

NEW YORK CHAPTER OF THE AMERICAN PHYSICAL THERAPY ASSOCIATION V. CITY,
8 OCB 53 (BOC 1971) [Decision No. 53-71 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

NEW YORK CHAPTER OF THE AMERICAN
PHYSICAL THERAPY ASSOCIATION,

DECISION NO. 53-71

Petitioner

DOCKET NO. RU-255-71

-and-

DISTRICT COUNCIL 37, AFSCME, AFL-CIO,

Intervenor

-and-

THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS

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DECISION AND ORDER

On February 4, 1971, the New York Chapter of the American Physical Therapy Association (herein called Petitioner) filed its petition requesting certification as the exclusive collective bargaining representative of Physical Therapists and Senior Physical Therapists. On March 15, 1971, District Council 37, AFSCME, AFL-CIO (herein called Intervenor), applied to intervene herein. Neither Petitioner nor the City has opposed the application. Accordingly, the application is granted.

Upon consideration of its investigation and after due deliberation, the Board of Certification issues the following decision:

I. The Appropriate Unit

The titles of-Physical Therapist and Senior Physical Therapist are in the Rehabilitation Therapy Occupational Group, which also includes seven other titles such as Occupational Therapist, Rehabilitation Counselor and Speech and Hearing Therapist.

The City moved to dismiss the petition on the ground that Petitioner is neither a municipal employee organization nor a public employee organization. The City further contends that the requested unit is inappropriate as it excludes the other titles in the occupational group and related therapist titles.

In an answering affidavit, Petitioner stated that the petitioned titles are professional titles and that the titles recommended by the City are either non-professional or supervisory in nature. In fact, there are several related supervisory and non-supervisory therapist titles which are professional, requiring a specialized baccalaureate degree.

The petitioned employees herein administer physical therapy in a hospital, clinic or in other health programs for handicapped children. Employees in related titles perform other types of rehabilitation therapy, such as speech and hearing, vocational or occupational therapy.

In Matter of District Council 37, Decision No. 44-68, we stated:

"In the summer of 1967, the Department of Labor began consolidating and combining titles into City-wide units of occupationally related titles. In our opinion, such a policy, based upon mutuality of interest among occupationally related titles, the history of collective bargaining and other factors is essential to the effectuation of the purposes and policies of the statute and the proper functioning of the collective bargaining process, and should be applied wherever it is possible to do so without severe dislocations or inequities."

The results of our investigation indicate that the petitioned titles have duties, skills and interests closely related and allied to various other titles. However, since the petition before us does not require us to pass upon a unit more comprehensive in composition, we limit ourselves to a finding that a separate unit consisting of only the petitioned titles is inappropriate. Accordingly, we shall dismiss the petition.

Further, since the requested unit is not appropriate, no need exists to address ourselves to, and we do not pass upon, the City's objection that Petitioner is not a bona fide labor organization.

O R D E R

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

O R D E R E D , that the application of District Council 37, AFSCME, AFL-CIO to intervene herein be, and the same hereby is, granted; and it is further

O R D E R E D , that the petition filed herein by the New York Chapter of the American Physical Therapy Association be, and the same hereby is, dismissed.

DATED: New York, N.Y.

June 23 , 1971.

ARVID ANDERSON
C h a i r m a n

WALTER L. EISENBERG
M e m b e r

ERIC J. SHCMERTZ
M e m b e r