

**Rhode Island Hospital and Local 251, International Brotherhood of Teamsters, AFL-CIO, Petitioner and Federation of Nurses and Health Professionals, a/w Rhode Island Federation of Teachers, a/w American Federation of Teachers, AFL-CIO, Petitioner.** Cases 1-RC-19972, 1-RC-19973, and 1-RC-19991

November 24, 1993

DECISION AND DIRECTION OF ELECTIONS

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND RAUDABAUGH

Upon petitions for elections filed under Section 9(c) of the National Labor Relations Act, a consolidated hearing was held on various dates in May and June 1993 before a duly designated hearing officer of the National Labor Relations Board. On July 27, 1993, pursuant to Section 102.67(h) of the Board's Rules and Regulations, the cases were transferred to the Board for decision.

Having carefully reviewed the entire record in this proceeding, including the posthearing briefs filed by all the parties, the Board makes the following findings:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction.
3. The labor organizations involved claim to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.
5. Rhode Island Hospital (the Hospital) is a large, private, acute care hospital located in Providence, Rhode Island. In Case 1-RC-19972, Teamsters Local 251 (Teamsters) seeks to represent a unit of approximately 100 skilled maintenance employees. In Case 1-RC-19973, Teamsters seeks an all nonprofessional unit of approximately 1350 employees excluding, inter alia, technicals, business office clericals, and skilled maintenance employees. Federation of Nurses and Health Professionals (FNHP) seeks in Case 1-RC-19991, a unit of approximately 400 technical employees.

At the hearing, the parties stipulated that numerous classifications are either properly included in or excluded from the petitioned-for units or should vote subject to challenge:<sup>1</sup>

<sup>1</sup>The parties also agreed to exclude a number of the Hospital's departments in their entirety: (ADMN) Administration, (ASVC) Ambulatory Care Services, (AUDT) Internal Audit, (COMP) Compensation, (DEVL) Development, (EMPL) Employment, (EMPR) Employee Relations, (FNPL) Financial Planning, (FSYS) Financial Systems, (FSVC) Financial Services, (GNCN) General Counsel, (HRDV) Human Resource Development, (HRES) Human Resources,

*SKILLED MAINTENANCE UNIT*

*INCLUDED:* (FACM):<sup>2</sup> Apprentice Plumber, Boiler Operator, Carpenter, Electrician, HVAC Mechanic, HVAC Operating Engineer, Incinerator Operator, Laborer, Machinist, Mechanic, Painter, Power Plant Maintenance Engineer, Power Plant Operating Engineer, Steamfitter, Steamfitter/-Plumber; (MTMG): Offset Printer B.<sup>3</sup>

*EXCLUDED:* (FACM): Facilities Project Manager, Engineer, Engineer Mechanic, Engineer Project and Operator Engineer.

*TECHNICAL UNIT*

*INCLUDED:* LPN A and LPN B; (CGSV): Motility Nurse; (FACM): Biomedical Equipment Technician I, II and III; (INFS): Programmer, Network Technician, Senior Programmer Analyst; (LIBR): Library Technician; (MGSV): Telecommunications Electronic Technician; (ONSV): Polysomnographic Technician, EEG Technologist, Pulmonary Testing Tech A and C; (OPRM): Perfusionist; (PATH) (RSCH):<sup>4</sup> Histotechnologist; (QUAL): Quality Assurance Data Analyst;<sup>5</sup> (RADI): CAT Scanner Technologist, Nuclear Medicine Technologist I, Radiologic Technologist,

(ISVC) Information Services, (LIBR) Library Services, (MBUS) Medical Business, (NRSO) (ORTH) Orthopedics, (PED) (PLAN) Planning, (PREL) Public Relations, (PRES) President, (PSVC) Patient Services, (RDCF) Radiologist Chief, (RESA) Administrative, (RISK) Risk Management, (SVCQ) Service Quality, (VENT) Hospital Ventures, and (XCFO) Chief Financial Officer.

<sup>2</sup>These and other sets of initials refer to the various departments in which the employees are located.

<sup>3</sup>Although the parties also stipulated that the classifications of Carpenter Temp, Electrician Temp, Painter Temp, Plumber Temp, Steamfitter/Plumber Temp, and Maintenance Department Temp were included, the record indicates that there is no classification of "Temp"; instead, employees are called temporary at the early part of their employment to designate their status rather than their classification. Accordingly, we have omitted these designations from the listing of the agreed-on classifications to be included in the skilled maintenance unit. We note, however, that to the extent the temporary status reflects a probationary period, such employees are entitled to vote. *Johnson's Auto Spring Service*, 221 NLRB 809 (1975).

<sup>4</sup>Successive sets of initials indicate that the classification is located in more than one department.

<sup>5</sup>The stipulation entered into by the parties at the hearing included the classification Quality Assurance Analyst not the Quality Assurance Data Analyst position listed above. However, subsequent to the hearing, FNHP requested the Regional Director by letter of July 23, 1993, with copies to all parties, to substitute Quality Assurance Data Analyst for Quality Assurance Analyst because it was the understanding of both the FNHP and the Hospital that both had agreed to include the position of Quality Assurance Data Analyst and to exclude the classification of Quality Assurance Analyst as professional. FNHP attached to its request a letter from the Employer to FNHP in which the Employer agreed with the Union's position and authorized FNHP to so advise the Board. FNHP's motion to amend the record to reflect the parties' agreement is granted and the stipulation is amended accordingly, as indicated in the above listing of included classifications.

Radiology Special Procedures Tech, Ultrasound Technologist; (RSCH): Radiology Research Tech; (RESP): Respiratory Care Practitioner II, Senior Respiratory Care Practitioner, Respiratory Care Practitioner-Weekend, Respiratory Care Equipment Specialist; (RDTH): Senior Radiographer, Radiation Therapy Equipment Tech; (REHB): Physical Therapy Assistant; Occupational Therapy Assistant; ( ): Radiation Oncology.<sup>6</sup>

*EXCLUDED:* (CGSV) (PEDI): Cardiac Non-Invasive Technician B; (DENT): Dental Hygienist; (MREC): Coding Technician; (ONSV): Research Testing Technician; (ONSV) (REHB): EMG Technologist; (PATH): Electron Microscopy Technologist; (RADI): Nuclear Medicine Technologist II.

*VOTE SUBJECT TO CHALLENGE:* (ONSV): Lead Polysommographic Technician.

#### *NONPROFESSIONAL UNIT*

*INCLUDED:* (ADMT): Admitting Representative, Booking Secretary-Admitting, Secretary B, Clerical Aide, Receptionist, Secretary C; (ANES): Anesthesia Equipment Specialist; (CARD): Patient Services Secretary B, Secretary C, Cardiac Non-Invasive Technician A; Cardiac Research Secretary/Technician; (CDCN): Patient Services Secretary B, Medical Transcription Secretary A, Clinic Aide; (CGSV): Patient Services Secretary B, Cardiac Non-Invasive Technician A, Secretary B, Orderly, Cardiac Technician I and II, Cardiovascular Technologist, Cardiovascular Technician; (CMRL): Clerk B; (CONT): Patient Services Secretary B, Secretary C, Nursing Assistant, Orthopedic Technician; (DENT): Dental Assistant, Patient Services Secretary B; (DIET): Baker, Cafeteria Cashier, Food Service Worker - Utility, Food Service Worker Cafeteria, Food Service Worker - Tray Assembly, Cooking Assistant, Cook I and II, Dietary Aide, Dietary Computer Clerk, Primary Care Nutrition Associate, Primary Care Nutrition Associate (DCC), PM Cafeteria Assistant, Vending/Stock Technician, Nutrition Care Clerk, Nutrition Care Aide, Clerk B, Secretary/Typist B; (EMSV): Emergency Department Technician, Emergency Department Unit Secretary, Emergency Department Supply Aide, Emergency Department Family Assistant; (ENSV): Housekeeping Aide I and II, Laundry Aide I and II, Laundry Mechanic Assistant, Housekeeping Supply Clerk, Equipment/Reservations Clerk; (FACM): Facilities Management Stock Clerk; (HRSP): Secretary C; (MEDC): Patient Services

Secretary B, Secretary B, Medical Transcription Secretary A, Secretary C, Clerk B; (MGSV): Information Clerk, Gift Shop Clerk, Telephone Operator, Telecommunications Billing Clerk, Nursing Resource Management Assistant-VS, Nursing Resource Management Assistant, Nursing Home Liaison Clerk; (MONC): Secretary C, Cancer Registrar, Senior Cancer Registrar, Medical Oncology Library Clerk, Assistant Cancer Registrar MO; (MTMG): Central Services Assistant, Secretary/Typist A, Materials Management Assistant, Stock Clerk, Secretary/Typist B, Equipment Tech/Sterilizer Operator; (NEUR): Secretary C; (NEUS): Secretary/Typist B, Patient Services Secretary B, Secretary C, Medical Transcription Secretary A, Clerk Specialist; (NSAD): Nursing Assistant, Unit Secretary, Patient Service Aide, Stock Clerk, Patient Services Secretary B, Patient Services Receptionist, Clerk Specialist; (NSDV): Secretary C; (NSPD): Patient Service Aide, Unit Secretary, Secretary B, Nursing Assistant; (ONSV): Patient Services Secretary B, Clerk A, Medical Transcription Secretary A and B; (OPRM): Clerk Control-OR, OR Instrument Assistant, Orderly, Stock Clerk, Secretary/Typist B, OR Cleaning Aide, Nursing Assistant, Booking Secretary, Nurse's Aide; (PATH): Phlebotomist, Patient Services Secretary B, Secretary C, Clerk B, Clinical Lab Control Clerk, Clerk A, Diener, Computer Operator Pathology; (PEDI): Secretary C, Secretary B, Secretary/Typist B, Clerk Specialist; (PHAR): Stock Clerk, Pharmacy Equipment Operator, Secretary B, Clerk B, Secretary C, Clerk Specialist, Pharmacy Tech Specialist; (PSYC): Secretary C, Secretary/Typist A, Medical Transcription Secretary A, Clerk Specialist; (RADI): Patient Services Secretary B, Diagnostic Imaging Information Secretary, Medical Transcription Secretary A, Secretary C, Stock Clerk, Radiology Aide, Technician - Dark Room; (RDTH): Secretary/Typist B, Patient Services Secretary B, Patient Services Secretary A, Clinic Aide, Technician - Mould Room; (REHB): Patient Services Secretary B, Secretary C; (RESP): RC Equipment Specialist, Secretary B, Secretary C, RC Equipment Specialist, SR RC Equipment Technician; (RHPD): Patient Services Secretary B; (SOCS): Receptionist, Secretary C; (SURG): Secretary C, Clerk B, Secretary/Typist A, Clerk Specialist; (UROL): Secretary C.<sup>7</sup>

<sup>6</sup>The record evidence does not identify the department in which this classification is located.

<sup>7</sup>The positions of (CGSV): Cardiac Technician I and II, Cardiovascular Technologist, Cardiovascular Technician; (MONC): Senior Cancer Registrar, Medical Oncology Library Clerk, Assistant Cancer Registrar MO were claimed at the hearing to be technical by the Teamsters. However, in its posthearing brief, Teamsters concedes that these positions are properly placed in the nonprofessional unit.

**EXCLUDED:** (CGSV) (PEDI): Cardiac Non-Invasive Technician B; (CMRL): Student Aide; (SECU): Secretary D; (ONSV): EEG Technologist; (MTMG): CSD Group Leader, Purchasing Agent; (MREC): Coding Technician.

**VOTE SUBJECT TO CHALLENGE:** Secretary D (ANES); Secretary B (CLMG); Secretary C (CGSV); Clerk B (CMRL); Food Service Group Leader (DIET); Clerk B, Secretary D (EMSV); Secretary C (EMMD); Secretary C, Secretary/Typist B (FACM); Clerk B, Clerical Group Leader, Secretary D (MDED); Secretary D (MGSV); Secretary D, Clerk Specialist (MSTF); Secretary D (NSAD); Secretary D (NSDV); Secretary D (NSPD); Secretary D (ONSV); Secretary D, Lead Phlebotomist (PATH); Secretary C (QUAL); Secretary D (REHB); Secretary D, Support Service Coordinator (SPSV); Secretary D (SURG); Office Coordinator-Intech Ctr, Secretary C (TECH); Secretary C (VOLT); Secretary C (WKLB).

There remain approximately 100 classifications still in dispute.<sup>8</sup>

#### Professionals

*Parent Consultant (PEDI):* FNHP contends that the position of parent consultant should be included in the technical unit; the Hospital argues that this classification is a professional position.

There are two employees in the Pediatric Hematology Oncology division who work as parent consultants with families who have children stricken with cancer. The major requirement for this position is that the person possess life experience in dealing with a child so afflicted. Thus, of the two current parent consultants, one had a child who died of cancer, and the other has a child who previously underwent a successful bone marrow transplant. These individuals interact with the families, not only assisting them administratively with their child's treatments, but also in dealing with the families' emotions. In addition, they give advice to the Hospital on how the hospital system can better accommodate the needs of these particular families. The position does not require a 4-year degree; one employee has no degree at all and the other employee's academic background is unknown.

The Hospital argues that this position is substantially similar to that of social worker which the Board has

consistently found to be professional.<sup>9</sup> Thus, the parent consultants perform duties similar to those of a social worker, i.e., counseling families who are dealing with children's cancer, and they are paid in the same pay range as social workers. Accordingly, the Hospital contends parent consultants should be excluded as professionals.

We disagree. A professional employee is defined in Section 2(12) of the Act as any employee engaged in work requiring, inter alia, "knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital . . . ." Indeed, the social workers found to be professional in *Mount Airy* had received training and/or advanced education in their field. Here, parent consultants are not required to have taken any formal study/training or to possess any academic degrees. Rather, it is a particular life experience which qualifies one for this position. Accordingly, we find that parent consultants are not professionals and therefore include them in the technical unit.

#### Guards

*Security Officer, Security Dispatcher, Shuttle Van Driver, Traffic Control Guard (SECU):* Teamsters contends that all the classifications in the security department should be either excluded as guards under Section 9(b)(3) or included in the nonprofessional unit. The Hospital contends that all the classifications are guards except for the security dispatcher position.

The Hospital uses an outside contractor for guard service which supplies the Hospital with 35 officers per day. These individuals are assigned to parking and emergency areas for traffic and patient control. In addition, they make rounds throughout the Hospital, locking and unlocking doors and checking security. They also have the authority to enforce the Hospital's rules. These guards are supervised by a sergeant on each shift who is also employed by the outside guard service. No party seeks to include these guards.

There are three full-time and one part-time traffic control guards employed by the Hospital who are assigned to certain parking areas, where they maintain traffic control and enforce no-parking rules. They also enforce the Hospital's no smoking policy. Their duty to enforce these rules runs against hospital employees as well as nonemployees. However, a traffic control guard testified that many times he had allowed employees on payday to park in the front circle, a no parking area, while they pick up and cash their paychecks. If they take too long, the guard only reminds them to make it shorter next time.

