

**Children's Hospital of Pittsburgh and Children's Hospital Technical Employees Independent Association, Petitioner.** Case 6-RC-7167

January 27, 1976

**DECISION AND DIRECTION OF ELECTION**

BY MEMBERS FANNING, JENKINS, AND PENELLO

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Thomas M. Lucas. Pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedures, Series 8, as amended, this case was transferred by direction of the Regional Director for Region 6 to the National Labor Relations Board for decision. Thereafter, the Employer and the Petitioner filed briefs.<sup>1</sup>

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this proceeding, the Board finds:

1. The parties stipulated that the Employer was involved in interstate commerce within the meaning of the Act. However, the issue was raised at the hearing whether the Employer was so intimately related to the Commonwealth of Pennsylvania, that the Board should decline to assert jurisdiction.

Children's Hospital of Pittsburgh, the Employer herein, is a Pennsylvania nonprofit corporation specializing in pediatric health care and employs a staff of approximately 1,100. The hospital is governed by a board of trustees who are selected from the community at large, and who appoint an administrator to manage the hospital. The administration of the hospital is divided among an associate administrator and three assistant administrators. The board of trustees also selects a medical director and chief of staff who is responsible both to the board and to the administrator. The medical director/chief of staff is also chairman of the department of pediatrics at the University of Pittsburgh Medical School.

The Employer's main facility is in a complex of hospitals near the University of Pittsburgh medical, pharmacy, dental, and nursing schools. The Employ-

er also utilizes other buildings for certain functions. Along with six other hospitals in the near vicinity, the Employer is a member of the University Health Center of Pittsburgh.<sup>2</sup> The center was incorporated about 1962 to improve teaching, research, and clinical facilities for the education of medical, dental, nursing, and other university students. The center also serves to increase efficiency and cut costs of member hospitals. The center's board of trustees consists of representatives from five member hospitals and the chancellor of the University of Pittsburgh, who represents the Psychiatric Institute, which was described as an instrumentality of the Commonwealth of Pennsylvania managed by the University. The Veterans Administration Hospital is an associate member for the purpose of teaching and receiving services provided by other member hospitals.

The member hospitals have set up a number of centralized services, such as laundry, data processing, pharmacy, and central laboratories, each of which is run by a member hospital. Children's, for example, runs the central laboratories but charges other member hospitals for the services provided. Member hospitals have agreed not to appoint any physicians or dentists to their staffs who do not have academic appointments with the University in the school of medicine, dentistry, or public health. The salaries of these professionals are shared by the University and the hospitals in proportion to the time spent performing academic or hospital duties. Many of the hospital doctors spend only a small portion of their time teaching—some spend but a few hours per day for a few weeks. The center hospitals have also adopted uniform policies for internships and residencies. Although interns receive their checks from the University, the member hospitals where they serve pay their full salaries. Chief residents, however, are paid by the University because they spend most of their time teaching.

The record also indicates that member hospitals have a "gentlemen's agreement" allowing personnel to retain seniority when transferring from one institution to another. However, an effort is made to avoid raiding among the members, and there is, in fact, little transfer at other than the professional levels and in some centralized services. Member hospitals meet and agree with the University on common budget items.

Although the Employer, through membership in the center, maintains a relationship with the University, as well as other member hospitals, the Employer remains a separate corporation, with an individual

<sup>1</sup> The Employer's request for oral argument is hereby denied, as the record, including the briefs, adequately presents the issues and the positions of the parties.

<sup>2</sup> The other members are Presbyterian University Hospital, an adult general care facility, Magee Women's Hospital, Montefiore Hospital, an adult general care facility, Eye and Ear Hospital; Western Psychiatric Institute and Clinic; and Veterans Administration Hospital.

history and its own board of trustees. Subject to the provisions of the center for doctors and dentists, neither the center nor the University controls the personnel policies of the Employer. The Employer, subject to the above limitations, does its own hiring and firing, sets its own salaries, and maintains its own personnel policies. In this connection, the Employer has a history of collective bargaining with the Operating Engineers for a maintenance unit.

