



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Garlina Finn,
Department of Health

CSC Docket No. 201**6**-1642

Classification Appeal

ISSUED: JAN 23 2017

(RE)

Garlina Finn appeals the attached October 2, 2015 decision of the Division of Agency Services (DAS) which found that her position with the Department of Health is correctly classified as Health Care Services Evaluator/Nurse. She seeks an Education Program Development Specialist 3 in these proceedings.

The appellant requested a review of her position as a Health Care Services Evaluator/Nurse, a title in the non-competitive division to which she was regularly appointed on June 30, 2005. Her position, located in the Department of Health's (DOH) Nurse Aid Unit, Program Compliance and Health Care Finance, Certificate of Need and Licensing, reports to a Regulatory Officer 2, and has no supervisory responsibility. The overriding goal of the unit is to ensure that individuals who provide direct care services to residents in long-term care (LTC) facilities possess the basic knowledge required to perform their duties and ensure an optimum level of expertise.

In its determination, DAS found that the appellant's position was properly classified as a Health Care Services Evaluator/Nurse.

On appeal, the appellant argues that the verbiage from the determination letter is not accurate, and that she has supervisory responsibility for programs and staff. Thus, she argues that she is an Education Program Development Specialist 3, as this is a supervisory title. Next, the appellant lists the duties as given in the determination, and states that these duties do not reflect her primary responsibilities. The appellant lists the duties she performs as given in her PAR to

substantiate her claims. She argues that rewording or omitting language from her duties reduces the delineation of her responsibilities until they no longer become factual.

The appellant contends that a colleague who used to have the title Public Health Consultant 2 holds the title Education Program Development Specialist 2. She did not provide any further details regarding that position's duties or responsibilities, except to say that they were comparable. She further argues that training on health-related issues are not conducted by Health Care Services Evaluator/Nurses, but by training teams of supervisors and program managers. She indicates that her major job responsibilities are the same as do Education Program Development Specialist 3, including the development of curricula, training materials, and the presentation of these to prospective schools and supervision of schools. She indicates that she does not monitor long-term care facilities, make visits to licensed Health Care facilities, or evaluate or monitor residents in long-term care facilities.

CONCLUSION

The definition section of the job specification for the title Health Care Services Evaluator/Nurse states:

Under direction of a supervisory officer inspects, monitors, and evaluates, investigates complaints, and determines appropriate levels of care for community based and/or institutionalized patients to evaluate the delivery of essential health care needs and quality of service provided to eligible recipients; does other related duties.

The definition section of the job specification for Education Program Development Specialist 3 states:

Under general direction of a manager in a State department, supervises the design, production, and delivery of curricula, training, program improvement, and related education services to education agencies to ensure achievement of mandated goals and to meet existing and emerging needs; preforms mandated regulatory functions; performs professional work with minimal supervision in monitoring and evaluation of education programs in school districts statewide; does other related duties.

The definition section of the job specification for Education Program Development Specialist 2 states:

Under general direction of a supervisory official in a State department, designs, produces, and delivers curricula, training, program improvement, and related education services to education agencies to ensure achievement of mandated goals and to meet existing and emerging needs; preforms mandated regulatory functions; performs work of a professional nature and generally works independently in the monitoring and evaluation of education programs in school districts statewide; does other related duties.

DAS indicated that the position is not responsible for direct supervision of subordinates. In this respect, titles are assigned to Employee Relations Groups (ERGs) based on an agreement between the Governor's Office of Employee Relations and the unions. Each ERG is distinctly defined, and the "R" ERG is defined as those titles used in the primary or first level of supervision. First level supervisors may be assigned the responsibility for effectively recommending the hiring, firing, promoting, demoting and/or disciplining of employees in non-supervisory titles. For titles where the performance of supervisory duties is required, the Civil Service Commission (Commission) has found that the essential component of supervision is the responsibility for formal performance evaluation of subordinate staff. *See In the Matter of Timothy Teel* (MSB, decided November 16, 2001). As Education Program Development Specialist 2 is not a supervisory title, incumbents should not be performing the functions of a supervisor. In reviewing the appellant's duties, it is clear she supervises programs and oversees employees, albeit without responsibility for conducting performance evaluations. Thus, the position is not appropriately classified as an Education Program Development Specialist 3. On the other hand, supervisory duties should be performed by the supervisor of the position, in this case, the Regulatory Officer 2. Thus, if the appellant is assigning work and reviewing the completed work of coworkers, as she indicates on her Position Classification Questionnaire (PCQ), these duties should be removed and appropriately done by the individual who signs the performance evaluations.

