DC37 v. HHC, Emergency Medical Service, 43 OCB 26 (BCB 1989) [Decision No. B-26-89 (IP)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING
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DISTRICT COUNCIL 37, AFSCME, AFL-CIO,

Petitioner,

-and-

NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, EMERGENCY MEDICAL SERVICE,

Respondent.

DECISION NO. B-26-89
DOCKET NO. BCB-1090-88

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**DECISION AND ORDER**

District Council 37, AFSCME, AFL-CIO ("DC 37" or "petitioner") filed a verified improper practice petition against the New York City Health and Hospitals Corporation ("HHC" or "respondent"). The petition alleges that HHC violated Section 12-306a(4) of the New York City Collective Bargaining Law ("NYCCBL")[1] by unilaterally instituting new medical protocols requiring employees in the title Emergency Medical Service Specialist-II ("EMSS-II") to learn and be able to perform

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[1]Section 12-306a(4) of the NYCCBL provides:

a. **Improper public employer practices**. It shall be an improper practice for a public employer or its agents:

(4) to refuse to bargain collectively in good faith on matters within the scope of collective bargaining with certified or designated representatives of its public employees.

additional duties as a condition of continued employment. Petitioner contends that HHC committed an improper practice when it refused to bargain upon demand over the imposition of these qualifications on EMSS-IIs currently in the title or, in the alternative, to negotiate with regard to their alleged practical impact on the working conditions of all EMSS-IIs.[2]

On November 15, 1988, the HHC filed a verified answer denying that it has violated its duty to bargain and claiming that its actions constitute a reasonable exercise of management prerogative which has had no practical impact on the employees involved. The HHC further contends that, in any event, the gravamen of this dispute concerns an alleged violation of the collective bargaining agreement, not an improper practice.

On December 21, 1988, the petitioner filed a verified reply together with the supporting affidavit of Richard McAllen, President of Local 2507, and a memorandum of law. The HHC was afforded the opportunity to file a response to this submission but declined to do so.

[2]The bargaining certificate (Decision No. 62D-75, as amended) covering employees in the title EMSS-II is held jointly by DC 37; Service Employees International Union, Local 144; and International Brotherhood of Teamsters, Local 237. We note that the latter two unions, although not parties to this proceeding, have endorsed the improper practice petition.

**Background**

The Emergency Medical Service ("EMS") is a division of the HHC. EMS employs, inter alia, individuals in the title of EMSS-II,[3] commonly known as paramedics, who are certified to practice

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[3]According to the HHC, Personnel Division, Position Description for individuals employed in this title, the job specification for EMSS-IIs provides, in pertinent part:

Purpose of Position:

Under general supervision responds to calls for Ambulance and emergency services; ... Performs related work.

There are two (2) assignment levels for this title.

Major duties:

Assignment Level I (Basic Life Support Activities)
1. Responds to calls for emergency ambulance service.
2. Provides emergency pre-hospital care in accordance with certification and training as a New York State Emergency Medical Technician.

5. Inspects assigned Ambulance at the beginning and end of tour to insure that Ambulance is equipped and supplied in accordance with New York State standards.

Assignment Differential for EMS Specialists performing Intermediate Life Support Activities
1. Performs all the duties of assignment Level I; and
2. Identifies potential candidates for automatic external defibrillation and takes appropriate actions in accordance with AED protocol.

Assignment Level II (Advanced Basic Life Support Activities)
1. Performs the duties of Assignment Level I and those covered by the Assignment Differential; and
2. Provides patient care under authorized standard Paramedic protocol. Reports findings and/or transmits data/EKG to Medical Control Physician via telecommunications.
3. Performs life sustaining and preserving measures as trained and authorized.

