

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION

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In the Matter of	:	
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THE NEW YORK STATE NURSES	:	
ASSOCIATION,	:	
	:	
Petitioner,	:	
	:	
-and-	:	
	:	Decision No. 5-2000
DISTRICT COUNCIL 37, AFSCME	:	Docket No. RU-1204-96
	:	
Intervenor,	:	
	:	
THE NEW YORK CITY HEALTH AND	:	
HOSPITALS CORPORATION,	:	
	:	
Employer.	:	
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**DECISION AND ORDER**

On October 11, 1996, the New York State Nurses Association (“NYSNA”) filed a petition docketed as RU-1204-96, requesting that the new Pediatric Nurse Practitioner title (Family Health Services) be added by accretion to Certification No. 30-82, a unit covering various professional nurse titles. On June 11, 1999, District Council 37, American Federation of State, County and Municipal Employees, AFL-CIO (“DC 37”) intervened.<sup>1</sup>

By letter dated August 27, 1999, the New York City Health and Hospitals Corporation (“HHC”) informed the Office of Collective Bargaining (“OCB”) that HHC took no position with regard to the representation of the Pediatric Nurse Practitioner title. HHC stated that the employees

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<sup>1</sup> For much of the period between the filing of NYSNA’s petition on October 11, 1996 and DC 37’s intervention on June 11, 1999, there were no employees in the title. OCB’s policy prohibits the certification of vacant titles. *See* Decision Nos. 2-95; 47-76.

in the Pediatric Nurse Practitioner title work in its Family Health Services unit, which was formerly a division of the City Department of Health (“DOH”), and that “[t]he nursing staff for the Family Health Services clinics consists of registered nurses in the title of Junior Public Health Nurse and Public Health nurse, both of which are represented by DC 37.” Due to a functional transfer of responsibility of Family Health Services from DOH to HHC in November 1994, “HHC added the titles of Junior Public Health Nurse and Public Health nurse to its Plan of Titles.” These titles are still represented by DC 37.

A hearing was held on September 14, 2000. Latha S. Catlin, Barbara Jones, and Gloria L. Phipps testified on behalf of NYSNA. Michelle Trester and Claudia Allum testified on behalf of DC 37. Post hearing briefs were filed on October 30, 2000.

## **BACKGROUND**

### **Pediatric Nurse Practitioner Title**

\_\_\_\_\_ In the mid-1990's, four DOH clinics -- Child Health Clinics, Communicare Clinics, Dental Health Clinics, and Correctional Health Clinics -- were functionally transferred to HHC and comprise the system known as “Family Health Services.” The title of Pediatric Nurse Practitioner ( Family Health Services) (“PNP-FHS”) was created on August 16, 1996, and is designated for use only in the DOH Child Health and Communicare Clinics and the Homeless Health Initiative.<sup>2</sup> The PNP-FHS title is classified as non-competitive and is eligible for collective bargaining. At the time of the hearing, one person was employed in the position. The salary ranges from \$56,000 to \_\_\_\_\_

<sup>2</sup> The Homeless Health Initiative are former DOH clinics that were functionally transferred to HHC . These clinics are classified separately from the four clinics that make up the Family Health Services system. The main purpose of the Homeless Health Initiative clinics is to provide care to disadvantaged families that live in homeless shelters or live on the street.

\$74,000, depending on one's level of experience, and the position description for the title provides:

**Purpose of Position:**

Under the direction of the Department of Nursing, with wide latitude for the exercise of independent initiative and judgment, performs public health nurse practitioner duties of a professional, clinical and administrative nature in Child Health Clinics in a pediatric ambulatory public health center. This work is performed in collaboration with a physician and in accordance with written protocols. Performs related work.

