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STATE OF MICHIGAN
DEPARTMENT OF LABOR
LABOR MEDIATION BOARD

In the Matter of

CITY OF FLINT and
FLINT CIVIL SERVICE COMMISSION

-and-

LOCAL 825, AMERICAN FEDERATION
OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO

On May 2, 1968, the undersigned, LEON J. HERMAN, was appointed by the Labor Mediation Board of the Department of Labor, State of Michigan, as its Hearings Officer and Agent to conduct a fact finding hearing concerning matters in dispute between Flint Civil Service Commission of the City of Flint, Michigan, and Local 825 of the American Federation of State, County and Municipal Employees, AFL-CIO, pursuant to Section 25 of Act 176 of Public Acts of 1939 as amended, and to issue a report with recommendations with respect to such matters.

Flint, City of

Accordingly, and upon due notice, hearings were held at Hurley Hospital, Flint, Michigan, on June 17, 1968.

Wade G. Withey, Deputy City Attorney; James E. Northway, Personnel Director of the Flint Civil Service Commission; Robert E. White, Personnel and Public Relations Manager of Hurley Hospital; Milton Sacks, Director of Hurley Hospital; and Ben Woodard, Labor Relations Department of Hurley Hospital appeared on behalf of the respondent, Flint Civil Service Commission.

William P. Daniel, Attorney; William Woods, Director of AFSCME; Gertrude Newman, LPN; Alberta Storrs, LPN; Alice Shearer, LPN; Mary S. Kinney, LPN, and Ronald E. VanLandeghem, hemodialysis technician, appeared on behalf of the Local.

Local 825 is the collective bargaining representative for licensed practical nurses at Hurley Hospital, Flint, Michigan. The hospital is a department of the City of Flint and subject to all civil service rules and regulations as applied by the City of Flint. The dispute between the parties concerns the application of civil service rule 4.7, class evaluation, as to the rating of licensed practical nurses under elements 4, 6c and 7.

Item 4 covers the matter of initiative and creativeness. The commission has rated this classification as "supervision almost always available" and "largely routine, few minor problems" thus giving the classification a marking of 2a degree, 2 points. The commission has re-assessed this rating and now suggests 3 degree, 3 points. The union claims that the rating should be 3a degree, 4 points.

Under Section 6c, which covers the risk involved in the working conditions for the employees, the commission has assessed the risk as slight and the possibility of injury as moderate, and has rated the classification 2 degree, 1 point. The union asks that it be changed to 2 degree, 3 points.

In Item 7, entitled Judgment, the commission has rated the use of judgment as moderate with little or no consequences from poor judgment and has allocated 1 degree, 1 point, to this classification, on the ground that poor observation or reporting of patients' conditions causing preventable complications is the worst consequence that could reasonably be expected to occur from poor judgment in any one instance. The union claims that the extent and use of judgment are considerably higher, and asks that it be given a 3 degree, 6 point, rating.

The rating system was installed by the Barrington Company, personnel advisors, in 1956, when they were called in by the City to evaluate the various classifications of employees and to set up pay scales to tie into the compensation ordinance. The plan was adopted in 1956 by the Civil Service Commis-

sion, but was not applied to Hurley Hospital until 1963, after the Barrington people had re-evaluated the 1956 standards and revised the plan. The factors in dispute were detailed by the parties in inverse order and are discussed herein in the same order.

The City argues that as to Section 7 poor observation and reporting are not important. The union counters that this may have been true in 1956 but that now LPN's do 90% of the work formerly done by registered nurses, and that the result of a poor judgment by an LPN is equivalent to poor judgment by a registered nurse. The LPN today does more than merely observe and report. If that were the case, only slight judgment would be required. But they do considerably more. Mr. VanLandeghem, presently a hemodialysis technician, is licensed as an LPN and was hired two years ago in that capacity. He worked in this hospital for 18 months as an LPN, under the direction of the general duty nurse. There are at least one to three LPN's on each floor to every one or two registered nurses. The duties of the LPN are to give physical care to the patient, to care for critically ill people, to follow the directions of the physicians as to care of patients, to monitor life support systems such as blood pressure, consciousness, eyes, and to look for variations from normal values and for abrupt and unexpected changes. The LPN gives medication, but no intra-muscular, intravenous or inter-rectal injections nor narcotics. He gives aerosol inhalations, ointments, counter irritations and solutions as ordered by the physician. He does not give digitalis or insulin, but after such medication is given the LPN observes the patient for adverse after affects. If any abnormality or irregularity appears, he calls the registered nurse. He does not at any time call the physician. If the patient's condition appears critical or for any reason, such as convulsion or seizure, he cannot leave the bedside, he sees that the patient does not bite his tongue, does not injure himself or others, relaxes the patient's muscles to prevent gagging. If a case of cardiac arrest, he does cardiac massage or mouth to mouth rescusitation. In cases of profuse bleeding or failure to clot, the LPN uses direct or indirect pressure or a

