

PHYSICIAN UNIONS – THE MYTHS AND A POTENTIAL TRUTH

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As managed care tightens its stranglehold on physicians, voices are raised across the country. In some environments, the call is approaching near hysteria. What is it? A patient revolution? A nationwide call to action? Neither. It's an insatiable (no pun intended) demand by some physicians to join such entities as the "Food Handlers of America."

One of my more frustrating moments occurred when I recently attended a debate on physician unions. Before the debate even began, two dozen (or more) physicians wrote \$1,000 checks to join a so-called "physician's union." In effect, these physicians were spending their hard earned (post-managed care) money without even knowing what it was for or what, if anything, they would receive in return. No solution, to any problem, can be found in such precipitous conduct.

This article is neither a criticism of unions (including the Food Handlers of America) or an attack upon the concept of physician unionization. It is actually an endorsement of the only honest version of that concept (to be discussed later). However, it is also meant to dispel some myths—a few of which are very dangerous, answer some questions and most important, urge every physician to think carefully before acting.

THE MYTHS

1. Unionization Will Defeat Managed Care.

The hard reality is that in each and every decision to date, the National Labor Relations Board has determined that physicians who sign managed care contracts are not employees, and therefore, cannot collectively bargain. Further, each of the petitions to the NLRB pleads, by necessity, for their physicians to be declared employees of a managed care company. Every physician should ask, is this the goal they are fighting to reach? Do physicians wish to be

without independent authority and deprived of the freedom to exercise personal medical judgment? Based upon current experience with managed care companies as contractual "partner," has any physician thought through the vision of being one of thousands of managed care company employees?

2. Members of a Non-NLRB Certified Union Can Boycott Managed Care Entities.

This concept is not only ill conceived, but it is illegal. In the state of Delaware, the advancement of this notion did not empower physicians, but rather, resulted in grand jury subpoenas issued by the United States Department of Justice, such to determine if **criminal charges** should be brought against the physicians involved, by the federal government.

3. Joining a Union Will Bring Forth the Clout of Organized Labor.

In every presentation offered to physicians, union representatives have implied that the full force of organized labor will come to the aid of physicians if they simply join and write a check. In one such presentation, physicians were actually asked to "visualize meeting with a managed care company and having the AFL-CIO sitting next to you." If that is your expectation, if that is compelling you or your colleagues to join, I urge you to first ask two simple questions: Will the union boycott all managed care products once you join? Will the union improve and/or force abandonment of the devastating fee schedules utilized by unions in their own self-funded programs? In the aforementioned presentation, the answer to both questions was "no."

4. There Is a Need to Sponsor \$100,000 "Research" Projects.

A number of people and groups are soliciting monies from physicians to "fund a research project on whether independent physicians can collectively bargain." Incredibly, these funds are seeking amounts as high as \$100,000. Without

cost to you, the reader, the answer has been, and remains **NO**.

A TRUE UNION CONCEPT

Simply stated: Create a statewide (and then hopefully, national) physicians' union whose members are true employees. Not those who contract with managed care companies but those who are employed by managed care companies, hospitals and other such entities statewide. To be employed, a physician's status is analyzed under a series of factors which include degree of control, requirement to work certain hours, ability to work with other entities, tax treatment and method of compensation.

According to recent AMA statistics, the number of physicians who potentially meet this definition has grown dramatically over the past several years and continues to grow at an incredible pace. If physicians are interested in foraying into organized labor, the first step should be to convince organized medicine to reach out to these employed physicians, create an unassailable union and begin to collectively bargain on their behalf. In so doing, there will be an opportunity for physicians to join the labor movement, achieve credibility and control the process as much as possible.

In the meantime, physicians should be wary of those who promise a simple solution to an extremely complex problem. Ask yourself, is it more expeditious to build an entirely new structure of physician representation or simply give strength to the existing mechanism that has represented physicians for over two hundred years? The answer is simple. If each physician

gave the same \$1,000 to his or her Political Action Committee (PAC) instead of some fledgling union, physicians would control a \$650,000,000 PAC! That PAC could unquestionably produce more, better and quicker results than any new, risky "union" entity.

By the way, that frustrating moment I mentioned at the beginning of this article, once these questions were asked, not one other physician joined the union that evening. And when I left, refunds were still being requested.