**Examples of Typical Tasks:**

1. Carries and manages a panel of patients of children and families with medical and social problems.
2. Maintains a work schedule which ensures availability and continuity of care. May be part of a team of primary care providers who participate in on-call services and share managed care responsibility.
3. Secures and evaluates children's medical and developmental history from parents/caretakers, and makes records of findings.
4. Performs basic pediatric physical, developmental and psychosocial assessments using techniques of observation, inspection auscultation, palpation and percussion.
5. Makes diagnoses based on findings and plans relevant interventions applying the principles of primary care, public health nursing, and the standards of the Child/Teen Health Program.
6. Discriminates between normal and abnormal findings in the screening process and identifies abnormalities such as developmental disorders.
7. Makes referrals for further diagnostic study and/or treatment such as physical therapy, inhalation therapy, or related therapeutic procedures.
8. Provides anticipatory guidance to parents on problems of child rearing, such as feedings, developmental issues, common illnesses, and accidents.
9. Prescribes drugs, immunizing agents, and devices in accordance with the practice agreement and protocols.
10. Assists the parent/caretaker in understanding the health care plan of action according to program protocol.
11. Consults with the physician on findings, as appropriate.
12. Participates fully as a member of the multidisciplinary team, including team meetings and the development and implementation of program services.
13. Directs and assists in the precepting of nurse practitioners and/or other health-care professionals and participates in their supervision.
14. May provide specialized training in clinical techniques.
15. Participates in the development of standards for performance evaluations and partakes in the preparation of performance evaluations through oral and written reports.
16. Provides clinical case presentation and instruction to students, colleagues, and other health-care professionals through lectures and seminars as part of inservice.

17. Provides input to faculty for development of nurse practitioner education.
18. Develops, organizes, and participates in health-related research projects and quality assurance studies.
19. Participates in the planning and development of policies and protocols for the delivery of nurse practitioner services.

Qualification Requirements:

1. A baccalaureate degree in Nursing or Nursing Education from a college accredited for nursing preparation.
2. A valid New York State license and current registration to practice as a registered professional nurse.
3. Current certification as a Nurse Practitioner in pediatrics, or in an appropriate specialty acceptable to the program, and current certification to prescribe medication, both issued by the New York State Department of Education.
4. One year of satisfactory, full-time experience as a Nurse Practitioner.

Direct Line of Promotion:

None. This is classified in the non-competitive class of positions.

**THE EVIDENCE**

The PNP-FHS title was created on August 16, 1996, for use in the DOH Child Health and Communicare Clinics and Homeless Health Initiative. Latha Catlin, employed by NYSNA as Assistant Director of the Economic and General Welfare Program, supervises the nurse representatives NYSNA nurses under the HHC collective bargaining agreement. According to Ms. Catlin's testimony, several HHC hospitals have clinics on hospital grounds ("on-site clinics") as well as community clinics called diagnostic and treatment centers, that are outpatient departments created to enable people to obtain care close to home . HHC uses NYSNA-represented employees in the Nurse Practitioner title in HHC hospital units, on-site clinics and in the diagnostic and treatment centers (T. 19-21).<sup>3</sup>

Ms. Catlin stated that HHC's clinics existed prior to the transfer of the DOH clinics to HHC

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<sup>3</sup> "T." denotes the transcript of the hearing.

and were established to provide medical care to patients who do not need the “acute emergency care” obtained from a hospital. The clinics provide “counseling, hypertensive counseling, diabetes counseling, and prenatal counseling,” help any type of patient, and are “not targeted to a specific segment of the community” (T. 34). When Ms. Catlin was asked whether there are any NYSNA nurses who work for DOH, she stated that there is a staff nurse title that is currently vacant (T. 32).

Ms. Catlin testified that North Central Bronx Hospital, Kings County Hospital, Woodhull Hospital, Jacobi Hospital, Bellevue Hospital, Metropolitan Hospital, Elmhurst Hospital, and Queens Hospital Center all have one or more non-DOH clinics off the hospital premises. These clinics, under the control of the specific hospital, have NYSNA-represented Nurse Practitioners working there (T. 24). Ms. Catlin provided the following example regarding North Central Bronx Hospital (“NCB Hospital”) in her effort to describe the role of a Nurse Practitioner. She stated that NCB Hospital employs Nurse Practitioners in the hospital and in its affiliated clinic. Nurse practitioners in the affiliated clinic have “caseloads of clients that only see that nurse practitioner”(T. 23). These patients do not see a physician; the Nurse Practitioner is their primary care provider (T. 23). Nurse practitioners in these clinics work with various other NYSNA-represented nurses who undertake tasks such as patient assessment, counseling, or administration of medication (T. 23). Nurses in the clinic report to the clinic’s Assistant Director of Nurses, who ultimately reports to the Director of Nursing in the hospital (T. 25).

