at *3 (CRAB Aug. 2, 2023).

During the admission intakes, Ms. Zoghopoulos-Brown described to new inmates how to request medical records and schedule medical appointments using the sick slips. She stated that conducting intakes took approximately 4 to 6 hours of her day, but this job duty is not included in her job description nor is it in her performance evaluations. In her 2004 performance evaluation, one comment stated that she had “little patient contact.” Ms. Zoghopoulos-Brown’s job description is not dispositive, but it is helpful evidence of her actual duties. *Daley-Horgan v. State Bd. of Ret.*, CR-22-0227, at *6 (DALA Dec. 6, 2024). I am therefore not persuaded that she spent between 4 to 6 hours each day performing this one duty. Although I do not doubt that Ms. Zoghopoulos-Brown had a part in the intake process, she has not proven by preponderance of the evidence that this work took up more than half of her time overall.

“Care” in this context is not merely “performing some discrete service, but taking on responsibility for some aspect of an individual’s well-being.” *Long v. State Bd. of Ret.*, CR-21-0287, at *4 (DALA Oct. 13, 2023). Ms. Zoghopoulos-Brown argues that she had responsibility for the inmate’s health by informing them how to use sick slips to request medical appointments and by continuously answering their questions about this process, but beyond providing this bureaucratic, procedural information she was not responsible for their health or well-being. There is no denying that Ms. Zoghopoulos-Brown was an asset to the medical records unit, as evidenced by her positive performance evaluations, but her contact with the inmates was in “the context of some greater administrative function,” which does not qualify for Group 2 classification. *See Columbus v. State Bd. of Ret.*, CR-12-21, at *2 (DALA June 12, 2015).

The decision in *Columbus*, supra, exemplifies this rule. Ms. Columbus did not qualify for Group 2 classification because her job description and performance review form depicted that most of her work was clerical in nature and her contact with the inmate population at the Barnstable County House of Correction was “ancillary to her greater administrative functions.” *Id.* at *3. Similar to Ms. Zoghopoulos-Brown, Ms. Columbus was known by inmates as someone who could help them with their payroll and employment questions, but answering these questions “came as a result of her higher administrative functions.” *Id.* In comparison, Licensed Practical Nurses working in the Barnstable County House of Correction qualified for Group 2 classification because they provided daily direct care to the inmates. *Emplit, et al. v. Barnstable Ret. Bd.*, CR-03-494, 03-495, 03-496, at *7 (DALA Sept. 3, 2004). They were responsible for taking inventory of syringes and narcotics, meeting with the diabetic inmates to check blood sugar and administer insulin, and answering sick call slips to perform first aid and conduct intake evaluations to determine whether an inmate needed to see a physician. *Id.* at *3. Their administrative duties were ancillary to these direct care functions, differentiating themselves from Ms. Columbus whose contact with inmates was only in the context of her administrative functions. *Id.* at *6.

Neither did Ms. Zoghopoulos-Brown have custody over inmates. Custody in the “correctional context has been interpreted to involve the exercise of physical control over prisoners.” *McKinney*, supra, at *7; *Colon v. State Bd. of Ret.*, CR-12-622, at *5-6 (DALA Apr. 7, 2012). The exercise of custody entails the “responsibility inherent in wide-ranging physical control as well as the resulting responsibility for the security and well-being of individuals who are not allowed to fully look after their own safety.”

McKinney, supra, at *9. Ms. Zoghopoulos-Brown testified that there were two Correctional Officers assigned to the health unit where she worked and, if there was a problem with an inmate, they were responsible for handling it. In the absence of any other evidence, I am not persuaded that Petitioner had custody of inmates.

For purposes of Group 2 classification, “instruction may take place outside the classroom and include guidance and information.” *Long*, supra, at *10. However, not all transmission of information constitutes instruction. *Daley-Horgan*, supra, at *9. Although Ms. Zoghopoulos-Brown did provide information to the inmates during their admission intakes, this does not rise to the level of “instruction” in the context of Group 2 classification.

