

SEIU Turning Its Organizing Efforts to Interns, Residents & House Staff - Is Your Hospital Ready?

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Unions are getting more aggressive about organizing residents, interns and house staff working at hospitals. For the last decade, the law has been that medical interns and residents are considered employees under the National Labor Relations Act (NLRA) and have the right to join a union and engage in collective bargaining. *Boston Medical Center*, 330 NLRB 152 (1999). Since that decision, there has been little successful effort to organize this unique group of medical providers. In addition, the entire issue was overshadowed when a Republican-dominated NLRB ruled that university teaching assistants are not statutory employees with collective bargaining rights under the NLRA. *Brown University*, 342 NLRB 483 (2004). Residents and house staff are enough like teaching assistants to put the Board's 1999 decision in doubt. That is no longer the case.

Recently, the SEIU (Service Employees International Union) filed a petition for an election among the St. Barnabas Hospital's **interns, residents and fellows, or house staff**, at its hospital in New York City. The Labor Board's Regional Director directed an election among this petitioned-for group. The Hospital appealed that decision to the newly-composed National Labor Relations Board (NLRB), arguing the NLRB should reject such a petition because so many of the persons involved were like teaching assistants and that the 2004 *Brown University* decision was applicable to this election case.

The NLRB rejected the Employer's claim that it should have considered the applicability of, which found that, noting that *Boston Medical Center* remains the law and that *Brown's* reasoning had not been extended to cases involving medical house staff. *St. Barnabas Hospital* (2-RC-23356; 355 NLRB No. 39) (June 4, 2010).

Given the SEIU's increased efforts at organizing such health care provider groups, teaching hospitals, as well as other hospitals who use house staff, are well-advised to consider what efforts they are making to avoid the possible unionization of this critical component of their health care delivery.