<sup>8</sup>At the hearing, the parties identified a number of other classifications which are in dispute with respect to the nonprofessional unit: (CLSV) Secretary D; (FACM) Secretary D; (MREC) Clerical Group Leader; (MEDC) Clerical Group Leader; and (NSPD) Clerk Specialist. The record evidence, however, failed to resolve the placement of these classifications. We, therefore, vote these individuals under challenge.

<sup>9</sup>*Mount Airy Psychiatric Center*, 253 NLRB 1003, 1005 (1981).

Their primary job is to give directions to people coming to the Hospital and to assist them in any way possible. They also assist handicapped people getting in or out of their vehicles or the bus. They have held parking spaces for severely impaired patients at the request of their physician. The traffic control guards make periodic rounds of the Hospital by walking through the cafeteria and restrooms and checking the adjacent parking lots to see that everything is in order.

Approximately twice a day the traffic control guards are dispatched to a hospital floor at the request of the nurses' staff because visitors are smoking in unauthorized places or there are too many visitors. In addition, a traffic control guard testified that there had been several occasions in which he had tried to assist nurses who had been assaulted by patients; ultimately, he had to call the dispatcher for help. The dispatcher then called both the Hospital's security officers and the contract guard service. Once, city police were called to control an unruly person who assaulted the traffic control guard who had been trying to enforce the no smoking rule.

There are three security officers who patrol the Hospital's grounds. They, like all other employees in this department, are responsible for maintaining order. The security officers also have the duty to enforce the Hospital's rules as to access, parking, and smoking against both employees and nonemployees. They respond to all emergency calls and make incident reports when, for example, an automobile is broken into or someone is apprehended as a suspicious person in the area. They are responsible for opening locked doors and checking identifications when necessary. The security officers also give patients directions and assistance, when needed, and they give both patients and employees rides to their vehicles on a daily basis.

The security dispatchers monitor the closed circuit TV system in the security station located in the basement of the George Building. The TV cameras cover specific locations inside and outside the Hospital's buildings. When the dispatchers see any incidents or problems that need responding to, they call the security officers. Depending on the situation, dispatchers may also call the city police department.

Dispatchers receive approximately 20,000 calls a month. The calls come from employees who need a ride to their car, need a door opened, or want to report a suspicious person or a family problem. These calls are then dispatched to the security officers out in the field. Dispatchers also monitor the fire alarm system and check out license plate numbers when requested. They keep the Hospital's keys in their office and are responsible for passing them out to the security officers. Dispatchers, however, never investigate calls or security problems, and they never confront employees or other persons to enforce hospital rules.

Traffic control guards fill in daily for dispatchers; shuttle drivers also fill in for dispatchers. On occasion, dispatchers fill in for traffic control guards. Although dispatchers do not fill in for security officers, the officers have occasionally filled in for the dispatchers during the supper break.

There are two full-time and two part-time shuttle van drivers who shuttle employees back and forth between the parking lots and the various hospital buildings. They also respond when needed to patient problems or when suspicious people are spotted on campus. Their duties include being on the lookout for altercations or rules violations, and they report people they see hanging around the parking lots. They never fill in for traffic control guards or security officers but have on occasion done so for dispatchers. One shuttle driver fills in daily to relieve a dispatcher for lunch. Security officers, however, have filled in for shuttle drivers.

Section 9(b)(3) of the Act defines a "guard" as "any individual employed . . . to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises . . . ." It is the nature of the duties of guards and not the percentage of time which they spend in such duties which is controlling. *Walterboro Mfg. Corp.*, 106 NLRB 1383, 1384 (1953).

Although the Hospital has employed an outside contractor for guard service, it has also given guard duties and responsibilities to its security department. The traffic control guards and the security officers are clearly statutory guards as they are specifically charged with enforcing the Hospital's rules against employees and nonemployees alike. Moreover, they are both responsible for protecting the Hospital's property and the safety of persons on the Hospital's property as they regularly check the Hospital's premises. The security officers patrol the grounds and the traffic control guards make periodic rounds of the cafeteria, restrooms, and adjacent parking lots. In addition, they regularly respond to calls for emergency help from employees or patients. Security officers have keys to open locked doors and check personal identifications when necessary. Thus, in many respects these employees are similar to the employees found to be guards in *A. W. Schlesinger Geriatric Center*, 267 NLRB 1363 (1983), where the employees were responsible for assuring the safety of employees arriving for and leaving from work, locking and unlocking doors; made hourly rounds of the employer's facility, checking lights in the parking lot and other areas; and had the authority to handle disturbances caused by employees or other individuals.

The shuttle van drivers are also guards. Although one of their primary duties is to transport employees from building to building, they are also charged with the responsibility of being on the look out for and re-

porting security problems or rules violations. They also respond to threatening situations when needed. Thus, although they primarily operate shuttle vans, the record shows that they are specifically charged with guard responsibilities which, we find, are not a minor or incidental part of their overall responsibilities. Cf. *J. C. Penney Co.*, 312 NLRB 8 (1993). Moreover, at least one of the drivers regularly substitutes for a dispatcher.

We also find the security dispatchers to be guards under Section 9(b)(3). In monitoring the Hospital's closed circuit TV system, they are directly responsible for being alert to *any* incident, situation, or problem which needs responsive action and for reporting such incidents to the proper authorities. Employees performing similar functions have been found to be guards under the Act. *MGM Grand Hotel*, 274 NLRB 139 (1985). They are also the individuals whom employees and other people call for assistance with problems and emergencies, including those involving security and safety. The fact that dispatchers do not personally confront employees or others, but rather merely report violations, does not defeat their guard status. Because the dispatchers' authority to observe and report infractions is not merely incidental to their other duties, but instead constitutes one of their primary responsibilities which is an essential link in the Hospital's effort to safeguard its employees and enforce its rules, the dispatchers are guards. *A. W. Schlesinger Geriatric Center*, supra at 1364; *Crossroads Community Correctional Center*, 308 NLRB 558, 562 (1992).

#### Supervisors

*Lead Offset Printer (MTMG)*: Teamsters would include the lead offset printer in the skilled maintenance unit; the Employer would exclude the classification as supervisory under Section 2(11) of the Act.

The office services department in materials management comprises a manager, one lead offset printer, and three offset printers. When the manager is out of the department, such as on vacation, sick, or called away on hospital business, the lead offset printer runs the department. At such times, the lead printer has given the other employees a verbal warning when, for example they exceed their lunchbreak; the lead printer can also give a written warning but that has never happened; if a printer is not by his press, the lead printer can direct the printer to return to his work station; the lead printer can also handle complaints and look into returned work orders to discover the problem; and if a printer wants a day off or needs to leave work early because of a sick child, the lead printer can make those decisions.

If a job order comes in and the manager is busy, the lead printer can assign someone to the job or do it himself. The lead printer prioritizes the incoming orders and if the job must be done immediately he can,

if necessary, tell a printer to stop the job he is doing and begin the new job. The various machines are preset to handle certain jobs, i.e., one machine may have a different color ink and another is used just for daily work. Printers, although capable of running all the presses, are usually assigned to only one particular machine. Consequently, the lead printer knows to whom to give the job in order to get it out in a timely fashion.

The lead offset printer also writes annual performance appraisals for the printers. The manager of the department then reviews the appraisal and consults with the lead printer as to whether the employee gets a raise. The manager "pretty much" accepts the lead printer's recommendations.

The lead printer has the authority to interview job applicants and make recommendations. These recommendations are taken "seriously" by the manager because the lead printer has to work with the person more closely than the manager. The manager testified that he has the authority to hire over the objections of the lead printer but that this would not usually happen because he would take the lead printer's recommendation into consideration. In the past year, only one individual has been hired. Although the applicant was recommended by the lead printer, the individual had also worked previously in this department and thus was well known by both the manager and the lead printer. The lead printer can also recommend discharge but has no authority with respect to layoffs.

The lead printer also inspects the work of the printers and helps them when they have problems with the machines or the quality of the printing. If a machine breaks down, the lead printer can, on his own, authorize a service person to perform the necessary repairs. The lead printer is also responsible for training new employees.

The lead printer spends approximately 50 percent of his time doing actual printing work and wears the same uniform as the printers. The manager does not wear a uniform, but a shirt and tie, and, unlike the lead printer, has a separate office and rarely operates the presses. Last year the manager took 2 weeks of vacation time and no time off for illness. The manager earns \$13.48 an hour, the lead printer \$11.50, and the three printers \$11, \$10, and either \$9.70 or \$9.80.

Although the lead offset printer directs and assigns the work of the printers and substitutes for the department manager, neither renders the lead printer a statutory supervisor under Section 2(11) of the Act.

The evidence fails to show that the lead printer directs or assigns work with the requisite discretion or independent judgment. Although the lead printer can inspect the work of the printers and assist them if they have problems, this direction seems more akin to a leadman's greater knowledge or experience than to any

statutory supervisory authority.<sup>10</sup> Similarly, the lead printer's assignment responsibilities do not appear to require independent judgment. The selection of which machine or which printer will be assigned the job seems based on which machine is already preset for the job required and which employee is already assigned to that machine.

An employee who substitutes for a supervisor may be deemed a supervisor if given supervisory authority when substituting and if the substitution is regular and substantial. *Aladdin Hotel*, 270 NLRB 838 (1984); *Gaines Electric Co.*, 309 NLRB 1077 (1992). Here, the lead offset printer substitutes for the department manager and when doing so has the authority to issue verbal and written warnings, grant days off, and allow employees to leave work early. Even assuming this authority renders the lead printer supervisory, the record evidence does not show that the substitution is regular or substantial. The printer only substitutes when the manager is out of the office on vacation, sick, or at a meeting. The sporadic assumption of supervisory duties, e.g., during annual vacation periods or on other unscheduled occasions, is not sufficient to establish supervisory authority. *Latas De Aluminio Reynolds*, 276 NLRB 1313 (1985); *Canonsburg General Hospital Assn.*, 244 NLRB 899 (1979).

We find, however, that the lead offset printer makes effective recommendations with respect to hiring and employee raises, and thus the lead printer is a statutory supervisor. The record evidence shows that the lead printer writes annual performance appraisals and makes recommendations as to employee raises. Because these recommendations are mostly accepted by the department manager, we find that the recommendations effectively determine employee raises. We reach a similar conclusion with respect to the lead printer's hiring recommendations. The record testimony shows that the manager gives serious consideration to the printer's hiring recommendations because, as the manager recognized, it is the lead printer, not the manager, who will have to work closely with the employee if hired. Accordingly, because the hiring decision is primarily based on the opinion of the lead printer, we find the printer's recommendations in this regard effective.

*Facilities Management Lead Stock Clerk (FACM)*: Teamsters would include this position; the Hospital would exclude it as supervisory.

In the facilities management department, there is one lead stock clerk and one stock clerk.<sup>11</sup> The stock clerk

receives goods and materials ordered for the facilities management department in a receiving area separate from the Hospital's main receiving area. The lead stock clerk gives directions to the stock clerk in the handling of this material, as well as the processing of invoices and the approval of payments. The lead stock clerk also completes an annual written performance appraisal of the stock clerk which, like all other appraisals at the Hospital, is tied to the annual merit wage increases. In addition, the lead stock clerk has the authority to give verbal warnings to the stock clerk, to schedule the stock clerk's hours, to schedule and authorize overtime for the purpose of taking inventory, and to permit the stock clerk to leave early when the clerk so requests.

We find, based on the record evidence, that the lead clerk's direction of work is merely routine; the clerk's scheduling employee hours, allowing an employee to leave early and scheduling or authorizing overtime is not shown to require independent judgment—in fact, overtime is limited to taking inventory; and there is no evidence that verbal warnings had any subsequent impact on the employees.<sup>12</sup> However, like the lead offset printer, the lead clerk's annual appraisal of the stock clerk is "tied to" the annual merit wage increases; thus, the appraisal effectively determines the employee's annual wage raise. Accordingly, we find the lead stock clerk to be a statutory supervisor.

*Lead Housekeeping Aides, Laundry Group Leaders (ENSV)*: Teamsters contends that these positions are properly included in the nonprofessional unit; the Employer contends such positions are supervisory.

The environmental services department, headed by a director and assistant director, is responsible for the overall cleanliness of the Hospital's 26 buildings and the cleaning and delivery of linen to 110 users. There are 44 employees in the laundry section of this department, 3 laundry group leaders, and 1 supervisor. In housekeeping, there are approximately 140 employees, 8 lead housekeeping aides, and 10 supervisors.

According to the testimony of the director, lead aides and group leaders fill in for the supervisors on a daily basis due to sickness, vacations, leaves of absences, or attendance at meetings. In addition, the three group leaders regularly rotate in as supervisors on the weekends with the one supervisor and the three group leaders each taking one weekend a month. In housekeeping, the lead aides are also part of the weekend rotation schedule. There is one supervisor and two lead aides on the first shift; two supervisors and one lead aide on the second; and on the third shift, there is no supervisor present but a lead aide fills in as supervisor.

<sup>10</sup> See, for example, *Northern Chemical Industries*, 123 NLRB 77 (1959) (instrument leadman who lays out work for other employees merely exercises judgment and direction of more experienced mechanic); *Higgins Industries*, 150 NLRB 106, 111–112 (1964) (job leaders who report and correct defective work are not supervisors).

<sup>11</sup> The parties stipulated that the stock clerk should be included in the nonprofessional unit.

<sup>12</sup> Mere authority to issue oral and written warnings that do not alone affect job status does not constitute supervisory authority. *Waverly-Cedar Falls Health Care*, 297 NLRB 390, 392 (1989), enf'd. 933 F.2d 626 (8th Cir. 1991).

The director testified that when lead aides and group leaders are filling in as supervisors, the aides and group leaders carry on all the functions of the supervisor. In particular, they can suspend an employee for the remainder of the shift.

Lead aides and group leaders are responsible for retraining employees. Consequently, when performance appraisals are done for those employees being retrained, the aides and leaders "call the shot[s]" when asked how a particular employee is doing. Lead aides and group leaders are also responsible for on-the-job training of new employees. Their recommendations as to when employees have successfully completed such training are relied on "extensively." When overtime is necessary due to lack of employee coverage, lead aides and group leaders must first get it approved, although their recommendations for overtime are always accepted. The selection of which employee(s) will work overtime, however, is governed by an established list. Lead aides and group leaders have the authority to allow employees to leave work early if, for example, a child is sick. They have no authority to issue written warnings but may issue verbal warnings when, for example, employees take too much time for lunch.

When lead aides and group leaders are on the hospital floor, they wear uniforms similar to employees. Supervisors, however, are not required to wear uniforms. The average pay of a supervisor is \$13 an hour. The lead aides and group leaders earn an average of \$11 an hour. Housekeeping employees average \$8 an hour and laundry \$8.20 or 8.25 an hour.

We find *laundry group leaders* to be statutory supervisors based on their regular rotation as a weekend supervisor. According to the record evidence, each group leader works one weekend every 4 weeks as the weekend supervisor. While so serving, the record states that they possess full supervisory authority: specifically, the authority to suspend employees for the remainder of a shift. As this scheduled rotation as a supervisor every fourth weekend is not sporadic, but regular and substantial, the group leaders are excluded from the petitioned-for units as they are supervisors under Section 2(11). *Aladdin Hotel*, supra.

