Perspectives on Unionization of Residents

ANNA YAP, MD AND MELISSA DAVIDSON, MD
MODERATED BY KAREN GEORGE, MD, MPH
Disclosures

- Dr. Davidson None
- Dr. Yap None
- Dr. George None
Audience poll

- Have you had experience with resident union discussions within your own institution?
- Is this a topic of conversation within your program director associations?
- Which word (phrase) comes to mind when you hear of unionization for physicians in training?
Background

- Bargaining unit for employees with common interests against a specific employer
- Recent interest among residents in collective activism
- All residents have had the right to unionize since 1999, always the case for those employed by govt
- Employment Relations Boards
  - State employment relations boards (govt) or
  - National Labor Relations Board (pvt)
- Committee of Interns and Residents, Service Employees International Union (CIR/SEIU) is largest residency union in country

Ahmed, JAMAnet Oct 26, 2023
Prevalence of unions across the country in ACGME accredited programs in IM, Psych, FM, Peds

- 2023 web review of websites, press releases, news reports, and union contracts
- Of 1909 programs from 1188 public and private institutions, 67 unique physicians-in-training unions were identified
  - 97% in non-right-to-work-states
  - 60% were against private employers
  - 91% were represented by CIR/SEIU
  - Most were in CA (22) and NY (19)
- Looking at NLRB activity (pvt institutions) from 2011 to 2023 identified 18 elections for residents
  - Residents voted to unionize in 16/18 elections, though participation was variable
  - All were in non-right-to-work-states

Ahmed, JAMAnet Oct 26, 2023
<table>
<thead>
<tr>
<th>Year</th>
<th>Employer</th>
<th>Eligible voters</th>
<th>Voter turnout, %</th>
<th>No. (%)</th>
<th>Votes for union</th>
<th>Votes against union</th>
<th>Election result</th>
<th>Labor organization</th>
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<tbody>
<tr>
<td>2013</td>
<td>Dignity Health-California Hospital Medical Center</td>
<td>25</td>
<td>88.0</td>
<td></td>
<td>22 (100)</td>
<td>0</td>
<td>Win</td>
<td>CIR/SEIU</td>
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<td>2014</td>
<td>Beth Israel Medical Center</td>
<td>417</td>
<td>75.3</td>
<td></td>
<td>110 (35.0)</td>
<td>204 (65.0)</td>
<td>Loss</td>
<td>CIR/SEIU</td>
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<td></td>
<td>Icahn School of Medicine at Mount Sinai at Elmhurst Hospital Center</td>
<td>142</td>
<td>82.4</td>
<td></td>
<td>65 (55.6)</td>
<td>52 (44.4)</td>
<td>Win</td>
<td>CIR/SEIU</td>
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<tr>
<td>2015</td>
<td>Howard University Hospital</td>
<td>263</td>
<td>82.1</td>
<td></td>
<td>110 (50.9)</td>
<td>106 (49.1)</td>
<td>Win</td>
<td>CIR/SEIU</td>
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<td></td>
<td>St Mary Medical Center (Long Beach)</td>
<td>37</td>
<td>43.2</td>
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<td>9 (56.2)</td>
<td>7 (43.8)</td>
<td>Win</td>
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<td></td>
<td>Palisades Medical Center</td>
<td>79</td>
<td>79.7</td>
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<td>47 (74.6)</td>
<td>16 (25.4)</td>
<td>Win</td>
<td>CIR/SEIU</td>
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<td>Bayonne Medical Center</td>
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<td>14 (32.6)</td>
<td>29 (67.4)</td>
<td>Loss</td>
<td>CIR/SEIU</td>
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<td>2022</td>
<td>Greater Lawrence Family Health Center</td>
<td>40</td>
<td>97.5</td>
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<td>29 (74.4)</td>
<td>10 (25.6)</td>
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<td>CIR/SEIU</td>
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<td>Keck School of Medicine of USC</td>
<td>56</td>
<td>94.6</td>
<td></td>
<td>53 (100)</td>
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<td>Win</td>
<td>CIR/SEIU</td>
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<td>1450</td>
<td>72.3</td>
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<td>University of Vermont Medical Center</td>
<td>347</td>
<td>77.2</td>
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<td>13 (15.5)</td>
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<td>64.0</td>
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<td>253 (94.1)</td>
<td>16 (5.9)</td>
<td>Win</td>
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<td>Loma Linda University Health Education Consorti</td>
<td>805</td>
<td>62.7</td>
<td></td>
<td>361 (71.5)</td>
<td>144 (28.5)</td>
<td>Win</td>
<td>UAPD</td>
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<td>Mass General Brigham</td>
<td>2304</td>
<td>70.6</td>
<td></td>
<td>1215 (74.7)</td>
<td>412 (25.3)</td>
<td>Win</td>
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<td>620 (81.9)</td>
<td>137 (18.1)</td>
<td>Win</td>
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<td>University Medical Resident Services PC (University at Buffalo)</td>
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<td>47.6</td>
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<td>270 (71.1)</td>
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<td>Win</td>
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<td>71.9</td>
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<td>892 (89.0)</td>
<td>110 (11.0)</td>
<td>Win</td>
<td>CIR/SEIU</td>
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Why do residents unionize?
STAGNANT BENEFITS
Increased costs of living, medical school debt, longer training

