14

Collective Bargaining and Unions in Today's Workplace

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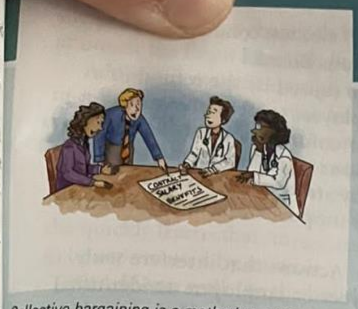

Collective bargaining is a method to achieve power sharing in the workplace.

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LEARNING OUTCOMES

After studying this chapter, the reader will be able to:

1. Use terms associated with collective bargaining correctly in written and oral communications.
2. List key events in the historical development of collective bargaining and unions.
3. Recognize questionable labor or management practices in the workplace.
4. Analyze collective bargaining as a method to achieve power sharing in the workplace.
5. Evaluate current conflicts and controversies associated with collective bargaining by professional nurses.

KEY TERMS

Arbitration The process of negotiation sanctioned in the United States by the National Labor Relations Board. It is the method used for formal talks between management and labor within modern business, industry, and service organizations. "Binding arbitration" means that all parties must obey the arbitrator's recommendations.

Collective bargaining The process whereby workers organize under the representation of a union in order to share a degree of power with management to determine selected aspects of the conditions of employment.

Grievance A term associated with a negative workplace event that results in an allegation by an employee that he or she has not been treated fairly and equitably. Grievances can occur in union and non-union settings. In a union setting, a grievance generally arises when two parties, such as an employee and a manager, interpret contract provisions differently. Grievances often involve job security or safety, which is a union priority, or job performance or discipline, which is a management priority.

Industrial unionism A type of union in which there is a single union for all workers in a corporation. For example, all people who work in an automobile manufacturing company may be grouped together under the United Auto Workers (UAW). It is possible that the industrial union, with its massive numbers of union members, is the strongest possible collective group.

Labor A group composed of those who work for others to receive a salary.

Management The group of people within a business or company who plan, organize, lead, or control the activities of employees who have agreed to work to receive a salary.

Occupational unionism A type of union in which each occupation within a given company has

separate unions; these occupational groups might join others of like work across boundaries and across the country. White collar workers coming from a background of higher education and some measure of job security tend to prefer occupational unionism and organizing with like-minded professionals. In general, nurses prefer occupational unionism.

Picketing A form of protest in which people (called picketers) congregate outside a place of work or location where an event is taking place. Often this is done in an attempt to dissuade others from going in ("crossing the picket line"), but it can also be done to draw public attention to a cause.

Right-to-work laws Statutes enforced in 22 U.S. states, mostly in the southern and western United States, allowed under provisions of the Taft-Hartley Act, which prohibit agreements between unions and employers that make membership or payment of union dues or "fees" a condition of employment, either before or after hiring.

Secret ballot elections To establish a union in a workplace, a majority of employees must express support for the union. The employees prove majority through a secret ballot election conducted by the National Labor Relations Board.

Strike A work stoppage caused by the refusal of a large portion of employees to perform work; usually takes place to enforce demands relating to employment conditions or to protest unfair labor practices. A sympathy strike occurs when one union stops work to support the strike of another union.

Unfair labor practices Actions that interfere with the rights of employees or employers as identified under the National Labor Relations Act. An unfair labor practice can be something as simple as suspicion by an employee that he or she was assigned to an unpopular task unfairly, or it can be as complex as the identification of a pattern of many employees receiving discriminatory treatment in the workplace because of being union supporters. Unfair labor practices are a frequent source of either strikes or the initiation of union activity within a setting.

Union A group of workers who band together to accomplish goals related to conditions of employment.

PROFESSIONAL/ETHICAL ISSUE

Samuel Lennon is a registered nurse in the cardiovascular lab at University Hospital. He is currently experiencing extreme stress and internal conflict because the nurses are going through a union organizing effort. What he thought would be a fairly easy process to vote in a **union** to represent the nurses with a strong voice to improve their nurse-to-patient ratios has turned into a tension-filled, adversarial situation. Before the union efforts started, Samuel had a good relationship with his nurse manager; now they are pitted against each other because they have very different perspectives about unions. He is also feeling tension and distrust with the same nurses he had supportive working relationships with only a few weeks ago; but they are now against one another because of opposing views about unions. His once collegial relationships with the pharmacists and physical therapists on his unit have also become strained. Samuel is now having a great deal of self-doubt about the unionizing efforts and especially what some of his colleagues perceive to be the potential for patient abandonment in the event of a **strike**. Samuel's greatest concern is how this very difficult situation is affecting patient care.