Although the *lead housekeeping aides* also work weekends, it appears from the record evidence that only the aide assigned to the third shift fills in for a supervisor during the weekend; the other two shifts have assigned supervisors. The evidence does not establish that one, some, or all eight housekeeping aides regularly fill in on the third shift. Thus, unlike the laundry group leaders, the aides are not, in our view, statutory supervisors based on their weekend supervisory role. Moreover, none of their other functions renders them supervisors. There is no conclusive showing that they solely determine when an employee has completed training, nor is there any indication of

whether retraining adversely affects an employee's terms and conditions of employment; the decision to seek approval for overtime, and the approval itself, appears to be determined solely by staffing needs, and selecting an employee to work overtime does not require independent judgment as it is governed by an established list. Employees are let off early in emergency situations, and verbal warnings are not shown to have any adverse effect on employees.

*Community Relations/EEO Coordinator (CMRL)*: Teamsters contends that this position is supervisory.

In the community relations EEO department, there are approximately 10 employee interpreters whose primary function is to communicate with non-English speaking patients and employees. According to the director of this department, the community relations/EEO coordinator supervises and maintains the scheduling for the interpreters. When a call comes in to the department for an interpreter, the coordinator logs the call in and then dispatches the first available interpreter who speaks the needed language. All interpreters also carry beepers so that the coordinator can contact them when they are out of the office. If an interpreter is unable to respond to a call, the coordinator simply calls another interpreter who speaks the necessary language. The coordinator follows up to make sure the interpreters are performing their duties. However, the coordinator has no hiring authority with respect to the interpreters.

The coordinator handles the student program in the community relations department by screening student applicants and scheduling their physical examinations. The coordinator's recommendations on students who come to the program are "listen[ed] to" by the director, because he has "a lot of confidence" in the coordinator.

The coordinator also has clerical responsibilities, such as typing for the director and the department. When the director is out of the department on vacation, the coordinator runs the department.

On the basis of the record evidence, we find the coordinator has no indicia of supervisory authority. Scheduling of interpreters is routine and requires no independent judgment or discretion; the coordinator has no hiring authority with respect to interpreters; there is no evidence that when the coordinator "runs" the department, the coordinator is given any statutory supervisory authority; and the record reveals merely that the coordinator's recommendations with respect to screening students for the student program are "listened to," they are not shown ever to be the deciding factor. Accordingly, the community relations/EEO coordinator is included in the nonprofessional unit.

### Confidentials

Teamsters contends that the secretary Ds in the departments listed below should be excluded from the nonprofessional unit on the ground that they are either confidential or supervisory. With respect to their supervisory authority, the record shows that none of these secretaries has any authority to hire, evaluate, discipline, direct, or assign work to or grant time off to other employees. Nor do any of these employees possess the authority to resolve complaints or grievances, except for the secretary D (CONT) and one secretary D in (PSYL) who can solve minor problems such as finding another office when two people signed up for the same office. We find, therefore, that none of these secretaries Ds are statutory supervisors. With respect to whether they should be excluded as confidentials, they are discussed below.

*Secretary D (RADI)*: There are four employees in this classification. One of the secretary Ds is the personal secretary to the director of the radiology department who is responsible for developing and monitoring budgets, staffing, and planning the operation of the entire department and thus has access to departmental budget information. The director also prepares confidential memoranda and information pertaining to employee work performances, raises, and disciplinary issues which the secretary D types and files. This secretary D processes employee timesheets and takes them to payroll. The secretary D who works for the chief physicist also types confidential reports and memoranda pertaining to personnel issues, payroll, performance appraisals, and disciplinary issues for employees in the physics section. Similarly, the secretary D who is secretary to the clinical director is involved with and has access to the same type of personnel memos.

The director of the residency program is, as the name implies, responsible for the residency program including admissions, scheduling, deciding who should write papers, corresponding with educational institutions, and evaluating the performance of the residents. This director has two secretaries, a secretary D and an administrative secretary. According to the head of the department, the secretary D is the residency program secretary, not the director's personal secretary, and thus the director did not know whether the secretary D was given performance evaluations to type.

*Secretary D (CONT)*: This secretary D reports directly to the director of ambulatory and continuing care services who is responsible for budgeting and managing the personnel in these departments. The secretary's job duties include typing memos, taking minutes, and answering the telephone. This individual also has access to confidential information that the director is involved with, including payroll information, "labor relations or employee relations information," and budget

information. She is aware of the grievance-processing functions performed by the director because she would typically type memoranda pertaining to employee grievances. This secretary D's secretarial responsibilities include the budget preparation process as she prepares memos and takes minutes at meetings in connection with the budget.

*Secretary D (PSYC)*: There are five individuals currently holding the position of secretary D in the psychiatry department.<sup>13</sup> Each is assigned to a particular physician in the department and performs general clerical and secretarial duties such as typing reports, memos, and manuscripts. They also perform duties in connection with the physician's private practice, such as scheduling appointments, obtaining insurance information, and billing the patients. The physicians, however, have no responsibility with respect to employee relations such as preparing annual performance appraisals or recommending raises; they also have no input into the budget for their particular area, and thus the secretary Ds do not type, file, or prepare any memoranda pertaining to payroll, personnel, or budget matters.

*Secretary D (PEDI) and (CDCN)*: The seven employees in PEDI and one in CDCN classified as secretary Ds are each assigned to a particular director, physician, or lead secretary; one is the secretary for the business manager of the department of pediatrics. All of these secretary Ds, except for the secretary to the business manager, perform clerical functions such as typing, filing, and answering the telephone; they have no involvement in, or access to, confidential information with respect to personnel matters. They do not type budget proposals, performance evaluations, or disciplinary memos. The respective directors or physicians draft these documents themselves, or give them to the secretary D for the business manager, who handles all secretarial work in the department with respect to the typing or filing of personnel related matters. This secretary D also maintains the department's personnel files.

*Secretary D (MEDC)*: There are approximately seven secretary Ds, in this department and all of them, except for the secretary who reports to the comptroller of the Rhode Island Hospital Medical Foundation, Inc., are secretaries for division directors or physicians. Their job duties primarily include typing correspondence and manuscripts, making appointments and travel arrangements, and keeping the physicians' schedules. They have no access to any confidential information nor any access to any budgetary information for the medical department. Although the secretary D to the division director of geriatrics has access to that divi-

<sup>13</sup>One of the five, Secretary D Denise Brown, was stipulated by the parties at the hearing to be a supervisor and thus excluded from the unit.



sion's small teaching and administrative budget, she does not have any role in preparing the budget proposal, which is submitted to the department of medicine, nor does she type the proposal. In fact, the business manager of the department, along with each division director, prepares the proposal by hand.

The secretary to the comptroller of the Foundation, a nonprofit physician practice plan, is involved in paying the Foundation's bills from vendors, writing out checks for the comptroller to sign, and purchasing supplies for the office. This secretary D and other employees in the department are partly funded by the Foundation because the Foundation reimburses the Hospital for that portion of their salary which represents the time they have spent working for the physicians' private practice. There is no evidence that this secretary, like the other secretary Ds in the medical department, is involved in any confidential matters.

It is well established that the Board will exclude employees from a bargaining unit as confidential only if those employees assist and act in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations. *B. F. Goodrich Co.*, 115 NLRB 722 (1956); *PTI Communications*, 308 NLRB 918 (1992). Moreover, merely having access to files containing confidential material, including records of grievances, does not establish confidential status. *Los Angeles News Hospital*, 244 NLRB 960 (1979); *California Inspection Rating Bureau*, 215 NLRB 780 (1974). Even the typing of employee evaluations or similar documents or maintaining personnel files is not sufficient to render a person confidential. *RCA Communications*, 154 NLRB 34 (1965); *John Sexton & Co.*, 224 NLRB 1341 (1976).

Based on the above, none of the secretary Ds discussed above are confidential employees. As for the individuals in the secretary D (MEDC) (PSYC) (PEDI) and (CDCN) positions, except for the secretary to the business manager of the pediatric department, none performs any duties that could even remotely be considered confidential.

The remaining secretary Ds, (RADI) (CONT) and the one secretary in pediatrics noted above, are also not confidentials as the record fails to establish that they work for an individual who formulates, determines, and effectuates management's labor policies. Although these secretaries work for or report to a variety of departmental directors or high-ranking administrators, who generally are responsible for such matters as developing department budgets, handling grievances, writing performance appraisals, and issuing discipline, these responsibilities alone are insufficient to establish that they formulate or determine the Employer's labor policy. *Greyhound Lines*, 259 NLRB 477, 479-480 (1981). Thus, although these directors and others may effectuate policy by carrying out, for exam-

ple, the Employer's performance award system, there is no evidence that these individuals are involved in the formulation of any labor policy. The fact that they may also work on their individual department budget does not establish that they determine the budget or that their work involves, in particular, employee wage rates or benefits.

In any event, as these secretaries only type, process, file, or have access to confidential information, they are not, under well-established Board precedent, confidential employees. Moreover, although one or more of these secretaries perform some work with respect to budget matters—compiling information, typing, attending meetings, there is no evidence that they are involved with the type of information, such as precise labor costs, contemplated by the Board in *Pullman, Inc.*, 214 NLRB 762 (1974), which would justify a confidential finding.

#### Skilled Maintenance Unit

*Welder (FACM)*: Teamsters contends that the job classification of welder should be included in the skilled maintenance unit. According to the undisputed testimony of the director of the facilities management department, there is no such position at the hospital. Instead, many maintenance employees perform welding duties in the course of their jobs. In fact, the particular individual who was seen performing welding duties at the hospital and thought to be a welder is actually in the job classification of steamfitter/plumber. That classification has already been included in the skilled maintenance unit by stipulation of the parties. Accordingly, as there is no such classification as welder, it will not be among those included in the description of the skilled maintenance unit.

*Fire Inspector (FACM)*: Teamsters would include the fire inspector in the skilled maintenance unit; the Hospital contends the fire inspector belongs in the non-professional unit.

Early in the hearing, at Teamsters' behest, the parties stipulated to exclude the classification of fire inspector from the skilled maintenance unit. Subsequently, without explanation, the Hospital adduced evidence as to the classification.<sup>14</sup> In its brief, Teamsters

<sup>14</sup> According to the testimony, the fire inspector is responsible for seeing that the Hospital meets all the applicable fire and safety regulatory codes and holds biweekly fire safety programs to educate the Hospital's employees on fire safety matters. This person, along with the manager of fire safety, is on call 24 hours a day, 7 days a week to respond to any fire or safety problem at the Hospital. The inspector is also responsible for the testing of all fire apparatus such as smoke alarms, fire detectors, and sprinkler detectors; an electrician and an HVAC mechanic assist in the test procedure. When fire equipment needs to be replaced or repaired, the inspector and the fire chief issue the necessary order, or permits, for the discontinuance of any fire safety service. Employees such as steamfitter plumbers perform the necessary repair work.

*Continued*

argues that the fire inspector should be included in the skilled maintenance unit; the Hospital argues in its brief that the position should be included in the non-professional unit. Nothing in the record conflicts with the parties' stipulation; nor are statutory mandates involved. Accordingly, the Board honors the stipulation and the fire inspector is placed in the all other non-professional unit. *Tiffin Enterprise*, 258 NLRB 160 (1981); *Tribune Co.*, 190 NLRB 398 (1971); *Harvey Russell*, 145 NLRB 1486, 1488 (1964). This principle applies in representation cases that have gone to hearing as well as cases in which the parties have stipulated to proceed to an election.

*Computer Electronics Technician (INFS)*: Teamsters contends that the classification of computer electronic technician should be placed in the technical unit. The Hospital argues that it belongs in the skilled maintenance unit. It appears that FNHP asserts that the position is not technical.

The computer electronics technician installs, troubleshoots, and repairs microcomputers, such as Apple brand computers and IBM compatibles, which are located throughout the Hospital, upgrades the computers by adding memory and disk drives, and is responsible for maintaining an inventory of parts in the repair shop. This technician also coordinates the sending and return of computer equipment for repairs or exchange. The types of troubleshooting and repair work performed by the technician include complaints regarding printer smudges, a blank computer monitor, key sticking on a keyboard, or a disc drive which is not reading a diskette.

The computer electronics technician does not work in the maintenance department but in the department of information services. The technician is located in a workroom in the Annex Building where the technician works on upgrading and repairing computers. The technician uses such diagnostic equipment as a multimeter and voltmeter and such other tools as a soldering iron and an assortment of screwdrivers. The technician does not wear a uniform as do employees in the maintenance department but, instead, a shirt and tie. The pay range for this position is \$12.76 to \$17.18 an hour.

With respect to the qualifications for the position, the job description requires an associate degree in electronics technology or computer science. Previous related experience in electronics repair, for example in a computer retail outlet, may be considered in lieu of the

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The director of the facilities management department did not know whether an associate degree in fire sciences or safety was required or preferred for the fire inspector position, or whether the current fire inspector had such a degree. There is a requirement of 2 years' experience in firefighting, either military or public, and an additional year as inspector. The current fire inspector has been in the job for 3 years and prior to that had been a city firefighter for 18 years where he rose to the rank of lieutenant.

educational requirements. The computer electronics technician is also provided with product specific training after hiring. There is only one technician in this position and that person holds an associate degree in electronic technology. Prior to being hired as a computer electronics technician, this person worked for the Hospital as a data processing equipment operator.

The department in which an employer places an employee is not determinative of whether that classification properly belongs in the skilled maintenance unit. *Toledo Hospital*, 312 NLRB 652 (1993). The Hospital cites *Garden City Hospital (Osteopathic)*, 244 NLRB 778 at fn. 4 (1979), to support its position that the computer electronics technician should be placed in the skilled maintenance unit. It appears, however, that the Hospital's technician is more highly trained than the technician in *Garden City*, and that the latter technician also performed routine maintenance work. In *Toledo Hospital*, supra, the Board held that the placement of employees in several similar classifications, who were responsible for complex microcomputer, mainframe, and similar-type equipment, required further study, and thus voted such employees under challenge. As in *Toledo Hospital*, we order that the computer electronics technician be permitted to vote under challenge (in both the skilled maintenance and the technical unit).

*Central Transport Aide, Central Transport Services Dispatcher, Mailroom Aide, Motor Vehicle Operator (SPSV); Radiology Transport Aide (RADI)*: Teamsters would include these classifications in the skilled maintenance department. The Hospital contends that they should be included in the nonprofessional unit.

These classifications are in the central transport department of the support services department, except for the radiology aide position, which is in the radiology department. Their wages range from \$6.50 to \$10.89 an hour.

Central transport aides are responsible for transporting patients to and from various clinics or procedure areas, and picking up specimens, medical records, pharmacy medications, X-ray films, or anything else related to patient care. The job functions of the central transport aides are basically the same as the functions performed by the radiology transport aides, except that the radiology aides are responsible for transporting only X-ray bound patients. These employees move patients by using a stretcher or wheelchair.

Employees in these job classifications are required to have taken courses in secondary school, but there is no requirement for a high school degree. There is also no requirement to participate in any apprenticeship program, trade school, or vocational training. Transport aides do not perform any building or plant maintenance work, nor do they perform any work related to maintenance such as HVAC, electrical, plumbing, or

mechanical systems. The transport aides do not help or assist any of the maintenance employees employed in the Hospital's facilities management department.