In *Berube*, Mr. Berube was a Screener at the Intake Unit of the Department of Social Services (DSS) who *did not* qualify for Group 2. *Berube v. State Bd. of Ret.*, CR-05-853 (DALA Oct. 20, 2006). Mr. Berube’s primary job duty was to collect information from mandated reporters and decide whether to proceed with an investigation. *Id.* at *1. He also participated in group work and other therapeutic models with clients at DSS; however, “mere interaction with potentially violent, aggressive, and mentally ill people [did] not constitute care, custody, instruction, or other supervision over them.” *Id.* at *1-2. Like Ms. Zoghopoulos-Brown, Mr. Berube’s primary job duties were administrative despite having other responsibilities that required interaction with mentally ill clients. *Id.*

Members who have qualified for Group 2 by instructing inmates or mentally ill persons have had an ongoing role in, and impact on, their lives. This is not true of Ms. Zoghopoulos-Brown’s presentation of information in admission intakes. For example, in *Burciaga*, Ms. Burciaga was a Child Adolescent Case Manager for the Department of

Mental Health (DMH) who qualified for Group 2. *Burciaga v. State Bd. of Ret.*, CR-03-940 (DALA Mar. 25, 2005). She was responsible for teaching several daily life skills including “hygiene skills, social skills, and financial budgeting” to children and adolescent patients at DMH. *Id.* at *2. She provided instruction routinely and cared for them by providing transportation and attending their appointments. *Id.* at *2-3. In contrast, Ms. Zoghopoulos-Brown met with inmates for a few perfunctory minutes.

Additionally, in *Giard*, Ms. Giard was an Infectious Disease Case Manager who qualified for Group 2 because her daily duties involved meeting with, advising, and administering medicine to inmates. *Giard v. State Bd. of Ret.*, CR-08-347, at *2 (DALA June 8, 2012). Like Ms. Zoghopoulos-Brown, Ms. Giard scheduled appointments using sick slips, but she was additionally responsible for assessing their physical well-being, educating them on infection control and the nature of their diseases, and—most importantly—administering treatment during these appointments. *Id.* at *4.

Giard and *Burciaga* can both be distinguished from Ms. Zoghopoulos-Brown’s job duties, as their jobs had a more involved and profound effect on the well-being of their clients. Although Ms. Zoghopoulos-Brown did provide some instruction to the inmates about the prison’s policies, it was for a short 15 minutes and involved no continued responsibility for the prisoners’ well-being.

Finally, Ms. Zoghopoulos-Brown did not have “other supervision” of inmates that would qualify her for Group 2 classification. Other supervision requires “personal and direct” interactions with a Group 2 population, “breadth and depth” of responsibility, and “watchfulness and attention.” *McKinney*, *supra*, at *19-20. While Ms. Zoghopoulos-Brown did have one-on-one interactions with the inmates when conducting intakes and

distributing medical records and equipment, these tasks did not have “breadth and depth” of responsibility, nor did they require “watchfulness and attention.”

In *McKinney*, Ms. McKinney’s classification duties had breadth and depth of responsibility because it required her to determine the inmate’s security levels, housing, and institutional operations, which all have an “impact on fundamental aspects of inmates’ custody.” *Id.* at *9-10. Ms. McKinney also needed to have a watchful regard when discussing sensitive topics with inmates who each had varying demeanors. *Id.* at *10. Ms. Zoghopoulos-Brown’s intakes differ from Ms. McKinney’s because these interactions were not evaluations of the inmates that required decisions with an ongoing effect on their lives; Ms. Zoghopoulos-Brown’s intakes were simply procedural. She may have had to adjust to each prisoner’s demeanor requiring some level of watchfulness, but as previously mentioned there was always a Correctional Officer nearby and these interactions lasted an average of 15 minutes. Ms. Zoghopoulos-Brown had an important role in the intake process, but it did not constitute “other supervision.”

Ms. Zoghopoulos-Brown testified regarding the dangers involved in working in a correctional facility. She stated that she was exposed to inmates when walking through the yard to get sick slips, in her office, and in the medical facility generally. However, exposure to danger does not establish an entitlement to Group 2 classification.

Woodward v. State Bd. of Ret., CR-20-0359, at *10 (DALA Dec. 17, 2021).

CONCLUSION AND ORDER

For the above-stated reasons, Ms. Zoghopoulos-Brown is properly classified in Group 1 and the Board's decision is AFFIRMED.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

Dated: Feb. 7, 2025