Under the provisions of the center's bylaws, a member hospital need not utilize any of the central services, nor need it provide any such service. Thus, for example, Montefiore Hospital does not utilize the central laundry services, while a nonmember facility, Mercy Hospital, does. The record also shows that if the Employer were to stop running the central laboratories the laboratories would be transferred to another hospital for management.<sup>3</sup> A member retains its right to refuse to abide by any center decision. In addition, the bylaws permit a member to withdraw. Other than through its participation in the center, the University does not concern itself with the administration, labor relations, or personnel policies of the Employer, and, other than approval of employees on its faculty, is not involved in hiring, firing, or disciplining employees.

From the foregoing it is apparent that the University of Pittsburgh exercises only minimal control over the Employer, especially with respect to nondoctors. More important, whatever the degree of control by the Commonwealth of Pennsylvania over the University of Pittsburgh, the control by the Commonwealth over the Employer is *de minimis*. The University of Pittsburgh is not a state university but a private institution related to the Commonwealth. The University is partially funded by the Commonwealth. One third of the board of trustees is appointed by the Commonwealth and includes Commonwealth officials. Although the Commonwealth may exercise a degree of control over the University and although the University may have a relationship to the Employer through the center, Commonwealth control over the Employer is, at most, indirect, dilute, and remote.

For the above reasons, we find that the Employer is not an instrumentality of the Commonwealth of Pennsylvania. Accordingly, we find that it will effectuate the purposes of the Act to assert jurisdiction over the Employer.

2. Petitioner is a labor organization within the meaning of the Act.

3. A question affecting commerce exists concerning the representation of employees of the Employer

within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. The Petitioner seeks a unit consisting basically of all technical employees at the Children's Hospital of Pittsburgh. It contends that the appropriate unit should include all regular full-time and part-time technicians, technical/professional employees, assistant section heads, and technical clerical employees, including those in central clinical chemistry, hematology, bacteriology, histology, research, X-ray, inhalation therapy, physical therapy, operating room, immunology, pathology, and central laboratories. The Petitioner would exclude all physicians, registered nurses, licensed practical nurses, nurses assistants, service and maintenance employees, office clerical employees, seasonal employees, part-time student employees, all other employees, guards, and supervisors as defined in the Act.

The Employer contends that a "wall-to-wall" unit of all employees at Children's is the minimal appropriate unit for collective bargaining. In the alternative, the Employer contends that the Board should find separate units of all professional employees, all technical employees, service and maintenance employees, and office clerical employees. The Employer would exclude all assistant section heads as supervisory. There also exist issues regarding supervisory status of particular individuals and whether certain employees are technicals.

Although neither party took the position that the unit must include employees of other hospitals affiliated with the University Health Center of Pennsylvania, the issue was raised at the hearing. The member hospitals are individually administered and have the right to sever their membership in the center practically at will. Within certain limited exceptions, none involving the unit sought herein, labor relations policies are individually administered. The Employer does its own hiring, maintains its own personnel policy, and individually conducts labor negotiations. The Employer also does all hiring for the central laboratories. Nothing in the bylaws of the center provides for the conduct of labor negotiations. The center has not been given authority to bargain on behalf of the Employer, although it has been requested to advise the Employer on labor relations. As indicated above, the Employer has bargained with the Operating Engineers in a maintenance department unit. The Employer is currently subject to the second of consecutive 3-year bargaining agreements. Although transfer and interchange of employees occurs, it occurs primarily in the central services. It does not regularly occur throughout the hospital operations. Accordingly, we find that the Children's Hospital of Pittsburgh is a separate employer for the purposes of collective

<sup>3</sup> Apparently, central laboratory employees would be included in such a transfer.

bargaining.<sup>4</sup> The so-called central laboratories of the center are located in various member hospitals and other area buildings. However, they are run, staffed, and controlled by the Employer. Accordingly, they are included within the appropriate unit.

