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Cover Page Footnote

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Improving Workforce Conditions in Private Human Service Agencies

A Partnership between a Union and Human Service Providers

James Green

In 1995 the Service Employees International Union Local 509 and four Massachusetts human service providers signed an unusual agreement to forge a partnership in which employers would remain neutral while the union approached its workers with an offer to advocate in the state legislature for greater funding for private human service employees and to promote cooperative relations with their employers. This study examines the context of the agreement and the pressures on public employee unions and small human service providers whose workforce copes with low wages, high turnover, meager benefits, and poor public image as well as the give-and-take between union and employer representatives and their effort to provide representation for a growing number of poorly paid, often part-time human service workers.

Prologue

At a well-attended press conference held at the Boston Park Plaza Hotel on December 14, 1995, those present heard an announcement of the creation of a new partnership between Local 509 of the Service Employees International Union (SEIU) and several Massachusetts private agencies that offer mental health and retardation services. This revelation heralded a unique development in the history of labor relations. Prior to engaging in collective bargaining, a group of private employers agreed to work with a union to raise incomes for employees and to allow the union to organize the employees without interference. Indeed, the union representatives and providers met frequently and intensively for many months. Both parties engaged in serious discussions without violating the rules set by the National Labor Relations Act, which prohibit actual negotiations prior to the recognition of a duly constituted collective bargaining unit. These discussions bore fruit, producing a format for future bargaining and future contracts between a union and a consortium of employers.

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The proceedings were chaired by Hubie Jones, senior fellow at the John W. McCormack Institute at the University of Massachusetts Boston, who facilitated the meetings of the providers and the union in 1994 and 1995. The event attracted special attention because of the presence of John W. Sweeney, who two months earlier had been elected the new president of the AFL-CIO and had previously, as president of the SEIU, encouraged and promoted Local 509's efforts to create a partnership with the employers. Sweeney described the signing of the agreement as a "historic moment" of "immense importance for the labor movement, for the employer community, for the human service provider community, and for those who believe in the public sector's responsibility for the most unfortunate among us." He said that organized labor was committed to "building bridges" whenever the "shelling stops" and employers cease attacking unions. Now, he declared, some visionary providers had agreed to cease fire and to create "a peace" beneficial to labor and management.

In exchange for employers allowing employees to make a "truly free choice" in a union election without discouragement from management, Local 509 committed itself to forming a new partnership with national backing from SEIU and the AFL-CIO. If employees chose to be represented by SEIU, Sweeney explained, the union would enter into a multiemployer agreement based on a shared commitment to provide highest-quality care for the agencies in the most cost-effective ways. Unions would respect the challenge of providing quality care in such a difficult environment as well as management's right to make necessary decisions; the employers would respect the union's obligation to represent employees. Four agencies and their boards had, in Sweeney's words, made a commitment to their employees and overcome "old-fashioned notions of management prerogatives" to forge a new partnership. Organized labor, always concerned to make unionization pay off for members, wanted to make it pay off for these agencies and for the people they serve.¹

What brought together a public employee union and some of the private, nonunion employers it was accustomed to fighting at this historic moment? What process allowed a union and representatives of management to overcome the adversarial relations that have prevailed in many workplaces during the past two decades? What are the goals of the partnership for providing quality care, for achieving efficiency and excellence, and for improving the working lives of underpaid, highly transient, direct-care workers? What implications does the partnership hold for public policy, for labor law, and for the process of collective bargaining in the private human service sector? I address these questions through an examination of the contexts in which the partnership was formed and of the forces and motives that brought the parties together and analyze the issues and problems involved and the potential gains to be achieved by all parties in human services.

Contexts

During the 1950s, relatives of patients and human service professionals called for an end to "warehousing" people in large institutions and for the creation of community care facilities. In 1963 Congress made federal funds available to create community-based settings, and in 1966 the Massachusetts Legislature enacted Chapter 735, the Comprehensive Mental Health and Retardation Services Act, which mandated state agencies to create community care facilities and to move people out of the large state institutions. In 1966 the commonwealth of Massachusetts devoted 8 percent of its annual budget to the

care and housing of more than 26,000 people in state mental hospitals and schools for the retarded — the Department of Mental Retardation alone employed 16,000 workers. Deinstitutionalization took place slowly over a period of years and began to reduce the large workforce in state facilities.²

Public employee unions, which had originated in some of these institutions, protested the loss of their members' jobs.³ But these protests did not halt the deinstitutionalization, which enjoyed strong public and government support. The courts ordered community-based facilities to provide alternative but adequate care for deinstitutionalized people. A number of private, mainly nonprofit agencies began to bid on state contracts to provide services for the mentally ill and disabled in community-based, mainly nonunion settings. Some of the providers were former employees of the state-funded agencies that offered such services. Some viewed privatization as an opportunity to apply their ideas for improved treatment and care in settings free of some state regulations and union contract provisions.

During the 1960s and 1970s, deinstitutionalization was largely driven by a concern for the quality of care attainable in large state-run settings and a belief that services delivered through smaller operations located in or near recipients' own neighborhoods would be more humane and more effective. Although implementation of community-based care for the mentally ill and mentally retarded was often limited by inadequate funding, the promise of improved care through deinstitutionalization retained strong support among professionals, recipients, and advocates.

In 1990 Massachusetts governor William Weld established a commission to study the feasibility of closing several of the remaining institutions operated by the state Departments of Mental Health and Mental Retardation. The panel recommended closing nine mental health facilities and public health hospitals over a period of three years, saving the state \$144 million initially and \$60 million annually. The administration promised to encourage the new private contractors to hire some of the workers employed at the nine institutions. In its first six months in office the Weld administration laid off 3,000 mental health and retardation workers; it is not clear how many found employment in the private agencies.

For most employees of state institutions, closing the hospitals and state "schools" meant layoffs and uncertainty. For those who sought work in the private sector the change meant a move from large, highly structured workplaces with union pay scales and negotiated labor-management relations to a varied set of working conditions and a new set of employers who often underbid one another for state contracts.

The workers employed by private vendors in the mental health and retardation fields are primarily paraprofessionals who work in group homes or halfway houses as well as in day activity and treatment programs. About 25 percent are professionals who provide treatment such as group therapy and psychotherapy, physical and occupational therapy, and crisis intervention. The majority of the workforce — 65 percent — consists of direct-care workers who help clients eat, bathe, dress, and carry out daily living and working tasks. The remainder consists of clerical and maintenance personnel.