Barbara Jones, NYSNA’s second witness, a registered nurse, is a certified Pediatric Nurse Practitioner and a certified Women’s Health Nurse Practitioner. She is a NYSNA member and began working for HHC in August of 1990 at Woodhull Hospital as an Associate Nurse Practitioner

in pediatrics<sup>4</sup> (T. 35-36). In November of 1996, Jones transferred to Family Health Services in the new Bushwick Communicare Clinic in Brooklyn, where she was hired in the newly created title of Pediatric Nurse Practitioner. At the Communicare Clinic, Ms. Jones worked with Junior Public Health Nurses and Public Health Nurses. She testified that her duties and responsibilities as a Pediatric Nurse Practitioner at the Bushwick Communicare Clinic were no different from her duties as the Associate Nurse Practitioner in Pediatrics at HHC's Woodhull Hospital (T. 41-43).

A Nurse Practitioner is able to diagnose, treat and prescribe medication to a patient and works under a written practice agreement with a physician. According to the official HHC job specification, the Nurse Practitioner "identifies and discriminates between physical and psychological signs and symptoms relating to the health status of individuals and families through health and development history taking and physical diagnosis consistent with established nursing practice," "consistent with established nursing practice differentiates between normal and abnormal findings in the screening process to detect changes in the health status that requires the physician's intervention," "consults with the physician for evaluation of findings of the health screening in order to make prospective decisions about treatment," and "conducts and participates in community clinics for casefinding." The Nurse Practitioner works under the general administration of the Assistant Director of Nursing to collaborate with and be held accountable to the physician for health care assessment. The salary ranges from \$52,000 to \$56,000. Qualifications include a license to practice as a registered nurse, a Bachelor of Science degree in Nursing, and advanced post-graduate work (NYSNA Exhibit 3).

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<sup>4</sup> Ms. Jones testified that she worked with six other Associate Nurse Practitioners in pediatrics at Woodhull Hospital (T. 43).

The HHC Associate Nurse Practitioners, Levels I - II, perform the major duties of the Nurse Practitioner as well as provide “clinical and didactic instruction to professional staff, students and community groups and conduct in-service educational programs,” conduct research related to nurse practitioner services, provide faculty with recommendations regarding the development of nurse practitioner education, and assist in the precepting of other Nurse Practitioners and students. The title requires a license to practice as a registered nurse, a Bachelor of Science degree in Nursing, a certificate authorizing the prescription of medication, and either two years experience as a Nurse Practitioner or two years as an RN, eighteen months of which must be as a Nurse Practitioner. The salary ranges from \$56,000 to \$62,000 (NYSNA Exhibit 3).

NYSNA’s witness, Gloria Phipps, has worked for HHC for 41 years. She has been a Nurse Practitioner for 15 years and has held other titles such as Licensed Practical Nurse, Staff Nurse, Head Nurse, Supervisor, and now is on release time as a Nursing Representative for NYSNA (T. 87-88). Testifying as to the five facilities that she currently covers, Ms. Phipps stated that Elmhurst employs 36 nurse practitioners, Woodhull employs 9 nurse practitioners, Metropolitan employs an estimated 6 or 7, Seaview does not employ any such nurses, and Cumberland employs 3 nurse practitioners (T. 97-98). These nurse practitioners are represented by NYSNA. Ms. Phipps testified that HHC nurses counsel and interview patients in the hospital, and in HHC clinics. Hospital nurses take histories, give immunizations, conduct blood tests, and teach patients, with their focus on “managing the specific illness that the patient came in with” (T. 94).

