

## Point-by-Point Response to the United Steel Workers Blast Text on July 28<sup>th</sup>

Volume 2 – August 3, 2023

*UNION STATEMENT: “From April 10<sup>th</sup> to present, the local negotiated in good faith with the hospital.”*

**RWJUH RESPONSE:** Both parties negotiated in good faith leading to the July 17<sup>th</sup> Memorandum of Agreement (the “MOA”) that the union hastily presented to its membership. The union agreed in writing to recommend the MOA for ratification. That obviously did not happen. From that point it became clear that union’s focus pivoted towards orchestrating a strike.

This intent is revealed by rushed votes, votes that were “all or nothing,” no real attempt to communicate and promote the MOA that was agreed to, and most recently an outrageous staffing proposal that they knew would be rejected. Standard practice in labor relations is to have separate votes on contracts and striking. It is very rare that rejecting a contract equals strike.

The intent is further revealed by the union not countering until August 1st and at that with a counter they knew we would reject based on all the give and take that had occurred to date.

There are approximately 1,700 members of the union. We have been told by the union that 291 voted for the MOA (and against the strike) and approximately 400 did not vote. Thus over 40% of the members did not vote to authorize the strike.

**Why is the union doing it this way?**

*UNION STATEMENT: “We attended every session and never refused to attend a session.”*

**RWJUH RESPONSE:** The implication is that the hospital refused to attend a session. This is false. In fact, the union has rejected both binding arbitration and an FMCS Board of Inquiry to resolve the dispute, in each case by an independent fact finder. This is highly unusual in labor relations. Typically, the union asks for these things and the hospital objects. **WE ARE PREPARED TO DISCUSS THE FACTS WITH ANYONE AT ANYTIME.**

**Why is the union afraid of the facts being out in the open?**

*UNION STATEMENT: “At the July 27<sup>th</sup> meeting, the hospital immediately wanted the strike notice rescinded. The local wanted to first have discussions.”*

It is true that we asked the union to rescind the strike notice while negotiations continued. However, our request was not immediate, but came after more than 10 hours of negotiations and the union proposing new terms that we would agree to if the strike notice was rescinded pending the ratification process. In this regard, we were willing to increase call-in pay and compensate the 4-hour guarantee time if called in and one and one-half pay, along with reducing the health benefits contribution cap. The union’s response was that it would review the additional terms with its members but would not rescind the strike notice, thus forcing the hospital to make a \$11.7 million payment.

What the union is not saying is why merely calling a “time out” is a bad thing. The union was informed early in the negotiation session that we already sent payments totaling \$6.2 million to an agency to provide

replacement nurses in response to the strike notice. The union knew if the strike notice was not rescinded we would have to send an additional \$11.7 million payment. Before the payment on Monday afternoon (July 31<sup>th</sup>) we again asked the union to rescind the strike notice and continue to negotiate – the union refused, and the \$11.7 million payment was made.

We continue to focus on ensuring patient safety in the event of a strike. But as the union knows this comes at a great cost. The union knows that funds that could have been part of the settlement have now irretrievably been redirected to pay for the strike workforce so we can keep the hospital open.

Our request to the union to avoid this payment by rescinding the strike notice was reasonable and in everyone's best interest.

**What would the harm have been if the parties agreed to a 3-day "time-out?"**

*UNION STATEMENT:* "Staffing was a main issue as stated during negotiations, as stated by the staffing protests and as stated in many meetings with senior nursing leadership."

**RWJUH RESPONSE:** This is not true.

By July 13<sup>th</sup> we had worked out and agreed with union leadership on the staffing standards, based on language the union had initially proposed. This staffing language with a penalty was agreed to and included in the MOA. Since then, the union's focus has been more focused on money. In fact, the union asked for a larger across the board wage increases, more differential pay and smaller contributions to health insurance in our last 2 negotiating sessions, most recently two days ago.

The "all about staffing" mantra is not supported by the facts. The agreed to MOA would make our nurses, already the highest paid nurses in the state, even more so – in fact by 14%.