The Board has held that a separate unit of technical employees in a health care facility will be granted "when such a unit is sought and the facts indicate that the employees in that unit are, in fact, technical employees." *Nathan and Miriam Barnert Memorial Hospital Association d/b/a Barnert Memorial Hospital Center*, 217 NLRB No. 132 (1975). Accordingly, we find that a separate unit of the Employer's technical employees constitutes an appropriate unit for the purposes of collective bargaining.

Having affirmed that a unit of technical employees in a hospital is an appropriate unit, we shall now consider whether the various categories of employees whom the Petitioner seeks to include in the unit are, in fact, technical employees. In determining whether employees are technical employees, we shall apply the Board's criteria that technical employees are those "who do not meet the strict requirements of the term 'professional employee' as defined in the Act but whose work is of a technical nature involving the use of independent judgment and requiring the exercise of specialized training usually acquired in colleges or technical schools or through special courses."<sup>5</sup>

*Medical Technologists:* Children's Hospital employs a number of persons classified as medical technologists in various laboratories. The Petitioner contends that they are technical employees, or that if they are professional they should be permitted to vote whether they want to be included within the technical unit because of a close community of interest. The Employer contends that they are professional employees.

Medical technologists in the hospital are graduates of a 4-year college course with a bachelor of science in medical technology and 1 year of clinical experience. Upon passing an examination, they are certified by the American Society of Clinical Pathologists. A person may also be certified if he has a bachelor's degree in chemistry, physics, or biology and completes 4 years of clinical experience in the laboratory.

Although certified technologists work side by side with technicians, the technologists generally perform the more complex assignments. They must be able to perform the newest tests using the most sophisticated laboratory equipment. Technologists are expected to

have the knowledge and ability to use all the laboratory equipment and to know if such equipment is properly functioning. They are expected to recognize deviations in test results and to be able to find the incongruities.

We find the medical technologists to be professional employees. They have an advanced knowledge acquired by a prolonged course of intellectual instruction, and they perform intellectually varied work requiring the exercise of judgment and discretion. Accordingly, we shall exclude them from the technical unit.

There are also several laboratory employees who have completed their degree requirements for medical technologists, but who have not yet attained certification. Their job responsibilities appear nearly identical to that of certified medical technologists. Since these employees are performing professional work and since they are seeking to obtain certification, we find that they too are professional employees falling within the definition of Section 2(12)(b), if not 2(12)(a), of the Act. Accordingly, we shall exclude such employees from the technical unit.

The laboratories also employ a number of persons who have not been certified as technologists and who are not attempting to satisfy certification requirements. They may possess degrees in chemistry, biology, or related science. Although they perform work alongside certified technologists and do many of the jobs performed by certified technologists, the record does not establish that they are professional employees within the meaning of the Act. The Act requires a professional to have both varied judgmental work and a formal training in the profession. On balance, we find that the employees who are not certified or seeking certification as medical technologists do not meet the strict requirements of "professional employees" but are technicals. Accordingly, we shall include them within the unit.

The Petitioner, in the alternative, requests that medical technologists, as professional employees, be allowed to participate in a self-determination election to determine whether they wish to be represented in a technical unit. To do so here would be inappropriate, since such an election might result in the establishment of a unit limited to medical technologists, a unit, absent unusual circumstances, we have found to be inappropriate.<sup>6</sup> Accordingly, we reject Petitioner's alternate request.<sup>7</sup>

*Licensed Practical Nurses:* It is clear from the record, and no party contends otherwise, that nursing assistants are not technical employees. Nursing assistants are not required to be high school graduates,

<sup>4</sup> Cf. *Mercy Hospitals of Sacramento, Inc.*, 217 NLRB No. 131 (1975)

<sup>5</sup> *Litton Industries of Maryland, Incorporated*, 125 NLRB 722, 724-725 (1959).