How can Samuel resolve his feelings and ethical concerns about the unionizing effort yet remain true to the original goals of unionization?

VIGNETTE

Addison Mitchell graduated in June from nursing school. She passed the National Council Licensure Examination (NCLEX) and can now call herself a registered nurse (RN). As she drives to the hospital on the first day of her new job, she is feeling a sense of pride and joy, mixed with sheer fright, as she realizes that this is the world-class place she has chosen for her first job. She had always dreamed of working at this hospital, and

she will now have a chance to become a seasoned nurse at one of the finest hospitals in the country.

Addison is realistic enough to know that her feelings of joy may not last because her new job is likely to be very stressful, but she is unaware that she is on the verge of walking into a challenging situation. As she enters the drive leading to the hospital parking area, picketers are there with signs about unfair working conditions and she quickly learns that nurses are involved in organizing to be represented by a union.

As Addison walks to the building with her new name tag that reads "Registered Nurse," she is approached by a person asking her to sign a card.

Addison replies, "I'm sorry. I'm new here. I need to get my feet on the ground, and then I will be happy to talk to you about the card." Addison begins to feel very anxious because she does not have a good understanding of union organizing efforts or the issues the nurses are facing.

Addison does not yet know that she will be approached many times in the coming days by coworkers who will tell her how she should feel and what she should do. She has much to consider before making a decision between two alternatives that she does not fully understand.

Questions to Consider While Reading this Chapter:

1. What questions should the nurse ask about collective bargaining and labor relations?
2. What does signing a card mean, and what questions should Addison ask before signing?
3. How can Addison establish good relationships with both nurse managers and staff nurses in an atmosphere in which collective bargaining has put these two groups in adversarial positions?
4. What skills and information will Addison need to navigate and make effective decisions in this hospital?
5. What provisions in a union contract are in a patient's best interest as well as a nurse's?
6. What resources are available to Addison to help her learn more about **labor** and management issues occurring in the hospital?

CHAPTER OVERVIEW

Collective bargaining is a very complex and often an emotionally charged issue. Because the future of nursing may be influenced by our collective and individual efforts to be fairly represented and to have a voice in the conditions of our work, it is important to understand the costs and benefits of collective action as well as the motives of those who would represent nursing. This chapter attempts to present a balanced view of collective bargaining and unionization in the hope that students, staff nurses, and nurses in managerial positions will use the information to make effective decisions when confronted with collective bargaining issues.

DEVELOPMENT OF COLLECTIVE BARGAINING IN AMERICA

Early Activities

During the late nineteenth century, when the Industrial Revolution was a force throughout North America, a cadre of thinkers arose who believed that workers needed to join together to protect themselves from circumstances such as long work hours, child labor, and unhealthy factory conditions. These early groups sought such basic conditions as safety in work situations, adequate pay for hours worked, and the right not to be arbitrarily dismissed. This banding together of workers to accomplish goals was termed *trade unionism*. The technique was successful in many instances and remains with us today.

Federal Legislation

As a result of these early efforts at unionization, Congress passed the National Labor Relations Act (NLRA) in 1935. Under the terms of the NLRA, employees were given the right to self-organize, to form labor unions and to bargain collectively. As part of the 1935 NLRA the National Labor Relations Board (NLRB) was established to implement provisions of the NLRA. The NLRB is an independent federal agency that continues to play a vital role in labor-management relations and, working through 26 regional offices in major U.S. cities, the agency conducts union elections and prosecutes **unfair labor practices**.

With employees' rights protected by federal legislation, **collective bargaining** now occurs in companies across the country. Employees can legally organize themselves into units recognized under terms of the NLRA without fear of being fired for belonging to a union or for participating in union activities, such as collective bargaining. Typical goals in collective

bargaining activities are to establish reasonable working conditions and to make formal agreements between employees and **management** for wages and health and retirement benefits. Unions can vary by the group or groups of employees represented. **Industrial unionism** is a single union representing all workers in a company whereas occupational unionism is a separate union representing a distinct occupation within a given company.

