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Organization of Home Care Professionals

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Abstract

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Charting Their Own Future: Independent Organizing By Professional Workers

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Organization of Home Care Professionals

Abstract

In 2000 a group of about 100 physical therapists, occupational therapists, and speech pathologists, most of whom are employed on a contingent basis in the home care division of a Virginia-based health care corporation, performed a remarkable feat. They organized an independent union and won an NLRB election in the face of stiff employer opposition. The story of the Organization of Home Care Professionals (OHCP) is intriguing in its own right because these professionals initially and explicitly steered clear of affiliation with any established union, preferring to chart their own course aimed at blending aspects of unions and professional associations. It is also noteworthy because most of the 80+ dues-paying members of OHCP did not know each other before the campaign began, and relied on e-mail and a web site to build their organization.

The case of the OHCP is a compelling example of the potential for unionization among professional workers when they experience the effects of the restructuring of labor markets and the reorganization of work as described in this session by Van Jaarsveld and Batt. In the context of the changing environment, successful union organizing among professionals in the private sector often follows a common pattern. The impetus for collective action usually centers around the desire for a voice in key decisions related to the organization of work and/or the delivery of professional services. Initial informal efforts at dialogue may set the stage for subsequent collective pursuit of a formal role in decision making. When initiatives to question or influence management decisions evolve into full-blown organizing campaigns, a com-

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mitment to the profession is retained that influences the character and bargaining priorities of the union. Even while pursuing unionization, professionals typically are cautious about direct action, although escalation is possible especially if the employer response is perceived as insulting or disrespectful. Perhaps most telling, professionals who are moved to action expect to control the direction of the union they embrace; they are most comfortable with an organization that they own (Cohen and Hurd 1998).

Although most unions use the same approach for organizing professional workers that they use in campaigns targeted at other occupational groups, there is growing evidence of the potential to appeal to professionals by following non-traditional paths to representation (Hurd 2003). There are several examples of union-sponsored experiments to build organizations outside of the typical collective bargaining framework, such as the CWA effort with Microsoft engineers (Washtech) and the AFT associate membership program for teachers in Texas (where there is no public-sector bargaining law). There are also a number of examples of professional associations establishing affiliations with unions, including the Podiatric Medical Association with OPEIU and the Graphic Artists Guild with the UAW. Perhaps the most intriguing nontraditional path to representation is self-organization, accomplished initially without formal ties either to a union or to a professional association. A case in point is the recent creation of the National Substitute Teachers Association, an amalgam of various local organizations of substitute teachers from across the country.

The OHCP is an example of self-organization that reflects the emerging interest of professionals in collective action. As the story of this nascent organization shows, professionals prefer to move at their own pace when embracing unionism, engaging in direct action and experiencing the power of solidarity. Although OHCP ultimately chose to affiliate with CWA, the terms of the relationship assured independence and a comfortable cultural fit. The remainder of the paper describes the experience and is told in the first person from the perspective of coauthor Tenenholtz, OHCP Vice President.

OCHP Organizing Campaign

The Organization of Home Care Professionals is a group of therapists, about 80 people in all, who formed an independent labor union in August 2000. We represent a bargaining unit of 102 physical therapists, occupational therapists, and speech therapists working for Inova VNA Home Health, a hospital-based home care company. The company is divided into four different geographical teams (each with a separate office location) serving all of northern Virginia. We spend most of our working hours alone in the car or with the patients at their homes. We only go to the office for monthly staff meetings and to drop off paperwork every other day. Consequently, when we started this process, only a

few of us knew each other personally, mostly just the other therapists on our own geographical team. In the summer of 2000 the therapists in our company started seeing changes in procedures and workload that worried us as far as impact on our work and quality of patient care. When a letter landed in our mailboxes in late July 2000, informing us of an immediate pay cut of 20 percent, it poured salt in our wounds. The therapists tried to reason with management but were told at a subsequent town meeting scheduled at our request that the pay cut stood, and there was nothing more to discuss.

On August 23, 2000, about 60 therapists met in a borrowed church basement to consider forming an organization. We had a labor lawyer present who explained our rights and what we needed to do in order to establish a collective bargaining unit. There was a lot to learn and a lot to ponder. However, it was clear that the therapists wanted to take action. We took motions from the floor and voted on a name for the organization, members for the executive board, and a dues structure. The lawyer had drafted a set of bylaws that we adopted on the spot. We also collected a \$100 initiation fee and the first month's dues of \$20 from each person. The following week a letter was composed by the executive board and sent to our company CEO informing her of our existence and asking for recognition. About 5 days went by, and since we had not heard anything, we sent the petition on to the NLRB. Then we received a telephone call from the CEO, asking the OHCP board to come and meet with her. At first we were reluctant but, on the advice of our attorney, we went. Present at the meeting were representatives for the hospital system's human resource (HR) department and higher management. Our CEO hardly spoke at the 45-minute meeting, which ended with the HR person asking us, "Let's assume this scenario—what would it take for you to abandon this whole project?" We reported this conversation to our attorney, who filed an unfair labor practice (ULP) charge, which we later won.