Next, regarding DAS' determination, it is noted that *N.J.S.A.* 11A:3-1 and *N.J.A.C.* 4A:3-3.1(1) provide that each position in the career and unclassified services shall be assigned by the Commission to a job title. Moreover, *N.J.A.C.* 4A:3-3.4 provides that no person shall be appointed or employed under a title not appropriate to the duties to be performed nor assigned to perform duties other than those properly pertaining to the assigned title which the employee holds. *N.J.A.C.* 4A:3-3.5(a) states that when the duties and responsibilities of a position change to the extent that they are no longer similar to the duties and responsibilities set forth in the specification, and the title is no longer appropriate, the Commission shall reclassify the position to a more appropriate title if there is one.

Classification determinations are based on the primary functions assigned to the position. The duties performed the majority of the time and the importance of those duties, or the preponderance of the duties, identify the primary focus of the position. Classification determinations list only those duties which are considered to be the primary focus of appellant's duties and responsibilities that are performed on a regular, recurring basis. See *In the Matter of David Baldasari* (Commissioner of Personnel, decided August 22, 2006). It is long-standing policy that upon review of a request for position classification, when it is found that the majority of an incumbent's duties and responsibilities correspond to the examples of work found in a particular job specification, that title is deemed the appropriate title for the position.

In this respect, the duties of the position must be compared to the entire job definition. That is, the classification review does not rely on a piecemeal view of the definition, but looks at the holistic meaning of the title. The job definition for Education Program Development Specialist 2 is to provide services to education agencies and school districts statewide. This title was originally unclassified and was created for the Department of Education, and it requires professional experience in educational programs in a school district or other educational institution. Later, it was transferred to the non-competitive division and made available to more Departments. The focus of the title is on an educational setting and is not specific to nursing. Nevertheless, it requires a Master's degree in Education, although a New Jersey's teacher's, supervisor's¹ or school administrator's certificate issued by the State Board of Examiner and/or other professional endorsement in a field determined by the Appointing Authority can be substituted for this degree. The last half of this substitution requirement is vague as it is not restricted to the educational requirement and suggests that the appointing authority can prescribe any desired professional endorsement in lieu of a Master's degree in Education. This decentralizes the focus of the educational requirement from Education to virtually anything, and does not designate that the professional endorsement must be at the Master's degree level. For example, it does not appear that a Registered Nurse (RN) license is unacceptable based on this wording. However, this is clearly not in line with the title, which requires that the incumbent designs, produces, and delivers curricula, training, program improvement, and related education services. The Education Program Development Specialist 2 is in Occupational Group (09) (Occupations in Education) and in Family (0) (College and University Education). This supports that this title is intended to be an educational title, and not a general educational title for any

¹ The supervisor certificate is required for both supervisors of instruction and athletic directors who do not hold a standard principal's title. The supervisor is defined as any school officer who is charged with authority and responsibility for the continuing direction and guidance of the work of instructional personnel. This certificate also authorizes appointment as an assistant superintendent in charge of curriculum and/or instruction.

given field. It is noted that the appellant possesses a Master's degree in Nursing Education.

Further, it must be stated that duties and responsibilities are summarized in DAS' determinations. They are not repeated word for word, but should contain the essence of the primary duties. The appellant argues that they do not. DAS' determination indicates that the appellant conducts program monitoring of approved Long-Term Care Nurse Aid training facilities to ensure compliance with all federal and State regulations related to the facility and OSHA standards. The definition for Health Care Services Evaluator/Nurse indicates that those incumbents perform evaluations to evaluate the delivery of essential Health Care needs and the quality of service provided to eligible recipients. The appellant's functions do not comprise the scope of this definition. She is not evaluating the delivery of Health Care needs and quality of service. Rather, she is evaluating the training of the personnel to ensure compliance with regulations and standards.