The central transport services dispatchers receive all the incoming calls for the transport department and are responsible for scheduling the transport aides. They dispatch the aides according to the requests received and direct them throughout the day to particular destinations. They perform no maintenance work, nor do they help or assist the employees in maintenance department. The only educational requirement for this position is secondary school.

There are six mailroom aides who are responsible for separating and filing all interdepartmental mail at the Hospital. They also separate out all the first-class mail as it comes from the post office, assemble the mail into bundles, and then deliver the mail to each of the Hospital's departments. They put postage on outgoing mail. They perform no maintenance work nor do they assist any maintenance employees. There are no educational requirements for the mailroom aide position.

There are two motor vehicle operators employed in the transport department. They are both required to have completed a high school education or its equivalent and to hold a chauffeur's license.

One of the operators is responsible for transporting confidential materials from the Hospital to other hospitals, such as trustee reports and anything else that needs to be hand-delivered by a courier. This operator is also responsible for bringing rape kits from the emergency room to the state health department and bringing specimens to the state lab. The other motor vehicle operator is primarily responsible for delivering mail to the Hospital's two off-campus sites, the Parsons Building and the Coro Building. Both of these individuals use a motor vehicle provided by the Hospital to make their particular deliveries. They perform no maintenance work, nor do they assist any employees in the facilities management department who perform maintenance functions.

Employees in the foregoing classifications perform no skilled maintenance work, and there is no basis for including them in the skilled maintenance unit. See, e.g., *Toledo Hospital*, supra, (hazardous waste transporters). Contrary to Teamsters' argument in its brief, the fact that the transport aides and motor vehicle operators, "like the other maintenance employees, move to all areas of the hospital and are not generally confined to a single building," is not relevant to their placement. Nor is the level of their salary, nor their ultimate supervision by the director of support services. We, therefore, include them in the other nonprofessional unit.

## Technicals

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." *Barnert Memorial Hospital Center*, 217 NLRB 775, 777 (1975), quoting *Litton Industries of Maryland*, 125 NLRB 722, 724-725 (1959). Technical status is frequently evidenced by the fact that the employee is certified, licensed, or registered, although employees may meet the standards of a technical employee without such certification. *Barnert*, supra at 776.

Except where indicated to the contrary, FHNP contends that employees in the following classifications are not technicals, and should be excluded from the unit it seeks to represent. The other parties' contentions are as stated.

*Surgical Technician (OPRM)*: FHNP contends that the position of surgical technician should be included in the technical unit; the Hospital would place this classification in the nonprofessional unit. Teamsters takes no position.

There are approximately 27 or 28 surgical technicians employed in the Hospital's operating room department. These employees are required to have a high school diploma and some training in the area. Training programs are not standardized and vary in length from 3 months to a year. Some of the surgical technicians, about seven or eight, received their training in the armed services; some attended a junior college program; and others were trained in a program offered by the Hospital some 15 years ago.<sup>15</sup> After they are hired, surgical technicians participate in an on-the-job orientation program in which they rotate through the various surgical departments such as general surgery, orthopedics, and neurosurgery to familiarize themselves with various surgical procedures and to allow the Hospital to evaluate their skills. There is no requirement that surgical technicians be licensed or certified.

Surgical technicians assist the registered nurse in preparation for surgery and scrub down the instruments and tables for the surgeon. The technicians gather the equipment, instruments, and supplies required for the particular procedure and assemble them on a tray in the order in which they will be needed. Each department usually has a standardized procedure for organizing the instrument tray. Technicians have some discretion, however, to move an instrument in accordance with their own preferences.

<sup>15</sup> Only one technician does not have the required training. That individual, however, began working for the Hospital 35 years ago in the instrument room and has been grandfathered in.

During a surgical procedure the technician will pass the instruments and sutures to the doctors. Although the doctors normally ask for particular instruments, the technician is expected to anticipate the needs of the doctor. The technician is also responsible for keeping the entire operating area sterile and thus monitors medical students and others who come into the operating room to observe. When surgery is finished, it is the technician's responsibility to clean up the tables and the instruments and to assist in cleaning the rooms.

According to the Hospital's policy, technicians are under the direct supervision of the registered nurse and they do not function as circulators (an RN who along with the anesthesiologist has overall responsibility for the patient while in the operating room). The RN circulator assists in getting the patient ready, makes sure the technician has scrubbed and has assembled the required instruments, makes sure there are no breaks during surgery, supplies the surgeon with anything he or she needs not on the tray or table, and monitors the patient. During surgery, if something unexpected occurs, the technician will ask the circulator to get a special tray or instruments which the technician has determined the physician may need. The technicians must act quickly in emergency room cases because surgery may take place immediately. The type of surgery that will be performed in these circumstances is unpredictable, and thus the technician not only has to act quickly but exercise judgment in preparing for surgery and reacting to whatever circumstances develop.

During surgery the technician is responsible for handling any tissue that is removed by the physician for testing purposes. The technician must make sure the tissue is properly labeled and preserved.

We find the surgical technicians to be technicals. All are required to receive special training, ranging from 3 months to a year; they must be familiar with the various surgical departments in the Hospital, and rotate through the departments to acquire the necessary knowledge and be evaluated by the Hospital. Although some of their duties appear to be routine, others are clearly skilled, such as anticipating the needs of the doctors performing surgery. In addition, they have some discretion in organizing the order and arrangement of the instrument tray. We include the surgical technician in the technical unit. *Meriter Hospital*, 306 NLRB 598, 600-601 (1992); *William W. Backus Hospital*, 220 NLRB 414, 418 (1975).

*Burn Technician, Rehabilitation Medicine Technician (REHB)*: Teamsters would include both of these classifications in the technical unit. The Hospital argues that these positions belong in the nonprofessional unit.

The *burn technician* assists the physical therapist, the physical therapy assistant, or the occupational therapist in the treatment of burn patients who are receiv-

ing hydrotherapy. Specifically, the technician performs nonsurgical debridement of burn wounds including cleaning and applying germicides. The technician is aware of the patient's overall treatment plan, keeps alert for patient reaction to the treatment, and can make recommendations or suggestions that treatment be modified. The technician is also involved in transporting burn patients, providing them with a sterile environment, and cleaning the burn room and equipment after treatment. In addition, the burn technician orients new therapists and physical therapy students in the procedures and techniques of burn management. When the schedule permits, the technician assists in the physical therapy department with any exercises the burn patients are performing.

The burn technician job does not require any degree, license, certification, or registration. The job description for burn technician states that at least 1 year of hands-on experience in burn treatment is required. The current burn technician was hired from a position in the Hospital's transport department and had no post-high school training in burn treatment. After being hired, the technician was given on-the-job training in how to deal with and transport patients and how to sterilize the burn room and equipment and prepare the burn tank.

There are two *rehabilitation medicine technicians*, who assist the physical therapist and assistant therapist in administering various treatments to patients such as whirlpool, massage, hot packs, ice packs, and ultrasound. They also set up patient areas and assist in exercising patients to restore the patient's flexibility and strength. In addition they clean the treatment rooms and equipment, maintain appropriate stock levels of medical supplies, and transport patients to and from treatment areas. During treatment, the rehabilitation medicine technicians observe the patients and thereafter make recommendations to the therapists as to the patients' progress and any changes in treatment the technician feels is necessary.

Although a degree in exercise psychology or physical education is strongly desired, no degree is required—only a high school diploma with experience in fitness training and/or exercise physiology or 1 year's experience in a fitness facility, therapy clinic, or similar environment. One of the technicians holds a 4-year degree in physical education; the other has no degree. If the technician has no prior training, the Hospital provides on-the-job training of approximately 6 to 12 months.

With respect to the burn and rehabilitation medicine technicians, as with a number of other classifications, Teamsters argues that they should be found technical, because they "interact" with other technical and professional positions. This is not a relevant consideration. In view of their lack of specialized training, and be-

cause the record fails to establish the use of independent judgment by these technicians, we find they are not technicals. Consequently, they shall be included in the unit of all other nonprofessionals.

*Media Aide, Pathology Technician B (PATH):* Teamsters contends that the media aide classification belongs in the technical unit; the Hospital would place it with nonprofessionals. FNHP would exclude the position of pathology technician B from the technical unit; the Employer would include it.

The pathology department is responsible for performing all laboratory tests needed by hospital patients. The three *media aides* in this department work in the microbiology lab in the APC building along with pathology technologists. The aides' job is to prepare the media, a chemical substance used by the microbiology department to grow cultures in order to test for infections. There is no evidence in the record that media aides are required to have any post-high school education, a license, or any other certification.

The *pathology technician B* position is located in the Hospital's various laboratories where employees in this classification perform basic technical work related to laboratory testing. For example, they prepare slides of blood smears, process specimens, and perform prep work under the direction of pathology technologists, who analyze the test results.

The Hospital currently requires an associate's degree or its equivalent. The two full-time technicians do not have a degree but they have been employed for at least 10 years and were grandfathered in. There are no registration or certification requirements. There are also four students in this position, who work a regular schedule every weekend—Saturday and Sunday. They each work 8 to 16 hours a week and have the same benefits as other employees working the same number of hours.<sup>16</sup>

Neither the media aide nor the pathology technician B is required to receive specialized training or to be certified or licensed. The media aides, as their classification implies, merely prepare media for cultures. Although the work of the pathology technicians B appears to be somewhat more varied, they also primarily prepare slides and process specimens for examination by others. There is no evidence they exercise interpretive responsibilities. Hence, we find them not to be technicals. Cf. the employees in the pathology department described in *Trinity Memorial Hospital of Cudahy*, 219 NLRB 215, 217–218 (1975).

*Cerebrovascular Laboratory Technician (ONSV):* FNHP and the Hospital would exclude the cerebrovascular laboratory technician position from the technical unit; the Teamsters would include it.

There are two cerebrovascular laboratory technicians in the oncology and neuroscience services department. These technicians, working under the direction of a physician, use ultrasound equipment to measure blood flow to the head. The ultrasound images are used for the diagnosis and treatment of vascular disease.

The job description states that, prior to testing, the cerebro technician reviews the patient's medical history and records the patient's pulse and blood pressure to assess the patient's ability to tolerate the procedure and to facilitate optimum diagnostic results. The technician then conducts scanning procedures to determine blood flow and the existence of any blockage. The technician reviews the film to analyze the image, formulates a preliminary diagnosis, and records the resultant test data for review and further interpretation by a physician.

The job description requires knowledge of anatomy, physiology, and general biology which may be acquired in a 1-year course beyond high school; a bachelor's degree in a related science is preferred but not required. Six to 12 months of on-the-job training is required; previous training in radiology, particularly ultrasonography, is preferred but not required. The position does not require a license, certification, or registration. One cerebro technician has a 4-year bachelor of science degree and worked 3–4 years as a cerebrovascular technician in a private office before coming to the Hospital. The other technician has no post-high school education, but has extensive work experience, i.e., more than 5 years of working in a private vascular surgeon's office doing exactly the same type of ultrasound testing. The director of the oncology department testified that this work experience provided the technician with a level of knowledge equivalent to a 1-year course in the fields of science listed on the job description.

The director also testified that the skill requirements of the cerebro technician position are equal to or less than the requirements for the ultrasound technician, a position the parties have stipulated is properly placed in the technical unit.

We find the cerebrovascular laboratory technicians to be technicals. The Employer requires such knowledge of anatomy, physiology, and biology as would normally be obtained in college courses. The employees in this position have had extensive experience, and not only perform scanning procedures but also preliminarily review and analyze them. We find their responsibilities encompass a sufficient exercise of independent judgment to qualify them as technicals. See, e.g., *St. Elizabeth's Hospital of Boston*, 220 NLRB 325, 327 (1975) (cardio pulmonary technician). Cf. *Trinity Memorial Hospital of Cudahy*, 219 NLRB 215, 218 (1975), where EKG technicians were found not to be

<sup>16</sup>No party contends these employees should be excluded because they are students.

technical in part because they made no interpretations of test results.

*Radiology Technologist Assistant (RADI); Clinic Testing Technician (AMDT)*: Teamsters would include these positions in the technical unit; the Hospital would place them in the nonprofessional unit.

A primary function of the *radiology technologist assistant* is to prepare and position patients in accordance with the particular X-ray procedures ordered by the physician. The assistant reviews the patient's chart and positions the patient according to the X-ray ordered. The assistant also mixes barium solutions in accordance with the formula on the package. Another of their primary functions is to process the film and return the processed X-ray to the technologist. The assistant also stocks shelves and will transport patients if necessary.

There are three assistants who are supervised by the radiology technologist. No education beyond high school is required, nor does the job require any license, registration, or certification.

The two *clinic testing technicians* work in the admitting department where they perform a variety of preadmission tasks. These tasks include a number of clerical duties such as answering the telephone, making patients' appointments, and putting laboratory data into the lab information system. They also assist the registered nurse by helping patients get from one station to another and by helping the patients get dressed or undressed. The clinic testing technicians also administer routine electrocardiograms, which are performed according to a standardized procedure.

This position does not require a license, certification, registration, or any degree—only on-the-job training. Although the clinic testing technician job description describes as one of their duties taking and developing X-rays, the testimony shows that they no longer perform those duties. The radiology department is now responsible for that function.

Neither of these positions requires specialized education, licensing, or certification. Many of their jobs, such as positioning patients, escorting them, stocking shelves, and answering the phones, are routine. The clinic testing technicians' function of administering electrocardiograms is, likewise, performed in a standardized manner. Accordingly, we find that employees in these two classifications are not technicals. *Mercy Hospital-Cadillac*, 311 NLRB 1291 (1993), at section iii-iv (RDT).

*Pharmacy Technician, Pharmacy Technician Trainee (PHAR)*: FNHP and the Hospital contend that these positions are properly included in the nonprofessional unit. Teamsters contends that these classifications are technical and thus should be placed in the technical unit.

There are approximately 15 *pharmacy technicians* in the pharmacy department. The pharmacy technicians

assist the pharmacist in the formulation, preparation, dispensing, and delivery of medications. The Hospital requires technicians to have a high school education and 1 to 2 years of college, or comparable work experience, preferably in a health-care related field. They must also successfully complete the Hospital's 15-week technician training program. The pharmacy technician's pay range is \$8.50 to \$10 per hour.

The pharmacy technicians fill prescription orders and package and label doses in accordance with the physician's instructions and availability. The technicians do not make any judgments with respect to preparing medications. They formulate the dose "based on department standards, manufacturers' standards or on the pharmacist approved formulation record," and the pharmacist reviews all orders before they are dispensed. Indeed, "nothing is prepared without being reviewed by a pharmacist."

The *pharmacy technician trainees* are full-time employees of the Hospital who are enrolled in the 15-week technician training program. During this program, the trainees attend classroom instruction and lectures and perform the same duties and functions as pharmacy technicians. On successful completion of the program, they are employed as technicians. The trainees receive \$7 per hour during the program.