A representation election was scheduled and the company hired a lawyer from out of state. Therapists were pulled into the manager's office and questioned about loyalties, relationships, beliefs, and interest in the newly formed union. The CEO made frequent visits to team meetings where she debated OHCP members. The company sent printed materials to our homes, including a warning of what might happen in case of a strike. Managers also telephoned individual therapists, asking them to vote *no*. In the meantime, members of the union executive board met several times per week in each other's homes. We also had daily e-mail and phone contact. Strategy was planned and executed. We put up a bulletin board in each team office and "debated" management there with posted messages. We also had a "thought of the day" that we posted to address a specific issue that might have arisen. One such blurb

addressed the possibility of a strike, and another explained plans for a union steward on each team.

We were completely new to this venture, and the company was treating us like they were fighting the Teamsters. We had vague ideas about the meaning of words like *arbitration*, *excelsior list*, *bargaining unit*, *union steward*, *management's rights*, and *picketing*. In order to find out how to conduct a successful campaign, we obtained a copy of an SEIU organizing manual. We were pleased to learn how we could increase our leverage and what steps we needed to take. We also could see that we were ahead of the game, since we already had set up a website and had e-mail addresses for most members of the unit. In fact, we communicated with the therapists more easily than the company could, even though they had all of the resources and a built-in voice-mail system to our company cell phones.

The atmosphere in the offices started to show the stress of the campaign. Most therapists had joined OHCP and the company did their best to try to figure out which people were not members. Some supervisors called meetings to tell us how sad it would be to create a division between management and employees if a union came into play. Meanwhile, we continued to meet at the church, to discuss strategy and what the members wanted to do. We formed the needed committees, including a fund-raising committee, which held garage sales to raise money to pay for our campaign materials and mounting attorney bills.

The weekend before the election, we telephoned all bargaining unit members reminding them of the election and the need for them to vote, and that we were hoping for their support. From the conversation we had with each individual, we could take a bit of a tally, and we were pretty confident. On the day of the election, October 25, we assembled at the company headquarters to see the vote being counted by the NLRB official. When it was all over, we had won with 83 *yes* to 16 *no*. We celebrated that night, ecstatic but also apprehensive about what was in store for us, trying to bargain a first contract with the second largest employer in the metropolitan Washington, D.C. area next to the federal government.

Communication, Outreach and Eventual Affiliation

It was evident from the start that we needed swift means of communication in order to fight the corporate anti-union gorilla we were up against. At preliminary meetings before formally organizing, and also at the meeting on August 23, 2000, when we established OHCP, we collected private e-mail addresses from all potential members and set them up in two different databases, one for members and one for the rest of the unit. A listserv of mem-

bers and non-members of the unit was maintained, so we could communicate quickly with everyone.

We set up the website early on in September 2000. A board member's college-age child maintained it. We established a secure portion "for members only" by providing OHCP paid members with a password. The website soon contained material for our election campaign and links to many professional association and union sites. We also built up a page with material that had appeared in the press about OHCP. We experienced a couple of short periods of server trouble. One time the website was down for a week, and the company's lawyer inquired what was the matter with it. We then knew that they monitored the website and that we could use it as a means of "official" communication with the company.

When we first formed OHCP, only a handful of our members were computer savvy beyond using basic word processing and/or sending e-mail. We learned quickly to use the Internet to search for union related materials and research the company, to use the listserv and also to use the editing features of our word processing software. During negotiations, the executive board put out bargaining bulletins after each session on the secure part of our website. We also used the company website to obtain the addresses of 400 referring physicians. We wrote them a letter explaining our union's goals and asking for their support.

We let the national and local professional organizations for our respective disciplines know that we existed through e-mails, letters and personal contacts. We had great response from the American Speech, Language and Hearing Association (ASHA), the national organization for speech pathologists. Their executive director sent a personal letter to the hospital system's CEO declaring his concern about the pay cut and the impact this would have on ASHA members in the region as well as on quality of care. In addition there was a feature article about one of our demonstrations in the ASHA journal, which goes out to about 100,000 members. We also got some press in the *ADVANCE* magazines, which are publications that cater to therapists and other health care workers. Some of our members went to meetings of the local chapters of our professional organizations to share information about what was going on in our company. We got good support from the local physical therapy association. We also purchased the database of all licensed therapists in Virginia, Washington, D.C. and parts of Maryland, and wrote a letter asking them not to be replacement workers in case of a strike. That letter basically stopped the flow of résumés to the company.