tourniquet. In cases of diabetics, he arranges for insulin or gives a sweet, depending on whether the patient has too much or not enough sugar. He must use his judgment in determining whether a patient is suffering cardiac or respiratory arrest. In every case, and where the emergency does not permit him to leave the patient, he calls the general duty nurse by three quick flicks on the bell cord.

Mr. VanLandeghem agrees that the City does not accept the possibility of death because of poor judgment by an LPN but he argues that this is partly because not many deaths occur from that cause. He added that the State law requires LPN's to be trained in all areas of the hospital, and that he must do considerably more than merely observing and reporting. Further, observation and reporting are a vital factor in the care of patients and require some substantial judgment on the part of practical nurses. While in 1956 the practical nurse was little more than an orderly, today they do 90% of the work which nurses normally did.

He conceded that nurses aides and orderlies are also taught to look for vital signs - that they are taught mouth to mouth rescusitation and massage treatment for cardiac arrest - that orderlies also are taught the same treatments, and that all hospital employees are taught first aid.

Milton Sacks, the Director of Hurley Hospital, testified that the hospital had 716 beds and averaged 680 patients. Of these there were 34 patients in critical condition at the time with 9 or 10 of them in Intensive Care. The hospital employs over 200 licensed practical nurses, of whom 80 are on the day shift and approximately 64 on each of the other shifts. He testified that as LPN job standards are now set up the LPN exercises his judgment primarily to call the registered nurse and for practically no other reason. The only major problem they have to attend is cardiac arrest or insulin shock, which may occur on the average of one every other day at most. Even in these cases, they are supposed to call for help and start cardiac massage

or mouth to mouth rescusitation, or provide for insulin or sugar. They have a written procedure which specifies what they are to do in each case. They must follow the rules, and their training and experience has them do these things almost by rote, so this can hardly be called the exercise of judgment. There is usually only one course available to them and they have learned that course and react automatically rather than through mental decision. In cases of patients with major problems, it is more than likely that an RN would be in closer attendance.

Convulsions, he said, are rare in adults. They occur most frequently in the children's ward. Cardiac arrests occur primarily in the operating room and in Intensive Care, where the attention of an RN is available at all times. Post operative bleeding occurs at most once a year, so that it is unlikely the LPN will have much to do with it. He emphasized that the major judgment exercised by the LPN is whether to call the RN and that the balance is in recognizing and exercising training and experience - not in exercising judgment. His reaction should be automatic and not consciously thought out.

James E. Northway, Personnel Director for the Flint Civil Service Commission, testified that the factor data record was approved by him before submission to the Commission. It was prepared on the basis of questionnaires received from the various employees and concededly included some element of subjective analysis. After discussion with a representative of Barrington and discussion with the Union, he now believes that the rating should be 2 degree, 2 points, for Item 7.

Robert E. White, Personnel and Public Relations Manager of Hurley Hospital, testified that the use of judgment by LPN's was only occasional and was limited to the determination of which of two methods should be used. Only minor consequences were likely from an error in judgment. Timeliness, he stated, is more important than how the LPN treats the patient, although good judgment would mean better care than if the treatment were delayed by poor judgment. He insisted, as did Mr. Sacks, that the LPN does not use judgment

but only uses his training.

In Item 6c, Risk, the City claims that the danger of risk is slight and that any injury is likely to be moderate. The Union agrees that the injury would be moderate but believes that the rating should be higher, because the hospital environment in itself creates a risk, as in moving patients or exposure to infection and communicable disease. The Union concedes that this is largely an area of estimation, in that statistically injuries do not occur in volume.