However, exemptions to the 1935 NLRA were established for nonprofit companies. This provision meant that employees of nonprofit hospitals, such as nurses, were not protected under the NLRA and therefore were not legally protected for participation in collective bargaining activities. Hospitals' employees may have been excluded from protection by the NLRA because it was believed that services provided were so essential that organizing activities would be contrary to the public's interest. Eventually, in 1974, legislation allowed for the inclusion of nonprofit hospitals in coverage under provisions of the NLRA. Nurses could form collective bargaining units. The 1974 amendments also included the requirement for a 10-day written notice of the intent to picket or to strike. This notice would give the health care facility time to prepare and would protect the relative health and safety of the public.

Development of Collective Bargaining in Nursing

Formal unionization in nursing began in 1946 when the American Nurses Association (ANA) endorsed collective bargaining as a way to gain economic security and influence employment issues for nurses. While the ANA worked to pave the way for collective bargaining, it also struggled with its role in representing nurses who were part of unions as well as nurses who did not support unionization. To help resolve ANA's role in representing different interests of nurses, a national nurses union—United American Nurses (UAN)—was established as an ANA affiliate to create an independent voice for union nurses. In 2009, the UAN dropped its affiliation with the ANA and merged with the California Nurses Association/National Nurses Organizing Committee and the Massachusetts Nurses Association to form National Nurses United (NNU).

According to the most current estimates available, approximately 17% of the nation's RNs are members of unions (Department of Professional Employees, 2015). NNU is the largest nursing union in the United States, representing over 150,000 registered nurses (NNU, 2018). Other unions that represent nurses include some ANA state affiliates, Service Employees International Union, and the American Federation of State, County and Municipal Employees.

THE COLLECTIVE BARGAINING PROCESS

Collective bargaining is a method of equalizing power. As such, it involves negotiation and administrative agreements between employees and employers. Because the individual employee, or even a small group of employees, has limited power to bargain with the employer, banding together in a union gives the employees a stronger voice to negotiate with management. The goals of collective bargaining are achieved by imposing rules regarding how employers must treat employees represented by a union. The union movement in the United States is involved with strengthening a worker's position in the relationship between management and labor.

Nurses and nurse managers need to understand the steps involved in the union organizing and election process as well as what are considered appropriate or inappropriate management responses and labor responses. Because union organizing involves power sharing and sometimes a temporary sense of distrust between direct-care nurses and management, it can become an anxious and emotional process. Knowing the allowable patterns for the process of union organizing can help alleviate some stress.

The following discussion is an overview of the general steps in the union organizing process based on information taken from the *Basic Guide to the National Labor Relations Act* (NLRB, 1997). The reader will see that careful attention is given to ensuring fairness for employer, employees, and the unions that may be involved in an election to determine whether employees agree to unionize.

Although this discussion provides a general overview of the union election process, readers are encouraged to visit the NLRB website (http://www.nlrb.gov) for more detailed information about the union election process.

The Preformal Period in Union Organizing

The goal of collective bargaining is the equalization of power between labor (e.g., direct-care nurses) and management. To initiate collective bargaining activities,

an organizing drive is instituted by union forces, who attempt to create an official NLRB-sanctioned bargaining unit in a particular institution. The bargaining unit is either accepted or rejected through an election process in which non-management employees (direct-care nurses) vote. If accepted, the bargaining unit will be made up of union members who are workers at the unionized facility and will be designed to protect the workers against arbitrary treatment and unfair labor practices.

A union organizing drive may be initiated when nurses in a particular health care facility contact a union because they feel a need for help in negotiating with their employer. The stimulus for this initial contact is usually not frivolous. There is typically a pervasive feeling among the nurses on a particular unit or in the health care facility as a whole that working conditions are unsatisfactory and that there is no possibility of making improvements under the existing management circumstances.

It is helpful at this point to examine what is to be gained by those petitioning the NLRB for an election for union representation. For a group of nurses, a newly formed union will:

- Have the power to make certain demands of the employer, especially regarding salary, benefits, and nurse-to-patient ratios.
- Provide some degree of political power on a local level.
- Require nurses to pay dues to the union.