AGENCY
Antitrust Exemption, Employer Changes, Corporatization of Medicine

ADVOCACY
Patient & Workplace Safety Legislative & Political Pursuits
MEDICAL SCHOOL DEBT

Source: AAMC

- 1978: $13.5k
- 1988: $38.5k
- 1998: $85.2k
- 2008: $154.6k
- 2018: $203k

Adjusted for Inflation in 2023:
- 1978: $64.6k
- 1988: $99.6k
- 1998: $157.7k
- 2008: $219.1k
- 2018: $245k

Source: AAMC
AVERAGE PGY-1 SALARY

Average Salary

Adjusted for Inflation in 2023

Source: AAMC
AVERAGE PHYSICIAN SALARY

Source: Center for Studying Health System Change, AMA, Medscape
RESIDENTS ARE A CAPTIVE WORKFORCE

In 2002, Jung v. AAMC asserted that the NRMP violated the Sherman Act (antitrust law), then Congress passed the Pension Funding Equity Act of 2004, granting the NRMP antitrust exemption resulting in the case dismissal.
COVID-19

Residents were often the front-line workers and felt helpless, feeling unable to speak up safely about their workplace and were unable to stop working.

- Stanford residents organized when only 7 of >1300 residents were selected to receive the vaccine in the first round of doses.
- Residents saw physicians who spoke out about working conditions get fired without due process.
- Residents were often left out of COVID-19 hazard pay or bonuses, and they saw coworkers die due to lack of PPE.

Doctors Lose Jobs After Speaking Out About Unsafe Conditions

In April 2020, hospitalist Samantha Hovst Memorial Hospital–North, in Oxford, Miss to get donations of N95 masks for nurses hospital, saying she was improperly fired yet gone to trial.

Texas doctor, 28, dies of Covid: 'She wore the same mask for weeks, if not months'

Adeline Pagan tested positive in early July and died in September – as US health workers lost to Covid skew younger and lack protective equipment.
PHYSICIANS EMPLOYED BY HOSPITALS, HEALTH SYSTEMS, AND CORPORATE ENTITIES

2012: 41.8%
2019: 62.2%
2022: 73.9%

Source: AMA, Physicians Advocacy Institute via Avalere Health
The Moral Crisis of America’s Doctors

The corporatization of health care has changed the practice of medicine, causing many physicians to feel alienated from their work.

By Eyal Press
Published June 15, 2023  Updated June 16, 2023

IF I BETRAY THESE WORDS
MORAL INJURY IN MEDICINE AND WHY IT’S SO HARD FOR CLINICIANS TO PUT PATIENTS FIRST

WENDY DEAN, MD
WITH SIMON TALBOT, MD
WELLNESS AND BURNOUT

Suicide Deaths are 250-400% HIGHER among female physicians compared to women in other professions.

Medical Students have 15-30% HIGHER rates of depression than the general population.

“One truth is the honor it is to care for the members of The Bronx community and New York at large … The other truth is that with its [medical training] current conditions, this work is often unnecessarily challenging to our wellness as individuals.”

- Dr. Nakita Mortimer

Source: The American Foundation for Suicide Prevention
DRIVERS OF BURNOUT AND ENGAGEMENT

Please know, it’s not about you.

