

Corporate Campaigns in Health Care

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Over the past several decades, union membership and recruitment have declined steadily as a percentage of the national workforce. This membership decline damages the unions not only in the form of lost dues and bargaining power, but also in the form of lost economic clout and political influence. As a result of declining membership and of popular support, organized labor is turning to an entirely different, highly effective and sophisticated strategy for organizing workers and for exerting pressure on employers: the “corporate campaign.”

In a corporate campaign, a labor union aggressively attacks the reputation of a target employer, undermining

public confidence and key stakeholder relationships until management decides it must yield to the union’s demands or risk the company’s financial well-being.¹ The tactics of a corporate campaign allow a union to wage economic, political and psychological warfare against its target company. As a result, corporate campaigns waste precious health care resources by forcing health care providers to defend themselves from union attacks instead of focusing on serving patients and improving their communities’ health. One union leader described a corporate campaign as “death of a thousand cuts rather than a single blow.”²

Corporate campaigns swarm the target employer from every angle, great and small, with an eye toward inflicting upon the employer the death of a thousand blows.

*—Richard Trumka
Secretary-Treasurer
AFL-CIO*



¹ Manheim, Jarol B., “Labor Pains: Corporate Campaigns in the Healthcare Industry,” June 2003, p. 1.

² Manheim, Jarol B., “The Death of a Thousand Cuts,” 2001, p. v.

Corporate Campaigns vs. Traditional Organizing

Historically, labor unions have built their membership by targeting employers with poor working conditions and low employee morale. They then focus their recruitment efforts and information campaigns on the workers themselves. Once the union has demonstrated sufficient employee interest in being represented by a union, the National Labor Relations Board (NLRB) conducts a secret election, allowing all workers potentially included in the bargaining unit to vote for or against representation.

Though subject to various restrictions, this process provides management opportunities to respond to union propaganda and to communicate with employees prior to the election. In this way, unions organize one workplace or bargaining unit at a time. Although initially incredibly successful, over time, these “grassroots” or “retail level” organizing campaigns became increasingly expensive, time consuming and risky. In fact, by the 1980s, unions lost nearly half of their certification elections.³

The corporate campaign turns this model on its head. Rather than organizing workers from the bottom up, the labor union attacks the character of an organization from the top down until management gives in to the union’s demands. The appeal of a corporate campaign or “wholesale level” organizing over traditional organizing is best summarized by a former labor leader who explained, “Employees are complex and unpredictable. Employers are simple and predictable. Organize employers, not employees.”⁴

Ultimately, the goal of the corporate campaign is to pressure an employer into signing a “neutrality agreement”—agreeing to remain silent or neutral while the union organizes employees. The union then seeks a “card-check” election rather than a traditional certification election overseen by the NLRB. In a “card-check” election, the employer agrees to recognize the union upon a showing that a majority of its employees have signed cards expressing their interest in being represented by the union. A “card-check” election allows the union to avoid much of the

cost, risk and negative publicity, as well as the procedural safeguards, of a traditional, secret election.⁵ In fact, one study found the success rate for organizing campaigns conducted through card-check was greater than 70%.⁶

Finally, the union often pressures the employer to negotiate one “master agreement,” rather than negotiating several collective bargaining agreements for individual workplaces and bar-



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gaining units. Although a master agreement can be more efficient to negotiate for both the employer and the union, it also creates greater vulnerability for the employer upon the agreement’s expiration. Among other things, unions can use this single pressure point as leverage to extend their representation to nonunion segments of the employer’s workforce.⁷

Achieving these three objectives – the neutrality agreement, card-check and master agreement – greatly simplifies a union’s organizing efforts while at the same time significantly increasing its influence over the target employer.

What is a neutrality agreement?

A neutrality agreement is a contract between an employer and union where the employer agrees that it will not provide any information to employees about unionization. Some agreements also have access provisions that permit union organizers to campaign on the employer’s property. With a neutrality agreement, the union can make promises and guarantees to employees, while the employer is legally obligated to remain silent. The danger of a neutrality agreement is that employees may agree to join the union without being told about the bargaining process, possibility of strikes, forced payment of dues and union security clauses, or other risks of organizing.