Pharmacy technicians and pharmacy technician trainees were recently considered by the Board in *Meriter Hospital*, 306 NLRB 598, 601 (1992), where they were found not to be technicals. For the reasons expressed in that decision, as well as in decisions cited in *Meriter*, we find the pharmacy technicians and technician trainees not to be technicals.

*Audiovisual Services Specialist, Audiovisual Services Technician (TECH)*: FNHP and the Hospital would find these positions not to be technical, and would include them in the nonprofessional unit. Teamsters contends they should be placed in the technical unit. At the hearing, the parties agreed to litigate these classifications based on the information contained in their job descriptions.

The *audiovisual services specialist* provides photographic and audiovisual services in support of the Hospital's informational and educational programs. The specialist also provides photographic services throughout the Hospital for public relations and clinical purposes. The specialist develops photographs, assists with planning for photographic and/or audiovisual support for educational programs, and participates in the production of videotapes. The specialist must have a level of knowledge normally acquired through completion of 2 years of college work in communications art and sciences and between 6 and 12 months of previous related or on-the-job experience. The job description does not require any license, registration, or other certification.

The *audiovisual services technician* provides audiovisual services in support of the Hospital's informational and educational programs. The technician delivers, sets up, operates, maintains, and performs minor repairs on a variety of audiovisual equipment including film, slide and overhead projectors, light and sound systems, and audio and videotaping devices. The technician also instructs others in the operation of audiovisual equipment. In addition, the technician provides guidance and technical assistance to determine the most appropriate and cost-effective medium setting, format, and equipment to meet the Hospital's needs. The technician must have a level of knowledge normally acquired through completion of a 6-month to 1-year technical or postsecondary program in communications and 1 year of previous related or on-the-job experience. As with the specialist, no license, registration, or certification is required.

Placement of the employees in these classifications presents close issues. On the one hand, prior Board cases have generally found employees in similar classifications to be nontechnical. *Newington Children's Hospital*, 217 NLRB 793, 795 (1975) (photographer-cinematographer-television technician); *Children's Hospital of Pittsburgh*, 222 NLRB 588 (1976) (assistant medical photographer). On the other hand, in both of the cited cases, the Board relied in large part on the fact that no formal higher level of education, and no certification, was required. In the present case, the job descriptions indicate that the specialist must have knowledge normally acquired through 2 years of college level work in communications, and the technician, 6-months to 1 year of such training. Moreover, the specialist appears to exercise considerable independent judgment and creativity in planning photographic and/or audio visual support for education programs, and he or she also participates in the production of videotapes. Accordingly, in view of the *audio visual services specialist's* training and the nonroutine nature of his duties, we find this classification to be technical. However, we find the record insufficient to establish that the *audio visual services technician* is a technical, and hence place that classification in the all other non-professional unit.

*Physician Referral Representative (PHSV)*: Teamsters contends this position is technical; the Hospital would place it in the nonprofessional unit. This position was also litigated solely on the basis of the information contained in the job description.

The physician referral representative is responsible for receiving telephone requests from patients and physicians seeking physician services at the Hospital. The representative must be knowledgeable in hospital services and handles requests for transfers from other hospitals on behalf of patients. The representative also confirms patient appointments and enters intake and

referral information into the Hospital's computer system. The Hospital requires a high school degree with knowledge of IBM computer systems preferred and the ability to type. In addition, a minimum of 1 to 2 years' experience in a hospital setting is required. We find no basis to exclude this employee as a technical and so would place the classification in the nonprofessional unit.

*Medical Practice Technician (MEDC)*: Teamsters contends that this position is properly placed in the technical unit. The parties have agreed to litigate the placement of this position based on the information contained in the job description.

The medical practice technician assists physicians in their medical office practice in the examination and treatment of patients. The technician takes and records the patient's vital signs, such as blood pressure, temperature, pulse, and respiration; collects specimen samples for laboratory analysis; administers electrocardiograms; obtains blood samples for laboratory analysis; administers medications by injection, such as B 12 and flu vaccine; and may also perform venipuncture for the purpose of intravenous therapy of fluids which do not contain any added medications. The technician is also responsible for cleaning the equipment and the examining rooms, as well as ordering and stocking all office supplies. The position requires a level of knowledge generally obtained through completion of high school as well as basic healthcare training such as an emergency medical technician, nursing assistant, or medical assistant program or equivalent experience in an acute care or emergency setting.

As with the audio visual classifications, the medical practice technician presents a close issue. One of this classification's duties, venipuncture, appears to involve considerable skill. See, e.g., *William W. Backus Hospital*, 220 NLRB 414, 419 (1975) (hemodialysis technician). On the other hand, emergency medical technicians are not always found technicals; much depends on their level of training. See, e.g., *Southern Maryland Hospital Center*, 274 NLRB 1470, 1474 (emergency medical technicians). Considering the duties of this position as a whole, we conclude that Teamsters has not established, on this record, the technical status of this classification, and therefore it shall be included in the nonprofessional unit.

*Buyer and Senior Buyer (MTMG)*: FNHP and Teamsters contend that the buyer and senior buyer positions are not technical and should be included in the non-professional unit. The Hospital would include these classifications in the technical unit.

There are two buyer and three senior buyer positions in the materials management department. The buyers are responsible for processing all supplies used by the Hospital. Buyers are responsible for a particular type of medical or surgical supply, while the senior buyers

are responsible for a particular area such as the operating room, anesthesia department, or laboratory and research.

When requisition forms come into the purchasing department, the buyer reviews the form to be sure it contains all the necessary information—code, cost center number, description of items, proper signatures—and then the buyer calls the vendor specified on the form to confirm the price and place the order. Ninety-nine percent of the time, the vendor is already listed on the form because only certain vendors may be used. For example, there are only two or three vendors approved for computers; books may be bought only from particular publishers and other vendors are under contract with the Hospital. Senior buyers have essentially the same job duties, except they are responsible for larger projects such as processing supplies for the new children's hospital.

The buyers also review prices and materials to see whether they are competitive, monitor the service and product availability of the various vendors currently being used, from time to time prepare reports on such matters as usage and cost savings, interpret bids and specifications, and make recommendations regarding new suppliers. The requisitioning department, however, makes the decision on which vendor and product to use. The buyers' recommendations, based on an analysis of cost and competitiveness, are almost always accepted in making the final decision. However, for procurement of any item over \$5000, there is a competitive bid policy which requires that a formal proposal go out to three or more vendors.

The buyer's job description requires an associate's degree in business administration or related field or its equivalent, and 1-year related experience in inventory and purchasing procedures. Only one buyer position is currently filled and that person has not completed any postsecondary education. Rather, that person was promoted to buyer after serving as a secretary/receptionist in the purchasing department. The senior buyers are also eligible for employment based on work experience rather than a 2-year degree.

The positions of senior buyer and buyer are largely circumscribed by the Hospital's standard procedures. Although an associate's degree in business administration or its equivalent is theoretically required of the buyer, the person presently employed as buyer has no postsecondary education. No certification or registration is required. We find the buyers are not technicals. Compare *Baptist Memorial Hospital*, 225 NLRB 1165, 1170 (1975) (assistant purchasing agent). Accordingly, these positions are included in the nonprofessional unit.

*Interpreter (CMRL)*: FNHP contends that interpreters are technical employees who should be included in the technical unit. The Hospital contends that

the position of interpreter should be included in the all other nonprofessional unit.

There are approximately six full-time, one part-time, one summer, and two on call<sup>17</sup> interpreters in the community relations EEO department. These interpreters are proficient primarily in Cambodian, Portuguese, and Spanish.

An interpreter's primary function is to communicate with non-English-speaking patients and employees to ensure that they receive proper service and treatment. They assist patients in communicating with their doctor or other health care provider or help patients schedule appointments. When time permits, interpreters also provide written translations of various documents such as departmental or hospital policies, discharge instructions, the surgical consent form, and dietary information.

In addition to simply translating doctor's orders and patient's questions, interpreters must be familiar with the patient's culture in order to convey persuasively the necessity for medical treatment. The interpreter must also be fluent in English in order to describe to the doctor how the patient is feeling. Interpreters are required to have a working knowledge of medical terminology so that they can accurately describe to the patients the necessary medical procedures, drugs, or treatments. Interpreters must also be familiar with all of the Hospital's services including the billing process, insurance, Medicare and Medicaid. They must have knowledge of the various social service agencies which can provide assistance to needy patients or employees. In several instances, interpreters have contacted such agencies on behalf of a patient.

Interpreters work entirely independently; they are never supervised when they are actually working at interpreting and/or translating. They must use their own judgment in deciding how to describe a particular technology or procedure, especially when it has no direct translation into a foreign language. Interpreters must independently assess when a patient has sufficiently understood the information given.

The job description for interpreters requires completion of an associate's degree or its equivalent. Of the interpreters currently employed, one has a master's degree and one a bachelor's degree in foreign languages; another has a master's degree in geography and education from Portugal, two have the equivalent of 2 to 4 years of college; and another has had some college education in Cambodia. Their pay ranges from roughly \$9 to \$13 per hour.

When an interpreter is needed, a call is made to the department's coordinator who dispatches the appro-

<sup>17</sup> On-call employees are eligible to vote if they "regularly average 4 or more hours of work per week for the last quarter prior to the eligibility date." *Davison-Paxon Co.*, 185 NLRB 21, 24 (1970); *Northern California Visiting Nurses Assn.*, 299 NLRB 980 (1990).



priate interpreter. Interpreters carry beepers so that they can be sent on calls even when they are not in the building. The coordinator also has a list of approximately 100 employees who are proficient in a foreign language. These employees have voluntarily agreed to be called if no interpreters are available or if there are no interpreters for their particular language. When these employees are called, they perform the same functions as the interpreters. Sometimes in the operating room when an interpreter is needed but none is immediately available, anyone who can speak the language—nurses, technicians, orderlies—is used as an interpreter.

We find the interpreters are not technicals. Although some higher education is required, and although several have advanced education in languages, others have college educations in unspecified areas. It appears from the record that the main job of the interpreters is to convey information to and from patients who speak a foreign language, and that interpreters' knowledge of medical, billing, and other hospital procedures is of a generalized nature. Moreover, when interpreters are unavailable, anyone who can speak the required language serves as a substitute. We find the interpreters are not technicals and include them in the nonprofessional unit.

#### Business Office Clericals

The Board has experienced very little litigation regarding business office clericals in recent years. In the past, the Board has distinguished between business office and nonbusiness office clericals (BOCs), consistently including the latter in service and maintenance units in hospitals where they have contact with service and maintenance employees. *Mercy Hospitals of Sacramento*, 217 NLRB 765 (1975); *St. Luke's Episcopal*, 222 NLRB 674 (1976); *Duke University*, 226 NLRB 470 (1976). Thus, clerical employees who are located geographically throughout the Hospital, within various departments composed of other service and maintenance employees, are included in overall nonprofessional units. *St. Francis Hospital*, 219 NLRB 963, 964 (1975).

In the Healthcare Rulemaking, the Board also recognized the distinction between business office and other types of clericals. 284 NLRB 1528 at 1565. The Board noted that BOCs perform distinct functions: handling finances and billing, and dealing with Medicare, Medicaid, and other reimbursement systems. BOCs are generally supervised separately in BOC departments; this separation has resulted from the almost universal centralization of business office functions. BOCs have little interaction with other nonprofessionals because the BOC offices are often physically isolated.

The parties stipulated that the financial planning department (FNPL) and the financial systems department

(FSYS), both of which are located in the Parsons Medical Building, are business office clerical positions and therefore should be excluded from the units sought herein.<sup>18</sup> The parties disagree, however, on whether employees in three other departments, patient financial services, medical records, and general accounting should also be excluded as business office clericals.

*Senior Accounts Payable Clerk, Accounts Payable Clerk, Accounts Payable Audit Clerk, Secretary C, Clerk B, Clerk Specialists (ACCT)*: Teamsters would exclude these classifications as business office clerical while the Hospital would include these positions in the nonprofessional unit.

The general accounting department keeps the accounting records of the Hospital, using a general ledger, and prepares both the monthly and annual financial statements. The accounting department is responsible for payroll, account payables, and depositing incoming cash receipts. The department is also responsible for making sure the Hospital has sufficient operating capital to pay its accounts payable and meet its payroll. Thus, the department monitors checking account activity, and is responsible for the various hospital bank accounts, including operating, payroll checking, lock box (incoming cash), and endowment accounts. It also monitors the Hospital's investment funds. The department is also in contact with the development office with respect to fundraising activities so that incoming funds can be posted to the appropriate ledger account. Any payment made to the Hospital goes to the accounting department, including checks from the Federal Government and insurance agencies. When bills are submitted by vendors, the department works with the Hospital's check register to make payments to vendors, and to record those payments in the general ledger.

Employees in this department have no involvement in patient billing. They do not contact insurance companies regarding patients' bills or reimbursements. They do not work with or assign codes for DRGs—a diagnostic reimbursement grouping—which essentially is a mathematical formula for determining how much the Hospital will be reimbursed from Medicare or private insurers. They do not generate any paperwork used for obtaining reimbursement from Medicare. They do not work on collections of patient bills or with patient billing accounts. This department, like the patient financial services department, is located in the Parsons Medical Building.

The three or four clerk specialists in the accounting department handle the documentation for all incoming cash, insure that it is properly deposited, and then pro-

<sup>18</sup>The financial planning and financial systems departments employ approximately 16 and 4 individuals, respectively, in various positions as financial analyst, senior reimbursement specialist, budget manager, budget coordinator, and project coordinator-accounting.

vide the patient financial services department with the information about the deposits so they can apply it to the proper patient account. Specifically, the clerk specialists receive hundreds of checks per day which are deposited in a lock box. The checks are accompanied by a document called the settlement sheet, which is generated by the insurance carrier making the payment and which lists the accounts being paid. After copies of these checks and supporting documentation are made, the clerk specialist retains one photocopy and records it in the general ledger. The settlement sheet from the insurance carrier and a copy of the check is then transmitted to patient financial services. When a check is returned for insufficient funds, the clerk specialists turn it over to patient financial services for handling.

The senior accounts payable clerks and accounts payable clerks match the packing slips which accompany incoming goods ordered by the Hospital to the bills submitted by the vendor. The packing slips and proof of delivery forms are sent to the accounting department from the receiving department. The accounts payable audit clerk provides a detailed comparison of all the documents with the end product and makes any corrections that are needed. These employees periodically interact with the accountants in the department and/or the patient financial services department with respect to insufficient funds or incoming wire transfers. The major distinction between the senior account clerk and the account clerk is that the senior clerk assigns voucher numbers to each invoice package and submits them to the data entry department for payment.

The secretary C in the accounting department performs general secretarial functions for the department. These duties include serving as a telephone operator, word processing, and being responsible for all the office supply needs of the department.

It is clear, under established Board law, that clericals who perform accounting functions such as these, in a separate location (here, the Parsons Building), are business office clericals. *Baker Hospital*, 279 NLRB 308, 308 (1986); *Southwest Community Hospital*, 219 NLRB 351, 352 (1975); *Trumbull Memorial Hospital*, NLRB 796 (1975). We so find and thus exclude them from the petitioned-for units.