For the union organization, a newly formed union will:

- Give the organization additional power by adding more members and more bargaining units, especially if the union is part of a larger national union.
- Increase monetary support for the union organization through dues paid by nurses. The additional money can be used to pay union officials' salaries, organize other bargaining units, or contribute to political causes or candidates.

Once a union has been contacted by nurses and told that there is some interest in establishing a collective bargaining unit, union forces try to determine whether efforts to organize the majority of nurses in the facility will be successful. This determination is made through a process of "signing cards." Union authorization cards help the union organizer, a person who works for the union, to decide whether there is enough interest in unionization on the part of nurses employed in the facility. Once signed by the nurse, the union authorization card designates the union as his or her bargaining agent. The signed authorization card is legally binding on the employee, despite any claims the union may make to the contrary. ***It is very important for the nurse to understand that his or her signature on a union authorization card is automatically authorizing the union to serve as his or her legal representative.***

If 30% of employed nurses sign cards, signaling an interest in representation by the union, the employer and the NLRB are officially notified, and the employer must refrain from anti-labor action, such as firing those who favor the union (NLRB, 1997). If 50% plus 1 of the nurses who are eligible to vote (non-management nurses) responds in the affirmative to accept union representation, then nurses in the facility become represented by the union and are unionized.

Right-to-Work Laws. An important exception to note here is that there are 24 states with **right-to-work laws** that allow employees to work without being compelled to join a union. A nurse in a right-to-work state can choose not to become a union member yet receives the benefits resulting from the union contract. Thus, in right-to-work states, union member nurses may work alongside non–union member nurses, possibly creating tension between the two groups. The 28 right-to-work states are Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming.

Allowable Actions during the Union Organizing Effort. To follow the process effectively, a nurse should be aware of details of what is and is not allowed and what is and is not likely to occur during union organizing efforts. When a specific union, such as National Nurses United, initiates organizing activities in a particular facility, an organizer goes to the facility. The organizer, who may be called a *business agent* or *field representative*, is responsible for developing and implementing plans to ensure success of the unionizing effort.

To form a core support group in the facility, the organizer locates respected leaders in the workplace. Meetings are then held in nonwork settings such as

homes or restaurants to gain initial information about **grievances** and workplace inequities. This information is used as a basis for campaign literature. To gain additional supporters, discussion and card signing take place in areas in the actual facility: locker rooms, bathrooms, lunch areas, lounges, and less visible work areas. Now, e-mail and social media—Twitter and Facebook—are being used effectively as means for union organizers to communicate with employees (Carlson, 2014).

As the union drive surfaces to gain management's attention, organizers begin to distribute cards more openly. At this point, the union organizer sends a registered letter to the employer with the names of employees on the organizing committee. Management will probably have already become aware of organizing activities through clues such as employee behavior changes during this period. There will be times when individuals seem distracted or when there is an increase in the number or aggressive quality of complaints about workplace conditions. Conversely, there may be a feeling of distancing between labor and management and an air of unnatural silence among employees.

Although peaceful strikes and **picketing** may occur for the purpose of publicity or seeking recognition, the NLRB prohibits certain behaviors during the pre-election period. The **union** may not:

- Inflame racial prejudices.
- Lie about loss of jobs if the union loses the election.
- Forge documents or signatures.
- Meet or distribute literature in work areas during work times.
- Hold meetings within 24 hours of an election.

During the pre-election period, **management** may not:

- Solicit spying.
- Photograph employees engaged in union activities.
- Visit employees in their homes.
- Lie about what will happen if the union is the victor in an election.
- Question employees about their preferences regarding union activity.

The Election Process

There are several steps in the election process. Either the union or the employer must petition the NLRB for an election. Once this petition is made, the request is passed along to the regional NLRB director. Within 48 hours, the union must submit proof of its claim that 30% of eligible nurses are interested in forming a collective bargaining unit. Eligible nurses are generally considered to be nurses who are engaged in patient care and are not in management positions. Normally, for a 10-day period, literature will be distributed to eligible employees. The union and the employer may circulate literature; however, both sides must cease such activities 24 hours before the election.