<sup>6</sup> See *Mercy Hospitals of Sacramento, Inc.*, *supra*

<sup>7</sup> See *The Presbyterian Medical Center*, 218 NLRB No. 192 (1975)

they are not licensed, they belong to no association, and their training is basic bedside training such as that given nurses aides. In addition to the 60 to 70 nursing assistants at Children's Hospital, the Employer employs 2 licensed practical nurses. The LPN's have taken specialized training and are licensed, having passed a state examination. Generally, LPN's are included in a unit of technical employees. *Barnert Memorial Hospital Center, supra*. However, the Board is not welded to such a position and will exclude LPN's from a technical unit in appropriate circumstances. *Bay Medical Center, Inc., 218 NLRB No. 100 (1975)*. Such circumstances are present here.

Medical nursing care for children is more complex and demanding than nursing care for adults. As a result, the Employer hires a much higher ratio of registered nurses in proportion to assistants than most hospitals. In fact, the Employer does not hire LPN's as such and is apparently phasing out the hiring of any LPN's. It is clear from the record that the LPN's perform the same work as nursing assistants and do not need to exercise the requisite independent judgment to be classed as technicals. Although the LPN's possess the necessary technical training, they do not, in this case, perform technical work. Accordingly, we shall exclude them from the unit.

*Laboratory Technicians and Trainees:* The Employer employs certified technicians, uncertified technicians, and laboratory trainees. Certified technicians have completed a 12-18-month training course and are certified by the American Society of Clinical Pathologists. We find they are technical employees and are included in the unit. Uncertified laboratory technicians have received on-the-job training. They perform many of the same tests as the certified technicians. In some labs they do not, however, perform the more complex standard tests. In view of their close relationship with and their duties similar to those of certified technicians, we find they are technical employees. *Barnert Memorial Hospital Center, supra*.

Two of the central laboratories have trainees. Trainees must be high school graduates. The laboratories provide a 1-year course and certify those who pass the examination. The certification extends only to the laboratories. In the first 3 months of training they receive no compensation, and they are not guaranteed jobs upon successful completion of their training. These employees undergoing training do not meet the standard for technical employees, and we shall exclude them from the unit. Those who have successfully completed their training and received laboratory certification and who are working for the Employer perform the same tests as certified techni-

cians. Accordingly, we shall include them in the unit.

*Lab Clerks:* This classification includes laboratory charting clerks, clerk technicians, and labor assistants (dishwashers). Laboratory clerks and technicians accept specifications, punch information into a computer, spin down blood, and write requisitions. Laboratory assistants are primarily dishwashers and messengers. With few exceptions, the lab clerks do not involve themselves in laboratory testing procedures. They are not required to have any formal education and do not receive other than minimal on-the-job training. They are at the lower level of pay classification.

The Petitioner does not contend that they are technical employees, but argues that they should be included in the technical unit because of a close community of interest with the technicians. In this connection, the Petitioner argues that they have no community of interest with service and maintenance employees and are clearly not office clericals. Nonetheless, it is apparent that lab clerks are not technical employees. Accordingly, we shall exclude them from the unit.

*Part-time Employees:* The Employer employs a number of part-time employees who perform technical work. Generally, the technical part-time employees are students, primarily in the University of Pittsburgh dental school. Those who work more than 20 hours per week receive *pro rata* vacation benefits, but, otherwise, part-time employees receive no fringe benefits. The part-time employees with whom we are here concerned are those who perform technical work and who by virtue of their education possess the necessary technical skills.

The Petitioner would exclude part-time employees because, as students, they do not expect to be permanent employees of the hospital. However, the test as to whether part-time employees should be included is not based on the expectancy of permanent employment, but is based on the part-time employees' relationship to the job—whether they perform unit work and whether they have a sufficient regularity of work to give them a community of interest with full-time employees with respect to wages, hours, and other working conditions. For this reason we shall, as we traditionally have, include regular part-time employees who perform technical work in the unit herein found appropriate.