*Computer Operator, Data Entry Operator, Clerk B, Production Control Clerk, Secretary D, Data Processing Equipment Operator, Data File Librarian, Help Desk Coordinator (INFS)*: Teamsters contends these classifications are business office clerical positions; the Hospital would include them in the all other non-professional unit.

The information services department is responsible for the processing and maintenance of the data processing systems at the Hospital. The program area of this department is located in the Coro Building where

the clerk B and the secretary D positions are located; the data center, which includes all the other classifications, is in the basement of the Keystone Building, where the admitting department and telephone operators are also located.

The employees in this department have no patient care functions or any direct care patient contact. They also have no involvement in patient billing or patient billing accounts and do not contact insurance companies regarding individual bills or reimbursement. They do not work with DRGs or assign coding for DRGs; they do not generate any paperwork for reimbursement for Medicare or otherwise; and they do not work on the collection of patient bills.

Computer operators in the data center operate two mainframes, an IBM 3090-180J and an IBM ES 9000-320, which are used in every department of the Hospital from purchasing to nursing. These departments use the computer through on-line access via a terminal or a personal computer or through batch. For instance, these employees may install software for a nursing acuity system in the mainframe, which would be used by the nursing department to determine the types of patients that may be on the nursing unit on a particular day for staffing purposes. In addition, computer operators run the programs for the patient management systems on the mainframe, which is used by a number of different employees scattered throughout the Hospital for such purposes as collecting demographic data on patients, recording test results, and the charges for such tests.

Data entry employees enter data from all areas of the Hospital. They deal with a variety of statistical data such as pharmacy information, accounts payable, and patient information such as the number of visits and procedures a patient has had. The various hospital departments prepare the information and give it to data entry for processing.

The data entry operator, data file librarian, clerk B, and secretary D do not deal with patient care information, patient charts, or records. They never call up any information about patient treatment or medical data on the mainframes. The department does, however, enter cost information, "charges," for patient services performed in some of the Hospital's departments. For instance, although a majority of the charges with respect to outpatient are input by the various clinics, some, like medical and pediatric, send the charges to data entry. The charges are in code rather than in dollars and cents, and may or may not be the same as an insurance code.

The production control clerk is responsible for maintaining the run schedule of the data center. Some computer systems have both batch and on-line jobs, which have to be processed in a certain order. It is the responsibility of the production clerk to make sure that

the second and third shift employees process these jobs in accordance with the documentation for those systems. The production control clerk also maintains the schedule of "on request" jobs, which are run only for specific purposes.

The help desk coordinator assists computer users who have problems accessing the on-line systems that are available at the Hospital and helps resolve any problems they may have. The requirements for this job are a high school education, a knowledge of data processing terms, and the ability to use a terminal.

The data processing equipment operator takes reports prepared by the main frame printer and processes them through a machine which separates them into separate pages. This person also decollates prepared reports by separating the reports into multiple parts.

The data file librarian maintains a library of magnetic tapes. The clerk B is a clerical position in the programming area responsible for regular secretarial, office functions.

The computer operator and data processing equipment operator work three shifts, 24 hours a day; the data entry operator, help desk coordinator, data file librarian, clerk B, and secretary D work only one shift.

Data entry and data processing employees have traditionally been deemed by the Board to be business office clericals, regardless of the fact, noted by the Employer in its brief, that the data they handle originates throughout the Hospital. *Seton Medical Center*, 221 NLRB 120, 121 (1975); *Valley Hospital, Inc.*, 220 NLRB 1339, 1343 (1975). Likewise, we find them to be business office clericals here.<sup>19</sup>

*Patient Accounts Representative-Ambulatory, Emergency Department Billing Clerk, Clerk B (Emergency Room), Patient Services Secretary B (PTFS)*: Teamsters contends that these positions should be included in the nonprofessional unit; the Hospital would exclude them as business office clericals.

There are eight separate work groups in the patient financial services department: emergency room registration, outpatient or ambulatory registration, financial counseling, billing, cash posting, insurance follow-up, patient followup, and customer relations. Except for emergency room registration and outpatient registration, which are located in the APC Building, the parties agree that all of the other classifications which are located in the Parsons Medical Building, and financial counseling in the basement of the main building, are typical business office clerical functions.

Emergency room registration and outpatient registration is responsible for collecting demographic and financial information about all incoming patients. When patients enter the APC Building, they first go to the information desk where they are checked off a computer listing by a patient services secretary B. If the patient has been preregistered, the secretary gives the patient his/her registration card and then verifies that the information on the card is correct. Employees in this work group also get patients to sign Medicare forms or the welfare log as required by third party payers. They then route patients to interviewers, patient accounts representative-ambulatory, as they become available.

The patient accounts representative-ambulatory reviews the patient's record to make sure the information is up to date or, if the patient has never been to the ambulatory clinics or the APC operating room, collects the necessary pertinent information. This information includes such items as name, address, date of birth, telephone number, maiden name, former residence, physicians, past medical history, financial status, and medical insurance. The representative may have to contact insurance companies if preauthorization is needed. This information is then input into the computer system. The patient accounts representative generates a plastic card imprinted with basic information concerning the patient such as his or her ambulatory record number, name, address, date card expires, and a financial coding which is needed in the various clinics. On the back of the card is a list of the patient's appointments—date, time, and clinic—and telephone numbers of the physician or the clinic. If the patient is going to the operating room, he/she is also given a wrist band.

Emergency room registration is handled in the same manner. Demographic and financial information is obtained from an interviewer or patient accounts representative and the patient is given a registration card. And, like patients headed for the ambulatory operating room, emergency room patients are given a wrist band. The information collected from the patient is entered into the computer, which is used to bill the patient.

Patients then go to their appointments at the appropriate clinic, or the operating room, located on various upper floors of the APC building. Patient accounts representatives—ambulatory are assigned to the clinics as well as the operating room, where they share a desk with a patient services secretary B. The patient accounts representatives rotate weekly between the clinics and the registration area. At the clinic the patient presents her card and, if additional appointments are needed, the secretary or patient accounts representative will add to the card the date, time, and clinic of the next appointment.

<sup>19</sup>Though Teamsters, at one point in its brief, states that "data processing, key punch and data control function has been uniformly held by the Board as not BOC"; and, at another point, that "there are no reported cases in which this function is BOC," all its arguments are to the contrary; moreover, the cases referred to uniformly find data processing employees to be BOCs. We deem Teamsters' statements to be inadvertent errors.

The emergency department billing clerks are located in the basement of the Samuels Dental Building, where they are responsible for accumulating all of the charges for services performed in the emergency room. They then compare the charge slips to the actual emergency room record. They also code the charges with diagnosis codes, which are necessary for insurance purposes. After putting all the information together, they send it to key punch for processing on the patient's account.

The emergency room clerk B position is in the billing area in the Samuels Dental Building. These employees perform clerical functions such as filing and sorting charge records.

Most of the clericals at issue here are, as indicated, located in areas frequented by patients. They do not work in predominantly business office areas; other nonprofessionals are nearby. The patient accounts representatives even rotate, on a weekly basis, to the clinics themselves. In conformity with Board precedent, therefore, we find them to be hospital clericals and include them in the other nonprofessional unit. *William W. Backus Hospital*, 220 NLRB 414, 415-416 (1975); *Jewish Hospital Assn. of Cincinnati*, 223 NLRB 614, 621-622 (1976). Although the emergency department billing clerks have workstations in a separate location, i.e., in the Dental Building, we deem it most appropriate to place them with the other emergency room clericals and consider them as a group to be hospital clericals, rather than to divide the group between two units.

*Correspondence Secretary, Dictation Monitoring Clerk, Medical Records Reception Clerk, Clerk A, Clerk B, and Medical Transcription Secretary A and B (MREC)*: Teamsters would include these positions in the all nonprofessional unit, while the Hospital contends that they should be excluded as business office clericals.

The medical records department is under the overall supervision of the vice president of financial operations, who is also responsible for financial systems, financial planning, patient financial services and general accounting. The department is open 24 hours a day, 7 days a week.

The department is located in the basement of the APC building, along with the mailroom, transport, office services, and housekeeping. The upper floors house the Hospital's various clinics. Connecting the patient clinics with the medical records department is a conveyor system that carries records from the basement to whichever floor they are needed. If the conveyor system is not operating or if a clinic needs medical records immediately, the clerk A will personally hand-carry the record directly to the clinic. When medical records are needed in the operating rooms in the APC building, they are either delivered by the clerks

or the orderlies will come down to get the files. Transport employees also deliver records to medical units in other buildings when needed. The department gets hundreds of requests for records a day. Virtually all of these calls come from the clinics in the APC building.

According to the testimony of a clerk A, who has been in the medical records department for 4 years, she has never gotten a request for medical records from the financial counseling area or the billing work group in the Parsons Building, which the parties stipulated are business office clerical positions. No records have been requested from or delivered to the cash posting working group, insurance followup, patient followup, customer relations, or financial systems. On occasion, however, these departments have requested certain information from medical records. For example, the billing work group in the patient financial services department is required by certain insurance companies to attach the patient's medical record to the bill. Copies of the patient's medical record are obtained from the medical records department or the emergency room. The employees in the billing group would also contact employees in medical records to obtain missing diagnosis codes or other information omitted from a bill.<sup>20</sup> In addition, employees in the insurance followup work group in the patient financial services department would ask the medical records department to review a record to see if there is any missing or incorrect information which has resulted in the nonpayment of all or part of a bill to an insurance company.

The clerk B position in the medical records department is identical to the clerk A position, except that employees in this classification assign, assemble, and combine. Specifically, when the records come down from the unit, they assign the records to the particular doctor, then assemble the record in an orderly fashion, and combine the records by putting together all of the patient's previous admissions into one record to make it easier for the doctor to review the patient's record.

The reception clerk sits at a desk in the front of the department. The person in that position is responsible for giving directions to anyone who walks in to the department. If there is a request for correspondence, the reception clerk will call the correspondence secretary. When a patient comes in to check on files which had not been located in time for the patient's clinic appointment, the reception clerk will consult with a clerk A or B to see if the record has been located.

Medical records employees have for the most part been deemed not to be business office clericals, but rather hospital clericals. *St. Catherine's Hospital of*

<sup>20</sup> These codes are determined by coding technicians in the medical records department who review each patient's medical record and then assign a code to each procedure that appears in the record. At the hearing, the parties stipulated that these technicians are business office clericals.

*Dominican Sisters of Kenosha*, 217 NLRB 787, 789 fn. 20 (1975); *Alexian Bros. Hospital*, 219 NLRB 1122, 1123 fn. 8 (1975); *Baptist Memorial Hospital*, 225 NLRB 1165, 1168 (1976). We reach the same conclusion here. Employees in the foregoing classifications work in an area near other service and maintenance groups, and in the same building as a number of clinics. Despite their ultimate supervision by the vice president of financial operations, they work largely with patients' medical records, and receive continuous requests for information from employees dealing directly with patients. They have little contact with admitted business office clericals. We find they should be included in the other nonprofessional unit.

*Surgical Pathology Information Processor, Pathology Transcriptionist Secretary A (PATH)*: Teamsters would exclude these classifications from the non-professional unit as business office clerical positions. The Hospital would include both positions.

The *pathology transcriptionist secretary A* works in the administrative and physician offices in the APC building. Her sole job function is to type autopsy reports written by residents and pathologists.

There are five *surgical pathology information processors* in the pathology department who also primarily work in the administrative offices in the APC building, but they also spend some time in the surgical suite in the Hospital's main building. Their duties include filing, typing surgical reports and handling telephone inquiries from physicians' offices on surgical specimens that were analyzed. They do not do any data computer entry.

Neither of these positions include billing or reimbursement work.

As many of these employees work in patient-care areas of the Hospital, and as they all work directly with physicians, including residents and pathologists, rather than in the Employer's main business office, we find they are hospital rather than business office clericals and are properly included in the other non-professional unit. *Duke University*, 226 NLRB 470, 471 (1976); see also dictum in *Barnes Hospital*, 306 NLRB 201 (1992).

*Billing Specialist (SURG)*: Teamsters contends that this position is business office clerical. At the hearing the parties agreed that the placement of this position would be decided on the basis of the information in the job description.

The billing specialist assists a physicians' group with respect to patient billing for private services. The specialist obtains the necessary billing information from the patient; sends out patient bills; completes forms for reimbursement from third party payers such as Blue Cross, Medicare, welfare or private insurance companies; posts payments from patients and insurance companies; and confers with representatives of third

party payers to resolve billing problems. This individual also reviews patient accounts that are in arrears and prepares regular reports reflecting the accounts receivable and accounts payable, summarizing each physician's billing activities. The position requires a level of knowledge generally obtained in high school with a concentration in the area of business, and 1 to 2 years of progressively more responsible experience in processing and resolving patient accounts.

The record contains no information about the work location of this employee, or about his or her supervision. However, it is clear from the description that he or she works closely with physicians, and while clearly performing clerical and administrative functions, does not do so in connection with the Employer's main business office. We find the billing specialist to be a hospital clerical, includable in the non-professional unit. *St. Luke's Episcopal Hospital*, 222 NLRB 674, 677 (1976) (billing clerks).

*Clerk B (PEDI)*: Teamsters contends that this position is business office clerical; the Hospital would include it in the nonprofessional unit. The pediatric department has its own separate billing area, which prepares patients' bills as well as reimbursement forms for insurance companies and third parties. These clerks primarily enter data in their computer terminals, handle patient inquiries by telephone about the status of their accounts, and assist in the production of financial statements and insurance forms. They are supervised by the lead secretary. As these clericals work in the pediatric department, and not the Employer's main business office, and are supervised by a secretary in their office, we find them not to be business office clericals and thus include them in the all other non-professional unit. *Duke University*, 226 NLRB 470, 471 (1976).

*Emergency Department Records Clerk (EMSV)*: Teamsters claim this position should be excluded from the nonprofessional unit as a business office clerical classification; the Hospital would include it. The only evidence with respect to this classification is the job description.

This employee is responsible for preparing one department's payroll for processing. Thus, the clerk gathers information as to employees' work schedules, resolves any discrepancies, and completes the department's payroll sheets. This individual is also responsible for maintaining records of employee tardiness, overtime, sickness, and holiday and vacation usages, and for compiling monthly quality assurance statistics. The Hospital requires a level of knowledge generally obtained through the completion of high school and 6 months' previous experience in payroll plus up to 6 months of on-the-job training.

It appears that these clerks, like the clerk Bs in the pediatrics department, do not work in the Hospital's

main business office but in the emergency department. Accordingly, we find them to be hospital clericals and include them in the nonprofessional unit.

#### Students

*Collegiate Nursing Assistant I and II (EMSV) (NSPD) (NSAD), Radiology Student (RADI), Pharmacy Student (PHAR)*: Teamsters contends that the individuals employed in these positions should be excluded from the nonprofessional unit because they are students or, alternatively, because they belong in the technical unit. FNHP contends these individuals are not technicals, and the Hospital would put these positions in the nonprofessional unit.

The *Collegiate Nursing Assistants I and II (CNA I and CNA II)* must be enrolled in a school of nursing in the State of Rhode Island or surrounding areas and have completed a clinical rotation at their school before employment. The CNA II's must have completed three clinical rotations and must be entering their senior year. They do not receive any college credit for their employment in the CNA program. However, if a CNA drops out of school, employment is terminated.