Although some former state employees migrated to the private sector, the privatization of mental health and retardation services has created a new, largely nonunion workforce with lower wages, fewer benefits, more part-time employment, and higher turnover — as high as 66 percent in some agencies, according to some sources.⁴ One research report estimates that in about 1,400 Massachusetts private agencies, 60,000 workers, 65 percent female, provide human services, between 18,000 to 25,000 of them

in mental health and mental retardation in 300 agencies. A survey of 125 large vendors reported a force of 84 percent non-Hispanic white workers, 11 percent non-Hispanic black, 3 percent Hispanic, and 1 percent Asian.⁵

Wages and benefits for these private-sector workers are 20 to 40 percent lower than those of the public employees in the field. The starting salary for private direct-care workers is \$14,500 compared with \$19,450 for public employees. The benefits available to private employees also differ from those of public employees. Indeed, many private agencies that require a thirty-five-hour week for benefit eligibility hire many workers on a less than full-time basis, which makes them ineligible. An estimated 5 to 15 percent of these employees are part-time "relief" workers, and perhaps half the remaining workforce is employed part time for necessary nighttime and evening coverage.⁶

The privately employed human service workers in Massachusetts represent a good example of the national trend toward "contingent" work. The growth of irregular work is characterized by the transformation of the workforce, the decline of real wages and the loss of benefits, instability of employment, and a declining standard of living among the working poor, who are predominantly female and people of color, native born and immigrant. The growth of contingent labor also raises serious public policy questions because many government policies and regulations, for example, the Fair Labor Standards Act, may not cover those who work irregularly.⁷ Critics charged that Massachusetts private agencies are not obeying state and federal labor regulations and that some workers are overworked and not paid for their full time.⁸

Massachusetts private providers receive 80 to 100 percent of their budget from state funding. In fiscal year 1993 the Department of Mental Retardation served or supported 25,528 clients in residential, day, and work programs and half the department's budget of \$313 million was allocated to private vendors. Wages for Massachusetts direct-care workers in the private sector had been frozen since 1988. Private providers interviewed for this study expressed deep concern over this dilemma and the various negative consequences it creates, like high turnover. They also worried about the lack of benefits, like pensions, as well as training funds and programs for their employees. According to human service professor Elaine Werby, many private providers regarded their funding dilemma as a sign of "disrespect for human service workers" on the part of the legislative and executive branches of state government.⁹

Besides their deep concerns about funding, human service providers expressed anxiety about the managed care trend in government contracting. The Weld administration contracted with one company to provide managed care for all Medicaid mental health clients and human service professionals. Policy analysts, including Dr. Murray Frank of the University of Massachusetts Boston, report that this trend worried many smaller human service providers who feared that larger corporations would bid low, cut costs, and force the smaller agencies to merge or to close their doors.

Labor unions representing human service workers in the public sector strenuously resisted the trend toward privatization, which cost many members their jobs. As one private employer indicated, privatization in Massachusetts did move jobs off the state payroll to eliminate the costs of pensions and wage increases. The resistance to contracting out government services reflected larger efforts by public-sector unions engaged in difficult political battles against tax cuts, budget cuts, and contracting out as well as struggles against public employers' demands for concessions in the bargaining process. A low point for Massachusetts unions came in 1980, when a referendum limiting local property tax rates, Proposition 2½, received an electoral majority. As a result, massive

budget cuts created drastic layoffs of local public servants.¹⁰ Public employee unions were handicapped in their struggle to survive by the consistently unfavorable coverage in the media, which contributed to a lack of public support. A Massachusetts attorney representing human service providers expressed the opinion that public sector unions were simply “unpopular.”

The Service Employees International Union, whose locals represented many state human service workers in Massachusetts, met these challenges, first with an effective coalition campaign to defeat a drastic tax-cutting measure put forward in a statewide referendum in 1990. It also opposed privatization with an aggressive public campaign. Sandy Felder, then president of SEIU Local 509, a statewide union representing social work professionals and other human service workers, said her organization did not insist that *only* public service workers could provide services. The local opposed privatization because it led to the “firing of state workers,” reducing union membership, and to “the reduction of standards, wages, and benefits for the privatized work force.” The local sued the Weld administration to prevent the hiring of laid-off state workers at considerably less pay and benefits. Felder told the *Boston Globe* that “Weld has a vision of selling state government to the lowest bidder without any vision of what sort of services the state should provide.” The union also charged that “there was a lot of fraud and lack of oversight” in the private agencies. Local 509 organized a Vendor Waste Watch to point out what it regarded as waste and fraud.¹¹

The local energetically supported a bill sponsored by state senator Mark Pacheco, which, when passed over Governor Weld’s veto, restricted privatization. The union’s aggressive struggle against privatization contributed to what one of the larger providers, Sheldon Bycoff, head of Vinfen Corporation, called a “long-standing history of mistrust” on the part of private agencies and their boards toward Local 509. However, many providers had already opposed unions in principle as well as in practice. Although public-sector unions did organize a few community-based agencies in Massachusetts, they experienced determined opposition from many private human service employers. The Mental Retardation Providers Association issued an advisory strongly opposing unionization, which it believed would “demoralize the workforce through the assessment of dues, the absence of consumer-focused values, and increased opportunities for divisiveness within provider agencies.”¹²

Private human service providers and their consultants attended meetings focused on opposing unionization. An attorney retained by Massachusetts providers said that labor relations lawyers received calls from an agency head who said, “I am being organized, I hear there’s literature being sent to my work sites . . . and you’re gonna help me stop this. You’re gonna help me work with middle management and top management around what we can and can’t do under the National Labor Relations Board (NLRB) rules and other applicable rules regarding workers’ right to organize.” One agency director, Chuck Howard, recalled being very “uncomfortable” in the meetings he attended with other directors “to learn how to fight union organizing.” He thought the union was addressing real employee concerns. “If there hadn’t been so much involved in figuring out how to start and run a nonprofit and manage it and deliver all of the services that were part of it, we probably would have evolved to a more enlightened relationship with our employees.”

Public employee unions, in their attempts to organize privatized workers, faced some of the same obstacles as unions in other areas of the economy. Antiunion opposition grew after 1981, when President Reagan broke the air traffic controllers’ strike and

terminated union members as federal employees. During the 1980s, employers either violated federal labor law to resist unionization or found ways within the law to discourage it. The NLRB allowed employers to hold “captive meetings” during work hours, issuing antiunion propaganda and intimidating, if not terminating, union supporters and threatening to close up shop if employees chose unions. Even when a majority of workers signed cards authorizing a union election, employers used the intervening period to discourage those who had called for a union. In the 1980s the percentage of union victories in elections declined as did the percentage of eligible workers who belonged to unions.¹³

Like other unions, SEIU faced serious challenges caused by employer opposition, the failure of labor law, a changing workforce, an altered state of labor relations, and a different political climate. Two decades of crisis discredited many of the old methods and gave rise to new ideas about organizing, servicing, bargaining, and cooperating with management. The crisis of the 1980s also provoked a recognition of the need for strategic choices about the campaigns that unions mounted. Unions faced difficult decisions about how to organize new workers, to fight concessions, and to make a maximum impact with fewer resources.¹⁴ This strategic turn is reflected in the AFL-CIO’s decision to create and fund a new institute whose goal was to recruit a young cadre of organizers trained in new tactics.