(continued...)

by both New York State and by the Medical Advisory Committee of the City of New York ("MAC Committee"). HHC submits that the MAC Committee "is responsible for formulating and updating procedures and certifying paramedics in New York City." Respondent also submits that "EMS is legally obligated to follow all requirements set forth [by] the MAC Committee" which, as of June 1, 1987, "required that paramedics in the City of New York be instructed in, and capable of, performing three additional procedures," to wit:

1) Endotracheal intubation on children under ten years of age, a process by which a tube is inserted through the child's mouth and into the trachea after it has been determined that there is no obstruction which will block the flow of air into the lungs;

2) Cricothyrotomy, the insertion of a needle into the trachea to permit air into the lungs; and

3) Needle decompression, the insertion of a needle into the chest to alleviate the pressure on a collapsed lung.

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(...continued)

4. Administers medication in prescribed amounts, and uses advanced life saving techniques in accordance with established paramedic protocols.

7. Performs related work as required.

Knowledge and Skills required:

2. Possession and maintenance of Certification by the State of New York as an Emergency Medical Technician.

4. Successful completion of an orientation training course which includes ... emergency care skills; and

6. Eligibility for the Assignment Differential requires successful completion of a[n] EMT Defibrillation training course meeting standards established by the State of New York.

The respondent asserts that even though EMS paramedics were not required to perform these three procedures prior to June 1, 1987, the techniques are found in standard paramedic training manuals and have always been the subject of classroom instruction for EMSS-IIs at the EMS Training Academy in Fort Totten, Queens, N.Y.

It is undisputed that on or about April 18, 1988, EMS Medical Staff began training EMS Training Academy Instructors (who are also EMSS-IIs) in the methodology of training paramedics to perform these procedures in a clinical setting and that, to date, certain numbers of paramedics have been trained in some of the techniques.

HHC further submits that inasmuch as the MAC Committee is now testing for the techniques in its certifying examinations, new employees now receive the appropriate clinical instruction during their initial training for paramedic certificates and incumbents during their training for recertification. Respondent states that EMS also intends to provide the requisite clinical instruction to all other EMSS-IIs within the next year.

On June 15, 1988 and again on September 2, 1988, in letters addressed to the Office of Municipal Labor Relations ("0MLR"), petitioner demanded bargaining "over the impact of the introduction of these new procedures."[4] In responses dated July

[4]DC 37, in its letter dated September 2, 1988, clarified and reiterated its demand.

13, 1988 and September 7, 1988, respectively, OMLR stated that "neither training in these procedures nor the performance of them require negotiation."

On September 19, 1988, DC 37 filed the instant petition which seeks an order by the Board of Collective Bargaining ("Board") directing the respondent to:

1) Enjoin implementation of new protocols; and
2) Engage in good faith bargaining with petitioner.

## Positions of the Parties

### Petitioner

DC 37 contends that HHC committed an improper practice when it refused to bargain over implementation of the MAC Committee's directive requiring EMSS-Ils to acquire certification in the medical procedures at issue. The petitioner argues that "when a change is made in qualifications for employment for employees already on the job, those changes become a condition of employment which the employer may not unilaterally impose."[5]

Alternatively, DC 37 maintains that the additional training and duties associated with the implementation of these medical protocols has had a practical impact within the meaning of

[5]The petitioner cites Decision No. B-38-86; County of Montgomery, 18 PERB ¶4589, aff'd 18 PERB ¶3077 (1985); Board of Education of CNY, 13 PERB ¶3066; City of Auburn, 9 PERB ¶3085.

Section 12-307b of the NYCCBL,[6] on both the EMSS-II Instructors and EMSS-IIs who work in the field. According to petitioner, management's actions have resulted in an "unreasonably excessive and unduly burdensome workload" on affected employees for the following reasons:

(1) EMSS-II Instructors must teach additional techniques to fellow paramedics, with no corresponding decrease in the amount of didactic material which must be covered or other clinical instruction they must oversee.