**If it is not about the money, why does the union keep asking for more money?**

*UNION STATEMENT:* "I was at one point told by the CNO that she heard me on staffing, but month after month the staffing was an issue. I am first a bedside nurse and an advocate for my patients and families. That is my commitment. My commitment to the members is safe staffing. Staffing has caused many nurses to leave the bedside and will continue to bleed bedside nursing unless we enact safe staffing. Putting staffing guidelines with penalties would help, without penalties and something enforceable to tie it to would leave us at square one – basically with nothing. Acuity and devices were not taken into account. We desperately need an acuity system that is measurable and accurate – something I have yet to see in writing."

**RWJUH RESPONSE:** These statements are full of half-truths and falsehoods:

- The CNO routinely acknowledged our staffing starting point post-COVID and the progress we were making together. This was talked about at nearly every forum with the frontline staff including the Collaborative Practice Council with union leadership, Shared Governance, Night Staff Advisory Council, Coffee with the CNO, and during senior leadership rounds. Supporting data and associated explanations were also featured in the CNO Corner newsletter nearly every month.
- Below is an excerpt from the rejected MOA. This language has never changed and was agreed to in June before wage increases became the union's prime focus.  
*"The parties agree that the determination of staffing needs is a dynamic process influenced by any one or combination of the following factors: patient needs and **acuity**; environment in which care is provided; unit and hospital census; professional characteristics, such as clinical competence, experience and skill set of the individual nurse"*

- The MOA appropriately states that staffing is a dynamic process as noted above and requires that the hospital maintain a Collaborative Staffing Practice Council (CSPC) to continue to work in partnership with the union on staffing. The CSPC will have equal membership between the union and hospital nursing leaders. The hospital has developed a daily staffing model that uses standards by level of service and adjusts for acuity. In spite of the fact that the union and hospital jointly developed this language, the union has never shared that information with its members, nor has the union tried to accurately and comprehensively explain the language to its members.
- Most importantly the union seems to imply that the hospital does not care about staffing and that progress has not been made while ignoring once in a generation shortage of nurses. Nothing could be further from the truth. The hospital has and will continue to invest in staffing with over 100 nurses added to the payroll in 2022 and we are on pace to exceed that in 2023 (both net of attrition).
- The hospital has offered creative solutions to address staffing shortages including expanding per diems and adding a corporate float pool. These ideas were rejected by the union.

**Why does the union reject widely used staffing enhancement methods?**

*UNION STATEMENT:* “As the hospital states, we refused binding arbitration. In 2020, we went to binding arbitration with the salaries and it did not benefit the members.”

**RWJUH RESPONSE:** The reference to the 2020 arbitration is misleading. The 2020 arbitration was about a grievance the union filed after settlement was reached and ratified by the members. The role of the independent arbitrator in 2020 was to simply interpret the final agreement. We have pleaded for a neutral third party to help bring the discussions to closure to avoid a strike by determining the terms of a new contract. This is not a matter of a simple grievance.

Unfortunately, the union did not share this information with its members. Binding arbitration is the only way to get beyond the he-said-she-said nonsense.

**WE ARE PREPARED TO HAVE AN OPEN AND PUBLIC DEBATE ON STAFFING – THE UNION IS NOT.**

**Why is the union hiding from independent fact finding?**

*UNION STATEMENT:* “Safe staffing must be decided by nurses not an arbitrator.”

**RWJUH RESPONSE:** It is impossible for the union to even know whether our staffing is safe or not when they will not even listen to what the current staffing is, and blatantly ignore that progress has been made. Further, as we have set forth in detail, the agreed to standards in the MOA were developed with the union and include significant participation from union nurses going forward.

**Why is the union hiding from the fact that it was an equal partner in developing the staffing standards and that the standards include ongoing input from union nurses?**

*UNION STATEMENT:* “In response to the email presented today by senior leadership, we asked for retention for our nurses who have given years of hard work and dedication, would .25 cents retain nurses?”

**RWJUH RESPONSE:** The 25 cent enhancement was part of a negotiated package agreed to by union leadership. To criticize terms of a deal you agreed to is not good faith. Further, any reasonable person would be hard pressed to look at the wage scale and protocols that exist now, and even more so in the MOA, and argue that at RWJUH senior nurses *ARE NOT* distinguished and rewarded. To the contrary, RWJUH senior nurses enjoy terms and conditions that senior nurses anywhere would covet.