Fundamentally, residents unionize to make changes with their employers, and it is often not a criticism of their program leadership. It is about who holds the purse strings and creates the institutional policies that require collective action and bargaining in order to change.
Resident Unionization: A DIO’s Perspective

Melissa Davidson, MD, MHPE

The Howard Schapiro, MD ’80 and Janet Carroll, MSN, MPH, Green & Gold Professor in Anesthesiology

Designated Institutional Official, University of Vermont Medical Center

Associate Dean for Graduate Medical Education, Larner College of Medicine
The Journey

March 3, 2022
"Demand for Recognition"

April 14, 2022
Resident Election Formal Vote

"Status quo"

Purpose: Educate
▪ FAQs
▪ Town Hall Mtgs

On hold:
▪ Program expansion
▪ GMEC voting
▪ [Everything]

"Status quo"

Residents:
▪ Choosing leaders
▪ Surveying Rs/Fs
▪ Formulating demands

Senior Leaders:
▪ Bargaining Team
▪ Steering Team

"Status quo"

Bargaining:
▪ Non-economic/Economic
▪ Virtual & In-person

Steering Team:
▪ Fact finding
▪ Context re: GME

October 27, 2022
Negotiations Kick-off Meeting

May 26, 2023
Tentative Agreement

June 9, 2023
Contract Ratified

"Status quo"

For July 1:
▪ Meal card $
▪ Salary adjustments
▪ Education funds

For October 1:
▪ Budget realignment

"Status quo"

Residents:
▪ Choosing leaders
▪ Surveying Rs/Fs
▪ Formulating demands

Senior Leaders:
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"Status quo"

Purpose: Educate
▪ FAQs
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On hold:
▪ Program expansion
▪ GMEC voting
▪ [Everything]
Resident Physicians at UVM Medical Center Hope Unionization Drive Delivers

By COLIN FLANDERS @CFLANDERSVT

Published April 6, 2022 at 10:00 a.m. | Updated April 6, 2022 at 10:07 a.m.

Medical school graduates have very little control over where they serve their residencies. They submit a list of preferred hospitals to a private nonprofit that then assigns them to one of the nation’s 1,000-plus teaching hospitals. At an annual event known as Match Day, every graduating doctor in the country opens an envelope to learn their fate.

It is difficult for residents to transfer once they have been matched, so hospitals have less incentive to compete on pay or working conditions. And residents are reluctant to complain once they arrive at their assigned hospitals, aware of their status in the hierarchical world of medicine.

Sanders, the health network executive, said officials review feedback from an annual survey that includes questions about compensation. A resident-led committee also regularly interacts with the hospital, he said.

But residents on that committee say almost all their requests have been shot down with little or no explanation. [REDACTED], the chair, said she asked for a meeting with hospital leadership about compensation months ago and never heard back. “It just feels like there’s no way to advocate for ourselves,” she said.
Dear Ms. [redacted]

I am writing to you in response to a statement that was made concerning the expansion of the [redacted] Residency program, or a [redacted] Fellowship.

It was stated by Dr. Melissa Davidson, who to my understanding is the DIO. Dr. Davidson stated that while UVMMC wanted to expand the number of [redacted] Residents, and/or wanted to create a [redacted] Fellowship which would fix the [redacted] hours and UVMMC call system, they were unable to because of the Union negotiations.

I wanted to officially notify you that CIR has no objection to expanding the number of [redacted] Residents and acknowledges that the number of Residents in a given program or specialty is clearly a function of Management, and is a Management decision.
**UNION BUSTING INCIDENT REPORT**

**Basics**
- **Hospital:** UVMC
- **Date of Incident:** 3/28/22
- **Time of Incident:** 12pm
- **Evidence Attached?** Yes

**Description of Incident**
- Head of GME sent all residents an anti-union FAQ

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Resident and Fellow Frequently Asked Questions

To further understand the law regarding collective bargaining, please visit the National Labor Relations Board website: National Labor Relations Act | National Labor Relations Board (nrlrb.gov).

What is happening now? There will be an election on April 14 to determine if residents and fellows at UVM Medical Center wish to be represented by the Committee of Instructors and Residents/Service Employees International Union (CIR/SEIU).

How long will this take? If residents vote for a union, first-time CIR/SEIU contract negotiations typically take 12 months on average, but can take even longer. There is no time limit to negotiations. The only legal requirement is that parties continue to meet in good faith.