(2) The workload of paramedics in the field has become unduly burdensome inasmuch as sophisticated surgical procedures must be performed under high-stress situations and with no margin for error. Petitioner asserts that prior to implementation,

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[6]Section 12-307b of the NYCCBL provides:

**Management Rights.**
**b**. It is the right of the city, or any other public employer, acting through its agencies, to determine the standards of services to be offered by its agencies; determine the standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work. Decisions of the city or any other public employer on those matters are not within the scope of collective bargaining, but, notwithstanding the above, questions concerning the practical impact that decisions on the above matters have on employees, such as questions of workload or manning, are within the scope of collective bargaining.

these protocols were performed only by physicians in hospital settings. Petitioner maintains that because "these techniques are dangerous" and "incorrect usage of the equipment can mean injury to major arteries and death" of patients, EMSS-IIs must shoulder a far greater degree of responsibility than had been previously expected of them.

(3) Paramedics, in performing pediatric endotracheal intubation, will be treating a new patient population, i.e., children under ten (10) years of age who are having trouble breathing. As a result, Advanced Life Support Teams (EMSS-IIs) will be sent on calls which were previously handled exclusively by Basic Life Support Teams (EMSS-Is).[7]

(4) Finally, paramedics must use and maintain a new drug and equipment box.

Petitioner maintains that while there is no dispute that the content of a job description is a managerial prerogative, a union has the right, and management the duty, to bargain over the impact that changes of this nature and magnitude have on the workload of affected employees.[8] Arguing that the "equities clearly weigh in favor of petitioner," DC 37 asks the Board to declare that a practical impact exists and order immediate

[7]Petitioner submits, as evidence of this assertion, a copy of the "Calltypes Comparison Chart" which indicates that paramedics shall respond to a new category of calltype, i.e., "Sicped" (Sick/Pediatrics Less than 1 Year Old).

[8]Petitioner cites numerous Board and PERB decisions as authority for their position.

bargaining or, in the alternative, schedule a hearing for the purpose of determining whether one exists.

**Respondent**

HHC challenges the instant improper practice petition on several grounds.

Respondent maintains that Section 12-307b of the NYCCBL[9] has been construed as reserving all aspects of training to management's discretion. To the extent that the acts complained of relate to training, including the means and type of training given to EMSS-IIs, respondent contends that these matters are outside the scope of collective bargaining.[10]

In response to petitioner's claim of practical impact, HHC contends these allegations are conclusory, self-serving and fail to demonstrate how respondent's decision to comply with the legal requirements of the MAC Committee impacts on workload, manning or any other term or condition of employment of EMSS-IIs.

Finally, respondent hypothesizes:

> Assuming, arguendo, that the gravamen of the petition is the claim that the new procedures are in some way outside the scope of the job description of an EMSS-II, then this dispute is a dispute under the collective bargaining agreement, not an alleged improper practice.

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[9] See note 6, at p. 7 supra.

[10] Respondent cites Triborough Bridge and Tunnel Authority, 15 PERB ¶4570 (1982); County of Nassau, 14 PERB ¶4557 (1981).

Article VII, Section (C) of the applicable collective bargaining agreement defines a grievance, inter alia, as:

> A claimed assignment of employees to duties substantially different from those stated in their job specifications.

Therefore, HHC argues, petitioner is limited to filing a grievance under the contract rather than a claim of improper practice.

Accordingly, HHC submits that the entire petition should be dismissed for failure to state a cause of action under the NYCCBL.

**DISCUSSION**

Our initial inquiry will focus on whether the respondent herein has acted unilaterally with respect to matters that it must negotiate with the certified representative of its employees pursuant to Section 12-307a of the NYCCBL.[11] DC 37 contends that the imposition of new qualifications for employees already on the job constitutes a change in a term or condition of employment and, thus, is a mandatory subject of collective bargaining. HHC argues that the matter is entirely within the scope of its

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[11]Section 12-307a of the KYCCBL provides, in relevant part:

> **Scope of collective bargaining.**
> a. ... public employers and certified or designated employee organizations shall have the duty to bargain in good faith on wages.... hours.... working conditions....

managerial prerogative under the NYCCBL and, therefore, it has no obligation to bargain with petitioner.