*UNION STATEMENT:* “When the hospital pulls News 12 from the nursing break rooms because the local spoke to them, what are we dealing with? This is unknown territory for myself and many nurses. The scare tactics, the emails, calling people at home in an attempt to break Solidarity and divide the union.”

**RWJUH RESPONSE:** We pulled the station from the house because nurses were putting it on in patient rooms and talking about labor relations in front of patients. That was totally inappropriate. We stand by that decision and so would every other health care institution. It is our desire to leave our patients out of the dispute.

**Communicating with the entire workforce in a clear and transparent way is not a scare tactic. While the facts getting out makes the union uncomfortable, we will continue to do this.**

*UNION STATEMENT:* “The members authorized a strike vote and it was clear on the first vote and noted by signs on the second vote. Nothing was hidden. The members voted not the union leadership, the members.”

**RWJUH RESPONSE:** Union leadership either failed to understand where their members were at, overpromised their members or failed to effectively inform the membership on the MOA it negotiated and get it done. To say “nothing was hidden,” that it was the members and not the leaders, on the brink of a strike, is terribly sad.

*UNION STATEMENT:* “The second MOA had a penalty only with a core deficit and penalized employees for calling out sick. How unfair would it be to penalize members for a benefit provided to them. Senior leadership from Barnabas Headquarters told us on Sunday 7/23 – that your members would take turns calling out sick to get a bonus. I believe nothing is further from the truth.”

**RWJUH RESPONSE:** This is a petty swipe at one of many terms contained in the MOA that the leadership team agreed to as part of a package of many gives and takes that always occur in a negotiation. In fact, the core deficit concept was first proposed by the union on June 19<sup>th</sup>.

**The union leadership criticizes MOA terms many times as if it was not a party to the discussions and the MOA. This is not the hallmark of a good faith negotiation.**

*UNION STATEMENT:* “We all suffer post Covid and know the difficulties with staffing. We want to ensure our current nurses and future nurses that we have the best working conditions and to ensure we lay the foundation for their future.”

**RWJUH RESPONSE:** Everyone in health care has been impacted by Covid.

*UNION STATEMENT:* “Nothing was done in a casual manner and we never cast a threat of a strike. To say we used nurses as a pawn is an insult and a disgrace. There is nothing further from the truth. Every nurse brings value and is not treated as a pawn.”

**RWJUH RESPONSE:** We love our nurses and believe them to be the heart and face of the hospital. We are comfortable with all of the positions we have taken in this matter.

Not agreeing to pull the strike notice pending ratification of a revised MOA, particularly in light of the fact that a \$11,744,000 payment that could have been avoided, harmed everyone. We shared the agency's invoices during the July 27th bargaining session with the union. Union leadership knew the costs!

The union created a false choice – temporarily pulling the strike notice while a vote was held would have HURT NO ONE. The union could have simply reinstated the notice if it failed again to get revised and agreed to terms ratified. The union has made it clear that the cost of strike preparation is everyone's problem but theirs. And now we have a strike.

*UNION STATEMENT:* "The letter from administration causes a lot of emotions and I just want to state a small side of the union leadership position."

**RWJUH RESPONSE:** Facts are stubborn things. We are not surprised to hear that transparency around contract terms and the manner in which the union has handled this negotiation is causing discomfort for some.

*UNION STATEMENT:* "At 1am, this morning we asked to speak to the hospital to hear the union's side – that we would take a vote and keep the strike notice in effect. In turn, the hospital came in, told us we drew the line in the sand and that they were done. They then walked out. Yelling at us was not a solution."

**RWJUH RESPONSE:** Sadly, this is a misrepresentation.

As already described in detail, the parties agreed to additional terms to the MOA. Last time this happened the union failed to deliver ratification. We simply asked for a "time out" pending the next vote. This was an exercise of common sense in light of what happened last time union leadership agreed to a deal.

Taking a vote AFTER the \$11.7 million dollar payment had to be paid is not a solution, but a cause of a strike, especially the way this union has conducted the last 2 votes.

What harm would a time-out have caused?