The career path for a CNA is to become a registered nurse. Typically, after a year a CNA I becomes a CNA II, and then upon graduation from nursing school, a graduate nurse. Upon successful completion of State-administered nursing boards, the individual becomes a registered nurse. One of the Hospital's witnesses described this progression as a "continuum of training and education" leading to the position of an RN.

CNAs work on a per diem basis and receive no benefits except for the weekend and shift differential. They have no set schedule, and are only required to be available for work one weekend in every 4-week period. However, CNAs may work between 8 and 24 hours per week. They are called to work in accordance with patient and staffing needs at the Hospital. The pay rate for a CNA I is \$7 per hour and \$9 per hour for a CNA II.

There are approximately 47-50 individuals in each CNA classification. CNAs are hired as a group, not individually, twice a year at the beginning of each semester. As one group moves up, another replaces it. Although CNAs are evaluated on the same standardized form the Hospital uses to evaluate all of its employees, they do not receive raises based on their evaluation as the other hospital employees do. In fact, they never receive raises; all CNA I's and CNA II's receive the exact same hourly rate assigned to their classification.

It is the primary function of both the CNAs and nursing assistants to administer basic nursing care to patients. Both CNAs and the nursing assistants give bedbaths and bedpans, take vital signs, help patients get out of bed, walk them, and feed them. The job du-

ties of the CNA II's are greater in scope. For instance, a CNA I can check an IV but if something is wrong, the CNA I cannot remove the needle; the CNA II, however, can perform that function.

In addition, both the CNAs and the nursing assistants receive instruction and direction from the RN on their particular unit. Both also perform clinical tests such as blood pressures, pulses, and respirations and record those results on the clinical progress sheet at the patient's bedside. And, both perform such functions independently without a RN in the patient's room. Finally, both the nursing assistant and the CNA would bring any problems that arise on the unit to the attention of the RN. Lastly, the salary range for the position of nursing assistant, which is approximately \$6-\$9 per hour, is comparable to the CNA's wages.

However, the CNAs also have more sophisticated duties than the nursing assistant, which are to some extent comparable to those of LPNs. For example, a CNA II can perform a catheterization, which involves inserting a tube in a patient, while a nursing assistant is not permitted to do so. Additionally, a CNA can regulate an intravenous flow, which means adjusting the amount of intravenous solution ordered by a physician. CNAs also monitor tube feedings, in which a tube is inserted into the patient through the nose to the stomach or directly into the stomach to give them nutrition. A CNA II is permitted to give a respiratory treatment, called an aerosol treatment, in which the patient inhales oxygen and a bronchial dilator medicine. Because the duties of a CNA are different, there are different staffing requirements for CNAs. Also, the nursing assistant is only required to have a high school degree or its equivalent; CNAs must be attending a nursing school.

In addition to the different educational requirements and the different duties, CNAs must also function under the direction of a professional nurse. In fact, a principal function of the position is to give the opportunity for "students of professional nursing to apply, with supervision, the knowledge, clinical and cognitive skills and values essential for making clinical judgments [sic] based on the nursing process." Essentially, the program is for the purpose of giving the student an opportunity to gain professional development.

There are three *radiology students* at the Hospital. They perform X-ray work the same as a radiology technologist. These individuals are required to be full-time students at the radiology technology school run by the Hospital which is a 2-year program with approximately 26 students currently enrolled. In order to work as a radiology student at the Hospital, they must be seniors in the program, which means they only work for the Hospital for up to 1 year maximum, and typically work only 6 months. They receive no course credit for their time spent in employment as a radiol-

ogy student and such employment is not a necessary aspect of their education. After graduation, they are qualified to operate the equipment and to perform the duties of a radiology technologist and thus are eligible to be employed at another position in the Hospital.

The students typically work 8 hours a week. Their scheduling is done by the director of the school and a supervisory technologist. None of the students work full time and therefore none of them receive a full-time benefit package. Their pay is approximately \$8.60 per hour.

The students are evaluated on the same evaluation form the Hospital uses for all of its employees' annual performance evaluation. However, unlike other hospital employees, the evaluation might also include informal information to the school's director that might require the student to get some additional training. Also unlike the Hospital's other employees, these evaluations do not result in any raise even if they receive a favorable performance rating.

There are 12 *pharmacy students* currently employed at the Hospital. The students are required to be enrolled in an accredited college of pharmacy. While there is no requirement that they have completed any particular year, pharmacy students are typically hired in their second or third year of a 5-year program. The Hospital advertises for openings by placing an advertisement in a Sunday newspaper and by sending flyers to local colleges of pharmacy which describe the job as an opportunity to gain hands-on experience in a comprehensive pharmacy service. Pharmacy students receive no college credit for their work at the Hospital.<sup>21</sup>

The pharmacy students assist the pharmacist in the formulation, preparation, dispensing and delivery of medication and related pharmaceutical supplies. Typically, the pharmacy students select medications from the physician's order sheet and get them ready for the pharmacist to review prior to dispensing. They prepare IV solutions when special formulations are required and assist in the preparation of extemporaneous medication. The job duties performed by the pharmacy students are substantially similar to those performed by the pharmacy technicians, and in both cases their work must be reviewed by the pharmacist.

<sup>21</sup> Distinct from the employment of pharmacy students, the Hospital also participates in a clerkship program with the University of Rhode Island College of Pharmacy. This program is part of the student's required course work and consists of three separate clerkships each lasting 6 weeks. One is an externship which requires the student to work in an organized health care setting such as a hospital. For the second clerkship, the student works in a retail pharmacy, and the last must be spent in a clinical setting. The Hospital participates in both the externship and the clinical clerkship, with students rotating between the two. These students are graded on their performance and receive no compensation from the Hospital.

The pharmacy students generally work two to three shifts per week, i.e., 16 to 24 hours and have set schedules. They are required to work a minimum of every other weekend and every other holiday. They primarily work the first and second shift and their employment with the Hospital usually runs from 2 to 3 years. The salary range for the position begins at approximately \$8 an hour and goes up to about \$9.50 an hour. Pharmacy students receive the same benefits as any employee with comparable standard hours. The pharmacy students are evaluated by the technician group leaders using the same annual performance appraisals as are used for the Hospital's other employees. The assistant director of pharmacy reviews the evaluations which are then used to determine salary increases.

We exclude the CNA I and CNA II and the radiology students from the petitioned-for units, because we find their interests to be separate from those of nonstudent employees. We do, however, include the pharmacy students.

In *St. Elizabeth's Hospital of Boston*, 220 NLRB 325 (1975), nursing students were excluded because they were treated differently from nonstudent employees, i.e., they worked only 12 hours a week and received no fringe benefits, and their performance was not evaluated; their employment was only incidental to their educational objectives. See also *Lake City House for the Aged*, 229 NLRB 54 (1978); and *Pawating Hospital Assn.*, 222 NLRB 672 (1976), where students were excluded because they had different terms and conditions of employment from nonstudents—lower wages, work was scheduled around school, and they received no fringe benefits.

Here, both the CNA I and II's and radiology students are required to be enrolled in a school of nursing or a radiology technology school, respectively, and must have completed certain course work to be eligible for employment. Both receive few benefits and their work schedule is unique to their classification—CNAs only have to be available one weekend every 4 weeks, and they are called to work only when the Hospital needs them; the radiology students are scheduled, in part, by the director of their school. Although both are evaluated on the same forms as other employees, in neither case does the evaluation result in a pay raise. All of the students get precisely the same pay. CNAs are not even hired individually, but are brought in en masse. For both CNAs and radiology students, if they drop out of school, their job terminates; if they graduate, they must be employed in another capacity.

Based on these facts, we find these students to be primarily interested in attaining their educational objectives with significantly different terms and conditions of employment from those of other employees—particularly the fact that they are not eligible for raises.

Thus they are excluded. The fact that they receive no course credit for their work, and that employment is not a necessary aspect of their education,<sup>22</sup> does not outweigh the many different work interests and objectives setting them apart from nonstudent employees.

*Beecher Ancillary Services*, 225 NLRB 642 (1976), cited by the Hospital, in which technologist student-trainees were included in the technical unit, is distinguishable. The “student-trainees” in that case were required to complete a year of clinical internship as a prerequisite to becoming State-licensed technologists. The Board distinguished these interns from the medical interns and resident doctors who were excluded in *Cedars-Sinai Medical Center*, 223 NLRB 251 (1976), finding the student-trainees were merely being trained to perform certain tasks, and were not students acquiring an education. We find *Beecher* distinguishable from the instant case on the ground that there is no indication that the student-trainees were, unlike the CNAs and radiology students here, required to be currently enrolled in a school in order to be employed. It appears that their internship was simply a requirement for licensing and unrelated to any requirement that they be simultaneously enrolled in school. Here, the opposite is true.

Although pharmacy students are required to be enrolled in a college of pharmacy in order to be employed at the Hospital, unlike CNAs and radiology students, they are treated more like employees. Thus, they work set schedules, receive fringe benefits, have a salary range of \$8 to \$9.50 per hour, and are evaluated on the same basis as other employees; notably, they are given salary increases commensurate with their performance appraisals. In these circumstances, we will include the pharmacy students. *Medical Arts Hospital of Houston*, 221 NLRB 1017, 1018–1019 (1975); *St. Luke’s Episcopal Hospital*, 222 NLRB 674, 678 (1976). Noting that the duties of pharmacy students are substantially similar to those performed by the pharmacy technicians, whom we have placed in the nonprofessional unit in accordance with Board precedent, *supra* at 14 of this decision, we also include the pharmacy students in the nonprofessional unit.

#### Research Administration

Teamsters contends that the entire research department should be excluded as an educational entity that is not a proper function of an acute care hospital. Alternatively, if the research department is found to be part of the Hospital, Teamsters contends that none of the research positions should be included in the nonprofessional unit but that all such positions should be excluded as being either technical, professional, busi-

ness office clerical, confidential, or student. It is the Hospital’s position that there is no legal or rational basis to exclude the Hospital’s research function or any of its employees who perform a research function. The Hospital also contends that the various research positions should all be placed in the nonprofessional unit. FNHP does not discuss this issue in its brief.

There is no research department per se at the Hospital, but rather, an office of research administration, which provides administrative support for research functions taking place throughout the Hospital’s various departments. This office is divided into five functional areas. (1) The contract property section is responsible for working with investigators on patents, inventions, foreign filings, and anything else involved in the licensing of any property developed by the Hospital as well as the administration of research contracts. An investigator is normally a PhD or MD employed by the Hospital who also has clinical and/or administrative responsibilities in addition to research activities. These investigators are located in every department in the Hospital. (2) The sponsored projects management group is responsible for working with investigators who are applying for or have been awarded a grant and also to properly administer and manage the grant money when received.

(3) The central research labs section provides centralized support for investigators by obtaining extraordinary and expensive research equipment which can not be provided in individual departments. This equipment is offered on a fee-for-service basis to the different departments and in rare cases may be used for clinical purposes. A similar support function is performed by the (4) central research facilities section. The main function of this section is the care and oversight of the Hospital’s animal research area. Its office and animal facilities are located in buildings separate from patient care facilities. This section trains all investigators in the proper use of animals in research and is responsible for all biosafety issues. The final section in the office of research administration is (5) the compliance section. This section insures compliance with the various applicable Federal and state regulations. It also coordinates and maintains the review boards which, as required by law, review all research projects involving animals.

The individuals considered researchers at the Hospital are not employed by the office of research administration but rather are employed throughout the clinical departments at the Hospital. The salaries of these individuals are funded to varying degrees from grant funds. There are 250 sources of outside funding including private corporations, gifts, government and universities; and money from these sources constitutes 75 to 80 percent of the funds received by the research department. Typically, the Hospital competes with

<sup>22</sup> See *Mental Health & Family Services Center*, 225 NLRB 780 (1976), where psychiatric interns were excluded because their internship was a prerequisite to obtaining a degree.



medical schools for the grants that are available. Although the Hospital's research department is independent from Brown University, many of the individuals performing research functions, probably 70 percent, are also on the faculty of Brown University. However, they are all employees of the Hospital, are paid by the Hospital, and receive benefits on the same basis as other hospital employees there.

The Hospital's research activities are functionally integrated with all other aspects of the Hospital's operation. William Walsh, PhD, director of the Hospital's biomechanics lab, testified that medical residents employed by the Hospital can spend a rotation in his lab or spend part of their training doing research in the lab. Researchers occasionally use the diagnostic equipment of the Hospital. For example, Dr. Walsh indicated that he had used a lengthening device, the radiology and diagnostic imaging equipment and catscan equipment in his research work. In using this equipment, Dr. Walsh was assisted by the employees in the particular departments in which the equipment is located. In carrying out their projects, researchers often interact and collaborate with hospital staff in all of the Hospital's departments. For instance, Dr. Walsh is working closely with the sports medicine physician in orthopedics because his current research project involves the treatment of knee injuries normally sustained by football players.

Researchers take advantage of the clinical labs at the Hospital in their research. Thus, Dr. Walsh indicated that he may have bone specimens analyzed in the pathology lab and may also use the blood analyzing laboratories. Researchers use the same purchasing system as other employees at the Hospital to procure equipment and work with the facilities management department to arrange for repair and installation when necessary.

As previously indicated, Teamsters contends that there is a "research department" that should be excluded on the ground that it is "nonessential to an acute care facility." We reject this argument. First, as a factual matter, and as documented above, there is no separate "research department." There is only an office of research administration that offers support in various ways to other departments in the Hospital. Second, though it cannot be gainsaid that a particular hospital could function without extensive research, so also could it function without any number of services or specialized departments. Many of the cases that have come before the Board since 1974 have involved teaching hospitals, involved to a greater or lesser extent with research in connection with their mission as acute care hospitals. See, for example, *Duke University*, 226 NLRB 470, 473 (1976); *Children's Hospital of Pittsburgh*, 222 NLRB 589, 595 (1976); *St. Luke's Episcopal Hospital*, supra at 677. In *St. Luke's*, the

employees sought to be included by the employer (clericals) worked in various research and related departments throughout the hospital, in functions similar to those performed by other employees, and they came in contact with employees directly involved in patient care. The Board found no justifiable reason to exclude the research employees as a group. *Id.* at 677. Neither do we here. See also *Kirksville College of Osteopathic Medicine*, 274 NLRB 794 (1985), in which the Board overruled *Albany Medical College*, 239 NLRB 853 (1978), which had separated maintenance employees at a medical college from maintenance employees at a hospital because the college's "primary purpose" was deemed to be training and research, not the provision of medical services. The Board in *Kirksville* found that distinction to be invalid, and treated the entire integrated facility as a single health care institution. *Supra*, 274 NLRB at 794-795.<sup>23</sup>

*Research Technicians:* The Hospital has several employees in different departments employed in the position of research technician. There are two full-time research technicians in the pathology department. These technicians are responsible for performing routine chemical and washing and sterilizing glassware needed for tissue cultures. They also do some cell cultures and assist in surgery. In addition, they keep an inventory of the chemicals, glassware and other items needed in the lab. At times these technicians deliver blood or tissue culture samples to nonresearch pathology employees in the clinical chemistry lab.