We have long held that the implementation of training procedures, in most circumstances, is a matter of managerial prerogative.[12] Likewise, the establishment of qualifications for a job, which are defined as "preconditions, not conditions of employment,"[13] are outside the scope of mandatory collective bargaining.[14] However, exceptions to these general principles may be established where training is required by the employer as a qualification for continued employment.[15] Furthermore, we have held that "what is a qualification in some situations may become a condition of employment in other circumstances."[16]

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[12]Decision Nos. B-4-89; B-43-86; B-16-81; B-7-77; B-23-75; B-16-74; B-7-72; B-4-71.

[13]West Irondequoit Board of Education, 4 PERB ¶4511, aff'd 4 PERB ¶3070 (1971).

[14]Decision No. B-38-86.

[15]See Decision No. B-43-86. In that case, the Uniformed Firefighters Association ("UFA") made several bargaining demands related to the training of Fire Marshals in the use of firearms. UFA argued that its demands fell within this exception because a Fire Marshal must undergo yearly firearms testing and certification in order to continue serving as a full duty Fire Marshal. While we found this argument persuasive, we rejected the union's contention in the absence of an allegation that the employment of those who did not pass was terminated or that they suffered a cut in pay. See also, Decision No. B-2-73.

[16]Decision No. B-38-86 at 14.

In Decision No. B-38-86, the Committee of Interns and Residents ("CIR") challenged the employer's unilateral imposition of the requirement that Chief Residents employed by the HHC possess a New York State medical license. The threshold question presented in that case was whether the licensing requirement was a mandatory subject of bargaining. In-addressing the question of whether the new licensing requirement would become a condition of continuing employment if it were applied to incumbent Chief Residents, we were guided by several PERB decisions that have also been cited by petitioner here.[17] In those cases, PERB found that an employer does violate the duty to bargain in good faith when it unilaterally imposes either a geographical residency requirement[18] or the acquisition of a county driver's license[19] upon employees who were not hired subject to such a requirement.

Similarly, with respect to the impact of HHC's decision on incumbent Chief Residents, we stated that while the employer was acting within its managerial prerogative to fix qualifications or preconditions of employment,

> if it were HHC's intention to apply the licensing requirement to those who held the position of Chief Resident at the time of the promulgation of the requirement, that would be a mandatory subject of negotiation.

However, since HHC's resolution provided an express waiver of the

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[17] See note 5 at 6 supra.

[18] 9 PERB ¶3085; 13 PERB ¶3066.

[19] 18 PERB ¶4589, aff'd 18 PERB ¶3077.

licensing requirement for incumbent Chief Residents, under those circumstances the obligation to bargain over the decision did not arise.

In contrast, in the instant matter petitioner argues that because the HHC is not exempting incumbent EMSS-IIs from MAC certification in the three procedures at issue, it becomes a condition of continuing employment for these employees. The Respondent does not deny this contention, stating only that the HHC is "legally obligated to follow all requirements set forth [by] the MAC Committee" which now mandates that a paramedic be capable of performing these techniques. Additionally, respondent states that the MAC Committee is already testing for a paramedic's competency in these procedures in its certifying examinations. In this regard, we note that all EMSS-IIs must undergo periodic recertification.[20]

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[20]We take administrative notice of Title 10, Chapter VI, Section 800.43, of the New York Codes, Rules and Regulations, which provides:

> **EMT [EMSS-I] and A-EMT [EMSS-11] recertification.** To qualify for recertification, an EMT or A-EMT applicant shall:
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> (a) possess current New York State EMT or A-EMT certification, as applicable;
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> (b) satisfactorily complete the EMT or appropriate A-EMT State-approved refresher course during the 12 months prior to the expiration date of current certification;
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> (c) pass a State-approved final practical skills examination; and
>
> (d) pass the State certifying examination (EMT) or a

(continued...)