The Employer also hires a number of summer employees. There is no indication in the record that they have any expectancy of continued employment either in other summers or throughout the year. Accordingly, they shall be excluded from the unit as temporary employees.

*Research Technicians:* There are a number of tech-

nical employees employed in a variety of research projects funded by various grants. The wages and benefits such employees receive are generally similar to other technicians but can be subject to negotiation depending on qualifications and the size of research funds. The grants vary in duration and in restrictions. Since the record is inadequate to determine which grant projects employing technicians are of such a nature as to establish a community of interest with other technicians, we shall allow technical employees in such projects to vote subject to challenge.

#### Supervisory Status of Section Heads and Assistant Section Heads

A number of questions were litigated at the hearing concerning the supervisory status of section heads and assistant section heads in the Employer's various laboratories and technical departments. Although there are differences in the departments, the Employer's policy is basically uniform. Departmental differences will be pointed out below in our discussion of the individual departments.

The overall administration of the hospital is by an administrator who delegates authority to an associate administrator and three assistant administrators. The medical staff is separately administered. Each department or division is run by a department head or division head, herein uniformly called section heads. Official policy provides that section heads have authority to receive excuses for absence, require medical excuses, agree to pay sick leave, grant relief periods, grant overtime, advise on scheduling, and promote employees. Some have effectively recommended discharge of employees under them. They spend the vast majority of their time in administrative functions. Under the hospital's uniform pay policy, section heads and assistant section heads generally as designated by a single or double "X." Technicians are designated merely with a "P" and a number. The record is clear and it is undisputed that section heads are supervisors within the meaning of the Act.

In dispute is the status of assistant section heads. Like section heads, the assistants do not receive overtime. Some of these persons are professionals and would be excluded from the unit in any event. However, it appears from the record that others are non-professionals. Assistant section heads do not have the authority to hire, fire, discipline, or promote employees or to effectively recommend the same. Assistant section heads spend most of their time performing unit work. Generally they spend a small part of their time assisting section heads in quality control

and administrative tasks. With few exceptions, they do not attend laboratory managers' meetings. With the presence of a section head to direct employees, the record shows that assistant section heads do not responsibly direct employees. On this record, it appears that assistant section heads are more akin to leadmen than supervisors. For these reasons, we find, with the exceptions below, that assistant section heads are not supervisors within the meaning of the Act.

Robert Anderson is located at Falk Clinic, where the Employer has laboratory facilities; Kathryn Frisch is located in an office building. Because they are isolated from the main facilities, no higher supervisory authority is present in the immediate vicinity. It also appears that Barbara Vale in bacteriology has been delegated authority commensurate with Anderson and Frisch. Each of the three attends the monthly laboratory managers' meetings. Because of the particular circumstances in which these persons are involved, we find that each responsibly directs employees. Accordingly, we find that these particular individuals, whether called assistant section heads or section heads, are supervisors within the meaning of the Act.

#### Departments With Technicians

To help clarify our Decision herein, we shall briefly discuss departments in which issues were raised concerning the unit status of employees. The unit, however, is not necessarily limited to the departments herein listed but includes all technical employees employed by the Employer.

1. *Central laboratory services* is one of the centralized laboratories for the collection of out-patient blood samples. It is located in the Falk Clinic and the Western Psychiatric Institute and Clinic. This laboratory is supervised by Robert Anderson (see above) and employs about five technicians and two clerks.