SEIU has been in the forefront of several innovative organizing campaigns directed toward sectors that were difficult to organize. Since many struggles against privatization failed, SEIU debated alternative strategies and decided, after some controversy, to organize privately employed service workers. In so doing, the union drew upon the lessons of the civil rights movement, the women’s movement, and community organizations to approach service workers, whose numbers include more women and people of color than the industrial workforce.¹⁵ In the mid-eighties SEIU launched an aggressive drive, Justice for Janitors, among privately employed janitors by regenerating the unions’ organizing capacity and devising new tactics aimed at service workers.¹⁶

Unions organizing service workers and attempting to secure an election supervised by the NLRB faced problems of high turnover, largely attributable to low pay and few chances for advancement. These problems severely handicapped the usual process of organizing a union by obtaining signatures from sufficient numbers of workers to call an election administered by the NLRB. Although any workers in the bargaining unit would ultimately be included in a negotiated union contract, only those employed at the time of the election could vote for certification of the union as bargaining agent. Given the high turnover rate, providers hostile to the union could stall the election with procedural issues, expecting that enough eligible workers would leave their employment to invalidate the NLRB election. Faced with this dilemma, some unions began using a blitz campaign, which puts pressure on an employer to recognize a union as soon as a “card check” indicates that a majority favor unionization.¹⁷

Proposing a New Model

The 1990 election of Republican William Weld and subsequent drastic reduction of the state’s Department of Labor and Industries caused labor unions even more concern about their future. Although the Democrats retained majorities in both houses of the legislature, and the union remained influential with many of those representatives, the

future of public employee unionism seemed most problematic as a result of Weld's efforts to cut taxes and shrink state government. It also became clear to many public employee unions that, even with the Pacheco bill, privatization would continue and that it would be difficult to reverse the process.

In 1993 Sandy Felder and other Local 509 leaders began to focus on the need to organize the workers employed by private contractors. She believed that this task could be accomplished only on a large scale, that it would "be easier to organize the workers if the providers were neutralized," and that the process might involve some "mutual gains bargaining" because, despite the "history of mistrust," the union and provider community shared common needs.

Felder also began discussions with public policy advocates and public officials concerning "the anomalous situation" of privately employed human service workers whose wages were paid by the government but who were largely subjected to private control by employers with little government regulation. She brought this situation to Professor John Dunlop of Harvard University, distinguished labor relations expert, former secretary of labor and chair of President Bill Clinton's Commission on the Future of Worker/Management Relations. Felder described the difficult position of the direct-care workers employed by a myriad of private service agencies, all dependent on the will of the legislature and governor for compensation levels and other employment conditions. She emphasized the problems of privatized workers who are part of a "secondary workforce" that lacked rights under state labor relations and private-sector labor relations governed by federal law. She explained to Dunlop: "When you go to negotiate a contract with the private agencies, they'd say, 'Well, we can't do any more because the state controls our budget.' But then you try to go to the state labor relations, and they'd say, 'Wait. They're a private entity.' So that in the end these workers are getting stuck in the middle." This dilemma created by privatization "intrigued" Dunlop, who asked Felder to testify at the federal government commission hearing he would chair in Boston on January 6, 1994.

Dunlop advised Felder to open discussions of this dilemma with providers and to get a "neutral" to facilitate the dialogue. He also advised her to "keep the lawyers out of the room." During the spring of 1994 Felder began meeting with a number of directors of state-funded, nonprofit agencies, including Joe Leavy of Communities for People, Michael Donham of Center House, and Dan Boynton of Bay Cove Human Services. She advanced her ideas about a cooperative relationship that would help raise the abysmal salary level in the field and provide the union with a chance to approach employees without employer opposition. The union's approach soon became public when Local 509 launched an organizing drive, the Community Care Workers Campaign, to promote a multiemployer partnership based on a new cooperative model of labor relations. The campaign's "deeper purpose" was to create a "seamless web" in the delivery of mental health and mental retardation services in Massachusetts.

In private discussions with providers, the union asked employers to remain neutral and allow the union to contact workers. If the employers remained neutral, the union could help lobby the government to fund increases in their workers' wages. During this concentrated blitz of a few weeks' duration, Local 509 members volunteered to contact nonunion workers and to distribute a questionnaire on working conditions. Only 150 responses were returned, indicating that 82 percent saw no opportunity for career advancement, 75 percent earned less than \$20,000 a year, 62 percent received no additional pay for overtime, and 60 percent said they received insufficient training. Employer reactions to the campaign varied. According to one study, most providers "told

their workers not to let the union in” and some “made threats of retaliation.”¹⁸

The particular difficulties of organizing privatized human service workers parallel the obstacles faced by many union organizing drives. Unions that try to organize often face tough opposition from employers who hire antiunion legal and consulting firms. These “union busters” combine hard-hitting practices meant to intimidate union sympathizers in the workforce with complex legal maneuvers meant to wear down the energies of union staff and exhaust union resources. In the late 1970s and 1980s, such union avoidance strategy led to increases in firings for union activities and in more unfair labor practice charges being filed.¹⁹ Not only did antiunion employers actively discourage employees from unionizing, they refused to engage in good faith bargaining for first contracts even after a majority of employees voted to join a union. As a result, unions lost trust in the traditional time-consuming, frustrating process of organizing and bargaining and sought more direct ways of gaining recognition and a first contract.

Given this tradition of employer opposition, Local 509’s Community Care Workers Campaign and its outreach to private providers represented a departure from SEIU’s past practice of organizing public workers and opposing privatization. Most union activists found it difficult to accept the idea that “the enemy wasn’t the providers,” that the power was in the hands of the governor and the legislature, and that unionists in Local 509 saw themselves “more as allies with the providers than as enemies.” The idea of approaching employers about organizing privatized workers aroused a lively debate within union circles. Some argued that it would violate the National Labor Relations Act’s provisions against union bargaining with management before a majority of eligible workers had chosen the union to represent them. In seeking to build relationships with the provider community, Local 509 could not overstep the boundary between establishing a safe organizing environment and conducting contract negotiations before it became the duly constituted bargaining agent. Others thought the idea of persuading human service management to remain neutral was simply naive. Still others felt that the Service Employees International Union had betrayed its members who remained commonwealth employees and that the union would be unable to represent the interests of both sets of workers fairly. However, SEIU national president John Sweeney supported the departure from past practice and encouraged Local 509’s initiative.