On the day designated for the election, the three parties (the NLRB, union representatives, and employer representatives) meet to review the list of those eligible to vote. A **secret ballot election** is then conducted by the National Labor Relations Board. The three parties then count ballots, and in case of a true tie, a victory for the employer is declared. However, any votes in dispute will be set aside for a later recount. Objections must be made within 5 working days after the election and may be made on the grounds of problems with the conduct of the election or unfair labor practices.

Post Election

After the election, in the case of a union victory, federal law guarantees workers the right to collectively bargain and strike. Nurses may subsequently change a bargaining agent or remove the union representation by having 30% of nurses sign cards. An election would follow, requiring a vote of 50% plus 1 in favor of the change (NLRB, 1997).

The NLRA mandates that under the rules of collective bargaining, meetings between management and labor be held at reasonable times for the purpose of conferring in good faith. Mandatory topics for **arbitration** include wages; the establishment of rules about the use of labor, such as hours of work and nurse-to-patient ratios; individual workers' rights; resolution of grievances; and methods of enforcement, interpretation, and administration of the union agreement. Negotiations between union and management occur in cycles following the initial year of collective bargaining. Negotiations are held before a contract is ratified (approved) by both union and management and again just before the contract expires.

Principles to Guide Fairness during Union Organizing

In an unprecedented collaboration between a major U.S. health care employer and unions, a set of guiding principles was established to ensure a fair process for union organizing efforts. The principles, which can serve as a guide for employers and unions across

the country, help ensure that health care employees are able to make informed decisions regarding unionization without undue influence or pressure from either side. On the basis of these seven principles, employers as well as unions should agree in writing how they will (Catholic Healthcare Association of America, 2009):

- Demonstrate respect for each other's organization and mission.
- Provide workers with equal access to information from both sides.
- Adhere to standards for truthfulness and balance in their communications.
- Create a pressure-free environment.
- Allow workers to vote through a fair and expeditious process.
- Honor employees' decision regardless of the outcome.
- Create a system for enforcing these principles during the course of an organizing drive.

UNIONS AND PROFESSIONAL NURSING

Professionalism versus Unionization

Nurses in the workplace are buffeted by cost cutting, nursing shortages, shuffled duties, concerns about patient safety and quality care, and hospital reorganizations that bring job insecurity and uncertainty. Despite these troublesome working conditions, it is often problematic for nurses to come to grips with their feelings related to the emotionally charged issues associated with unionization. Many nurses may be reluctant to become involved with what they view as trouble-making groups who exaggerate the issues just to win the contest against the adversary, which is management. It is difficult to reconcile feelings of professionalism and service with the perceived connotations of strife and discord associated with unions.

In addition, nurses who try to update their thoughts about unionization through reading finds that it becomes difficult to find objective reading material. Few experienced authorities on collective bargaining can remain neutral or objective. It is challenging to read about unionization without encountering biased language and the attempt to paint one side or the other in extremely unflattering terms. This situation does not help clear away the fog of conflict surrounding unionization decisions for nurses.

Questions to Answer

Four major questions need to be answered as nurses consider unionization.

1. Are there relevant gains to be made for the nursing profession and for improved patient care through collective bargaining—or is this a myth?
2. Should nurses, who frequently are called on to supervise the work of others, be classified for collective bargaining purposes as management or labor?
3. Will nurses be too reluctant to strike? This is one of the most powerful tools that a union has at its disposal. There is concern that strikes by nurses could negatively affect patient care and destroy the public's image of nursing. More importantly, the strike is contrary to nursing ethics and licensure to do no harm and avoid patient abandonment.
4. How will nursing unions affect other members of the interprofessional team (e.g., physical therapy, dietary, pharmacy), which is essential for quality patient care? Will the nurses' collective bargaining contract create inequities for other professionals?

These questions are addressed in more detail in the following sections.

Gains for the Nursing Profession and Patient Care?