What is a card check agreement?

A card check agreement is a contract between an employer and union where the employer agrees to give up their employees’ right to a secret ballot election, and instead simply to count the number of signed union authorization cards to determine if the union will represent the employees. If a majority of employees sign cards in an appropriate unit, the employer is required to recognize and bargain with the union. There is no secret ballot election with a card check agreement. The danger of a card check agreement is that there is no control over what an employee is told about the purpose of the card when the employee signs it. For example, the employee may be told that the card’s purpose is to have an election, or to increase wages or benefits and improve patient care, when in fact the card is a vote for union representation.

³ Manheim, Jarol B., “The Death of a Thousand Cuts,” 2001. p. 37.

⁴ Manheim, Jarol B., “The Death of a Thousand Cuts,” 2001. p. 38.

⁵ Rogers, Michelle, “Under Siege,” *HealthLeaders Magazine*, Jan. 1, 2004.

⁶ Manheim, Jarol B., “The Death of a Thousand Cuts,” 2001. p. 39.

⁷ Manheim, Jarol B., “The Death of a Thousand Cuts,” 2001. p. 39.

Strategies and Tools of Corporate Campaigns

Nearly all corporate campaigns in health care focus on one of three central themes: corporate greed, patient safety or worker respect.⁸ Considering these three themes to be universal, the unions develop individual variations based upon exhaustive research of the target company. Based on this research, unions identify vulnerabilities they can publicly exploit to gain the attention of key stakeholders: company employees, customers, vendors, suppliers, stockholders, and business partners.⁹ Regardless of the specific vulnerability, however, unions define the company as a “corporate outlaw” and build their campaign upon a victimization theme, exploiting, whenever possible, public fears or concerns.¹⁰

In corporate campaigns, unions employ legislative tactics such as having political allies schedule public hearings designed to embarrass the target company or introduce new legislation that would adversely impact the company’s business. Unions also use private and class-action litigation to place financial pressure on the company, gain access to internal documentation, attempt to legitimize the union’s allegations against the company and attract media attention.

Unions also make extensive use of regulatory processes to gain access to public records regarding the target company’s compliance with federal, state and local regulations. Given that health care is one of the most heavily-regulated industries in the country and that the regulations are constantly evolving, enormous amounts of data are available for exploitation by the labor movement. These records inevitably reveal some violations that can be used as ammunition against the target company’s reputation. In addition, unions often file meritless charges with regulatory agencies to attack an organization. For example, in an attempt to extort California-based Sutter Health, SEIU Local 250 filed charges with the National Labor Relations Board, Internal Revenue Service, Department of Defense, Health Care Finance Administration, Federal Trade Commission and California Department of Health Services (to name a few).

It is not uncommon for labor organizations to create spin-off organizations that appear to have broad public support to disparage organizations’ reputations (especially in political cam-

aigns); write and release detailed “white papers” disguised as scholarly research but which are public relations tools to cast doubt on an organization or the industry. The net result: costly and distracting tactics that force health care organizations to devote human and financial resources to defend themselves when those resources should be used to serve those in need.

Unions also seek to exert pressure on target companies through the companies’ financial stakeholders. For example, they may create alliances with institutional shareholders, engage in embarrassing demonstrations at corporate annual meetings, attempt to influence financial analysts and the company’s banks. Or they may attempt to drive a wedge between management and governing boards. Unions also have been known to demonstrate in front of board members’ homes, private businesses and places of employment.¹¹

Unions have organized more than a quarter of a million workers in the health care industry since 1990.

—BNA PLUS Special Report

The Rise of Corporate Campaigns

In what *Fortune* magazine described as “possibly the most significant economic event of the year,” Andrew Stern, followed by 4.6 million workers, formally withdrew from the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) in 2005.¹² This break, which coincided with the AFL-CIO’s convention in July of that year, resulted from long-brewing disagreements within the AFL-CIO regarding how the labor movement should focus its resources and attention.