Is there a time commitment to negotiations for residents? Will all residents and fellows be able to join the negotiation group? Traditionally, a group of select resident/fellow representatives join a negotiation committee and engage in extensive planning; then they participate in negotiations over that negotiation time period.

I was told we’ll get _________ if we vote for a union. The union is allowed to make promises – just like any election. And just like any election, nobody can say with certainty what terms of employment will change and how any and all changes will be the result of the bargaining process.

What is Status Quo and how long does it last? Status Quo is a National Labor Relations Board requirement that prevents employers from making major changes to terms and conditions of employment – including but not limited to pay, benefits and/or schedules. The period of status quo starts as soon as UVM Medical Center received a request to voluntarily recognize the CIR/SEIU as representing our residents and fellows. Should the union be voted in, the status quo will remain in effect unless and until the union and the hospital agrees to make any changes.

If I don’t want to join the union and I don’t vote, I can still negotiate my own terms and conditions of employment, correct? No, this is not correct. If the Union prevails in an election and you are in a position that is included (i.e., a resident/fellow in an ACGME-accredited program), you will be represented by the union regardless of how you voted. Your terms and conditions of employment will be governed by the unit’s collective bargaining agreement.

Why not join the union? What do I have to lose? Whether you “lose” or “gain” depends on your personal situation. When you become a member of a union, you and/or your program no longer negotiate your individual terms and conditions of employment. Instead, terms and conditions of your employment are determined by the collective bargaining agreement (the contract) that the CIR/SEIU and UVM/MMC negotiate and agree to.

Depending on the contract negotiated, you may feel that you’ve gained; you may feel that you’ve lost; or you may feel that there really hasn’t been much of a change.

Can I post flyers about the union at work? Flyers can be posted in non-patient-facing areas where other non-work solicitations are posted such as break areas.

What do I do if a union organizer is calling or texting me and I don’t want them to? As with any type of solicitation, if you consider this an intrusion on your privacy you can contact the CIR/SEIU and ask them to opt-out from communications.

If my position is included in a bargaining unit that elects to have union representation, but I don’t want to be represented by the union, do I have any recourse? Your only option is not to be a full union member, which means you would not have full voting rights, but you will likely still have to pay service fees, which are set by the union. Regardless of your ability and/or decision to be or not be a full member, the terms and conditions of employment will still be determined by collective bargaining and must be adhered to by the organization and all residents/fellows.

To get more information about membership and fees, you should consider:
1. Asking CIR/SEIU what percentage of full dues is the “fair share fee.” (For information purposes, with VFNHP it is 91%).
2. Asking CIR/SEIU what benefits or rights you would not have as a “fair share fee” payer. (For information purposes, with VFNHP a “fair share fee” payer does not have voting rights, therefore cannot; for example, vote on ratification of a contract).

I’ve heard that residents in other programs have issues that they are dealing with. I’ve been told that I should join the union to support them. What should I do? The contract will affect everyone in the Bargaining Unit, including you. You should make the decision you think is best for you.

What is in the best interest of one program may not necessarily improve the working conditions of another. There are other ways to support another department in addressing their issues. If you have concerns about what is happening in another program you can speak with your program directors, program administrators, GME administrators, Resident/Fellow Representative Committee.
In case not enough people have told you already: Thank you so much for your emails and guidance through this process. I found them extremely helpful and appreciate all you do in looking out for the well-being of all the residents and fellows.
Where are we now….

- Reallocated GME funds to align with CBA
- Identified additional funds to support **programs**
- Standardized forms and processes

- Adjudicating requests
  - Interpretations of CBA language
  - Equality vs. equity across programs
  - “Reasonable-ness”

- Regular meetings with Union Reps, GME, Labor Mgmt
- Communication with CIR/SEIU Contract Organizer
How we got through it…

“Our motto is when they go low, we go high.”

Michelle Obama
Questions
Resident Well-being

- 2019 ASC in-service training exam focused on burnout, suicidality, job satisfaction, duty hour violations, and mistreatment
- 690 of 5,701 (10.5%) residents were from unionized training programs, 83% were CIR/SEIU affiliated
- No difference between unionized and nonunionized residents in burnout, suicidality, job satisfaction, duty hour violations, mistreatment, or educational environment
- Associated with better vacation and housing stipend benefits

Brajcich JAMANet, Sep1, 2021