When considering unionization, nurses need to seriously reflect on issues that affect the practice of professional nursing and on the patient care environment beyond the aspects that unions typically address during negotiations (wages and benefits, work hours, worker safety, and resolution of grievances). The primary triggers that spark interest in being represented by a union often are forgotten in the challenges confronted by nurses during the union organization process. Consider the following issues that may prompt a group of nurses to seek union representation:

- Physicians not seeing critical patients in a timely manner, putting patients at risk
- Lack of administrative support for collegial, professional relationships among nurses, physicians, and other interprofessional team members
- Deficient patient handoff procedures that cause errors, frustration, interdepartmental conflicts, and delay in care
- Inadequate addressing of nursing staff continuing education and unit-specific competencies
- Self-scheduling being designed around staff needs, not patient and unit needs

Nurses are cautioned that gains in wages and benefits may be achieved through unionization but the nursing practice environment may suffer. In one large study using the National Sample Surveys of Registered Nurses for 2004 and 2008, union representation was negatively associated with job satisfaction (Seago et al, 2011). The researchers in this study point out that a cause for this finding may be that union nurses could be more vocal about expressing their concerns, or the dissatisfaction may have led to the unionization. Another study comparing 84 union and 84 non-union hospitals in the United States found that hospitals with unions have significantly lower patient satisfaction (Koys et al, 2015).

Another professional practice issue to consider is that open dialog between nurses and their managers regarding patient care issues and concerns is limited in a unionized facility. For example, the manager cannot discuss performance issues or concerns with a nurse directly; the union representative must serve as the intermediary between the nurse and the manager. This added layer to address the nurse's performance increases costs to the facility for both management time and legal expense.

When faced with union organizing efforts, nurses need to carefully consider all factors, including the professional practice environment. Box 14.1 presents a list of questions the nurse should ask when confronted by a union organizing effort.

BOX 14.1 Questions to Ask when Confronted by a Union Organizer

- What measures has the union successfully used to improve quality of care and promote national patient safety goals?
- Will the union guarantee in writing that it will be getting employees a specified wage increase and better benefits or be liable to employees if it doesn't?
- How much are union dues? What portion of union dues goes to paying union salaries?
- Are there special union assessments? If so, how much are they and how often are they imposed?
- What are the consequences if employees violate the union constitution and/or bylaws?
- Will the union guarantee in writing that employees will not be permanently replaced during an economic strike?
- Will the union pay wages to employees if they are called on to strike?
- Will union members be expected to picket at other unionized facilities in the event of a strike or an informational picket?

Promoting a Positive Work Environment. Regardless of whether the nurse works in a union environment, there are several strategies he or she can use to develop and encourage sound relationships between management and labor to promote a positive work environment:

- Assess your knowledge of the labor laws and practices in your area; seek to understand the unique culture of the facility; and seek help before union activity begins or grievances are filed.
- Understand what protections are already in place through laws and regulations to protect your rights as a nurse (e.g., whistle-blower protection, staffing regulations, safe patient handling laws).
- Identify and be proactive in situations in which nurses or managers disrespect others, ignore serious staff and patient care concerns, or neglect appropriate communication and follow-up.
- Participate in education and training that will improve your labor relations skills in union and non-union environments.
- Be proactive in solving issues that compromise patient care; embrace your role in achieving timely outcomes that truly improve care.
- Develop an understanding of and respect for the health care facility's financial challenges and become part of the solution for more cost-effective care.

Management or Staff?

One of the difficult issues for nursing in relation to collective bargaining is that in the eyes of the NLRB certain nurses are singled out as management or supervisory personnel and are not allowed NLRA protection, which applies only to nonmanagement employees. Charge nurses and shift supervisors have traditionally been considered part of management rather than labor. But what about nurses who routinely supervise others who act merely as extenders of care? Are these nurses acting exclusively on behalf of the company that employs them, or are they routinely carrying out their responsibilities as professional nurses?

The definition of *manager* or *supervisor* is problematic even in non–health care settings. In nursing, things become even more complicated. Most experienced RNs are involved in some type of supervisory or management work. For example, most staff nurses who ordinarily

provide bedside care have been called on to be in charge of a particular unit for a particular working shift. Does this mean that the nurse should no longer be considered nonmanagement?

