

## Major Merger of Nursing Unions to Shake Up Health Care

February 2009

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On February 18, 2009, the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC), the United American Nurses (UAN), and the Massachusetts Nurses Association (MNA) announced the formation of a new union: the United American Nurses-National Nurses Organizing Committee, UAN-NNOC (AFL-CIO).

The formation of this "nursing super union" is truly a national affair. With a combined membership of over 150,000 stretching from coast to coast, it will be the largest nursing union in the history of the United States. The CNA and its national arm, the NNOC, bill themselves as "one of the nation's premiere nurses' organizations and health care unions" and boast membership of approximately 80,000. The UAN has affiliates in 19 states, and the MNA, which was founded over 100 years ago, is both the largest professional health care association and the largest union of nurses in the Commonwealth of Massachusetts with over 23,000 members.

### Background

The CNA, the MNA and the UAN were all previously affiliated with the American Nurses' Association (ANA) in one form or another. The ANA is a hybrid organization, founded as both a professional association of nurses and a labor organization. The ANA has a federated structure in that nurses do not typically join the organization directly. Rather, nurses join their respective state organization and the state organization in turn is a member of the ANA.

Historically, the CNA was one of the state organizations that had been a member of the ANA. However, the CNA severed ties with the ANA in 1995, becoming — at the time — the first state organization to disaffiliate from the ANA in its almost century-long history. Several issues led to the disaffiliation, but fundamentally the CNA sought to act more as a traditional union and not as a professional association. Since its disaffiliation from the ANA, the CNA has garnered a reputation as one of the most aggressive and effective labor unions in the country. The CNA is particularly proud that it championed the first mandated nurse-patient staffing ratio legislation in the country, which went into effect in California in 2005.

CNA founded the NNOC in 2004 in an effort to expand its national reach. The CNA also sought to counteract the growing strength of the Service Employees International Union (SEIU), which openly expressed interest in organizing all health care workers, including nurses. The CNA/NNOC has a significant presence in Arizona, Illinois, Maine, Missouri, Nevada, Ohio, Pennsylvania and Texas.

The ANA founded the UAN in 1999 as a separate organization operating under the umbrella of the ANA. The UAN was established as a national labor union affiliated with nursing unions in various states, including Alabama, Alaska, Colorado, Florida, Georgia, Nevada, North

Carolina, Utah, West Virginia and Wyoming. In large part, the ANA founded the UAN to address many of the same issues that led the CNA to disaffiliate from the ANA. The relationship did not last long, however, as the UAN negotiated a new agreement with the ANA in 2003, in which it established itself as a completely independent organization. The UAN has had its own internal problems over the years as several state nurses' associations chose to disaffiliate. In 2007, the New York State Nurses Association, the Ohio State Nurses Association, the Oregon Nurses Association and Washington Nurses Association all cut ties with the UAN.

The MNA, originally formed in 1903, was one of the first nursing unions in the country. As with the CNA and the UAN before it, the MNA disaffiliated from the ANA in 2001. The MNA also has pushed for mandatory staffing ratio legislation, but has not achieved the same success as the CNA did in California. Regardless, as the largest nursing union in one of the leading states for health care in the United States, the MNA is in a unique position of strength.

### **The UAN-NNOC's Platform**

The subtext of the UAN-NNOC's formation is the desire to fight the growing strength of the SEIU in health care. The UAN-NNOC's stated philosophy is "that RNs should be represented by an RN union." This is a deliberate reference to the SEIU, which has historically represented entire hospital units, including physicians, RNs, licensed practical nurses, technicians, and dietary, housekeeping and maintenance employees, as well as the SEIU's representation of employees in all service industries. Ironically, one of the reasons the four state nurses' associations severed ties with the UAN in 2007 was due to the perception that the UAN was interested in a merger with the SEIU.

The CNA/NNOC has battled the SEIU in various forums to organize nurses. In March 2008, the CNA submitted signatures from several hundred nurses at a local hospital in California who wanted to remove the SEIU as their union. With the battle lines drawn, the SEIU and the CNA/NNOC moved the fight outside of California. In the spring of 2008, the CNA/NNOC objected to the SEIU's attempt to organize over 8,000 nurses at nine Ohio hospitals. The SEIU faced a firestorm of criticism for not having obtained support from the nurses first, instead dealing directly with the hospitals by obtaining neutrality agreements. Ultimately, the SEIU did not move forward with the elections.