Concerned with the criticism that unionized public workers are inefficient, Sweeney promoted a new model of public sector unionism, which presents unions as guarantors of quality services. SEIU’s Public Division proclaimed a primary goal of enabling “public workers to act as advocates for effective and responsive public service, at work and in the public policy arena.” Testifying before a federal commission on the public sector in 1994, Sweeney argued that the achievement of excellence in public service would require “meaningful worker participation in all levels of decision making concerning the design and delivery of public service.”²⁰

Addressing the growth of nonunion workers doing public work through private employers, Sweeney asserted that cooperation would be impossible without protection afforded to workers who would fear reprisals if they challenged or questioned management decisions. “When employees are afforded the necessary assurances and protections, they typically welcome the opportunity to work with management to achieve greater efficiency in government.” Ultimately, Sweeney maintained, the public would benefit from reducing the differential between low wages and poor benefits in the private service and the public sector. He also suggested that without an expanded scope of collective bargaining, genuine labor-management cooperation would not be possible. Subjects like

agency mission, not usually subjects of bargaining, would have to be put on the table so that employees are "true partners" with managers.²¹

It is increasingly common for unions and management to participate in joint committees around workplace issues. It is also increasingly common for employers at non-unionized firms to establish vehicles for worker participation in some kinds of decision making. Some union and academic critics argue that these forms of participation are deceptive efforts to give employees a sense of involvement that will stave off unionization efforts. Employer-initiated efforts have become controversial since they risk violating the National Labor Relations Act prohibition on "company unions," including employer-dominated committees.²²

However, in the industrial-union sector organizations like the United Auto Workers have entered joint decision-making programs with management; and some public-sector unions have supported joint labor-management committees to devise ways of providing better, more cost-effective services as an alternative to privatization. Many unions propose union participation in management as a way of addressing a number of problems: increasing quality of care, consumer satisfaction, and public support; reducing conflict and adversarial union-management relations in workplaces as well as improving training and reducing turnover in the workforce.²³

Powerful motivations led President Felder to reach out to providers who might be interested in a new model of labor-management relations in the human services. She was aware of public policy analysts who argued that the growth of part-time or contingent labor required a change in union strategies as well as public policies. One study urged unions to reevaluate their antagonism toward nontraditional forms of employment and to focus instead on combining innovative collective bargaining with public policies that "can control employer abuses of part-time and contingent work arrangement, extend the benefit of flexibility to as wide a group as possible, and supplement employer-provided fringe benefits — even though these policies may make unions appear less necessary."²⁴

From the providers' side, strong opposition to unions remained, but some were willing to talk to the union representatives, especially those who were heavily dependent on state contracts and were frustrated by the wage freeze for direct-care workers. Tom Riley, executive director of Better Community Living in New Bedford, felt that the legislative committee on human services lacked trust in the providers to spend funds appropriately. This was reflected in the budget freeze after 1988. Then in 1993, when a budget increase did not even get out of a conference committee, a red flag went up, and Riley became even more concerned about the "political process" involved in budgeting. He began attending the McCormack Institute Forum meetings with Local 509 after he received calls from people in his community, including legislators, encouraging him to participate. He had begun working in the field at a time when staff salary increases came regularly but during the long budget freeze he realized that his staff would not be able to increase their pay without "as much public support as the agencies could possibly get." "I looked on the horizon and I didn't see a lot of people . . . willing to support our agency," he added, "but the union was knocking on the door and I said come on in" and talk to staff. Used to dealing with unionized public servants as a member of his local school committee, Riley thought that collective bargaining might give legislators more confidence that budget increases would actually go to the direct-care workers and "be assured that it's not going to be misspent." He thought the union might be able to make the whole budgeting process and the process of wage determination more "reasonable."

Sandy Felder's argument on behalf of the union addressed the providers' concern with elevating wages and the legislature's concern that additional funds might not be spent on direct-care workers. In the long run, she hoped, the legislature would see that it makes sense to take responsibility for the privatized workforce in mental health and mental retardation. Contracting out the services would not absolve government of its responsibility to the workforce and the clients. "Wouldn't it be better," she asked, "to have some standards and some knowledge of how much money" these workers will receive instead of "just throwing money out to providers" who can spend it any way they choose? The legislature needed a systematic way of getting the money out there to the workers through the agencies, she maintained. "And why not have that systematic way come through collective bargaining?" With a contract the government would have the union make sure the funding ended up in the pay of direct-care workers, thus giving the government more control over its spending on these programs.

Besides organizing a more powerful lobbying group and creating a better system for the state to pay direct-care workers, the union saw another advantage in a multiemployer agreement. The geographical dispersion of 300 agencies created problems for the union in terms of organizing, bargaining, and staffing. For Local 509, organizing had to proceed on an agency-by-agency basis, but the union hoped for a master contract that would bring all, or at least many, agencies under one umbrella. The preference for a multiemployer bargaining process shaped the union's approach from the beginning. The multiemployer framework was seen not only as a way to streamline contract administration; it could also achieve certain economies of scale. "The idea," said Felder, "was to bring them together collectively and to amass their power as one group of providers, so that we then [could] go to lobby to get funding or get them to share health insurance or workers' compensation or training. . . . If they come together in a multiemployer agreement, they can share things as well. So we felt that would be an added . . . value to the workers of the agency."

Seeking to escape the old adversarial model without abandoning a commitment to aggressive organizing, President Felder decided to reach out publicly to private providers to seek a partnership. Based on her conversations with providers, the support of President Sweeney, and Professor Dunlop's advice, Felder looked for someone to convene a meeting of unions and providers. She thought the union would need someone it could trust but also "someone of stature who could bring providers to the table with us."

Negotiating a New Partnership

After preliminary discussions with providers, Felder and others agreed that Hubie Jones was the best choice to facilitate a process of dialogue. The former dean of the School of Social Work at Boston University and an influential voice in political affairs, Jones enjoyed the authority and respect required to bring together diverse parties in the human service world. As senior fellow at the John W. McCormack Institute of Public Affairs at the University of Massachusetts Boston, he maintained a strong interest in human services and public policy. After consideration of Felder's request for assistance in working with the provider community, Jones offered to conduct a forum under the sponsorship of the McCormack Institute beginning in the fall of 1994. If the first meeting was a success, he would plan more gatherings. For many providers the setting at the University of Massachusetts in Boston offered a neutral ground where issues could be explored with civility and caution.

Jones sought the assistance of two other institute fellows, Dr. Elaine Werby and Dr. Murray Frank. Werby and Frank also had distinguished careers in human services as administrators and teachers and both had been affiliated with the University of Massachusetts Boston's College of Public and Community Service, a school that educates human service workers and labor leaders. Werby was a professor in the Human Services Center and Frank was the dean, a position he assumed after working for public employee unions in New York. The institute fellows played important facilitating and mediating roles in an unprecedented process of bringing together institutional actors dedicated to the well-being of their constituencies, yet potentially and actually in conflict with each other. According to Frank, who chaired many meetings, this was an appropriate role for a public university with a service mission and an urban agenda.

Frank and Werby both emphasized the unique quality of the dialogue they facilitated. The parties had no experience of coming together outside the labor-management framework and both sides harbored strong feelings about "the other side." Both parties took considerable risks in getting to the table. Indeed, the providers who participated did so without the support of their boards of directors, whose members usually opposed unions strenuously; they even faced, as Frank put it, a degree of scorn from other directors and peers in their field.

The union's energetic efforts to invite providers from across the state to these meetings, along with 509's ongoing organizing drive, brought the issue of unionization to the forefront among the providers themselves. According to Boyce Slayman, executive director of the Massachusetts Council of Human Service Providers, the council was beset by two opposing points of view. Some members wanted to endorse the process of exploration under way at the McCormack Institute to see if it would "result in getting workers more money" and to see if the new model the union proposed would work. Some wanted the council to oppose the union. As Slayman explained, "In some cases providers had been unionized before, but the members had voted them out," while in others, which had not been unionized, managers and board members believed "that unions invest tremendous resources in keeping bad workers on the job." Furthermore, these antiunion providers refused "to submit to any more rules and regulations than . . . absolutely necessary."

The McCormack Institute Forum "The Future of the Human Services Workforce" was announced in a mailing to a wide variety of interested parties, including providers in the mental health and retardation field, public officials, and academics. The forum organizers were surprised to find approximately thirty agencies represented at the meetings in the fall of 1994 and through the winter and spring of 1995.

Their motivations varied. Many of the providers in attendance shared a concern over the budget freeze and the low wage level of their direct-care workers. Some, like Chuck Howard of Cooperative Human Services, had lost confidence in the capacity of providers "to lobby the legislature to get funding." Some providers who expressed interest believed their competitors were underbidding them for state contracts by paying lower wages. The union clearly appealed to the providers to create a common standard on wages, and to take wages out of competition. Some, as Hubie Jones suggested, were concerned that the union's organizing drive would lead to conflicts that would harm their agencies. One executive director, Larry Urban of the Renaissance Club in Lowell, knew that ten of his workers had expressed interest in unionizing after making contact with organizers from SEIU Local 509. Unlike many employers, he was not worried about the presence of the union organizers in the workplace because "our door has been wide

open” for a discussion of any new programs or ideas. “It was not something I felt was an intrusion, but just part of the open decision-making process that . . . has always gone on here.”

Urban was concerned, however, about the implications of unionization for “the overall operation of the agency.” Since organizing was already going on among direct-care workers in his area, he decided to attend the first meeting at the McCormack Institute to find out what it was “all about” and to discuss a partnership that would not be based on the “traditional model” of adversarial relations in which employers are “compelled to come to the table” by the union. Urban hoped the new-model partnership could have a positive goal of “empowering workers” through improved training and programs to allow them to cooperate more effectively with employers who would have an added advantage of participating in a multiemployer organization that would benefit all partners.

The response to the first meeting of the Human Services Workforce Forum on November 16, 1994, was encouraging to the sponsors. The approximately thirty providers who attended heard a number of presentations, including one by Philip Johnston, regional director of the federal Department of Health and Human Services, and former secretary of human services for Massachusetts. He articulated the widely held view that the low salary levels of direct-care workers in the field had caused a major crisis for human service agencies and their clients.

Jones thought that “the first meeting went very well” because there was “straight talk from human service providers” who had felt burned by “some union tactics and behavior.” Providers expressed their concerns over the union’s campaigns against privatization, its efforts to expose contractor abuses, and what some employers believed to be the protection of incompetent workers under union contracts. But they also made it clear, said Jones, that “if they didn’t work out some collaborative way of embracing each other, they were going to kill each other off.” Furthermore, “they weren’t going to get anywhere with the legislature in terms of getting more money.”

A summary of the first meeting listed the following issues as the main topics of discussion: first, the hostile political climate for providers and workers alike; second, the efforts of the governor to pit state workers against privatized workers; third, the negative publicity generated by hostile infighting among human service interest groups; fourth, the level of funding of mental health and retardation budgets leading to lower wages, fewer benefits, higher turnover, and low morale.

The meeting reached a decision that the infighting within human services had to stop and that “the only way to increase fiscal and political support, and improve working conditions, is to organize a new model of provider-worker cooperation.” One model proposed by Local 509 was that the union represent all private workers and negotiate one contract on their behalf, which would also increase the bargaining power of the union with the state legislature and allow providers to organize together more effectively. The main problem with such a model was that it required trust from both sides, and some providers expressed the view that collective bargaining was adversarial by nature and promoted distrust; thinking that conflict might produce strikes, they wanted no-strike clauses; they also believed unions defended workers “to the hilt” in grievance procedures and placed management at a disadvantage. The providers’ concern that union contracts and grievance procedures protected incompetent or abusive workers surfaced as a serious issue and would remain so.

Over the course of this meeting and those that followed, the union’s representatives

offered their new model of labor-management cooperation and pledged their formidable political influence to the campaign to raise wages. The union expressed deep concern with providers who made serious efforts to dissuade their employees from joining unions; therefore, Service Employees International Union participants wanted to know whether employers would enter an agreement to remain neutral while the union approached employees, allowing them to choose for themselves.

The mood created by the forum in the fall of 1994 encouraged hopes that the process could move from tentative overtures to real commitments. Jones extended an invitation to use the McCormack Institute as a meeting venue and offered to broaden the efforts he, Frank, and Werby were making to facilitate the process.

The forum decided to create two subcommittees, one to work on a model agreement and the other to focus on a strategy to lobby the legislature for the first increase in Mental Health and Mental Retardation funding in seven years. However, disagreement between the union and the providers led to the dissolution of the second subcommittee, and the union pursued its own course in lobbying for the increase during the spring of 1995. The union and the providers engaged in separate lobbying to increase funding for human service employees. The overall effort, which joined that of human service advocacy groups, led to an important public policy debate on the consequences of deinstitutionalization and privatization.

In 1993 the administration of Governor William Weld issued a report praising the "dramatic savings" resulting from the privatization of human services. Yet the privatized workers who staffed deinstitutionalized, privatized services still suffered from frozen wages. Emphasizing this paradox, human service advocates convinced the governor to support an increase in funding directly targeted to wages for direct-care staff in residential programs. Weld recommended a \$15 million increase in compensation for these workers in his proposed budget for fiscal 1996 but did not lobby for it.

When the House Ways and Means Committee cut the increase from the budget, the public policy debate took place very briefly. Committee chairman Representative Thomas Finneran argued that the legislature could not earmark funding for privately run agencies working under state contracts because it would "cross a line" between public funding and public control; in effect, such a provision would violate private owners' rights to determine wage levels for their employees. Responding to the cut, the *Boston Globe* editorialized the following day that "modest raises for these workers are essential if the state departments of Mental Health and Mental Retardation are serious about providing quality care in humane settings, the goal of institutionalization." Rejecting Finneran's view that public financing of human services did not permit public decision making about working conditions, the *Globe* editorial maintained: "The state, the sole buyer of these services, cannot escape accountability just because workers are employed by nonprofit agencies."²⁵ This view mirrored that of the union and those private providers who lobbied for an increase in wages for direct-care workers.

In any case, an important public policy question had been raised and debated: in an era of entrepreneurial government, namely, Will public funding decisions include policies and practices that affect the workforce, and will private employers who contract with the state be accountable to government as the ultimate employer?

An existing public policy requires the state to set wages for private employees on state and federal construction projects where the "prevailing wage" rate and other labor regulations are required. Some public policy advocates concerned about the expansion of low-wage jobs in the service sector, including the human service sector, have urged

the Clinton administration to develop a new social contract that would include these workers just as the Roosevelt administration created a social contract with private-sector employers and unionized industrial workers in the New Deal era.²⁶

The idea of joint lobbying remained an important part of the union's case for creating a new partnership and for extending the precedent of minimum wage and prevailing wage laws to the privately employed human service workforce. Sandy Felder believed that the legislature might look more favorably on a salary increase for direct-care workers if labor and management presented a united front.

As the forum discussions continued, the word spread rapidly throughout the human service world and, according to Hubie Jones, providers kept well informed on the discussions. Ultimately, "the human service providers of power and substance" would need to be part of a successful partnership, but their absence did not discredit the process. They knew what was going on at the table, Jones explained. "We had their attention even though they were not there in the room."

On two occasions, the Massachusetts Council of Human Services Providers' newspaper carried front page reports of the McCormack Forum, which led some members to criticize council director Boyce Slayman for giving the union too prominent a place in council affairs. According to Slayman, one group wanted the council to "take a very clear, firm antiunion posture," but there was another group who wanted "the council to explore and investigate."

During the early months of 1995 the forum discussion led to substantial work in drafting the basis for a cooperative agreement or partnership. A Model Committee developed a document that set out issues to be addressed in contract negotiations. Once some providers became convinced that the union could indeed "add value" to their workplace, they wanted to forge ahead to contract negotiations. However, the union was careful not to undertake any actual bargaining in advance of recognition by the workers. It did, however, orient the providers about the negotiation process and discuss what kinds of topics could be brought up in bargaining.

The Model Committee's first draft agreement included eight principles intended to be the basis of an agreement that private providers would be asked to sign. It pledged that the parties engaged in developing the agreement would not "publicly attack each other" during the process, nor would the union publicize the participation of any agency in the process or single out any participating agency for an unusual effort to organize its employees. A critical point, number 5, required that providers not take a position on the issue of unionization so that its employees could "form their own opinions, pro or con, free from fear of retaliation. Point number 6 allowed for any party to terminate the agreement at any time with notice to the other." That first draft, facilitator Elaine Werby recalled, afforded the parties a chance to learn how to talk to one another and how to handle the most controversial issues.

The Model Committee moved ahead and produced another draft document in April. At this point, Werby pointed out, some of the wrangling over formal, legal issues receded as an atmosphere of greater respect and trust emerged. This draft proposed a consortium of providers who would sign an agreement to cooperate with the union and with each other on a whole range of issues. This fascinating document took another approach to the key question of employer neutrality during the unions' organizing efforts. The proposed language stated that employers would regard union organizing "with the same spirit of neutrality in which the present providers participate [that is, in the Human Services Workforce Forum]."

The proposed agreement addressed some difficult issues raised by federal labor law about the process of labor-management cooperation prior to the actual signing of a collective bargaining agreement. The draft indicated that nothing in the cooperative arrangement, especially specific terms of wages, hours, work rules, and so forth, could be negotiated until workers voted for representation by a union.

The proposed model agreement identified those issues to be “jointly decided” by management and labor and clarified the prerogatives of each party. It recommended worker participation in decision making at the agency level, and “client involvement in decision making about workplace issues.” The document also proposed a provider/union training and recruitment fund. In addition, it identified management rights, including “business decisions” such as expansion and contraction, standard for intake of clients, codes of ethics and behavior, and “all practices not specifically identified in consortium agreements.” One employer’s expression of great concern about the right to discipline, suspend, or terminate employees provoked much discussion; providers complained that unions defended all grievants, including taking cases to costly arbitration hearings. The proposed agreement reflected the union’s willingness to engage in new approaches to “fair problem solving,” which allowed for alternatives to the “standard contractual grievance procedure.” Indeed, the parties envisioned recourse to such a procedure “only if the agreed-to procedure has not been fulfilled.” Facilitator Murray Frank believed that this was a crucial sign of flexibility on the part of the union.

The agreement established terms under which the union could contact workers at the participating agencies without opposition or harassment by agency management or board of directors. Significantly, the agreement required providers to recognize the union if a majority of workers elected to join by signing cards. To avoid the long delay between the organization drive and the official election of union representation, the agreement included card-check certification. Workers would sign cards indicating their choice of Local 509 as bargaining agent, and the cards would be held and counted by a neutral third party that would follow agreed-on procedures to validate and tabulate the signatures. The Catholic Labor Guild in Boston, which has promoted union education and labor-management cooperation for decades, was chosen to fill this role. (The guild often conducts union elections and card checks as an alternative to the NLRB.) If a majority of workers signed cards, the parties agreed to negotiate a multiemployer contract, thus avoiding the common problem of employers’ refusal to negotiate a first contract.

Once the Model Committee completed its report, the next step was to move into the recognition process. Five provider agencies initially decided to go forward. One soon dropped out because its director became seriously ill and no replacement was sent to this group. The four who continued to meet into the fall of 1995 were Michael Haran, executive director of the Cambridge and Somerville Cooperative Apartment Project (CASCAP), Cambridge; Chuck Howard, executive director of Cooperative Human Services, Malden; Tom Riley, executive director of Better Community Living, New Bedford; and Larry Urban, executive director of the Renaissance Club, Lowell.

During the fall the providers who remained in the process decided to retain a lawyer to help formulate their position. Attorney Frederick Misilo had served as assistant and deputy commissioner of the Department of Mental Retardation and as the executive director of a unionized human service agency. He represented a number of nonunion providers opposed to collaboration with the union, but he was quite open to the notion of facilitating a partnership with Local 509 and interested providers. Beginning in early

September, Misilo began offering the active providers legal counsel on “reaching some sort of an agreement regarding how to allow SEIU to communicate with their employees.”

To Misilo the proposed partnership seemed to hold out the promise that workers could stay in the mental health and retardation fields and do good work, “to view working with people with disabilities as a career,” not as “transitional” employment. For this to happen, working conditions and economic benefits would have to be “significant enough” to attract workers to the field as a career. Until Misilo became involved, the providers lacked the ability to negotiate with the union as a unified group. During the fall, they, like the union, formed a united front, and discussions moved to the negotiation stage more quickly under the guidance of mediator David Matz, a University of Massachusetts Boston professor who directs the graduate program in dispute resolution.

The dialogue focused on a number of outstanding issues, including the welfare of consumers in a future partnership. The agency directors emphasized the importance of a workforce responsive to particular and constantly evolving needs and circumstances that consumers present through different phases of development in their lives, relationships, and skills. In many cases boundaries are blurred — consumers in some cases do paid work for the service provider and are eligible for union membership; some consumers live with foster families who are compensated for their expenses, while others live in group homes with staff that changes with every shift or is only on site at certain times to assist with certain activities like cooking or shopping. Consumers often need care tailored to their particular needs, so both workers and providers face a major challenge in meeting those needs, offering them an exciting opportunity to exercise creativity and insight.

Several providers make conscious efforts to involve consumers in decision-making processes ranging from choice of everyday activities to agency governance. The providers’ attorney expressed the concern as follows: “The consumer should be at the table with the employers and employees in the negotiating process.” The interest of the consumers should “serve as a focal point to the definition of the employer-employee relationship.” This is “what brings the employer and employee together,” unlike an “auto factory where the goal is to make a machine.” If, Misilo maintained, the interaction between employee and the consumer “is dominated by the employees’ concerns and all the things that are traditionally part of a collective bargaining agreement, then the consumer is potentially shortchanged.” He added, however, that a previous agreement reached between the state and the employees’ alliance recognized that consumers “have an important and vital part to play in the negotiation process and the collective bargaining agreement.”

Sandy Felder, having been part of the state labor negotiations that empowered consumers, argued that consumer interests could be protected in a collective bargaining framework. She and other union participants in the process emphasized their respect for the needs of consumers and their families and the desire of these people for control over significant aspects of their own lives. The rights the unions achieve for workers should not negate consumers’ rights, according to Felder. She believes that consumers should have input into hiring and assignments as long as the worker has due process in personnel actions like discipline and termination.

Although some of these larger issues remained unresolved, the parties moved in November toward an agreement based on the April Model Committee Report. Four providers signed the final version of the partnership agreement on December 14, 1995.

To John Sweeney, the president of SEIU, newly elected to the presidency of the national AFL-CIO on a reform program, the creation of a new partnership signified a new environment for cooperation in which a "mutually beneficial peace can grow." Edward Malloy, who succeeded Sandy Felder as president of Local 509, offered his support and emphasized the precedence of the agreement that "allows workers to decide whether they want to unionize without any influence from their employer."

Consequences

In January 1996, SEIU Local 509, with financial support from the international union, sent out organizers to contact the employees of the four providers who had formally agreed to remain neutral. The December agreement provided for access to workers by union representatives on nonwork time, but when the organizing drive began, negotiations were required to sort out what access would mean. One agency did not allow union organizers in the group homes during breaks, arguing that consumer privacy would be violated. In any case, the union gained access to work either through the workplace or home visits. In February a sizable majority of workers signed cards requesting representation by SEIU and another group in a third agency followed suit in April. However, difficulties ensued in CASCAP as the union accused the director of failing to honor the neutrality provision of the December agreement. The union petitioned for an NLRB election at CASCAP, and on May 10, 1996, the union prevailed by a single vote.

That month Michael Gallagher, the SEIU staff person consistently involved in the 1995 negotiations, submitted a grant to the Federal Mediation and Conciliation Service (FMCS) to fund the partnership and provide staff for the consortium to facilitate cooperation between labor and management. Negotiations between the union and the four providers began in the summer of 1996, with the grant proposal designed in part to help facilitate the process and promote "interest-based bargaining" — a more cooperative approach to bargaining — instead of "position-based bargaining" — the adversarial approach in which each party begins negotiations with a list of explicit demands. In October 1996 the partnership received the grant from the FMCS and in 1997 hired staff persons to facilitate the cooperative work.

The formal negotiations between the union and the providers have not yet produced a master agreement. It has been difficult to agree on a common set of wage provisions for agencies with different workforces located in different parts of the state and with different funding sources and vastly different wage scales determined by local labor markets. Without the participation of many more agencies and employees, bargainers have been unable to realize the economies of scale first envisioned. Even pooling the costs of employee benefits has been difficult because insurance rates vary from one area to another.

What are the prospects for extending the partnership forged in 1995? Boyce Slayman of the Providers' Council is sympathetic to the need of the workforce for adequate compensation, benefits, and good working conditions, but he said that many providers reject the way they think unions conduct business. Many want to wait to see the outcome of the union's innovations in labor-management relations. Slayman believes the discussions of a "new model," a "non-aggression pact," means "just laying down the weapons, not fighting." But he is still not sure that the agreement is "truly a new kind of partnership." The Service Employees International Union has traditionally represented

state workers and, he said, "there is no history of the SEIU expressing concern for the what Boyce Slayman called "the providers' fears that ultimately there will be more energy spent on grievance processes for bad employees than there will be on innovative models of care delivery." Chuck Howard agrees that the union has had difficulty selling its new model to agency managers who believe that a labor contract will prevent them from getting rid of "people who abuse people or don't treat them with respect." This, he thinks, is the union's main liability. The employers can help the union, but it has "to shed that skin" in order for the process to move on. Howard remained active in the forum after some providers left because he saw real possibilities of labor-management cooperation in other sectors of the economy, which allowed both employers and unions to improve.

The future of the partnership and its approach to new providers depends, among other things, on addressing the problem of discipline and termination in the workplace — to put it negatively — and staff development and improvement — to put the issue positively. Ultimately, both labor and management agree that the human service field offers a chance to create a new, less adversarial model of labor relations. Mediator David Matz argued that providers should accept the inevitability of conflict in the workplace and seek effective means of resolving disputes over employee performance. SEIU spokesperson Nancy Mills agreed and offered to present "ten different examples" of how contracts could be written to enhance flexibility and accountability, improve performance, and allow for just-cause terminations. "We can devise processes that don't put the union in the position of defending the worst, but we're concerned about fairness and due process." In most union contracts a just-cause principle strikes a balance between the interests of management and labor because such a clause can be used to hold "management to a high standard of consistency" and to avoid arbitrary terminations and punishments. The old model of labor conflict over discipline and discharge cases could be transcended, Mills maintained, but those innovations would have to be "joint solutions" emerging from real contract negotiations.