There are two research technicians employed in the biomechanics lab in the orthopedic department. These technicians help with performing animal experiments, weigh specimens, record data, check temperature baths, obtain reference books, and photocopy journal articles. They also interact with other nonresearch employees at the Hospital. For example, they may deliver a specimen to another department or participate in "grand rounds."

The research technician in neurosurgery is responsible for "amino-hista-chemistry" which involves taking slices of a rat's brain and staining them with antibodies. This technician is currently involved in a project to find neuro-protective agents which, when administered either before or after a trauma to the brain, would help the brain recover. In this particular study, the technician interrupts the blood flow to the animal's brain for approximately 10 minutes by surgically tying

<sup>23</sup> *Jewish Hospital of Cincinnati*, 223 NLRB 614 (1976), cited by Teamsters, is distinguishable. Among other things, the employees of Children's Psychiatric Center there excluded were located in a separate building 200 yards from the hospital complex, across a city street. Many employees shifted from one payroll to another. No such considerations are presented here, although the matter of grant funding for some employees may, depending on the circumstances, ultimately result in their exclusion, as discussed below.

off two of the arteries to the brain, and then studies the animal as it recovers.

In distinguishing between the research assistant position, which neither the Employer nor the Teamsters claims should be in the nonprofessional unit, and the position of research technician, Dr. Walsh testified that the major difference is that a technician has to be told what to do and needs more direction than a research assistant, who may exercise more discretion in his or her work.

The Hospital does not require that research technicians have a college degree<sup>24</sup> or that they possess any licenses or other certificates. According to the job description, only high school plus additional coursework in anatomy, biology, and chemistry or the equivalent practical experience in a related research laboratory environment is required, along with an additional 6 to 12 months of job-related or on-the-job experience. Technicians, however, have been hired with only a high school degree and were trained on the job.

Of the current technicians, one has a bachelor's of science degree and has been admitted to medical school. Another individual has a certification from the American Association for Animal Science, which he received while working as an animal care technician, and is currently taking course work in anatomy, biology, or chemistry at Rhode Island College. Another individual, has a bachelor's degree from Brown University; and another a 4-year degree from Worcester Poly-Tech. Currently, all the research technicians have 4-year degrees because the Hospital considered these individuals better qualified. However, Dr. Walsh testified that although one of the former research technicians working in his area had a 4-year degree, it was in political science, which did not aid him at all in the job duties he performed as a technician.

Despite the education possessed by the current holders of the position, the record does not establish that research technicians exercise sufficient independent judgment, or are required to undergo sufficient specialized training, to be classified as technicals. They shall, therefore, if otherwise eligible, be placed in the non-professional unit.

We note that the Employer's "researchers," and perhaps also research technicals and other employees, are individually funded in varying degrees from separate sources. The record, however, does not indicate to what extent this separate funding materially affects what would otherwise be their common interests with the Employer's other nonprofessional employees. We

<sup>24</sup> Cf. *Duke University*, 226 NLRB 470, 473 (1976), where the employer preferred a college degree for research technicians, and many had an advanced degree. Here, the Employer's technicians, according to the testimony, need to be given directions on what to do and exercise less discretion than employees classified as "research assistants."

shall therefore allow employees in research projects funded by outside grants to vote subject to challenge by any party which wishes to do so on this ground. *Children's Hospital of Pittsburgh*, 222 NLRB at 591-592 (research technicians).

*Biopsychosocial Research Clerk*: There are one full-time and two summer temporary employees employed as biopsychosocial research clerks in the psychiatry department.<sup>25</sup> They work under the direct supervision of a principal investigator, a PhD or MD in the psychiatry department, on a research project and are responsible for gathering information from patients and medical records and entering such information into a computer for analysis. Depending upon the computer program being used, the clerk might run the program to get a statistical analysis of the data. They may also assist in videotaping subjects or administering a questionnaire to patients. The current project is a study of the eating habits of children with cystic fibrosis. The clerk is responsible for gathering information regarding the meals eaten by the children being studied.

The clerks are paid \$8 per hour. The Hospital requires only a high school level of skill in communication and the preparation and maintenance of records. No license or any other certification is needed. The one full-time employee of this position is not enrolled as a student.

We find these clerks not to be technicals, in view of the routine nature of their work and their lack of specialized training. Neither are they business office clericals, in view of the location of their work. Therefore we include them in the general nonprofessional unit.

*Animal Care Technician and Animal Surgical Technician*: There are currently six employees in the job classification of animal care technician. They are employed in the central research facility area. They receive incoming animals from different sources around the country and care for the animals both before, during and after experimentation. The animals are used by investigators in a variety of departments at the Hospital. The technicians wash animal cages, water and feed the animals, and monitor their behavior to see if the animals are in any distress. The technicians must be familiar with and comply with all Federal and state regulations regarding the care and treatment of animals used in research. They may also assist investigators and other research personnel in minor surgical procedures and animal handling, if requested. If a technician notices a problem with an animal, he or she would bring the problem to the attention of the veterinary technician.

<sup>25</sup> The parties stipulated at the hearing that the two temporary summer biopsychosocial research clerks were not properly included in any bargaining unit.

The Hospital does not require a college degree for this position or any license or certification. A high school education, including biology courses and 3 to 6 months' previous or on-the-job experience is all that is necessary. However, four of the animal care technicians are certified by the American Association for Animal Science, and the remaining two have taken the examination and are awaiting the results. The Association is a private nonprofit organization with local branches that provide educational programs leading up to an examination and certification. There are 3 months of classroom hours and a 2-hour written examination administered by the national office. Although all of the employees are encouraged to take the class to learn more about animals and how to properly handle animals, the Hospital does not recognize this program as official certification.

There is one employee currently in the job of animal surgical technician. The Hospital does not require a college degree or any license or certification for this position. A high school education with courses in biology and 1 to 2 years of progressively more responsible experience is all that is required.

The technician assists researchers in performing major surgical procedures on animals. The technician prepares the animal for surgery, bathing, scrubbing, measuring, and incubating the animal. The technician then places sensors on the animal where appropriate, and acts as a scrub technician by handing instruments to the surgeon. He also places monitors, catheters, and other instruments in the animal. In addition, the technician mixes medications according to instructions, administers medications, and collects blood and other samples. Some investigators use the technician in a lesser role and bring members of their own staff, such as nurses, research assistants, and physician assistants along for surgery.

The technician operates laboratory equipment, including oxygen analyzers, blood gas machines and radiation detection equipment, and calibrates and troubleshoots the equipment. This individual is also in charge of maintaining the supplies in the operating room.

We are not satisfied the record establishes the technical status of these two classifications. Although all employees in these classifications have received some training in the care of animals, and most have been certified by the American Association for Animal Science, the Hospital does not recognize this as an official certification. Moreover, animal care technicians do not treat the problems they observe in the animals, but instead bring such problems to the attention of veterinary technicians. Consequently, we place these classifications in the general nonprofessional unit. Cf. *Children's Hospital of Pittsburgh*, 222 NLRB at 595.

*Cardiology Laboratory Assistant:* There is one cardiology laboratory assistant employed in the division of cardiology of the department of medicine. This assistant works in the cardiovascular research laboratory. The laboratory studies animals with respect to the effects of agents and re-agents of blood flow in the operation of the heart. The assistant is responsible for washing instruments, cleaning the laboratory, and preparing animals before and after surgery. The assistant also prepares purchase orders in the same manner as other employees of the Hospital and serves as a resource to the research assistants. The Hospital does not require a college degree for this position or that the individual be licensed or certified in any fashion. Only a high school level of knowledge of science courses and 1 to 3 months of on-the-job training is required. This classification properly belongs in the general nonprofessional unit.

*Densitometry Technician:* There is one employee in this job, who operates a computerized bone densitometry scanning device to access bone density and prepares reports for the physician's interpretation. The technician does both clinical and research examinations, with about 70 percent of the job being research-oriented. The Hospital does not require a college degree for this position, only a high school education; nor does it require that the individual be licensed or certified. A 1- to 3-month on-the-job training is given to familiarize the technician with the equipment and radiation safety instructions. There is no basis for finding this employee a technical, and thus this classification is properly included in the nonprofessional unit.

*Laboratory Aide:* There is one part-time employee currently in the position of laboratory aide who works 10 hours per week. The aide works in a research lab in the department of pediatrics and is responsible for washing and taking care of nondisposable glass or plastic laboratory ware, such as beakers and test tubes. The laboratory aide may also perform other duties as requested, such as picking up orders from the pharmacy. The Hospital does not require any post-high school education for this position. In fact, the position was originally conceived as a position for high school students who might be interested in a career in science or medicine. However, the aide currently employed is not enrolled as a student but is a recent high school graduate. The employee in this classification is included in the nonprofessional unit.

*Clerical Employees:* At the hearing, Teamsters identified a number of clerical positions in the research department which it contends should be excluded. The Hospital contends that these clerical positions are indistinguishable from other clerical positions at the Hospital and should be included in the nonprofessional unit. The following job classifications are in issue:

secretary/typist B, clerk A, clerk specialist, secretary B, secretary C, and secretary D.

The record reflects that these clerical employees perform the same basic functions as other employees in similar job classifications throughout the Hospital. The only distinction is that they assist individuals who have some research aspect to their job. As previously found, mere connection with research projects is no basis for exclusion of any employee, including clericals, from the nonprofessional unit. *St. Luke's Episcopal Hospital*, 222 NLRB at 677. Accordingly, unless their specific projects depend on outside funding, and a party challenges their ballot on that basis, they are included.

With respect to the one secretary/typist B in the research department, Teamsters contends the position should be excluded as either confidential or business office clerical. This secretary/typist B works for the director of the neurosurgery research labs and is a part-time employee working 20 hours per week. She serves as a receptionist, makes travel arrangements for PhDs attending scientific conferences, proofreads manuscripts written by the director and other PhDs prior to publication in scientific journals, gathers information with respect to grant applications, types letters for the director to colleagues and to business firms with respect to ordering equipment and supplies, and handles inventory. She is also responsible for filing bills from vendors and, if a vendor has not been paid, she calls accounts payable to find out what is causing the delay. The director testified that on occasion she types information on confidential materials such as sensitive memos to the chairman. She does not, however, type information on confidential employment matters or have access to confidential records. We conclude she is a hospital clerical, and that there is no basis for her exclusion from the nonprofessional unit as a confidential.

There are four clerk specialists in the research department. One works in the office of the director of central research facilities. She performs general secretarial duties and also is responsible for handling the accounts of the department with respect to the receipt of animals. Because the research department receives animals directly, the accounting department sends all the paperwork to the clerk specialist, who matches invoices with purchase orders and other documents and then sends the paperwork to accounts payable for payment. In addition, after the animal facility supervisor and veterinarian technician prepare the necessary paperwork, the clerk specialist puts into bill form a document setting forth the cost (a per diem charge) for each animal housed at the facility, which is then charged to the appropriate research department. The document is then sent to accounts payable where the amount is charged against the appropriate account. Although this

clerk specialist types memos for the director, none are confidential or involve personnel matters.

Another clerk specialist works for the office manager in the medical oncology department. She provides secretarial and clerical support for the department's physicians and professional staff, assists the office manager in the day-to-day activities of the office, is responsible for word processing and departmental correspondence, and assists with physician billing as well as the preparation of lecture material for the physicians such as slides and manuscripts. The office manager testified that she was familiar with other clerk specialists at the Hospital and the duties of the clerk specialist in her office were similar to those performed by other clerk specialists.

A secretary B also reports to the office manager of medical oncology, as well as to the lead physician in this department. The secretary B performs a variety of secretarial and clerical duties such as filing, answering the telephones, word processing, making travel arrangements, looking up journal articles as needed, and performing purchasing and accounting procedures. The office manager was familiar with other employees in the classification of secretary B and testified that their job duties are substantially similar to the secretary B's duties in her office.

There is also a secretary C in this department who works for the office manager and the lead physician. She is the lead administrative secretary in the research area for the three PhDs working there, and she assists them in preparing their budgets for their grants and monitors their expenses. She also works on Brown University projects and functions for the three PhDs.

Another secretary B works 15 hours a week for Dr. Walsh in the biomechanics lab and an investigator in the orthopedic department. Her duties include photocopying articles, transcribing memos and letters, typing references for papers, getting travel advances and making travel arrangements. She never works on any confidential matters involving personnel issues; if a memo needs to be sent, the director types it himself.

A secretary C also works for the residency program director of general internal medicine. She assists with the distribution of resident applications, keeps files on prospective resident candidates, schedules prospective resident candidates, and sends mailings to medical schools announcing the residency program. She also types the application for the residency training grant with the National Institute of Health, as well as resident research projects and senior projects. The director testified that this secretary C performs substantially the same functions as other secretary Cs.

Another secretary C works in the division of cardiology and reports to the principal investigator on several research projects. Her job functions include typing research documents and manuscripts, scheduling pa-

tients for clinical trials, and filing. Her duties are much like those of the secretary C in general internal medicine.

The one clerk A in research works in the division of endocrinology, a department in which many of the staff spends a high percentage of their time on research. This clerk works for the faculty in the division, filing, answering telephones, typing, and performing literature searches.

There are two employees in the position of secretary D. One works for an associate pathologist investigator in the pathology department. She types letters and papers for the research department that are being published. The research supervisor in the pathology department testified that the associate pathologist writes performance evaluations for the employees who work with him in the lab, and it was her understanding that the secretary D would type those performance evaluations.

The other secretary D is in the surgical research area and is secretary to the director of surgical nutrition and the director of surgical research. She types correspondence and manuscripts, sets up meetings, answers the telephone, helps triage telephone calls to the physicians on duty, and does some support work for the registered dietitian. Part of her job would also include typing personnel matters, such as recommendations for annual salary increases. There was testimony that this secretary's job is basically the same as the roughly 150 other secretary Ds employed throughout the Hospital.

There is no showing that any of the aforementioned secretaries work in a confidential capacity for managers who formulate, determine, and effectuate the Employer's labor relations policies; hence, there is no

basis for excluding them as confidentials. Nor do they work in the Employer's business office. We therefore find that all the secretaries in these classifications, unless they are challenged on the basis of outside funding for their research projects, are properly included in the nonprofessional unit. *St. Luke's Episcopal Hospital*, supra.

#### Appropriate Units

Accordingly, based on the foregoing and the stipulations of the parties at the hearing, we find the following employees constitute appropriate units for collective bargaining within the meaning of Section 9(b) of the Act:

1. Case 1-RC-19972: All full-time and regular part-time skilled maintenance employees employed by the Employer at its Providence, Rhode Island, facility; excluding all other employees, guards and supervisors as defined in the Act.
2. Case 1-RC-19973: All full-time and regular part-time nonprofessional employees employed by the Employer at its Providence, Rhode Island, facility; excluding all business office clerical employees, technical employees, skilled maintenance employees, confidential employees, guards and supervisors as defined in the Act.
3. Case 1-RC-19991: All full-time and regular part-time technical employees employed by the Employer at its Providence, Rhode Island, facility; excluding all other employees, guards and supervisors as defined in the Act.

[Direction of Elections omitted from publication.]