John Sweeney, president of the AFL-CIO, continued to support focusing on the political process with a goal of building a legislative climate favorable to labor, but Stern, president of the Service Employees International Union (SEIU), and his supporters favored focusing resources on increasing membership. The SEIU was joined in withdrawing from the AFL-CIO by the International Brotherhood of Teamsters, United Food and Commercial Workers Union (UFCW), UNITE-HERE, the Laborers’ International Union of North America, and the United Farm Workers.

In September 2005, these six unions, along with the United Brotherhood of Carpenters, formed the Change to Win Coalition. This new coalition intends to spend 75% of its budget on organizing new members. In her inaugural statement, Anna Burger, chair of Change to Win, described the new labor federation’s focus: “Strategic, smart organizing is our core principle — our North Star — uniting workers by industry, not one shop at a time, but whole companies all the time. Wholesale — not retail.”¹³ In other words, the Change to Win Coalition is focusing its efforts and resources on aggressive, industry-based corporate campaigns.

⁸ Rogers, Michelle, “Under Siege,” *HealthLeaders Magazine*, Jan. 1, 2004.

⁹ Bergin, Amie, University of Rhode Island, “What Effects Do Public Relations Actions Have on Labor Disputes? A Look at Corporate Campaigns,” 2005.

¹⁰ Manheim, Jarol B., “Labor Pains. Corporate Campaigns in the Healthcare Industry,” June 2003, p. 31.

¹¹ Manheim, Jarol B., “Labor Pains. Corporate Campaigns in the Healthcare Industry,” June 2003, p. 28-29.

¹² Miller, Matt, “Blowing Up the Union to Save the Union,” *Fortune*, August 22, 2005.

¹³ Change to Win Coalition Web site: www.changetowin.org.

Health Care: A Vulnerable Target

Health care is vulnerable to corporate campaigns on both a practical level and a theoretical level. On a practical level, health care is an ideal target for organizing because fewer than 10% of the nation's health care workers are currently organized.¹⁴ Nationally, this translates into six to seven million non-union healthcare workers whose anticipated dues would represent approximately \$3 billion.¹⁵ These numbers provide precisely the economies of scale that unions need to meet their widely known goal of increasing their ranks.

Further, health care's recent trend toward consolidation of players only increases these economies of scale for the unions while, at the same time, introducing employee morale problems that often accompany mergers and acquisitions.

Additionally, unlike with most manufacturing jobs, there is little risk that the work of most health care employees will be transferred overseas.

Another practical reason why health care attracts unions is because many non-union healthcare workers fit the labor movement's demographic priorities because they tend to be disproportionately female, African-American and Hispanic.¹⁶

Health care is susceptible to corporate campaigns on a

more theoretical level as well. As an initial matter, health care is particularly vulnerable to the highly emotional, villain-victim theme that energizes most effective corporate campaigns. Unlike in industries such as mining and manufacturing, the beliefs, perceptions and expectations of the public relative to health care are of critical importance.¹⁷

Health care has proven to be attractive to the media as "fodder" for sensationalist stories of alleged mistreatment of patients, rising health care costs, and Medicare or Medicaid fraud. Often such stories will also include corresponding accounts detailing health care profits and executive salaries. Health care success stories, on the other hand, rarely generate significant attention in the media.

In short, health care offers unions "masses of workers to be organized, vulnerable corporate reputations to be savaged for leverage, and a distrusting public to be mobilized."¹⁸

Corporate campaigns jeopardize not only hospitals' reputations and rights as employers, but also their time, resources and financial well-being. One analyst from PricewaterhouseCoopers explained, "typically, the threat of a union pulls two to three full-time equivalents out of senior management . . . unless it is a large, resource-rich organization, it is impossible for them to do business as usual."¹⁹



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¹⁴ Matchulat, John Jay, "Healthcare: Still Easy Pickin's For Organized Labor's Most Aggressive Unions," *Labor & Employment*, Winter 2005.