Another trend that affects decisions about supervisory status is the increasing use of unlicensed personnel in health care workplaces. More nurses could now be classified as supervisory because they direct the activities of unlicensed workers. In 1994, in *NLRB v. the Health Care and Retirement Corporation,* the U.S. Supreme Court ruled that nurses do indeed direct the work of others and therefore are not eligible for protection under the NLRA. This case was important to the nursing profession because had the ruling been upheld, it would have dramatically lowered the numbers of nurses who could act as "laborers" and engage in collective bargaining. However, in 1997 the decision of the U.S. Court of Appeals for the Ninth Circuit helped clarify this point. The court ruled that RNs who performed charge nurse duties were not management and therefore were eligible for collective bargaining protection. In another case, *Providence Alaska Medical Center v. NLRB,* the ruling recognized that the judgment used by RNs in assigning patients and coordinating patient care was part of their professional role rather than part of any statutory supervision as defined by the NLRA.

Beyond the issue of recognizing who is management and who is staff, there is the uncomfortable prospect of pitting nurse managers against their colleagues in the workplace. A definite schism occurs when managers and staff are placed on opposite sides of the table. Bad feelings arise. For example, a nurse manager represents management but is not insulated in an executive office. In addition, the nurse manager must often assume duties routinely performed by staff nurses in the event of a strike. This situation can lead to lingering negative feelings even after the strike is resolved.

Techniques frequently used by nurse managers to maintain smooth and efficient job performance in their work settings may be relatively ineffective when unionization or collective bargaining initiatives occur. For example, the nurse manager who believes that open communication in both upward and downward directions is useful for problem solving may become frustrated during unionization initiatives. Union tactics may involve coaching nurses at staff levels to use the "silent treatment" and not cooperate with nurse managers' attempts to communicate.

To Strike or Not?

Strikes can have very powerful effects. One can best understand the economic effect of a strike by noting that hospitals become concerned over lost revenues when the average daily census drops only a few percentage points. A hospital could possibly have to turn away patients because of a strike and could lose that market share permanently, resulting in long-term losses to the hospital. Thus a strike or the threat of a strike can be effective in gaining concessions (e.g., salary increases, better benefits) from management in an effort to avoid the strike completely or to end it as soon as possible. However, it is important to note that in some states, collective bargaining contracts may contain "no strike" clauses, prohibiting the collective bargaining unit from having the power of the strike.

Nursing is a trusted profession, and for many nurses, the strike is a symbol of negative behavior. To safeguard nursing's image and allow hospitals to react effectively in safeguarding patient care, a 10-day notice of intent to strike is required. On receipt of such notice, the NLRB attempts to mediate, and the hospital in question is encouraged to decrease census and halt elective admissions. Schedules are developed for covering the emergency department, operating room, and intensive care areas.

As nurses are confronted with making decisions about unionization, it is important to consider the many issues that would affect their personal economic welfare, their practice environment, and the quality of patient care they are able to provide. There are no easy answers because the issues and challenges vary depending on each organization's unique set of circumstances. To successfully negotiate unionization initiatives and make good decisions, nurses are encouraged to learn more about collective bargaining and unions.

Nursing Unions and Interprofessional Teamwork?

Nursing may be the only professional occupation in a health care setting to be represented by a union (i.e., **occupational unionism**). Unfortunately, having unionized nurses working alongside employees, such as pharmacists and therapists, who are not represented by unions, may create ill will between the two groups. The benefit package for nurses represented by a union can be different from—and likely better than—the

benefit package for other employees. As employment and practice issues arise, nurses have union representation as their go-between to work with management, whereas other disciplines work directly with management to resolve issues. The union contract for nurses' benefits will increase the overall costs to the organization, forcing the organization to cut in other areas not controlled by the union, such as benefits for non-unionized health professionals. Imagine how the relationship between two professionals might be strained if the nurse represented by the union has more paid time off and more frequent salary increases than a colleague he or she works with on a daily basis; plus the non-nursing professional knows that the cost of the union contract may be the reason he or she is not able to get a salary increase. Relationships between interprofessional team members is a very important issue as nurses consider unionization!

SUMMARY

This chapter has provided a history and overview of the collective bargaining process and addressed some important issues for nurses to consider as they face questions regarding unionization. These important issues include the role of unionization in addressing the professional practice environment and quality care, the questions surrounding management versus labor in collective bargaining, and the controversy of the strike as a strategy to gain concessions from the employer. The role of unions in the future of health care may hinge on cooperation versus conflict, on relative productivity gains in union versus non-union facilities, and on the success of human relations practices in union as well as non-union workplaces. Nurses live in a new era in health care and will need to continue to grow in their knowledge of unions and collective bargaining.

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