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State of New Hampshire

PERSONNEL APPEALS BOARD
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Appeal of Patricia Scaramella
New Hampshire Hospital

Docket #89-C-35

May 17, 1990

The New Hampshire Personnel Appeals Board (McNicholas, Johnson and Rule) met Wednesday, April 18, 1990, to hear the appeal of Patricia Scaramella regarding the reclassification of her former position of Nursing Coordinator (Nurse Recruitment) to Human Resources Coordinator I at New Hampshire Hospital. SEA Field Representative Jean Chellis appeared on behalf of the appellant. Personnel Director Virginia Vogel represented the Division of Personnel.

In preliminary matters, the Chairman introduced the members of the Board and asked if either party knew of any reason why any member of the Board should not hear the appeal. Neither party objected. Ms Chellis did ask that the Board waive the 72 hour notice requirement for the exchange of certain information prior to the hearing so that she might submit additional documents for the record. The documents were reviewed by Ms Vogel, and were admitted without objection. Ms Chellis also asked that she be allowed to amend the original arguments as follows:

page 4, paragraph 2: "...should not result in the devaluation of the appellant's job by almost [$8,000] $3,000 per year"

page 4, paragraph 3: "...could be reduced by about $115.00[0], or almost [$3,000] $1,500 per year"

page 5, paragraph 4: to include that the Board specifically order that the position remain classified as a Nursing Coordinator

Appellant argues that when she applied for and accepted the position of Nursing Coordinator (Nurse Recruitment) she was assured that it would not affect her salary. Upon transfer of her position from nursing to personnel and its subsequent review by the Division of Personnel, her position was reclassified to Human Resource Coordinator I, which Appellant contends is an inappropriate classification based upon her duties and responsibilities. Appellant also contends that her responsibilities had increased rather than decreased after transfer to the personnel office at New Hampshire Hospital.

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In her written submission to the Board, Appellant continually refers to verbal assurances that the administrative transfer of her position from nursing to personnel would not affect her salary. Appellant also refers to the reallocation of her position from Nursing Coordinator, salary grade 24 to Human Resource Coordinator, salary grade 20, stating that when the position of Nursing Coordinator was posted for in-house promotions, it was clearly understood that the primary responsibility would be nurse recruitment, and that the focus of the job had not changed materially as a result of its transfer to the personnel office. Finally, Appellant argues that position reviews are either requested by employees or agencies, or initiated by the Division of Personnel when there are known to be material changes in the position's duties and responsibilities, concluding that in the absence of material change, no position review or reclassification should have occurred.

Director Vogel testified that regardless of the pay previously received by the appellant, the position for which Ms. Scaramella applied and was accepted was not a direct care nursing position, and as such should not have been eligible for additional direct care or registered nursing compensation as provided in the Collective Bargaining Agreement and RSA 99:11 and 12. Ms. Vogel argued that although Ms. Scaramella had, prior to her promotion to Nursing Coordinator for Nurse Recruitment, been involved in direct care nursing in Thayer Building, the position she applied for and accepted in Nurse Recruitment did not involve duties which would entitle her to additional direct care and nursing compensation, regardless of her licensure as a registered nurse. Ms. Vogel explained that under the "hold harmless provisions of the Personnel Rules, Ms. Scaramella was allowed to maintain her current salary grade, despite the downgrading of her position. She stated, however, that there was no provision in the rules which could guarantee that an employee previously assigned to a 40-hour per week position could maintain such schedule when the position classification called for a 37 1/2 hour per week work schedule.

To determine what Appellant considered to be her duties both prior to and following the transfer and review of her position, the Board reviewed Appellant's position classification questionnaire as submitted by her to the Division of Personnel, noting Appellant's continuing assertion that there were no material changes in her duties and responsibilities. Under PART I - MAJOR FUNCTION in the Questionnaire, Appellant has described her job as "Perform[ing] highly professional activities relative to the recruitment and retention of hospital staff under the general direction of the Director of Human Resources". None of the functions described by the appellant include direct nursing care. All refer to the development, implementation and assistance in recruitment/retention strategies pertinent to current staffing needs, development of promotional material for marketing direct care and/or hospital positions, including job fairs, career days, open houses, etc. Appellant also describes her responsibilities for communication with

applicants, conducting screening interviews, verifying job application content and employment references, collecting, analyzing and interpreting recruitment and staffing data, initiating and responding to salary and benefit surveys, etc. At no point in the classification questionnaire, with the exception of the "special qualifications" section does Appellant make any reference to direct care nursing.

RSA 99:11 and RSA 99:12 provide for additional compensation for direct care staff, and registered and licensed practical nurses. Through her own written submissions and sworn statements to the Board, Appellant has argued that she accepted the position understanding its principal responsibility to be recruitment of direct care and nursing staff. She also argued that the position had not materially changed. Given that understanding of Ms Scaramella's responsibilities, in light of RSA 99:11 and 12, the Board cannot reasonably conclude that her position should be classified as Nursing Coordinator, nor that her position should be entitled to additional compensation as an active nursing position involved in direct patient care.

The Board noted with some interest that the copy of the promotional posting for the position of Nursing Coordinator - Nurse Recruitment indicates the salary for that position at salary grade 19, not the salary grade 24 to which she referred throughout her written and verbal presentation. At the time of her application for promotion, Appellant was classified as an RN II, salary grade 15, and her promotion resulted in a four grade increase in salary grade. Although neither party offered direct testimony concerning the discrepancy between the posted grade and the grade 24 at which Appellant was eventually compensated, Ms Scaramella did make reference during her testimony to the fact that there was no classification of RN III at the time she applied for promotion. The Board presumes the increase in salary grade for Nursing Coordinator from grade 19 to grade 24 was a result of the statewide nursing classification upgrade which occurred in June, 1987.

Under the hold harmless provisions of the Rules of the Division of Personnel, Appellant continued to be paid at salary grade 24, despite the reclassification of her position to Human Resources Coordinator I, salary grade 20, and despite the fact that she was not then involved in direct care nursing, and had not been involved in direct care nursing when promoted to Nursing Coordinator - Nurse Recruitment.

The Board voted to deny Ms Scaramella's appeal. In so doing, the Board ruled as follows on the Appellant's and the State's Requests for Findings of Fact and Rulings of Law:

Appellant's Requests for Findings of Fact:

Requests 1, 2, 3, 5, 7, 8, and 10 are granted.

Request 4 is neither granted nor denied.

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Request 9 and 11 are denied.

Request 6 is granted to the extent that the position was reviewed following its transfer to the personnel office, but denied to the extent that it was one of approximately 60 positions reviewed as part of the Hospital-wide reorganization.

Appellant's Requests for Rulings:

Appellant's requests for rulings 1, 2, and 3 are denied.

Division of Personnel's Requests for Findings of Fact:

Requests 1, 2, 3, 4, and 6 are granted.

Request 5 is granted to the extent that it addresses the nature of the appeal, but denied in its characterization that Appellant accepted the salary grade 20 recommended by the Division.

Division of Personnel's Requests for Rulings:

Requests 1, 2 and 3 are granted.

THE PERSONNEL APPEALS BOARD

Patrick J. McNicholas, Chairman

Robert J. Johnson

Lisa A. Rule

cc: Jean Chellis, SEA Field Representative
Virginia A. Vogel, Director of Personnel
Sharon A. Sanborn, NH Director of Human Resources
Attorney General's Office - Civil Bureau