2. The *central hematology laboratory*, another of the centralized laboratories, is located in four institutions, including the Employer. Hematology performs a number of different hematology, urinalysis, and blood tests. Hematology is divided functionally into four sections under the direction of Dr. Breitfeld, the director. Ronald Costello is the administrative assistant. He and the division chiefs constitute the other supervisory authority. The assistant section heads are not supervisors. They teach students, review the work of technicians (quality control), and perform laboratory work. They do not possess supervisory authority, except in instances when section heads are absent. In this circumstance, an assistant may adjust schedules and reassign the workload. Such sporadic direc-

tion of employees is not sufficient to create supervisory status.

3. The *central clinical chemistry department* is another centralized laboratory and is located in Presbyterian Hospital, with facilities elsewhere, including the Employer. Central clinical chemistry is functionally divided into several sections—automated, enzymology, toxicology, endocrinology I, endocrinology II, microchemistry, special services for research and development, night call, and clerk charting. The laboratory is directed by a pathologist. An associate director, also a pathologist, and a pathologist over each section constitute the supervisory staff.

Interviewing, hiring, and firing is done by the administrative assistant or director, although assistant section heads may be involved in the interviewing process. Assistant section heads may prepare employee report forms, but it does not appear that they make effective recommendations respecting promotions or disciplinary actions. Many of the sections also have senior technicians. It appears that the assistant section heads and senior technicians spend the majority of their time performing technical work with much of the rest spent on quality control and trouble shooting. Accordingly, we find that they are not supervisors.

The Employer specifically contends that Catherine Baca and Mary Jo Sargus are supervisors. Catherine Baca is the assistant section head in the microchemistry section. She does not have an "X" rating but rather a "P 11." Mary Jo Sargus, also in pay grade "P 11," is designated as assistant section head in the special services section. Catherine Baca rotates with three other assistant section heads on weekends to fill a similar position in the night call section. Baca spends 60 to 70 percent of her time doing laboratory work, with the balance spent primarily in trouble shooting and quality control. Although Baca has filled out evaluation forms, they are reviewed by the director. Any scheduling Baca does is routine. On rotation at the night call section, Baca works alone and spends her time doing laboratory work. Accordingly, we find that Catherine Baca is not a supervisor.

Mary Jo Sargus has duties similar to those of Baca. Sargus spends about 90 percent of her time performing unit work. Her other work is clerical and routine. She does not hire, fire, discipline, interview, or recommend the same. She has filled out a performance review but the reviews are given little attention unless made by a division chief. Accordingly, we find that Mary Jo Sargus is not a supervisor within the meaning of the Act.

4. The *central immunopathology laboratory* is located in three buildings, the main laboratory being in a

building owned by the University of Pittsburgh. This is the smallest of the centralized laboratories. It is under the direction of a pathologist and two assistant directors, also pathologists. As previously indicated, Katheryn Frisch is also a supervisor. She participates in employee interviews, handles grievances, authorizes time off and overtime, prepares employee evaluations, and does not routinely perform unit work. There is also an assistant section head who spends 75 percent of her time on unit work and the rest in quality control and routine scheduling. Although the assistant head fills in, in the absence of Frisch, such sporadic assumption of supervisory status is not sufficient to make her a supervisor. Accordingly, we find the assistant section head is not a supervisor within the meaning of the Act.

5. The *clinical study core laboratory* has two research assistants who both appear to be technologists and therefore professionals. The part-time technician is a summer employee.

6. *Physical therapists* at the Children's Hospital have bachelor of science degrees and are certified by the American Physical Therapy Association. To receive certification a therapist must have completed 1 year of clinical experience. The chief physical therapist is a supervisor. The parties stipulated that the three therapists who work in the physical therapy department are professionals. Accordingly, we shall exclude the physical therapists from the unit. *Kaiser Foundation Hospitals*, 219 NLRB No. 78 (1975).

There is a physical therapy technician in the department who was certified upon completion of a 6-week course. She has received additional on-the-job training. She performs many of the same procedures as the therapists. In view of the fact that the technician performs tasks similar to the therapists' and that she is registered, we find that she is a technical employee.