Next, DAS' determination did not indicate that, in addition to long-term care facilities, the appellant trains RNs employed by colleges and high schools offering nurse aid programs, and private and public vocational schools. On her PCQ, the appellant indicated that she designs, develops and delivers workshops to prepare RNs to become instructors and evaluators, including developing new training standards or making modifications to ensure compliance with rules and regulations; and delivers a bimonthly seminar on understanding and applying statutes, codes, rules, policies and standards; and provides advice and consultation with educational institutions establishing nursing training programs. She performs those duties for 33% of the time. Additionally, the appellant develops instructional materials and policies for the Nurse Aid Certification training program, develops, modifies and evaluates test questions, sets passing points, reviews the Nurse Aid Training Competency Evaluation Program's curriculum for compliance with standards, and transmits program updates and general information to health care personnel as well as instructors and school administrators. She performs these duties for 32% of her time. For 15% of the time, she is an interagency liaison providing information and feedback and attending meetings, and for another 15% of the time she inspects and monitors instructional areas, ensures quality standards of nursing aid programs, and investigates student and teacher complaints. For the remaining 5% all the time, the appellant prepares correspondence, reviews transcripts, licenses and documents, performs statistical analyses, maintains a database, and communicates with the testing vendor.

Many of these duties are listed on DAS' determination, and DAS concluded that these duties ensure delivery of the essential health care needs and quality service by ensuring that trainers and evaluators have necessary tools and knowledge. Nevertheless, the job definition of Health Care Services Evaluator/Nurse is to inspect, monitor, and evaluate, investigate complaints, and

determine appropriate levels of care for community based and/or institutionalized patients to evaluate the delivery of essential health care needs and quality of service provided to eligible recipients. The appellant's duties are not compatible with this definition. However, the duties are more closely aligned with designing, producing, and delivering curricula, training, program improvement, and related education services to education agencies to ensure achievement of mandated goals and to meet existing and emerging needs.

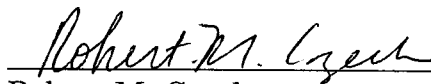
Accordingly, based on a thorough evaluation of all the information provided, the record establishes that the proper classification of the appellant's title is Education Program Development Specialist 2. Additionally, unless the appellant is appointed to a supervisory-level title, such as Education Program Development Specialist 3, and permitted to sign performance evaluations of subordinate staff, supervisory-related duties should be removed and appropriately performed by the individual who signs the performance evaluations.

ORDER

Therefore, the position of the Garlina Finn is properly classified as an Education Program Development Specialist 2, effective July 25, 2015.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
ON THE 18th DAY OF JANUARY, 2017



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P. O. Box 312
Trenton, New Jersey 08625-0312

Attachments

c: Garlina Finn
Loreta Sepulveda
Kelly Glenn
Records Center



CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
Division of Agency Services
P. O. Box 313
Trenton, New Jersey 08625-0313

ROBERT M. CZECH
Chair/Chief Executive Officer

October 2, 2015

Ms. Garlina Finn
[REDACTED]
[REDACTED]

Re: Classification Appeal
Health Care Services Evaluator/Nurse
Position #096063
CPM #07150060
Employee ID #000311659

Dear Ms. Finn:

This is to inform you, and the Department of Health, of our determination concerning the classification appeal referenced above. Our review involved a detailed analysis of the Position Classification Questionnaire you completed, which was reviewed and signed by Paula Howard, Regulatory Officer 2 (&32), and a telephone audit that was conducted on September 1, 2015.

Issue:

You are appealing the current classification of your position, (096063) Health Care Services Evaluator/Nurse (60451, P25). You contend that the title Education Program Development Specialist 2 (70341, P28) more accurately classifies the current duties and responsibilities assigned to your position.

Organization:

Your position is located in the Nurse Aid Unit, Program Compliance and Health Care Finance, Certificate of Need and Licensing, Department of Health. You are supervised by Paula Howard, Regulatory Officer 2 (&32) and you have no direct supervisory responsibility. Your unit is responsible for ensuring that individuals who provide direct care services to residents in Long Term Care (LTC) facilities possess the basic knowledge required to perform their duties and ensure an optimum level of expertise.