In view of the above, it is clear to us that petitioner's allegations establish an improper practice as it is defined in Section 12-306a(4) of the NYCCBL because the imposition of new qualifications for recertification on employees currently holding the job constitutes a unilateral change in a term and condition of their employment.[21] Inasmuch as incumbent EMSS-IIs were not hired subject to the new and more stringent certification requirements, we find that requiring them to meet this higher standard now would be similar to “unilaterally requiring employees who were not residents of New York City at the time they were hired to move to New York City at a later time in order to maintain their employment status,” as we reasoned in Decision No. B-38-86.

Moreover, HHC does not even attempt to rebut petitioner's contention that an EMSS-II who was already on the job when the MAC Committee promulgated the new requirements will lose his job if he fails to become recertified. Therefore, the only conclusion to be reached is that these new requirements will be

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(...continued)
State-approved certifying examination (A-EMT).

The recertification period for EMT and A-EMT is three years from the date of the certifying examination (EMT) or a certifying examination (A-EMT), passed by the applicant.

[21] See also, Decision No. B-25-85, where we held that the HHC's belated decision to enforce a non-residency tax requirement on incumbents as a condition of their continued employment was a unilateral change in a term and condition of employment over which the HHC must bargain.

applied to all candidates for paramedic certification and recertification, as the case may be. Accordingly, we direct the HHC to bargain with petitioner concerning the effects of the application of the MAC Committee's new requirements to EMSS-IIs who had been hired in that title prior to implementation on June 1, 1987.

Although respondent attributes the necessity of imposing these requirements to the actions of a third party, i.e., the MAC Committee, this fact does not shield HHC from the obligation to bargain when compliance has a direct effect upon a term or condition of employment. This conclusion is consistent with Decision No. B-25-85, where we-held that the HHC must bargain with respect to requiring employees to sign an agreement authorizing the deduction of certain taxes as a condition of continued employment. Even though the action was taken to comply with the non-residency city tax provisions of Section 822 of the New York City Charter, we found this did not relieve the HHC of its burden to negotiate changes affecting terms and conditions of employment.[22]

In view of our determination above we need not address petitioner's allegations of practical impact as it relates to employees for whom the respondent has a duty to bargain.[23] This includes all individuals employed by the HHC in the title of

[22] See also, Decision No. B-41-87.

[23] See, Decision No. B-10-81.

EMSS-II as of May 31, 1987. Therefore, we shall consider petitioner's claim of practical impact only as it would concern individuals hired as EMSS-IIs on or after June 1, 1987. In doing so, we note that petitioner has requested we not apply "a narrow construction of the law of bargaining over practical impact," and find that the management action complained of be deemed to have a per se impact, so as to warrant an immediate bargaining order.[24]

We have previously identified certain exceptional circumstances arising from the exercise of management prerogative, such as the impact of lay-offs on those laid-off,[25] or actions which result in imminent threats to employee safety,[26] to constitute the basis for a finding of per se practical impact. In such instances, the union need not wait until a decision is, in fact, implemented and we have required the employer to bargain at the time the implementation decision is proposed otherwise, a practical impact claim presents a question of fact which should be initiated through a scope of bargaining petition in which specific allegations of impact are set forth. A refusal to bargain charge may not be brought until we have first, determined that a practical impact exists, and second, found that the employer has not acted, pursuant to our finding of practical

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[24] In support of this position, petitioner cites Board Decision No. B-41-86 where we held that negotiability of a subject is best determined on a case-by-case basis.

[25] E.g., Decision Nos. B-21-75; B-18-75; B-3-75.