¹⁵ Manheim, Jarol B., "Labor Pains: Corporate Campaigns in the Healthcare Industry," June 2003, p. 7.

¹⁶ Manheim, Jarol B., "Labor Pains: Corporate Campaigns in the Healthcare Industry," June 2003, p. 21.

¹⁷ Manheim, Jarol B., "Labor Pains: Corporate Campaigns in the Healthcare Industry," June 2003, p. 14.

¹⁸ Manheim, Jarol B., "Labor Pains: Corporate Campaigns in the Healthcare Industry," June 2003, p. 4.

¹⁹ Rogers, Michelle, "Under Siege," *HealthLeaders Magazine*, Jan. 1, 2004.

The Scene in Ohio

Although many of the larger corporate campaigns have occurred outside of Ohio, the state is attracting considerable union attention. In 2005, voters in Springfield rejected a SEIU-backed ballot issue to create a three-person committee to oversee the policies, practices and finances of Community Mercy Health Partners. The fact that the SEIU brought former U.S. senator and vice presidential candidate John Edwards to Springfield to campaign for the ballot issue indicates the level of national resources being used by the union on that local issue.

The SEIU also received media attention for financial support it provided to mayoral candidates in elections in four Ohio cities in November 2005: Cincinnati, Toledo, Cleveland and Youngstown. In Cincinnati, the union's support was directly linked to its effort to organize workers in a major Ohio health care system.²⁰ SEIU leaders have promised continued participation and contributions to statewide and local elections.

Unions have also been active in the Ohio General Assembly, initiating several pieces of legislation targeting hospitals. In 2005, a few Ohio lawmakers held a public hearing in response to SEIU's corporate campaign activity. As a result, legislation was introduced that would require hospitals to give certain levels of free care. Although the proposal failed to move in the legislature, Ohio hospitals spent valuable resources responding to SEIU claims.

The California Nurses Association/NNOC held rallies in Cleveland and Cincinnati. The rallies attracted little significant media attention or attendance, but focused on organizing health care employees.

Several SEIU-generated reports also targeted Ohio hospitals and attracted interest from legislators and media. *Twice the Price*, a March 2005 report, alleged that hospitals charge uninsured patients twice what others pay for their health care. *Crossing the Line*, a June report, raised questions about Ohio hospitals' tax-exempt status. Both reports were coupled with Statehouse hearings. A December report, *Over the Top*, implied that



hospitals in Ohio are enriching their CEOs at the expense of patient care. Another report, issued exclusively to a Columbus newspaper, claimed that the Ohio Bureau of Workers Compensation had been overpaying hospitals for care to injured workers. This report resulted in the state taking steps to reduce hospital payments beyond what was already in place. The Ohio Hospital Association filed suit against the Bureau challenging those cuts, and the Franklin County Common Pleas Court ruled in favor of the hospitals.

Health Care Public Policy Targets

The unions engaged in corporate campaigns tend to focus on several key public policy issues in health care: the billing and collection practices applied to uninsured and indigent patients, the charity mission of nonprofit entities, nurse-to-patient staffing ratios and their effect on patient care, and adverse effects of health plan and provider consolidation.²¹

The union focus on public policy issues by unions has influenced several states to enact new laws governing health care.

- ⇒ California passed – and the CNA has successfully defended – the nation's first nurse staffing law that imposes a maximum five-to-one patient-to-nurse ratio in Californian hospitals.
- ⇒ A New Jersey law now requires hospitals and nursing homes to compile, post and make available to the public and state health regulators information on staffing levels in their facilities.²²
- ⇒ Oregon and Maine have adopted laws regulating overtime worked by nurses.

²⁰ "Union: Backing Mallory easy call," *Cincinnati Enquirer*, October 22, 2005.

²¹ BNA PLUS Special Report, "Union Organizing in the Health Care Industry," September 2005.

²² BNA PLUS Special Report, "Union Organizing in the Health Care Industry," September 2005.

Unions Targeting Health Care

Although many unions have engaged in corporate campaigns against various players in health care, a few have proven to be dominant forces nationwide in the fight to represent health care employers.