DC 37's witnesses testified that the manner in which the DOH clinics were functionally transferred to HHC and the DC 37's continued representation of the nurses in those clinics renders

it more appropriate that the PNP-FHS title be represented by DC 37. Their testimony was that the public health education aspect and the duties of the PNP-FHS title are more closely related to the work of DC 37's Public Health Nurses, Pediatric Nurse Associates, and Nurse Practitioners (DOH-Public Health), with whom they work with on a daily basis.

Michelle Trester, the Assistant Director of Research and Negotiations for DC 37 for the past five years, testified that the century-old Child Health and Communicare clinics were originally established to provide the uninsured and indigent population with access to health services as well as to educate the general public about healthcare, preventative healthcare, and health maintenance (T. 82-83). Ms. Trester testified that the mission of the clinics has remained unchanged through the years. These clinics were functionally transferred to HHC because it was felt that the clinics “could maintain their function to provide health education and disease prevention, and then act as a conduit for indigent and disenfranchised people that needed acute care, and they could use these clinics to be referred to HHC sites where ambulatory care services would be provided . . . .” (T. 83)

According to Ms. Trester, approximately 90 titles are included within DC 37's Health Services bargaining unit. The unit titles range from Public Health Assistant, Public Health Advisor, Recreational Assistant, Physician's Assistant, Pediatric Nurse Associate, Anesthetist, and the Public Health Nursing series. Approximately 5,000 workers in the unit are employed by HHC and mayoral agencies (T. 78-79). The entry level salary range for employees in the unit range from \$25,000 to \$60,000 (T. 84).

Claudia Allum, President of DC 37's affiliated Local 436, testified that while DOH continues



to run several clinics that employ Local 436 nurses,<sup>5</sup> the DOH clinics that were transferred into HHC were and continue to be staffed by DC 37-represented Public Health Nurses. Ms. Allum testified that the role of the public health nurse differs drastically from that of the regular “hospital-prepared” nurse. While the “hospital-prepared nurse provides curative treatment as prescribed by a physician, the Public Health Nurse is concerned primarily with the prevention of illness and maintenance of health (T. 64-65). The Public Health Nurse is “community based” and “her focus is towards education, teaching, counseling, referring clients where it is necessary, to help the client to . . . stay well within the community” (T. 64-65) . In effect, “the clients themselves are taught to take part in their care . . . so that they know how to manage when they are out at school or in any other group within the community” (T. 65). DC 37 witnesses testified that nurses in the PNP-FHS title also perform patient care, but with special emphasis, like public health nurses, on public health.

According to the DOH job specification for the Public Health Nurse series, qualifications for the title include a Bachelor’s of Science in Nursing, a license to practice as a Registered Nurse in New York State, and for some public health nursing positions, a master’s degree is required. According to DC 37’s last negotiated bargaining agreement covering the period of April 1, 1995 through March 31, 2000 the per annum salary of the Public Health Nurse title series ranges from \$46,000 to \$68,000 (DC 37 Exhibit 2).

According to the testimony of DC 37 witnesses, the Pediatric Nurse Associate and the Nurse Practitioner (DOH- Public Health) in the Union’s Health Services bargaining unit perform many of

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<sup>5</sup> Ms. Allum testified that the following clinics remain under the auspices of the DOH and employ Local 436 nurses: School Health Program, Tuberculosis Clinic, Immunization Clinics, and Mother and Child Infant Clinics.

the same duties required of the PNP-FHS title. In addition, the Pediatric Nurse Associate title is also designated for use in DOH Child Health and Communicare Clinics and Homeless Health Initiative functionally transferred into HHC. The DOH job specification indicates that nurses in the title work “under the general supervision of a licensed physician, provide child health care services in ambulatory and in-patient health centers. . . .” A Pediatric Nurse Associate “secures and evaluates the child’s medical and developmental history from parents, and makes record of findings,” “performs basic pediatric physical assessment using techniques of observation, inspection, auscultation, palpation and percussion; and makes use of such instruments as the otoscope and stethoscope,” and “discriminates between normal and abnormal findings on physical examination, and between normal and abnormal deviations on specific developmental screening tests . . . .” The salary for these nurses ranges from \$49,000 to \$66,000. Qualifications for the title include a license to practice as a Registered Nurse in New York State, two years experience as a Registered Nurse, and successful completion of a twelve-month course in pediatric nursing practice (DC 37 Exhibit 2).

