



UNAC/UHCP

United Nurses Associations of California/Union of Health Care Professionals

UNAC/UHCP is affiliated with NUHHCE, AFSCME and the AFL-CIO



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DOL Proposed Persuader Rule Comments **76 Fed. Reg. 36178 (RIN 1215-AB79 & 1245-AA03)**

Founded in 1972, UNAC/UHCP represents more than 20,000 Registered Nurses and other Health Care Professionals, enforcing their federal labor law rights and complying with the United States Department of Labor's reporting rules. We strongly support DOL's proposed rule that would close a loophole that currently allows antiunion consultants to escape the reporting and disclosure requirements of the Labor-Management Reporting and Disclosure Act ("LMRDA"). The proposed rule, issued on June 21, 2011, would appropriately expand the reporting requirements for consultants and employers who engage in "persuader activities" during union organizing campaigns.

For more than 75 years, the federal government has recognized private sector workers' right to form and join labor organizations. This fundamental workplace right is protected in the National Labor Relations Act ("NLRA"). While the NLRA was created with an understanding that there will be greater industrial stability if workers have the right to vote for union representation, there is limited protection for workers to receive balanced and accurate information from employers during organizing campaigns.

UNAC/UHCP has had firsthand experience with the persuader loophole for management consultants. Last year, during an organizing campaign of registered nurses at a hospital in Southern California, the hospital engaged in an aggressive antiunion campaign. We believe the hospital hired many outside consultants to create the extensive volume of antiunion literature that was distributed to the nurses who would be voting in the NLRB-conducted election. One consultant, who introduced herself by nickname only, attended meetings with management and went floor by floor in the hospital alongside management to speak with employees while they were on the clock. The consultant unlawfully threatened employees that they could be fired if they went on strike. Her conduct was the basis of an unfair labor practice charge being prosecuted by the NLRB. Just recently—more than a year after the NLRB-conducted election—the nurses finally learned the identity of this outside consultant. This consultant reported her activities to the DOL, but the information was provided in such a general manner that it did not identify her real actions. Accordingly, we support the proposed revisions to Forms LM-10 and LM-20 that identify specific covered persuader actions, conduct, communications, and information-supplying activities.

Additional outside consultants did not appear on the hospital's DOL reports as they would have fallen under the DOL's current "advice" interpretation excluding consultants who do not have any direct contact with employees, but nevertheless provided to the employer advice or

materials for use in persuading employees. The union therefore was unable to learn the identity of other outside advisors from DOL disclosure reports. The types of disclosures being proposed now would require employers to report information about consultants similar to information that unions are currently required to disclose on various DOL reporting forms, such as the LM-30, LM-2, and DOL Form 5500.

The hospital prevented us from accessing the facility to correct the untruthful information that was being created and circulated by outside consultants. At a minimum and consistent with the spirit of the LMRDA, workers should be able to learn that antiunion activities are being conducted by outside consultants and what their employers are paying these outside consultants during antiunion campaigns.

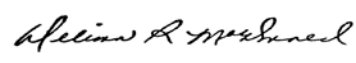
For the foregoing reasons, we strongly support the proposed rule and revisions to Forms LM-10 and LM-20.



Ken Deitz, RN
President



Barbara Blake, RN
Secretary



Delima MacDonald, RN
Treasurer