SEIU

Primary and most aggressive among these is the Service Employees International Union (SEIU) headed by Andrew Stern. SEIU is the nation's largest union, and the oldest and largest union representing health care workers.²³ Although SEIU traditionally represented only health care housekeeping and dietary employees, over the past 15 years it successfully expanded to organizing registered nurses, physicians and other health care professionals. Currently, SEIU represents more than 1.8 million workers—more than half of whom work in health care.²⁴ SEIU has made no secret that it is targeting health care workers, particularly nurses, physicians and other health care professionals. In addition, it is expanding geographically from coastal areas such as New York and California to the Midwest and the South where its membership has lagged.²⁵

SEIU is well-versed in the strategies and tactics of the corporate campaign and has been described as the “undisputed lead dog” of labor’s attack on health care.²⁶ As early as 1988, the union published the *Contract Campaign Manual*, its own “how-to” guide with detailed chapters on research and goal setting, organizing the campaign, pressuring the employer and bargaining.²⁷ SEIU asserts it devotes more money to organizing than any other union. SEIU’s strategies include employing skilled organizers, including former nurses and other health care workers; forming alliances with other health care unions; organizing hospitals on a regional basis; orchestrating private and public pressure on hospital board members; and maintaining a research and advocacy office that uses the local media and community groups to publicize alleged shortcomings of the targeted facility.²⁸

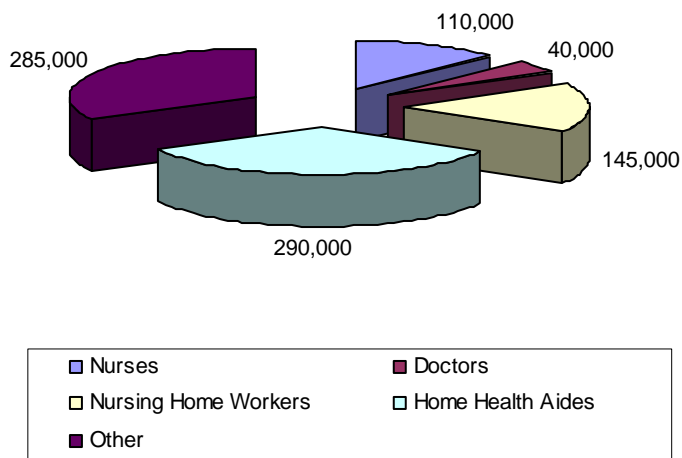
Healthcare employee satisfaction is lowest in the areas of pay, participation in decision-making and communications.

—BNA PLUS Special Report

AFSCME

The American Federation of State, County and Municipal Employees (AFSCME) represents approximately 325,000 health care workers nationally. Unlike SEIU, AFSCME has been almost exclusively a public-sector union and has, historically, recruited health care workers simply by virtue of their employment in public facilities. Now, as the result of increased privatization of health care, it must engage in private sector organizing to prevent losing bargaining units to other predominantly private

SEIU Health Care Worker Membership



Source: SEIU Web site

sector unions such as SEIU. AFSCME president Gerald McEntee promised that the group intends to organize more doctors “and to give them the kind of power and authority that they have lost through the regressive means of managed care.”²⁹ Currently, health care workers represent 17% of AFSCME’s membership.³⁰ As with SEIU, AFSCME has demonstrated a willingness to work with other unions to organize workers.³¹

²³ Matchulat, John Jay, “Healthcare: Still Easy Pickin’s For Organized Labor’s Most Aggressive Unions,” *Labor & Employment*, Winter 2005.

²⁴ Service Employee International Union Web site: www.seiu.org.

²⁵ Rogers, Michelle, “Under Siege,” *HealthLeaders Magazine*, Jan. 1, 2004.

²⁶ Manheim, Jarol B., “Labor Pains: Corporate Campaigns in the Healthcare Industry,” June 2003, p. 39.

²⁷ Manheim, Jarol B., “Labor Pains: Corporate Campaigns in the Healthcare Industry,” June 2003, p. 37.