When conducting some of our leverage actions, we had help from established unions. They provided us with picketers and helped with printing handbills and other materials. We learned a great deal about pressures needed to

gain leverage in collective bargaining. The first time we picketed was at a gala fundraiser that the company put on for its largest donors at a hotel in Washington, D.C. We had practically all of our members there to picket, along with many of their spouses and children. The placards had been painted in the team representatives' garages. It was our first big test of solidarity and direct action, and it went well. The press was there, and the coverage generated some interest. Later, we handbilled the hospitals in the Inova health system to inform staff and patients about our goals. These actions solidified our membership and showed the company that we meant business.

During the organizing campaign we felt that we wanted to stay independent, even though in our contacts with union people, their advice spoke to the need for affiliation with a larger union, particularly since we were so small and inexperienced. We wanted to maintain professional autonomy and integrity and advocate quality care for our patients as well as fair wages and working conditions for ourselves. A discussion about affiliation did not surface until early 2001 as a motion from the floor at one of our general membership meetings. The executive board then proceeded to search out possible union partners. We prepared a list of "twenty questions" to ask each union. We met with five established unions, some several times. In the end, we felt that CWA would provide the best fit for our needs. CWA has its national headquarters in Washington, D.C., and it also has a local that was ready to receive us. We were promised that we could maintain our name and executive board intact, and that our president would get a seat on the local's board. We voted to affiliate in September 2001, at which time CWA started to provide us with two experienced bargainers, legal advice, printing resources, a toll-free telephone number, strategic advice, mailings, and office space. We continued to charge our regular dues from the members, since we still had legal bills to pay to our previous lawyer, but we would not owe any dues to CWA until ratification of a first contract.

Strengths, Weaknesses and the Future

We have made mistakes along the way, novices at union work as we are. One of our first mistakes was to ask for a news blackout at the outset of the negotiations. We somehow thought that it would be good for our bargaining team to have some breathing space and not have to answer to the membership in the beginning of the talks. This went on for about 2 months. We then met with an outside union, and they advised us to lift the blackout, or we would lose our membership quickly. We immediately called a general meeting and discussed all details in our bargaining proposal and got great feedback and suggestions from the membership. In fact the members were now so enthusiastic that they proceeded to take a strike authorization vote. A survey we took of the membership indicated that they had great confidence in the bargainer-

ing team and the conduct of the executive board; however, they thought the negotiations were going too slowly and that the company needed to be more forthcoming and cooperative.

Another mistake occurred when we set out to picket the main hospital in Fairfax. We were aware that you had to give a 10-day notice to the company if you intended to picket a health care facility. As it turned out, we had not understood all of the fine points of the law and were out of compliance. The company sent all employees in our unit a letter to that effect and pointed out that we were amateurs. We then held another picketing event, hoping to be within the guidelines. As it turned out, in a first contract situation, you have to file notice a total of 40 days ahead, and the Federal Mediator also has to be notified. The company filed a ULP, which we lost, delaying any other picketing for a while.

Our greatest strength has been the solidarity we have experienced and the friendships we have formed among therapists in our company. Because of our leverage activities and our monthly membership meetings, we have gotten to know each other and have shared our opinions and ideas. We have maintained a strong focus on the quality and professional development of our work as therapists. We have also located talent we had no idea existed among us. Some are really good at writing or public speaking; others are great at photography, graphic design, public relations and press contacts, and getting members involved and staying in touch. Some simply offered their help with mailings, and opened their homes when we needed meeting space. We have also had some good parties and events for supporting family members.

After 12 months of negotiations, we ratified our first contract on January 3, 2002. It restores the pay cut and establishes a formal grievance procedure and seniority rules. The union will have access to internal mail service and voice mail, and will meet with new hires during orientation. Productivity quotas will be lifted, and a practice advisory committee will address quality issues.

When human beings get together for a common well-defined goal, even though the path is stressful and filled with obstacles, something quite remarkable happens. We now have a cohesive and strong unit of therapists, willing to do what it takes to maintain and grow our union with the help of our CWA local. We want to cooperate with the company in the new union contract environment. We want to organize continuing education activities for therapists in the region and continue distribution of our newsletter, with a focus on professional growth. We also hope to inspire other health care professionals and Inova employees to unionize and achieve a voice in the workplace. When we started, most of us had no idea about labor union work. In fact, most of us had strong reservations or had no positive experience with unions. There are things we would have done differently but, in the end, it was all worth it.

Our president Bill Barrie captured our feelings in our November 2001 newsletter:

We are not accustomed to making waves. We are accustomed to and prefer to work cooperatively and gently with people. Forming a union was certainly not something we had anticipated. We did it because we felt that we had no other way to maintain our personal and professional dignity and integrity. Our struggle for fairness at our workplace is something we can be proud of the rest of our lives, and it is a valuable lesson and example for our children.

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