The title of Nurse Practitioner (DOH - Public Health) in DC 37's Health Services bargaining unit has three assignment levels, and the salary ranges from \$41,000 to \$68,000. The title requires a Bachelor’s degree in Nursing, a license to practice as a Registered Nurse, certification as a Nurse Practitioner, and, depending on the assignment level, may require one or two years experience as a nurse practitioner. This position mandates that the nurses work under the general supervision of a physician, “with latitude for independent initiative and judgment” and provide primary healthcare services in various DOH settings such as schools, shelters, child health, and tuberculosis clinics.

Typical tasks require that a nurse in this position “secures and evaluates medical and developmental history from client/parent, and makes record of findings,” “performs basic physical, developmental, and psychosocial assessments, using techniques of observation, inspection, auscultation, palpation and percussion,” “discriminates between normal and abnormal findings on the screening assessments. . . , “prescribes medication as authorized by the New York State Education Department,” and “provides clinical supervision to Nurse Practitioners and students” (DC 37 Exhibit 2).

### **POSITIONS OF THE PARTIES**

#### **NYSNA’s Position**

It is NYSNA’s position that the title of Pediatric Nurse Practitioner should be accreted to its bargaining unit because the duties and responsibilities associated with this title are closely related to those of numerous other nurse practitioners represented by NYSNA.<sup>6</sup> NYSNA asserts that the relevant factors to be considered in determining the appropriate unit for the Pediatric Nurse Practitioners are the community of interest of the employees, the history of collective bargaining in the unit, and the effect of the unit on the efficient operation of the public service and sound labor relations.

In its post-hearing brief, NYSNA argues that Pediatric Nurse Practitioners perform duties and

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<sup>6</sup> NYSNA’s bargaining unit covers the following registered professional nurse titles: Assistant Head Nurse; Associate Nurse Midwife (Level A); Associate Nurse Midwife (Level B); Associate Nurse Practitioner (Level I); Associate Nurse Practitioner (Level II); Case Management Nurse, Level I, Level II (PD); Case Management Nurse, Level I, Level II (FD); Case Management Nurse, Level I, Level II (DOC); Case Management Nurse (DOS); Head Nurse; Midwife; Nurse-Midwife; Nurse-Practitioner; Nurse-Practitioner (Sanitation); Sr. Case Management Nurse (DOS); Staff Nurse; Staff Nurse (Department for the Aging); Supervisor of Nurses.

responsibilities that are “indistinguishable from, and interchangeable with, those of the NYSNA-represented Nurse Practitioners.”

### **DC 37’s Position**

DC 37 maintains that the Pediatric Nurse Practitioner title should be accreted to its health services bargaining unit, which represents various titles in the health field, such as Nurse Practitioner (DOH-Public Health), the Public Health Nurse title series, Pediatric Nurse Associate, Physician Assistant, and Anesthetist. The last unit bargaining agreement covering the period April 1, 1995, through March 31, 2000, showed the pay ranges for the above stated titles to be between \$35,000 and \$63,000 per year.

DC 37 argues that accretion to its unit is appropriate because the greatest community of interests exists between the Pediatric Nurse Practitioner title and certain titles already contained in the Health Services Bargaining Unit. Specifically, the job specifications for the new title and the pre-existing DC 37 titles of Nurse Practitioner (DOH-Public Health), the Public Health Nurse title series, and Pediatric Nurse Associate are similar. A Pediatric Nurse Practitioner treats patients with an emphasis on illness prevention and health maintenance by educating the patient and the patient’s family. Similarly, the DC 37-represented titles “perform patient care, but with an emphasis, like that of Pediatric Nurse Practitioner (FHS), on public health.”