Mr. VanLandeghem testified that the physical demands of the job include lifting, moving and shifting patients who are often dead weight. He usually has assistance in moving patients. Sometimes, although infrequently, a patient may fall from bed, and must be picked up. Orderlies are usually available to help in this work and until an orderly arrives to help the patient can be allowed to lie flat on the floor. In the matter of communicable diseases, such as TB, hepatitis or staph infections, the LPN changes the dressings. The potential danger is there but he has been trained to avoid it. He has had in the past minor abrasions but no fractures, no hernia, no loss of fingers.

The Union contends that the allocation of 2 degree, 1 point, for 6c, Risk, should be increased to 2 degree, 3 points.

Mr. Northway contends that the present status of the risk allocation is proper. He points out that injuries are relatively few, and that his information is confirmed by the questionnaires he had received. For statistical verification, he points out that the compensation insurance company charges 8 cents for clerical employees and $30.00 to high risk jobs. LPN's are rated at 38 cents, which would indicate a very low incidence of injury. The other witnesses for the Commission agreed with Mr. Northway.

In the matter of Number 4, Initiative, the Union claimed that many minor and occasionally major problems arise to require their attention. A large part of the work is routine. The LPN assists the Doctor in bone marrow examination, vaginal examination, blood tests, needle biopsy, lumbar puncture, Levine tube tests, sigmoid ostopy and other such examinations. He does soaks in solution form, changes dressings, administers suppositories.

As to minor problems, they arise in cases of dizziness of patients, in dietary restrictions to be observed and maintained, in treatment for nausea and discomfort, coughing or vomiting, in cases of malfunction of instruments like blood pressure cups or the plugging of catheters, or the cleaning of drains from cavities. As to major problems, there are the questions of cardiac arrests or insulin shock. The Union asks that the rating for initiative be increased to 3Adegree, 4 points.

Mr. Northway agrees that there has been considerable increase in the number and extent of the duties of LPN's and that the rating should be increased to 3 degree, 3 points. Mr. White would limit it to 2 degree, 3 points.

The Barrington formula was set up after a comprehensive study of comparative rates for similar occupations throughout the City. No such general comparison has been made by the City since the 1956 study. Hurley Hospital did compare its salary schedule with those of the other four hospitals in Flint. The salaries of LPN's average 78% of salaries of general duty nurses in the other hospitals as against 75% in Hurley Hospital.

It is obviously inevitable that an assessment of judgment must be to a large degree subjective. Without questioning the good faith of the City officials in making their appraisal of the amount of judgment entering into the job of LPN, it seems to me that insufficient consideration has been given to the increase in the amount of work and duties which a practical nurse has to perform and the greater exercise of judgment which is necessary to perform it. While it is true that whatever they do is actuated by their training and

experience, this is also true of any occupation, even those of nurses and physicians. While I do not agree that the amount of judgment required is of the high level proposed by Mr. VanLandeghem, I also do not agree that it is of the low state to which the City officials relegate it. The widening of the scope of the LPN's duties during the past several years has necessarily widened the field in which some amount of judgment must be exercised. Degree 3, Point 4, of the job evaluation scale would require the exercise of moderate judgment, with moderately serious consequences or losses from poor judgment. I am of the opinion that this would closer approximate the amount of judgment required of LPN's.

The element of risk, however, has changed little, if at all, during the past number of years and in all probability has been reduced due to improved research and facilities.

In the matter of initiative, the authorities have limited the LPN's to the classification of "supervision usually available for help and instruction, in minor problems which are largely routine". In today's wider scope of employment, I believe they would be better classified as "supervision usually available for help and instruction in the many minor problems arising from day to day with occasionally a major one", which would bring classification 4 to 3A degree, 4 points.

I find as a fact:

1. That in the field of judgment there has been a substantial increase in the relative amount of judgment required of LPN's in the course of the day's duties.
2. That in the element of risk, there has been little or no increase and perhaps a reduction in the exposure to risk.
3. As with the matter of judgment, in the classification of initiative, there has been an increase in the amount required.

I recommend:

1. In Item 7, Judgment, that the rating be increased to 3 degree, 4 points.

2. In Item 6c, Risk, that the allocation remain unchanged at 2 degree, 1 point.

3. In the element of Item 4, Initiative, that the rating be increased to 3A degree, 4 points.

Hearings Officer

Detroit, Michigan,
July 15 1968