²⁸ BNA PLUS Special Report, “Union Organizing in the Health Care Industry,” September 2005.

²⁹ Manheim, Jarol B., “Labor Pains: Corporate Campaigns in the Healthcare Industry,” June 2003, p. 40.

³⁰ The American Federation of State, County and Municipal Employees Web site: www.afscme.org.

³¹ BNA Report, “Union Organizing in the Health Care Industry,” September 2005.

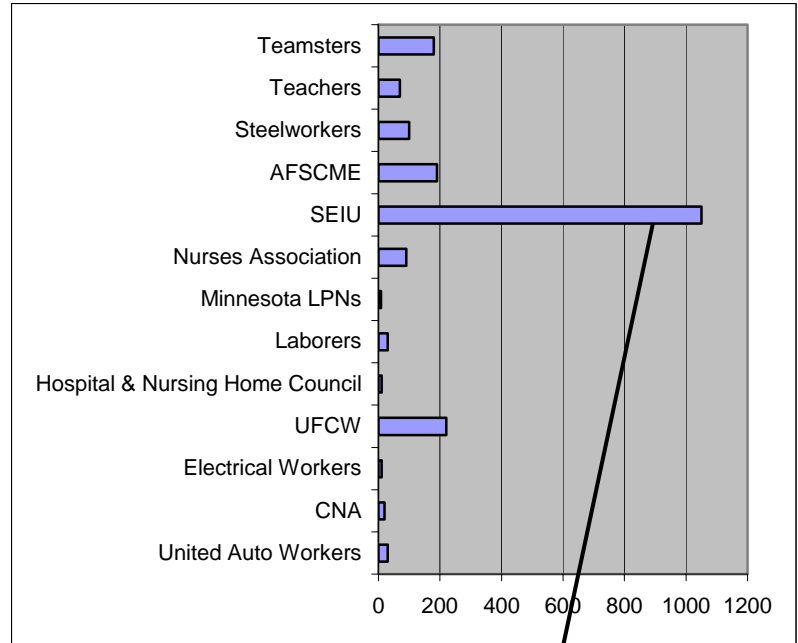
CNA

The California Nurses Association (CNA) represents approximately 65,000 registered nurses in 165 facilities throughout California and is the largest and fastest-growing organization of direct care RNs in the country.³² Over the past 10 years, CNA expanded its organizational activities and membership outside of California by founding the National Nurses Organizational Committee (NNOC). CNA Executive Director Rose Ann DeMoro has vowed to organize nurses in every state eventually.³³ However, DeMoro continues to assert that her top priority is forging a political movement and that organizing is secondary.³⁴ Historically, CNA has been very active in political causes that raise health care and patient care issues. At the same time, however, CNA has competed aggressively with SEIU to represent nurses.

UFCW

The United Food and Commercial Workers Union (UFCW) is one of North America's largest private sector labor unions with approximately 1.4 million members.³⁵ Although its members have traditionally worked in the retail food, meat packing, poultry and food processing industries, UFCW recently began organizing health care workers through its Health Care Worker Action Center. In fact, it currently represents more than 100,000 employees in various health care positions. In the past 10 years, UFCW has won the second-highest number of NLRB representation elections in health care.³⁶ Further, UFCW also is among the first labor unions to increase membership through "neutrality" and "card-check" agreements rather than through the traditional NLRB process.³⁷

Selected Unions That Won at Least Five NLRB Representation Elections in Health Care, 1995-2004



- SEIU is the largest health care union in the U.S.
- 50% of SEIU's budget is devoted to organizing new members.
- In 2003, SEIU won 75.8% of its elections.

NLRB Election Statistics for Health Care

Year	Resolved Representation Elections	Union Wins	Percent of Elections Won by Unions	Number of Workers Organized
2004	347	237	68.3%	30,927
2003	355	246	69.3%	23,459
2002	331	203	61.3%	25,163
2001	366	226	61.7%	27,745
2000	435	266	61.1%	29,369
1999	504	320	63.5%	35,672
1998	463	288	62.2%	27,962
1997	441	274	62.1%	24,104
1996	379	227	59.9%	24,703
1995	294	154	52.4%	11,783
1994	317	188	59.3%	15,143

³² California Nurses Association Website: www.calnurses.org.

