

## **Statement of Brenda Crawford**

### **Before the Subcommittee on Health, Employment, Labor, and Pensions U.S. House of Representatives**

#### ***H.J. Res. 29, Providing for Congressional Disapproval under Chapter 8 of Title 5, United States Code, of the Rule Submitted by the National Labor Relations Board Relating to Representation Case Procedures***

**March 4, 2015**

Good morning, and thank you Chairman Roe and Ranking Member Polis for the opportunity to appear at this hearing. My name is Brenda Crawford. I have been a registered nurse for 27 years, and have worked at Universal Health Systems, Inc. (Company) in Murrieta, CA for the past 21 years. I am here today to share mine and some of my colleagues' views in support of the National Labor Relations Board's Final Rule on representation procedures.

In 2013, I participated in an organizing drive to form a union with my fellow registered nurses. A majority of the RNs signed cards supporting the United Nurses Association of California/Union of Health Care Professionals (Union), and eventually the Union filed an election petition. All we wanted was to have a fair opportunity to vote on whether or not to form a union. However, it became clear to us that the NLRB's election procedures were rife with opportunities for employers to create delay and uncertainty.

The Company had recently insisted in another, nearly identical bargaining unit on a pre-election hearing to argue that charge nurses were supervisors. We knew the Company would raise the same argument in our case. Charge nurses, who help to facilitate the floor operations, made up only a small percentage of the bargaining unit we sought. We thought they belonged in the bargaining unit, so they could exercise their rights with the rest of the RNs. But we also knew that if a hearing was held to determine whether or not the charge nurses were supervisors, the resulting litigation would delay our chance to vote for weeks.

The organizing committee had to make a difficult decision. We could either go ahead with the hearing and have the election significantly delayed, or we could agree to the Company's position that these workers were supervisors and thereby lose workers who really should have been in the union. We ultimately conceded the charge nurses so as not to hold up the election any longer than necessary.

Under the NLRB's current election procedures, employers have an unbalanced ability to demand when and how an election takes place. In our case, the Company had the leverage of forcing a hearing on the small issue of charge nurses. To avoid the delay caused by litigating this small issue, the nurses were forced to give up the rights of those charge nurses. And that was not the only concession we had to make. The Union had to agree to the election date the

Company wanted, again to avoid the need for a hearing. We had to agree to an election date that was a month and a half after the petition was filed, even though there were no longer any issues that needed to be decided for an election to take place earlier.

The NLRB's Final Rule will allow the parties to approach elections on a more even-footing. The new rules give Regional Directors the discretion to defer questions of individual eligibility and inclusion for small groups of workers until after the election. In our case, that means the charge nurses could have voted challenged ballots, and their status would have been resolved only if it would have affected the outcome of the election. This removes the Company's leverage to force a pre-election hearing to unnecessarily litigate these types of small issues, and would offer greater protection for the rights of workers.

The NLRB's Final Rule would also improve the Union's ability to communicate with workers in a proposed bargaining unit. From before a petition for election was even filed through the date of the election, the Company ran a relentless anti-union campaign. The Company communicated anti-union messages to us daily, on every shift. My fellow nurses and I were taken off patient care constantly to attend anti-union meetings. The Company would send anti-union propaganda emails to the nurses, and even sent anti-union text messages to the nurses' personal cell phones on off work time. The Company's anti-union campaign created a great amount of stress among the RNs, whose main concern was patient care. This stress was one of the main reasons we decided to concede the charge nurses, so that we could get to an election as soon as possible.

At the same time, the Union struggled to get accurate contact information from the Company. Since the only contact information the Company was required to provide was home addresses, the Union could not communicate with the nurses in the same ways the Company did. Additionally, the Union didn't know shift times or other job information for the nurses, who work 12 hour shifts. Without that information, the Union had difficulty knowing when nurses would be home, or how to avoid bothering them when they had just gotten off shift. For many nurses, ten in the morning is the equivalent of ten at night. If we had more information about the nurses than just their home addresses, we could contact them to set up a time to meet with them.

The NLRB's Final Rule expands the information the Union and organizing committee would receive regarding the workers in the unit. Had we had this information, we would have had a better opportunity to communicate with our fellow nurses, and use the same means of communication that the Company was using.

The Union lost the election. The Company was able to manipulate the election procedure to delay the election date, and could communicate with the workers in a ways the Union could not. These advantages make it very doubtful that the election results were an accurate reflection of the RNs' desire to join together to collectively bargain with our employer.

In closing, I ask that you do not support the Congressional Review Act resolution for disapproval of the NLRB's Final Rule on its representation procedures. The NLRB's changes to its election procedures are modest changes, but necessary to ensure its elections are free and fair for workers.