Finding of Fact:

The primary responsibilities of the position include, but are not limited to, the following:

- Conducts program monitoring of approved Long Term Care Nurse Aid training facilities to ensure compliance with all Federal and State regulations related to the facility and OSHA standards.
- Provides training to registered nurses who have made applications for approval by the State as nurse aid instructors and/or evaluators.
- Conducts investigations of facilities and programs to determine any necessary disciplinary actions, and prepares the appropriate documentation.
- Provides technical assistance to certified nurse aids seeking to transfer their certification over from another state and makes the final approval/disproval decision.
- Implements changes in curriculum scope, training delivery methods, and testing executions to all Certified Nurse Aid Evaluators/Instructors.
- Creates, develops, and articulates communications regarding notices of deficiency and other similar reports, containing findings, conclusions, and recommendations.
- Monitors progress of new or established Nurse Aid certification programs to ensure compliance with standards.
- Coordinates workshops and training sessions for Health Care Services Evaluators/Nurse and staff to ensure proper application of established Nurse Aid training regulations.

Review and Analysis:

The duties and responsibilities of the position were compared to those described within the class specification for the Health Care Services Evaluator/Nurse and Education Program Development Specialist titles.

The definition section of the specification for the title, Health Care Services Evaluator/Nurse (60451, P25), states:

“Under direction of a supervisory officer inspects, monitors, and evaluates, investigates complaints, and determines appropriate levels of

care for community-based and/or institutionalized patients to evaluate the delivery of essential health care needs and quality of service provided to eligible recipients; does other related duties."

A Health Care Services Evaluator/Nurse may review and monitor the quality of services provided to recipients in licensed and/or health care facilities. Incumbents in this title may prepare and conduct training on health related issues. A Health Care Services Evaluator/Nurse may visit and inspect health care facilities. Incumbents in this title may investigate complaints and identify deficiencies in patient care in accordance with state and federal health requirements.

The definition section of the specification for the title, Education Program Development Specialist 2 (70341, P28) states:

"Under general direction of a supervisory official in a state department, designs, produces, and delivers curricula, training, program improvement, and related education services to education agencies to ensure the achievement of mandated goals and to meet existing and emerging needs.; performs mandated regulatory functions; performs work of a professional nature and generally works independently in the monitoring and evaluation of education programs in school districts statewide; does other related duties."

An Education Program Development Specialist 2 may participate in funding decisions for local school districts, and monitor approved funding plans and progress. Incumbents in this title may cooperate with offices of the Executive County Superintendents of Schools or regional units to conduct training activities for staff employed in education agencies. An Education Program Development Specialist 2 may develop, evaluate, and/or monitor local and state instructional programs, and recommend program changes to the supervisor. An Education Program Development Specialist 2 may review educational programs and recommend approval, disapproval, or modification of funding levels. Incumbents in this title design and implement procedures and instrumentation for the ongoing assessment of the staff training and instructional program needs. An Education Program Development Specialist 2 may develop program guidelines in the areas of curricula and instructional materials and methods as directed.

Your position serves as the main administrator for the certified nurse aid training program. In this capacity, you evaluate the training program and its instructors to ensure that potential nurse aids receive the appropriate training necessary to deliver essential health care needs and quality service to long-term care recipients. You host workshops which prepare RNs to become instructors and evaluators for the certified nurse aid program. You create and deliver a bimonthly seminar on how to interpret and apply Federal and State nurse aid training statues and policies. You establish and maintain cooperative working relationships with health related associates,

organization, and agencies. You develop instructional materials and operating policies for the nurse aid certification training program including test questions and methodology. You investigate complaints and perform inspections to monitor compliance with State and Federal laws and regulations and to ensure that the best care will be given to those that need long-term medical attention.

Your position develops and directs the training program for certified nurse aids, and the ultimate goal of your position is to ensure the delivery of essential health care needs and quality service to eligible recipients in long-term care facilities which you perform by ensuring that trainers and evaluators have all the necessary tools and knowledge.

Your duties fall within the scope of a Health Care Services Evaluator/Nurse (60451, P25).

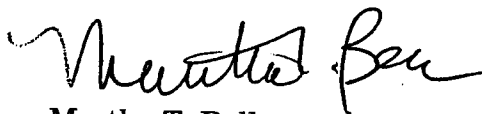
Determination:

By copy of this letter, the Appointing Authority is advised that your position is properly classified as Health Care Services Evaluator/Nurse (60451, P25).

The class specification for the Health Care Services Evaluator/Nurse title is descriptive of the general nature and scope of the functions that may be performed by the incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of the related tasks not specifically listed.

Please be advised that in accordance with N.J.A.C. 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Martha T. Bell
Human Resource Consultant 5
Agency Services

MTB/rdd

cc: Loreta Sepulveda

CPM #: 07150060