7. *Respiratory therapists* must complete a 2-year training program and pass an examination to be certified by the National Board of Respiratory Therapists. Dean Sterling is the supervisor. These employees use various equipment that requires technical training to operate. They receive training and perform work similar to that of the respiratory care technicians found in *Barnert Memorial Hospital Center, supra*, to be technical employees. Accordingly, we shall include them in the unit.

8. The *endocrinology research laboratories* are located in Children's Hospital and are funded by a research grant. Catherine Richards is a certified technologist and excluded as a professional. The other technician lacks certification. Although she performs complicated research procedures, there is insufficient record evidence to determine whether she too is a

professional. In any event, she is involved in a funded research program and will be allowed to vote subject to challenge. (See above.)

9. The *bacteriology laboratory* employs several certified technologists who are excluded from the unit as professionals. There are also two employees who are not certified technologists but who are clearly technical employees included within the unit. There are also two laboratory assistants who do not qualify as technical employees and who will be excluded from the unit. Barbara Vale, mentioned above, was stipulated to be a supervisor.

10. The *virology laboratory* technicians are under the supervision of Barbara Vale. Two of the technicians also work for pathology. There is no evidence that any of the technicians are certified technologists, and they are included in the unit. The glass washer is not technical and shall be excluded.

11. The *pathology technician* is indisputably a technical employee. The pathology assistants are professional employees, and the other employees in the department are clerical.

12. The *cardiology department* employs a nurse specialist and a clinical specialist, both of whom are registered nurses and excluded. Also employed in the department is a professional social worker. The EKG technicians are not technical employees and will be excluded. *Barnert Memorial Hospital Center, supra*. Similarly, the cardiology aid is excluded. The cardiovascular technologist has the responsibility of operating the equipment necessary to perform a heart catheterization. Although he had had military training, he is not a certified technologist and shall be included within the unit. The ECHO technician has had training in respiratory therapy and has a college degree. She has also received additional hospital training. She is a technical employee and will be included in the unit.

13. The *radiology department* employs a number of X-ray technicians. Although their work is more complex because the patients are children, it is not significantly different from the work performed by X-ray technicians in *Barnert Memorial Hospital Center, supra*. Accordingly, we shall include the X-ray technicians in the unit. Two employees perform the same work as registered technicians but are not themselves registered. They shall also be included in the unit.

14. *Cardiopulmonary technologists* operate and calibrate profusionist equipment during the course of open-heart surgery and in the intensive care unit. One of the technologists is a registered nurse and shall be excluded. The others are certified by, or in the process of obtaining certification from, the American Society of Extraperforical Technology. Certification requires an examination following 2

years of experience and the completion of 100 clinic cases. We find that the cardiopulmonary technologists are technical employees and shall include them in the unit. *Mercy Hospitals of Sacramento, Inc., supra*.

15. The *operating room* employs operating room technicians, both certified and noncertified, and sterilization technicians. Certification requires completion of an 8-month course and a national examination. Three operating room technicians are certified and one is in the process of obtaining certification. There are also three uncertified technicians. In accord with *Barnert Memorial Hospital Center, supra*, we find that certified operating room technicians, including any in the process of obtaining certification, are technical employees. Unlike the situation in *Barnert*, the uncertified technicians perform essentially the same tasks as the certified technicians. All operating room technicians have, on that basis, a community of interest. We shall include all in the unit.<sup>8</sup>

Sterilization technicians are employed in the operating room to wash and sterilize surgical equipment and set up packages of sterile emergency and surgical instruments. They receive 6 months' on-the-job training. In *Taylor Hospital*, 218 NLRB No. 179 (1975), employees performing similar functions were excluded from the technical unit. We shall do so here.

16. The *dental clinic* employs five dental assistants and a dental hygienist. The hygienist has received 2 years of training and served a 1-year internship. She is registered by the American Dental Association and licensed by the Commonwealth of Pennsylvania. However, she does not meet the strict standard applicable to professional employees and is, we find, a technical employee. As the record is inadequate to determine whether she is a supervisor, we shall allow her to vote subject to challenge.