[26] E.g., Decision Nos. B-6-79; B-5-75.

impact, either to relieve the impact unilaterally or to negotiate changes in wages, hours or working conditions.[27]

Inasmuch as the instant petition does not allege that employees will be laid off or that there are any threats to safety as a result of HHC's decision, the allegations do not support a finding of per se practical impact based on existing Board precedent. Nor are we persuaded that the facts alleged constitute circumstances which compel a departure from the Board's well-settled processes. However, rather than dismissing the petitioner's remaining improper practice allegations, we will consider the following practical impact claims as if they were submitted through a scope of bargaining petition, which is consistent with our policy of not requiring strict adherence to the rules of pleading.[28]

Initially, we note that petitioner alleges that the management action complained of has had a practical impact within the meaning of Section 12-307b of the NYCCBL,[29] on two distinct categories of employees in the title EMSS-II, namely, EMSS-II Instructors (hereinafter referred to as "Instructors") and EMSS-IIs who work in the field (hereinafter referred to as "Field Paramedics").

DC 37 alleges that the workload of Instructors, whose

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[27]Decision No. B-41-80.

[28]See Decision Nos. B-56-88; B-37-82.

[29]See note 6 at 6 supra.

function is to train fellow paramedics, has increased because they must teach more material. The respondent contends that petitioner's allegations are conclusory and, therefore, it fails to state a prima facie claim of practical impact.

In a recent decision, No. B-56-88, the Sergeant's Benevolent Association ("SBA") alleged facts to support a practical impact claim which are analogous to the instant matter. In that case, the SBA contended, inter alia, that the City violated the NYCCBL by unilaterally implementing a new training program which required Sergeants (trainers) to perform "new", additional and expanded duties" associated with the post-Academy field training of police officers, resulting in an alleged increased workload. We noted that requiring employees "to perform additional duties and/or different duties appropriate to their title is not the type of adverse effect, or practical impact, contemplated by NYCCBL Section 12-307b" and we held that the union had failed to allege sufficient facts of an impact on workload to warrant further consideration of the claim.

Similarly herein, DC 37 has done no more than to allege that Instructors must incorporate the clinical instruction of three additional techniques into an established training program. Otherwise, the petitioner does not offer any evidence to substantiate the alleged impact. A finding of practical impact is a factual question, and the existence of such impact cannot be

determined when insufficient facts are provided by the union.[30] Moreover, we have held that a cognizable claim of practical impact on workload requires more than a mere showing that there has been an increase in an employee's duties.[31] Therefore, we find that petitioner has failed to demonstrate an increase in the workload of EMSS-II Instructors rising io the level of a practical impact within the meaning of the NYCCBL.

We now turn to petitioner's contention that requiring Field Paramedics to perform the medical procedures at issue results in an increased workload. In support of this allegation, petitioner asserts that these EMSS-IIs must now perform more difficult medical procedures, shoulder a greater degree of responsibility, treat a new population of patients, and maintain more equipment.

The record clearly indicates that Field Paramedics will be called upon to perform in a greater variety of situations inasmuch as the training at issue will impart to them a greater degree of medical expertise. We also recognize that associated with their new skills, is the commensurate need to use and maintain additional equipment. However, we are not persuaded that these added duties result in "an unreasonably excessive or unduly burdensome workload as a regular condition of employment."

As a preliminary matter, we dismiss the argument that

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[30]Decision Nos. B-42-88; B-38-88; B-37-82; B-27-80; B-16-74.

[31]Decision Nos. B-56-88; B-2-76.

because EMSS-IIs will be treating children under 10 who are having difficulty breathing, that their workload has increased. If a team of EMSS-IIs, instead of EMSS-Is, are sent to respond to a Calltype of that nature, then they necessarily will not be available for any other work at that point. In other words, a Field Paramedic cannot be in two places at the same time. Absent the demonstration of any indicia of a change in workload, e.g., a consequential increase in the length of a tour of duty or a showing that more work must be performed within the same tour, this contention lacks merit.[32]

We also dismiss petitioner's assertion that the need to use and maintain a new equipment box constitutes a practical impact under these circumstances. It is well-settled that an employer's introduction of new equipment, as an exercise of "complete control and discretion over ... the technology of performing its work," is a reserved management right.[33] However, as the petitioner correctly points out, we have required the City to bargain over the introduction of new equipment when it has been sufficiently demonstrated that the job duties of employees have changed substantially as a result of assignment to newly introduced equipment.[34]

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[32]In Decision No. B-2-76, we held that a union could not rely upon proof of an increase in caseload, without more, to sufficiently demonstrate an increase in workload.

