



HR & BENEFITS UPDATE

NLRB Orders Union Elections In 31 California Health Care Facilities

March 2, 2010

By Cynthia Marcotte Stamer

National Labor Relations Board (NLRB) Regional Director Alan B. Reichard has ordered elections to proceed between rival unions in about 31 health care facilities in northern California. The decision comes as President Obama and Democratic Leaders in Congress continue to avow their support for legislation intended to lower barriers to union organization.

The Monday, March 2, 2010 order by Regional Director Reichard sets the stage for elections between the Service Employees International /United Healthcare Workers-West (SEIU-UHW) and the National Union of Healthcare Workers (NUHW), which are competing to represent thousands of health care workers throughout California. Under the order, some elections may be preceded by hearings to clarify the voting group; others will proceed by agreement of the parties regarding such issues as voting dates and times and voter eligibility.

While the order allows elections in many facilities to proceed, approximately 32 elections are still blocked by allegations brought by SEIU-UHW against NUHW and its principals. These allegations remain under active consideration by the NLRB's Office of the General Counsel.

To review the March 2, 2010, see [here](#).

Health industry workers increasingly are viewed as attractive targets for union organization around the country. Many of these organizing efforts are helped by a series of NLRB decisions that ease the way for union organization of certain physician and other health care provider groups.

Many health care organizations and other employers are concerned about the potential financial and operational costs that organization of their workforce might produce. Whether concerned about the potential for future organization activities, confronting a union certification election or dealing with union representation in their workplace, health industry and other employers concerned about union organizing or representational activities must act carefully.

Federal labor law requires that employers tread carefully when dealing with union or other organizational activity. Existing federal law limits the actions that employers can take to deter or influence worker choices about whether to support or oppose a union certification campaign, to influence the certification of one union representative over another.

Legislation supported by the Obama Administration and the Democratic Leadership in Congress such as the Employee Free Choice Act of 2009 (H.R.1409 /S 560) would further expand these protections. If adopted as proposed, this legislation would further facilitate union organizing efforts and give union representatives new tools to pressure employers for contractual concessions to union negotiations.

Health industry and other employers concerned with these issues generally should carefully monitor and respond to proposed legislation and consult with qualified labor and employment counsel before discussing or taking other action in response to these activities to minimize risks of unintentionally running afoul of these requirements and to position their efforts for maximum effectiveness.

Curran Tomko Tarski LLP Can Help

If your organization need advice or assistance with these or other labor and employment, employee benefits, compensation or related matters, consider contacting Curran Tomko Tarski LLP Partner Cynthia Marcotte Stamer.

Board Certified in Labor and Employment Law by the Texas Board of Legal Specialization, Ms. Stamer has extensive experience advising and representing management about labor and employment, employee

benefits, compensation and other related management matters. A nationally recognized author and lecturer, Ms. Stamer also speaks and writes extensively on these and other related matters. For additional information about Ms. Stamer and her experience or to access other publications by Ms. Stamer see [here](#) or contact Ms. Stamer directly. For additional information about the experience and services of Ms. Stamer and other members of the Curran Tomko Tarksi LLP team, see [here](#).

Other Information & Resources

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