In its post-hearing brief, DC 37 argues that the Pediatric Nurse Practitioners will not be working in an HHC hospital but will work closely alongside DC 37- represented public health nurses and pediatric nurse associates in former DOH clinics. Therefore, “the degree of interchange between

NYSNA nurses and the title in question is virtually non-existent.” DC 37 asserts that because it has represented employees at the clinics for decades, it is more experienced in addressing the multitude of issues faced by the clinic staff. Although DC 37 acknowledges that NYSNA represents nurses in HHC clinics, it argues that DC 37 still represents the nurses working in former DOH clinics. DC 37 argues that the Pediatric Nurse Practitioner title is restricted for use in only the former DOH clinics and that NYSNA has no history of collective bargaining for employees at these clinics. Thus, is more efficient for the nursing staff at the former DOH clinics to be represented by one collective bargaining representative.

DC 37 argues that accretion of the new title to its unit would be consistent with past Board Decision No. 6-69. There, the Board, in determining whether DC 37 or NYSNA should represent nurses who worked in the DOH clinics, noted significant differences between nurses who worked in a hospital setting as compared to those who worked in a public health setting. The Board found that while the role of a hospital nurse<sup>7</sup> is “curative and patient-centered” and focused on treating a specific ailment, the job of a public health nurse “emphasizes prevention of sickness, and is community-oriented.”<sup>8</sup> The public health nurse’s services are rendered in homes, schools, clinics and the community rather than in the hospital, and s/he is often called upon to exercise greater initiative and independent judgment than is typically required of a hospital nurse.

### **DISCUSSION**

We must determine whether the job title of Pediatric Nurse Practitioner should be added, by

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<sup>7</sup> The term “hospital nurse” is used to distinguish other registered nurses from those engaged in public health nursing.

<sup>8</sup> Decision No. 6-69.

accretion, to one of two previously certified units. In making such determinations, we consider whether the title, because of its similarity or close relationship to the unit titles, would have been included in the unit at the time of the original certification.<sup>9</sup>

Title 61, § 1-02(j) of the Rules of the City of New York (hereinafter “OCB Rules”), states:

In determining appropriate bargaining units, the Board will consider, among other factors:

1. Which unit will assure public employees the fullest freedom in the exercise of the rights granted under the statute and the applicable executive order;
2. The community of interest of the employees;
3. The history of collective bargaining in the unit, among other employees of the public employer, and in similar public employment;
4. The effect of the unit on the efficient operation of the public service and sound labor relations;
5. Whether the officials of government at the level of the unit have the power to agree or make effective recommendations to other administrative authority or the legislative body with respect to the terms and conditions of employment which are the subject of collective bargaining;
6. Whether the unit is consistent with the decision and policies of the Board.

We find that community of interest and the history of collective bargaining in the unit are the determinative factors in deciding the outcome of this case. The remaining criteria are not dispositive because they weigh favorably and evenly for both units. We will first consider whether the new title shares a community of interest with one or the other of the original units. In past decisions, the Board has considered a number of factors such as: the job duties and responsibilities of the

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<sup>9</sup> Decision Nos. 12-95; 16-93; 15-87; 23-75; 39-69.

employees;<sup>10</sup> their qualifications, skills and training;<sup>11</sup> interchange and contact;<sup>12</sup> wage rates;<sup>13</sup> lines of promotion;<sup>14</sup> organization or supervision of the department, office or other subdivision.<sup>15</sup> This list is not exclusive and none of the factors necessarily is controlling. We make determinations on a case-by-case basis and balance the various factors to determine where the greater community of interest lies.<sup>16</sup>

We are convinced that DC 37 has demonstrated significant similarity between the job duties and responsibilities of its existing unit titles of Public Health Nurse, Pediatric Nurse Associate, and Nurse Practitioner (DOH- Public Health) and the contested title. The record demonstrates that, like the Pediatric Nurse Practitioner title, the other titles in DC 37's unit provide care for children and families with a strong emphasis on public health education.

