New York City nurses threatened to strike against the Hospital Alliance—and won

In late fall of 2018, nurses from five private New York City hospitals in three competing hospital systems delivered their contract proposals to management. Born from a protracted gestation of surveying democratic priorities and tracking experiences with the previous contract, a triumphant mood presided at the presentation of the proposals. But no one expected an easy process from these hospitals, notorious for their union busting and connections to dark money.

The New York State Nurses' Association (NYSNA), the independent union belonging to these nurses, represents almost 43,000 nurses statewide and enthusiastically encourages member activity. At the annual statewide convention in December, for the first time, delegates elected by their peers voted on the union's strategic goals and direction, including to advocate for the repeal of the no-strike clause of the Taylor Law, which has stunted the public sector in New York State. (The NYC Health and Hospital system, where NYSNA nurses work, is the largest public health system in the US.)

The roughly 13,000 of NYSNA's 43,000 nurses represented in these NYC private-sector negotiations are still only a fraction of NYC's private healthcare sector. Labor-side negotiating veteran Jerry Brown joined forces with the union to face off against rich anti-labor legal experts with plush Manhattan offices. The employers at the table who hired

them—Montefiore, Mount Sinai, and New York-Presbyterian (jointly named "The Hospital Alliance")—represent three out of four of the largest corporate healthcare entities in the New York City region. Despite retaining non-profit status, they together reported over $11 billion in annual revenue in 2016, with over $600 million in net income.

"Management will not agree to ratios under any circumstance, at any time," the Alliance's lead counsel said on January 3rd, following months of heart-rending, firsthand accounts of the extreme dangers to both patients and caregivers posed by short staffing. For their part, the hospitals refused to admit that short staffing, a chronic condition, existed at all, clinging instead to their "flexible staffing plans." One Chief Nursing Officer claimed that nothing was really wrong with staffing as it was being allocated by Alliance hospitals; instead, the problem was that "the nurses call out sick too often."

In February, after twenty-two negotiating session won nothing more than insults, NYSNA nurses coordinated informational pickets at thirteen sites across the city and rapidly proceeded to a strike authorization vote. With historic levels of turnout, the outcome should have grabbed the Alliance's attention: 97% authorization to strike across all five hospitals.

Instead, the bosses pulled a new trick from their bag: pleading indigence, they claimed that reimbursement rates from low-income patients were at severe risk of imminent state budget cuts. They offered negotiations contingent on the elimination of these cuts, but NYSNA teams wisely refused such terms. No one was fooled, although NYSNA continued to advocate against the cuts on the same grounds that one of the Alliance CEOs himself had earlier stated on record: it was not private hospitals put at risk by these cuts, but rather the public health safety net system which would—and could not afford to—suffer.

In a stroke of magnificent strategy, on March 18th, NYSNA negotiating teams responded by issuing a 14-day strike notice, four days longer than the legal minimum of ten for healthcare strikes. This simultaneously maximized the remaining scheduled bargaining sessions under the threat of an impending strike while counting down the clock to the expected delivery of the New York State budget. Had the teams chosen to rush into a strike before the budget could be finalized, the Alliance could have co-opted the nurses' strike threat as a mere pawn in their budgetary crisis. Worse yet, the nurses' crystal clear "safe staffing or strike" could have been mistaken as a thinly veiled tantrum to fundraise for their own contract.

The fourteen-day notice strategy became crucial again at ten days out, the day on which a legally minimum notice would otherwise have been served. Travel nursing agencies, which source scab nurses, typically demand a hefty down payment at the ten-day mark. Despite the presence of two federal mediators since early January, the ideological gulf between the parties remained as broad as it had ever been. With a new mediator on the scene, the nurses received an offer they had hardly hoped to expect: in exchange for lifting the strike notice, the ungodly sum of money destined for scab nursing contracts would be put toward externally enforceable staffing through ratios and grids, in addition to the Alliance meeting several other key nurse demands; moreover, the nurses would retain their right to strike. Nothing had been sacrificed. The ideological barrier was broken: nurses would have a say in their staffing at last.

While many nurses back on the floors were skeptical that this breakthrough had truly been achieved—a few even seemed disappointed not to take part in the rising trend of work stoppages—the truth was that the threat of over ten thousand nurses going on strike at once had caused a seismic shift in worker power in these facilities. New York-Presbyterian even agreed to cancel an expensive upcoming PR war against safe

staffing similar to the one waged by Massachusetts hospitals leading up to the ballot measure in 2018. Just over two weeks after the strike was called off, all four negotiating teams endorsed a stunning and historic tentative agreement.

What the Alliance had once sternly denied the nurses had been won. Transparency was established regarding current vacancies, which would have to be filled following ratification. A staffing allocation team would be created immediately, giving nurses a voice in safe staffing levels for each unit. These levels would then become an enforceable part of the contract, eliminating the unilateral management right to a staffing shell game through attrition or even sick call outs or leaves of absence. Furthermore, these newly enforceable grids and ratios would be subject to several levels of enforcement, including expedited arbitration terms above and beyond those of the rest of the contract. Under no circumstance would any violation of staffing be protracted in its enforcement.

While these historic landmark wins and the immense sums of money allotted to the hiring of new staff in these facilities earned this tentative agreement an article in the *New York Times*, they were not the only gains made. Other wins include fully retroactive wage increases throughout the four-year contract, pension and healthcare contributions continuing untouched, retirement health benefit improvements both before and after 65, improvements in language for addressing safe patient handling and workplace violence (an enormous, daily risk for healthcare workers), ability to donate sick time to coworkers in need, contractual recognition for those choosing to take leave to participate in disaster relief missions, and management agreement not to retaliate against nurses when filing for pay for their missed breaks or meals, along with a technological tool to be developed to help track such occurrences. Still more wins were made which were specific to each hospital, as each facility continues with a distinct contract. Ratification is currently underway, and when

ratified, this agreement stands to set a liberating precedent for nurses across the country (outside of California, where safe staffing limits are law) who are eager for safer working conditions for themselves and for their patients.

Several other New York City private hospitals in Brooklyn where nurses are represented by NYSNA remain at the bargaining table now. The public NYC Health and Hospital system nurses (whose negotiating catchphrase is aptly “healthcare justice for the other New York”) are also in bargaining, and may experience distinct challenges in their contract campaign. All of these facilities continue to appreciate support; the Facebook page “We Stand with NYC Nurses & Patients” is one way to share messages of solidarity. Thank you in advance!

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