Social Workers and Labor Strikes

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Introduction

This article addresses ethical and legal implications for social workers who consider engaging in an organized work stoppage as part of or in support of union action. It also considers situations where there may be the potential for harm to clients where services are withheld in support of a union called strike.

Social Work Ethics and State Licensing Boards

The NASW Code of Ethics and state social work licensing laws are two crucial sources of standards for social workers to review when contemplating an activity that may have a negative impact on clients. The professional standards for licensed social workers are published by each state's social work licensing board (e.g. