LABOR

White coats with blue collars

Squeezed by HMOs, doctors are starting to form their own unions.

By Annette Fuentes

For 10 years, Dr. P. has practiced the kind of medicine he loves at a major medical center's outpatient clinic in New York City. Like his fellow physicians, he was drawn by the center's excellent reputation for urban health care. But his labor of love began to sour in 1995 when hospital administrators, worried about falling revenues, put the squeeze on doctors to increase their productivity. They hired efficiency experts who followed staff around with clipboards, timing patient visits like cars coming off an assembly line.

"They set a specific target for how many patients you should see per hour at four," says the doctor, who prefers to remain anonymous. "They went to an incentive program, cutting our salaries by 10 to 20 percent, which could be restored if you met the productivity levels."

Without physicians' input, the bean counters started changing the roles of clinic employees to the detriment of quality care. Ancillary staff, including social workers, translators and medical-records personnel, was slashed. Medical assistants, who used to take blood pressure and weight, were required to draw blood, a job previously performed by lab technicians. By the spring of 1996, their backs to the wall, the clinic's physicians decided there was only one thing to do: organize a union. The United Salaried Physicians and Dentists, a 500-member union based in New York City, is working with them.

Dr. P. says it may take a couple of years for his core group of 20 doctors to reach a critical mass for unionizing, because many fear being fired or blacklisted. But these union activists see organizing as the only long-term solution to their problems.

They are certainly not alone. Union talk has caught fire among physicians across the nation, as they've seen their authority, professionalism and incomes diminish with the rise of managed-care health delivery and the economic competition it engenders. Health-maintenance organizations and insurance companies are intervening in the practice of medicine—both at hospitals and in private practices—in ways that doctors and patients alike think compromise quality health care.

For patients, legislative remedies—such as recent laws that ban HMOs from limiting hospital stays for maternity and mastectomy patients—offer at least a piecemeal response to HMOs' profit-driven excesses. For physicians, however, old-fashioned labor organizing may be the best way to safeguard jobs and, not incidentally, to defend quality health care—an issue likely to unite doctors and their patients.

"Doctors are being aced out of decision-making by nonmedical people and are trying to deal with the conditions affecting them. Collective bargaining is still the best model," says John Ronches, executive director of the Committee of Interns and Residents, a 40-year-old New York union whose members work in public and private hospitals and other health facilities. With 10,000 members in New York, New Jersey, Massachusetts, Washington, D.C., Ohio, Florida and California, CIR is the largest union of employed physicians. In 1996, it grew by 50 percent, says Ronches. That figure includes 950 resident doctors in a Florida hospital who voted by a 4-to-1 margin to join CIR in the largest union vote ever by doctors.

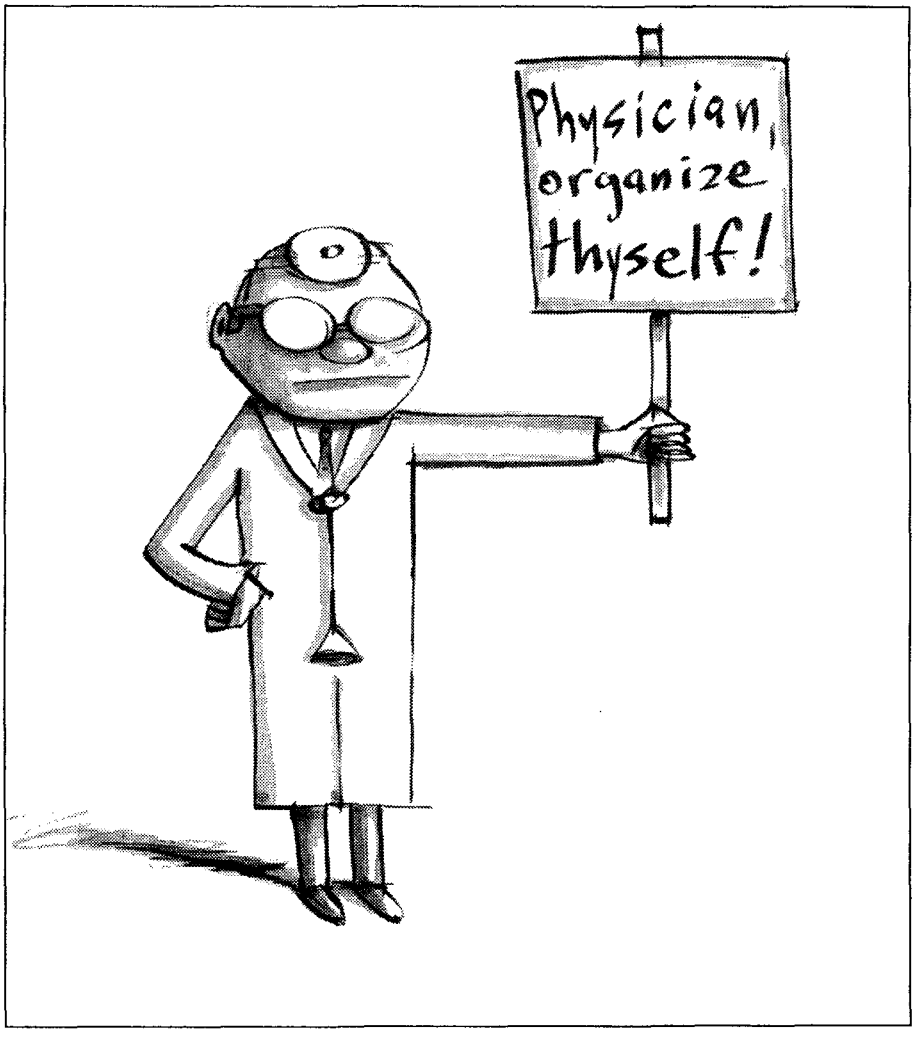
Doctors' burgeoning interest in unions can be attributed in part to the way managed-care health delivery, by turning doctors into employees at an ever increasing rate, is radically reshaping the medical profession. According to a 1995 survey by the American Medical Association, a record 40 percent of the country's 720,000 physicians now work as salaried employees of hospitals, clinics, HMOs and group

practices.

At the same time, fewer and fewer doctors are in private practice. The number of self-employed physicians dropped from 58 percent in 1994 to 55 percent one year later. Perhaps most significantly, 83 percent of all doctors—self-employed or not—had contracts with managed-care companies in 1995, up from 77 percent in 1994 and 61 percent in 1990. Chafing under the restrictive policies of HMOs, even independent doctors feel more like wage laborers.

Doctors' average earnings have taken a dive in the process. A study published last year in the journal *Health Affairs* found that doctors' incomes fell 4 percent between 1993 and 1994—the first time they've dropped since 1982, when such statistics were first collected. Averaging $187,000 in 1994, doctors' salaries are still among the country's highest. Yet the unstoppable trend to HMO employment means doctors can expect to see their average earnings continue their downward march. The AMA survey points out that self-employed physicians earn 50 percent more on average than employee doctors. Though hardly a plight comparable to that of sweatshop workers, the threat to doctors' incomes helps spark unionization.

However, for many union supporters, money is not the overriding issue. "Most doctors are working stiffs in a very regulated industry," says Barry Liebowitz, president of the Doctors Council, which represents 3,300 physicians and dentists employed at public and private New York hospitals and clinics. "The question is no longer one of diminishing earnings, but can they be free enough to practice medicine as they learned it? Can they retrieve their professionalism?"



Liebowitz's members constantly complain that managed-care companies keep monthly tabs on the prescriptions they write and the referrals to specialists they make. "It hampers your ability to offer sound medical treatment," Liebowitz says. For the 142 doctors at the Thomas-Davis Medical Centers in Tuscon, Ariz., who took the first steps toward unionization last summer, the issues spanned financial and professional concerns. Doctors at TDMC saw their decision-making powers whittled away soon after selling their practice to a Sacramento, Calif.-based HMO called Foundation Health Plans in 1994. Last year, they learned the HMO planned to fire 17 physicians and 33 medical assistants and to reduce malpractice-insurance coverage from $4 million per doctor to a $10 million aggregate policy for all. Doctors leaving the clinic would have to shell out $40,000 for their own "tail" coverage: malpractice insurance to cover any future claims against work they performed during their employment at the clinic.

The TDMC doctors hooked up with Dr. Robert Osborne, a private-practice anesthesiologist from Tucson. Osborne began researching unions last spring as the only way to confront the growing clout of managed-care companies. "Where is the balance in the system when HMOs and insurance companies have all the power?" asks Osborne, a self-described fiscal conservative and Republican who enjoys the irony of his being involved in labor organizing. "The issue in this health care arena is going to come down to profit vs. good health care."

Within weeks of meeting with TDMC doctors, Osborne had 90 authorization cards and filed for recognition with the National Labor Relations Board as a local of the Federation of Physicians and Dentists, or FPD, a Florida-based union founded eight years ago. At a hearing last fall in Phoenix, the HMO's attorneys argued that the physicians could not form a union because they were essentially managers and supervisors. But the doctors countered successfully that without the power to hire and fire, they were no more than employees. In

November, the NLRB issued a 28-page decision in their favor, and two months later doctors voted 93-32 to be represented by the FPD, which is an affiliate of the American Federation of State, County and Municipal Employees.

The organizing drive hasn't stopped there. On February 13, TDMC employees—including licensed practical nurses, medical assistants, office workers and medical-records personnel—voted 225-177 for unionization. The last remaining group of unorganized workers, registered nurses, plans to file with the NLRB for an election in the next few months.

The union's victory in Tucson has riveted the attention of labor and medical professionals everywhere. Many see it as a blow to the unfettered power of managed-care companies. But there is at least one major hurdle to clear before doctors from Nome to Nashville start paying their union dues.

The Tucson doctors, like the Doctors Council and CIR members, are obviously and unambiguously employees. But the majority of doctors—the 55 percent who are self-employed—are forbidden territory for union organizers. Federal antitrust law prohibits such physicians, who are considered independent contractors, from engaging in collective bargaining to set fees. The Federal Trade Commission, which enforces antitrust law, has taken a hard-line approach to physicians' attempts to organize.

The Doctors Council was poised in 1993 to form a national union called the American Federation of Doctors, with 10,000 members in Massachusetts, Hawaii, Colorado, California and New York, when the FTC issued an antitrust warning against the Colorado branch. The other chapters disbanded soon after. Liebowitz, however, is optimistic that antitrust laws are beginning to loosen and will ultimately allow even independent doctors to organize. He points to the example of truck drivers who, although independent contractors, are organized by the Teamsters. For now, though, the Doctors Council has accepted the limits laid down by the FTC. "I'm not going to fight a war that hasn't come down yet," he says.

Some unions, though, see the vast potential in organizing hundreds of thousands of dissatisfied doctors as too promising to ignore. Antitrust laws or not, these unions are aggressively pursuing doctors. The FPD, based in Tallahassee, Fla., has made a splash in the national media with reports that it is expanding its membership among doctors with managed-care company contracts. Jack Seddon, FPD's executive director, claims 2,500 to 3,000 members, mostly in Florida. Only a few hundred, however, are doctors; others are service-sector employees. And while Seddon says the FPD has negotiated contracts with HMOs that protect doctors from gag orders (which prohibit doctors from disclosing HMO policies to patients) and deselection (canceling a doctor's contract), the organization can't negotiate wages. When it comes to private-practice doctors, the FPD is less a union than a pumped-up professional association that can advocate for members, offer contract advice and apply political pressure.

Like all organized labor, physicians unions encompass a spectrum of politics and philosophies. Older, established organizations, such as CIR, its sister group United Salaried Physicians and Dentists, and the Doctors Council, represent doctors and doctors-in-training who are clearly employees. Those unions unabashedly embody the traditions and practice of trade unionism, with its clear definitions of labor and management and its willingness to use job actions as leverage.

Unions spawned in the current environment, especially among doctors who've been self-employed, aren't likely to be as militant. One example of the new breed is the First National Guild for Health Care Providers of the Lower Extremities, unveiled with much fanfare in October 1996 as the first national organization of doctors. Pennsylvania podiatrist John Mattiacci spearheaded the union to counter the clout of managed-care companies. But like the FPD, it cannot conduct collective bargaining for its independent members without violating antitrust law. At the press conference announcing its launch, Mattiacci made clear that his union would have no part in striking.

Strike policy offers a litmus test of sorts for doctors unions. Any job action would seem at odds with doctors' sworn duty to care for the sick and with their own image as a privileged elite more at home on the golf course than the picket line. When Canadian doctors staged a one-day walkout in December, they left no doubts about where they stood. Their action sent shock waves through the U.S. medical establishment. The AMA, which has an adamant no-strike policy, called the walkout unacceptable. The FPD's Seddon says strikes have been declining in the last 20 years as a useful tool, and that "physicians are not going to place themselves in a position of denying care to patients." Osborne, flush with victory in Tucson, concurs: "We cannot ever strike. Strikes should be publicly disavowed. If you reach an impasse, you go to arbitration." Osborne insists that the government would intervene to proscribe strikes if physicians tried to use them.

The Doctors Council, by contrast, not only talks the talk, but was willing to walk the walk in 1991 when contract talks stalled between New York City's hospital agency and Doctors Council members at a Brooklyn public hospital. Their strike was the first by attending physicians in the country, sending 300 doctors to the picket lines. Doctors continued to provide emergency and intensive care, and after two days, the union won a salary increase and restoration of funds for orthopedic services. The hospital agency also agreed to create a committee of doctors and administrators to review patient care and fiscal issues.

Doctors Council head Barry Liebowitz thinks established medicine's distaste for job actions is an anachronism. "The AMA's policy of no strikes may have been fine before medicine underwent a revolution," he says, "but not now." ◀

Annette Fuentes is editor of *Crítica: A Journal of Puerto Rican Policy and Politics*, published by the New York-based Institute for Puerto Rican Policy. Her last article for *In These Times*, "Slaves of New York," appeared in the December 23, 1996, issue.

POLITICS

Wayward Willie

San Francisco mayor and media darling Willie Brown has let his progressive constituency down.

By Randy Shaw

When San Francisco Mayor Willie Brown took office in January 1996, hopes ran high among the city's progressives. Brown's national stature and media visibility gave him a platform for implementing an urban agenda that could be held up as an alternative to those of such big-city mayors as Rudolph Giuliani, Richard Riordan and Richard Daley. While some were uncomfortable with Brown's reputation for backroom deals, others saw Brown as a politician who knew how to get things done. For all his corporate fundraising and reputation for putting style before substance, Brown's leadership, political skills and faith in activist government sharply contrasted with the mushy centrism of Bill Clinton's New Democrats.

Brown's 30-year political career prior to becoming mayor should have planted some doubts. Elected to the California State Assembly from San Francisco in 1964, Brown became renowned for his fancy clothes and sports cars—as well as his liberalism on social issues such as gay and lesbian rights. Brown financed his expensive tastes by serving as an attorney for San Francisco developers, often appearing before city political bodies on his non-Assembly time. In 1980, Brown became assembly speaker after beating out then Assembly member and current U.S. Rep. Howard Berman in a bitter leadership fight. During his record 14-year tenure as speaker, Brown raked in massive corporate and special-interest donations, particularly from the tobacco lobby. Brown's statewide focus from 1980 to 1994 distanced him from San Francisco's emerging battles over homelessness, rent control, neighborhood preservation and downtown development. When Brown did get involved, he invariably sided with development and real estate interests.

Brown's corporate connections would seem to make him an unlikely ally for progressives. His supporters, however, argued that Brown used his fundraising to win elections and maintain Democratic control of the state legislature during a period—from 1983 to the present—of Republican governors. They asserted that the state Democratic Party's increasing reliance on corporate funds was part of a national trend that could not be blamed on Brown, and that, furthermore, Brown had to pursue a moderate course in order to preserve the support of his Assembly colleagues. Despite the obstacles, Brown strongly supported education, affirmative action, labor unions, and lesbian and gay rights throughout his time as speaker.

As mayor, Brown has had the power and capacity to carry out a bold policy agenda. San Francisco's mayoralty has control over virtually all city departments, and a majority of the 11-member Board of Supervisors endorsed Brown's candidacy.

Brown hit the ground running. During his January 1996 inaugural address, he surprised the crowd by appointing Robert Demmons, an African-American firefighter, as his new fire chief. Demmons was the leading force in a decade-long legal battle challenging racial and gender discrimination in the overwhelmingly white male fire department. His appointment as chief was a stirring symbol of racial progress that brought tears of joy to the eyes of many in the inauguration crowd.

Brown then named the city's first Asian-American police chief and two African-American deputy chiefs in a sharp break with the past. Although endorsed by the Police Officers Association, Brown had vowed during his campaign to improve relations between the predominantly straight, white police force and the city's large minority and gay and lesbian populations. Brown's installation of a young, diverse leadership team was an essential step toward this goal.