[33]Section 12-307b of the NYCCBL.

[34]Decision No. B-3-75.

In Decision No. B-3-75, the Marine Engineers Beneficial Association ("MEBA") sought, inter alia, the right to reopen negotiations in the event the City introduces newly designed ferry boats. We stated that such a duty could arise, but only to the extent that new or different equipment would substantially alter the working conditions or the job"content of affected employees. In contrast, in the instant matter it is not the introduction of new equipment which allegedly alters the job content of Field Paramedics. Rather, the use of this equipment is only incidental to the performance of skills that HHC may rightfully require of EMSS-IIs hired on or after June 1, 1987, as a "qualification" of their employment. Therefore, inasmuch as petitioner has not demonstrated that the job duties of EMSS-IIs have changed as a result of newly introduced equipment, no basis for a practical impact claim has been stated.

Finally, we discern from petitioner's allegations that the essence of its practical impact claim is better characterized as an alleged change in job duties rather than an increase in workload. It is undisputed that Field Paramedics are now required to perform duties of a greater degree of technical difficulty. However, as the respondent points out, the gravamen of such a claim would be "that the new procedures are in some way outside the scope of [an EMSS-IIs] job description." This dispute, in view of Article VII, Section (C) of the contract

between these parties,[35] is appropriately raised as a grievance rather than in an improper practice petition. Furthermore, we have held that within the context of a claimed practical impact, "the obligation to undergo additional training and to acquire new skills is not a term or condition of employment."[36] Therefore, we cannot conclude that requiring Field Paramedics to learn and perform these additional procedures is a change in a term or condition of employment which could form the basis of a practical impact claim.

Accordingly, we dismiss the instant petition to the extent that it seeks a finding of practical impact. However, having concluded that the imposition of a new qualification of employment on employees already on the job constitutes a unilateral change in a term and condition of employment of EMSS-IIs hired prior to June 1, 1987, we find that the respondent has committed an improper practice within the meaning of Section 12-306a(4) of the NYCCBL. Therefore, we direct HHC to negotiate over the effects resulting from the change in HHC's requirements on these employees.

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[35] See page 10, supra.

[36] Decision No. B-56-88 at 14.

**ORDER**

Pursuant to the powers vested in the Board of Collective Bargaining by the New York City Collective Bargaining Law, it is hereby

DETERMINED, that the unilateral imposition of new terms and conditions of employment on individuals employed on or before May 31, 1987 in the title of Emergency Medical Service Specialist-II constitutes an improper public employer practice, in violation of Section 12-307a(4) of the NYCCBL; and it is therefore

ORDERED, that the improper practice petition herein be, and the same hereby is, granted, to the extent that it alleges a refusal to bargain with respect to the application of these new qualifications to individuals employed on or before May 31, 1987 in the title of Emergency Medical Service Specialist-II, and it is further

ORDERED, that the Health and Hospitals Corporation shall bargain in good faith with District Council 37, AFSCME, AFL-CIO, over the effect resulting from the unilateral change in HHC's requirements as of June 1, 1987, and it is further

ORDERED, that the improper practice petition herein, be, and the same hereby is, denied in all other respects.

DATED: May 23, 1989
New York, New York

MALCOLM D. MacDONALD
CHAIRMAN

GEORGE NICOLAU
MEMBER

DANIEL G. COLLINS
MEMBER

JEROME E. JOSEPH
MEMBER

EDWARD F. GRAY
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DEAN L. SIVERBERG
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