Dental assistants take and develop X-rays and assist in treating the patients. Two are certified by the American Dental Association, having completed either 18 months of training or 1 year of college and having passed an examination. Licensed dental lab technicians were found to be technical employees in *Newington Children's Hospital*, 217 NLRB No. 134 (1975). As certified dental assistants are similar, we find that they are technical employees. The other dental assistants are not certified. However, they perform the same work, exercise the same skills, and are in the same pay grade. There is an on-the-job training program with a specified curriculum. On these facts, we find that the uncertified dental assistants are also technical employees.

<sup>8</sup> See *Trumbull Memorial Hospital*, 218 NLRB No. 122 (1975), medical technicians

17. The *assistant medical photographer* has been trained through an apprenticeship and is eligible for certification. She is qualified in the reproduction of X-ray prints and pathology slides, operates sophisticated equipment, and assists in training students. She need not, however, have formal higher level of education or be licensed. We find that she is not a technical employee. *Newington Children's Hospital, supra.*

18. The *animal caretaker* has trained with the American Association for Laboratory Animal services, completed a 14-week university course, and received on-the-job training. He is responsible for the care of animals used in hospital research. He assists doctors in their tests and records the reactions of the animals. The parties agree, and we find, that the animal caretaker is a technical employee.

19. A number of other laboratories or departments employ technical employees whose status is not in dispute: *histology, electromicroscopy, allergy-immunology, endocrinology, genetics, pulmonary, renal microdissection, and orthopedics.* The technicians employed in these departments, subject to the general conditions earlier set forth, are included in the unit.

20. Technical employees are also present in the *pediatric infectious disease, Dr. Albo's research, and Renziehausen trust research* laboratories. As these are apparently research facilities, we shall apply the above standards for research technicians to these technicians and permit them to vote subject to challenge.

21. The parties are in agreement as to the exclusion of *EEG technicians, pharmacy technicians, and play therapists.* The record establishes that these employees are not technical. *Newington Children's Hospital, supra; Barnert Memorial Hospital Center, supra.*

There remain for consideration certain ancillary issues. Mary Jo Sargus and Catherine Baca were active in soliciting authorization cards for the Petitioner. The Employer contends that they are supervisors and that, therefore, Petitioner's showing of interest is tainted. As set forth above, employees in question are not supervisors. Even had they been found to be su-

perisors, their positions are not such that the interest showing would be tainted, for employees would not equate their solicitation with that of management. The Employer also contends that the Petitioner's showing of interest is inadequate because it contains authorizations signed by persons excluded from the unit and the unit contains certain persons sought to be excluded by the Petitioner. The showing of interest is an administrative, not a statutory, matter. We are satisfied that Petitioner has an adequate showing of interest to proceed with an election in a unit of technical employees.

We have excluded certified technologists and other employees sought by the Petitioner because they are professionals. In the alternative, Petitioner has asked for a unit of all professional employees. This issue was not fully litigated at the hearing and is therefore not properly before us in this proceeding.

In accord with our decision herein and subject to the findings and rulings made above, we find the following unit to be appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All regular full-time and part-time technical employees employed by the Employer at its hospital facilities in Pittsburgh, Pennsylvania, including those employed in the central laboratories managed by the Employer, but excluding all nontechnical employees and professional employees, including medical technologists, confidential, office, and hospital clerical employees, service and maintenance employees, guards, and supervisors as defined in the Act.

[Direction of Election and *Excelsior* footnote omitted from publication.]

MEMBER PENELLO, dissenting:

For the reasons set forth in the dissenting opinion in *Barnert Memorial Hospital Center, supra*, I disagree with my colleagues' finding that a unit of all technical employees in a hospital is appropriate.