The providers' legal counsel, Frederick Misilo, thinks the big question ahead lies with the other employers, like those he represents who are still "zealously opposed to collaboration." But if the focus turns to workforce development, he thinks there are opportunities for cooperation even though public employee unions are still not popular. "There is a great deal of insecurity" among human service workers. "This large workforce out there . . . does not have pensions and [is] not in a large enough pool to buy long-term insurance," he adds. "People who are working in . . . human services shouldn't be forced into poverty."

Larry Urban hoped a partnership could improve "the identity of the whole human services field." There are some 1,200 providers whose identity as a group is not well defined in the public's mind. And, he adds, there is the lingering "stigma" attached by the public to those who worked in the field of mental illness and mental retardation. So a partnership with the union "may provide a vehicle for finally making some real impact on the public and legislative perception of what human services are all about" as well as "providing some base for the funding of these programs."

SEIU Local 509 followed through with its commitment to seek salary increases for direct-care workers in private agencies, even though very few of those workers belonged to the union. In 1995 its efforts in the legislature focused on creating an enforceable minimum wage for direct-care workers. The legislature ordered a study of the wage rates in the industry, which appeared in January 1996 and recommended a \$12 million

increase in compensation for direct-care workers earning less than \$20,000 per year. The governor proposed this increase in his budget, and thousands of direct-care workers received a 4 percent raise. The union had helped to raise the issue of compensation for privately employed direct-care workers' wage in the legislature. Eileen Haggerty, the director of the SEIU Community Care Workers Campaign, believes the legislative campaign made this group of neglected employees far more visible to lawmakers. In her view, the traditional lobbying by the providers aimed at increasing human service funding without explicitly identifying the needs of the workers. Minimum wage laws are, of course, traditionally supported by organized labor, notably in Massachusetts, where the legislature increased the minimum wage in 1996 over the governor's veto. However, the legislative campaign for direct-care workers represents a risk for SEIU Local 509, namely, that the workers who receive wage increases through legislation will be less responsive to the union's case that workers need collective bargaining and union representation to improve their situation.

It is too early to know whether the Service Employees International Union will benefit from the legislative approach to wage improvement. Indeed, it is too soon to tell whether the Partnership for Quality Care will be able to create a lasting multiemployer agreement with a union or whether that approach will draw other providers into a relationship with the union. Resistance to unionism remains strong among many agency heads. In New Bedford, for example, where SEIU Local 509 has been organizing human services agencies, the union filed numerous unfair labor practice charges against one employer that was held responsible for illegal labor practices by the National Labor Relations Board.

Whatever the fate of the experimental model proposed by SEIU Local 509, workforce problems will increase in the privatized human services, especially as it is affected by cost cutting and other practices required by managed care. The head of the largest private human service agency in Massachusetts, a strong foe of unions, has argued that cost savings are essential to the health of the industry, which should embrace managed care.²⁷

The managed care trend is supposed to increase consumer choice and lower costs, but it also drastically affects the quality of care provided by human service workers and the conditions under which they provide that care. Pressure to degrade professionals, de-skill occupations, reduce benefits, and expand part-time employment will no doubt be accelerated by managed care as part of the drive to cut costs and increase productivity. There is some movement toward unionization of doctors and other employees of health maintenance organizations affected adversely by cost cutting and other results of managed care. Doctors who are employees rather than private practitioners have increased from 24 percent of the medical profession to an estimated 42 percent; some of these physicians are choosing union representation and collective bargaining because they are frustrated "at their loss of decision making" and from new demands like "gag rules that restrict what doctors can tell patients about treatments to the practice of releasing patients hours after surgery."²⁸

Similar responses to managed care are appearing in human service agencies. Representatives of SEIU Local 509 have been emphasizing the problems of human service workers' facing the impact of managed care. In March 1996 the union was approached by a group of human service professionals who were discontented with the pressures caused by managed care. The clinicians at the Tri-City agency in Medford, Massachusetts, led an effort to unionize, and a year later a majority of the agency's 270 employees chose

SEIU Local 509 in an election supervised by the NLRB. This is a traditional example of one group of employees organizing one employer and then negotiating its own contract, which may involve a historic adversarial relationship between workers and employers. Unions like Local 509 will continue to represent workers in these situations, but it is unlikely that the bulk of the growing low-wage workforce in the human service industry will be represented as a result of organizing and bargaining based on single units or agencies.

The partnership created by SEIU Local 509 and four providers attempted a different, cooperative route. It seems unlikely, however, that this new model can survive and expand without supportive public policies. In 1933 federal labor legislation, the National Industrial Recovery Act, demonstrated how public policies could be developed to provide codes affecting minimum wage rates and conditions of employment so that small employers were not forced to keep wages low and reduce benefits in order to remain competitive. When the Supreme Court ruled the NIRA unconstitutional in 1935, Congress enacted the National Labor Relations Act to provide federal support for union representation and collective bargaining for private employees. And in 1936 Congress adopted a public policy based on the principle that private employers receiving public revenues could be regulated by the government: the Walsh-Healey Public Contracts Act (sponsored by a senator and a congressman from Massachusetts) extended federal regulations, including hours and other terms of employment, to employees working on government contracts.

Like the New Deal federal labor policies, public policies at the state level could promote collective bargaining and interest-based negotiations by ensuring that workers have a chance to be represented. For example, in the spring of 1997, SEIU Local 509 filed a bill in the Massachusetts Legislature to remove any disadvantage in bidding for state contracts from employers engaged in collective bargaining with their employees. The bill — House 2118, Senate 587— also proposed increased pay for longevity, to decrease turnover, and better pay for night-shift workers.

But public policies could do more than regulate wages; they could promote workforce development by encouraging the creation of joint efforts to solve workplace problems, to improve employee training, to ensure employee stability, to advance quality care, and to promote the importance and public appreciation of the human services and the workers who provide those services. This study of a labor-management partnership suggests that more can be done to advance the general welfare of the human service workforce with union involvement than has been done without it. If policy-makers act on the assumption that the quality of care will increase only if the quality of work life increases in human service agencies, the partnership described here could well be a prototype for future government-sponsored collaboration. Although many workers in the human service workforce are employed by private agencies, its funding is largely drawn from public revenues distributed by the government. It is therefore legitimate for public policies to shape and regulate the conditions under which that workforce can be fully trained, adequately supported, and fairly compensated. ❧

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Notes

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