³³ BNA PLUS Special Report, "Union Organizing in the Health Care Industry," September 2005.

³⁴ BNA PLUS Special Report, "Union Organizing in the Health Care Industry," September 2005.

³⁵ United Food and Commercial Workers Union Web site: www.ufcw.org.

³⁶ BNA PLUS Special Report, "Union Organizing in the Health Care Industry," September 2005.

³⁷ Matchulat, John J., "Healthcare: Still Easy Pickin's For Organized Labor's Most Aggressive Unions," *Labor and Employment*, Winter 2005.

Preparing to Combat Corporate Campaigns

Although corporate campaigns are best understood not as specific campaigns against various health care providers, but as a global attack on the industry as a whole, individual hospitals and health care providers can fortify themselves against such an assault. Jim Skogsborg, president and CEO of Advocate Health Care, which has been targeted by SEIU, suggests all health care providers start with the basics: competitive wages and benefits, reasonable work rules and strong leadership.³⁸

Hospitals also can make themselves smaller targets by documenting charity care, developing explanations of charges, reviewing collection policies, tightening conflict of interest policies, and confirming that executive compensation complies with I.R.S. rules.

Regular communication with and education of all employees can help further the organization's mission, vision and accomplishment.³⁹ One consultant suggests the strategic vision of the organization should be shared with all employees: "What is amazing to me is that many CEOs assume that the average line-level employee really understands what is going on with the economics in healthcare today, and most of them don't. They see their healthcare costs going up, their wage increases narrowing . . . And, at the same time, they see the hospital building new wings."⁴⁰ Employee resentment grows unless management gets involved and explains the complexities of managing the organization. When employees understand both the positive and negative changes experienced by an organization, they will have a better appreciation for the decisions management makes. Likewise, employees may recognize that the union is not the panacea it claims to be.

"Organizations need to be aggressive in illustrating how they are great community citizens, what their employment practices are and how they treat their employees, and talk about the great care they provide."



In addition to the employees, education of and communication with other stakeholders such as the community, patients, physicians, politicians, media, business partners, and government agencies can help improve and strengthen the hospital's reputation even before it is attacked by a union.

The vice president of communications and marketing at Sutter Health suggests, "organizations need to be aggressive in illustrating how they are great community citizens, what their employment practices are and how they treat their employees, and talk about the great care they provide."⁴¹ Sutter Health, currently under attack by SEIU, actively reaches out to various audiences through both print and electronic newsletters, one-on-one meetings and television advertising to com-

municate its message and defend itself against SEIU's "misinformation campaign."⁴²

In short, in addition to shrinking the target by addressing individual vulnerabilities, health care organizations are best served by developing proactive communication plans through which they can share their mission, values and accomplishments with their employees, their boards and their community stakeholders. Moreover, since corporate campaigns attack the entire health care industry, health care would be well-served by a coordinated community benefit reporting campaign along with anecdotal examples of health care successes. Although such efforts by no means represent a silver bullet against corporate campaigns, they undoubtedly make organized labor's goal of building its ranks with health care workers more difficult.

³⁸ Rogers, Michelle, "Under Siege," *HealthLeaders Magazine*, Jan. 1, 2004.

³⁹ Murray, Marilyn K. and Matchulat, John J., "Hospital Charity Care and Billing Practices: The Labor Movement Pans for Gold," *JONA*, June 2005.

⁴⁰ Rogers, Michelle, "Under Siege," *HealthLeaders Magazine*, Jan. 1, 2004.

⁴¹ Finkel, Ed, "Fighting Back," *Modern Healthcare*, Nov. 14, 2005.

⁴² Finkel, Ed, "Fighting Back," *Modern Healthcare*, Nov. 14, 2005.