The SEIU did, however, strike back. In April 2008, SEIU members staged a demonstration during a conference for rank-and-file union members and grass roots activists in Dearborn, Michigan, where the SEIU expected CNA/NNOC Executive Director Rose Ann DeMoro to be speaking. The CNA claimed that SEIU staff assaulted union members and activists and that one person had to be taken to the hospital for a possible head injury. AFL-CIO President John Sweeney openly criticized the SEIU stating, "There is no justification — none — for the violent attack orchestrated by SEIU." In a press release shortly after the incident, conference organizers reported that while the SEIU was not the first union to protest its conference, "in our 29-year history we have never had a group of protesters storm our conference, or assault the brothers or sisters who attend it."

It is onto this tumultuous landscape that the UAN-NNOC emerges. Its strategy is in part geographical. Historically, the CNA and MNA have represented nurses in their headquarter states. While the UAN has 19 member affiliates, the activity of those affiliates has been largely defined by union receptivity in those states. For example, health care facilities in the southeast, a historically anti-union region, remain largely union free despite the presence of

UAN affiliates in Alabama, Georgia and North Carolina. Working together, the three unions hope to gain the national notoriety and reach that the SEIU currently enjoys.

According to the UAN-NNOC press release announcing the merger, the new union's goals are to:

1. Build an RN movement in order to defend and advance the interests of direct care nurses across the country.
2. Organize all non-union direct care RNs (a substantial majority of the budget shall be dedicated to new organizing).
3. Provide a powerful national voice for RN rights, safe RN practices, including RN-to-patient staffing ratios, and health care justice.
4. Provide a vehicle for solidarity with sister nurse and allied organizations around the world.
5. Create a national pension for union RNs.

### **What Employers Can Expect**

Employers who currently have relationships with the UAN, CNA/NNOC, or MNA may not see immediate changes. However, it is likely that there will be a push to "nationalize" collective bargaining agreements as the unions seek similar contractual provisions across the country. For example, CNA/NNOC contracts typically have provisions limiting or prohibiting mandatory overtime and requiring that staffing disputes are submitted to binding arbitration. Moreover, there will undoubtedly be a push to shift employees from employer-provided defined benefit or defined contribution plans to a union-run defined benefit plan.

Employers who currently have relationships in which the SEIU represents nurses may find themselves caught in the middle of future battles between the UAN-NNOC and the SEIU. As noted above, the CNA-NNOC has tried in the past to replace the SEIU as the bargaining representative of nurses in California. This tactic may now be used by the UAN-NNOC against the SEIU in other locales.

Non-unionized employers should expect significantly increased organizing within the industry. Moreover, the battle lines have been drawn in California and in the Midwest, and one should expect that the SEIU will likewise mount aggressive attacks on the East Coast and in other parts of the country.

For all employers, both the SEIU and the UAN-NNOC organize on a "safe staffing" platform. This cause is particularly strong with the UAN-NNOC, which devotes extensive resources to the passage of so-called safe staffing legislation at the state level. Despite the unions' claims that staffing ratios promote improved patient safety and patient care, however, a report released this month by the California HealthCare Foundation found no direct link between California's mandated staffing ratios and the quality of patient care in that state. Nevertheless, one can expect a strong push by both unions across the country to introduce and pass mandated staffing ratios in the state legislatures.

### **What Employers Should Do**

As discussed above, one significant consequence of the merger will be increased competition for members, and employers will be caught in the middle. Now, more than

ever, is the time for employers to be proactive. The UAN-NNOC and SEIU have made no secret that they intend to organize quickly and aggressively. Part of their efforts include a continued push to pass the Employee Free Choice Act (EFCA), under which an employer could end up with a union before it becomes aware that a campaign has started. The threat (real or perceived) of organizing activity has historically been low in certain parts of the country. Even where the threat existed in some places, that threat came from just one main union player in the industry. The formation of the UAN-NNOC and the risks attendant to EFCA, however, dramatically alter the landscape. Employers can no longer afford to rely on a weakened or absent labor movement as their primary defense to unionization.

Accordingly, employers should consider the following four steps:

- o Assess vulnerability – Employers need to frankly and honestly examine their organizations to determine what weaknesses a union might exploit during an organizing drive. Areas of inquiry include wages, benefits, and employee satisfaction.
- o Plan and change – Employers must determine which vulnerabilities are amenable to change and develop a specific plan for effectuating those changes.
- o Train and educate – Employers must train managers and supervisors to answer employee questions about union organizing. Employees must be educated to the realities of unionization.
- o Monitor developments – Employers should create a specific team of individuals responsible for monitoring organizing activity and be prepared to respond to any indications that organizing is taking place.

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