The official job description states that the Pediatric Nurse Practitioner “performs public health nurse practitioner duties of a professional, clinical and administrative nature in Child Health Clinics in a pediatric ambulatory public health center” and “makes diagnoses based on findings, and plans relevant interventions applying the principles of primary care, public health nursing, and the standards of the Child/Teen Health Program.” Furthermore, the Pediatric Nurse Practitioner

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<sup>10</sup> See, e.g., Decision Nos. 15-93; 16-86; 13-85; 18-81; 13-81; 34-80.

<sup>11</sup> See, e.g., Decision Nos. 15-93; 13-85; 13-81; 34-80.

<sup>12</sup> See, e.g., Decision Nos. 15-93; 29-77; 23-76; 23-75.

<sup>13</sup> See, e.g., Decision Nos. 15-93; 13-85; 41-82; 41-73.

<sup>14</sup> See, e.g., Decision Nos. 15-93; 34-80; 22-75; 42-74; 45-72.

<sup>15</sup> See, e.g., Decision Nos. 15-93; 55-76; 65-73; 61-71.

<sup>16</sup> See, e.g., Decision Nos. 15-93; 9-88; 15-87.

“provides anticipatory guidance to parents” regarding topics such as child rearing, feedings, growth and development, illnesses, and accidents. They also provide instruction to students and fellow health-care professionals and are involved in various health-related research projects. Similarly, DC 37's nurse titles emphasize public health education and work to advise families on ways to prevent sickness, minimize the spread of sickness, as well as adopt a health care plan of action to maintain good health.

NYSNA has demonstrated some similarity in job duties and responsibilities between its Nurse Practitioners and the new title. NYSNA's Nurse Practitioners and Associate Nurse Practitioners also diagnose and treat health problems for individuals and families. However, whereas NYSNA's nurses are primarily concerned with treating a patient's specific ailment, prescribing medication for that ailment, and educating the patient with regard to his or her individual course of treatment, the Pediatric Nurse Practitioner educates children and families with regard to healthcare, preventative healthcare, and health maintenance. Thus, we find that the similarity between the new title and DC 37's titles is greater than the similarity between the new title and NYSNA's titles.

The Pediatric Nurse Practitioners share the greatest number of contacts with Public Health Nurses, Junior Public Health Nurses, and Pediatric Nurse Associates, all of whom are represented by DC 37. The individuals in these titles work closely alongside one another on a daily basis, and thus the Pediatric Nurse Practitioners share a greater community of interest with DC 37 nurses.

The qualifications, skills and training of the Pediatric Nurse Practitioner title, the wage rates established for the position, and the lines of promotion, do not favor accretion to either unit. The



Pediatric Nurse Practitioner job description indicates that there is no line of promotion to or from any other title. All titles work under the direction of the Department of Nursing and may work under the general supervision of a licensed physician.

Considering the history of collective bargaining, we note that HHC, although it took no official position with regard to the representation of employees in this title, did submit a letter dated August 27, 1999 to OCB indicating that the Family Health Services clinics are staffed by DC 37-represented Junior Public Health Nurses and Public Health Nurses and that these two titles have been added to HHC's Plan of Titles. We find that since DC 37 has continually represented employees at the former-DOH clinics for decades, while NYSNA has not, the title of Pediatric Nurse Practitioner should accrete to DC 37's unit.

In conclusion, the several factors considered in making a community of interest determination and the history of collective bargaining in the unit, militate in favor of accreting the Pediatric Nurse Practitioner (FHS) title to DC 37's unit.

### **ORDER**

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

DIRECTED, that the title Pediatric Nurse Practitioner(Family Health Services) (Title Code No. 001970) be certified to Certification No. 28-78, held by District Council 37, AFSCME.

Dated: December 12, 2000

New York, New York

MARLENE A. GOLD  
CHAIR

GEORGE NICOLAU  
MEMBER

DANIEL G. COLLINS  
MEMBER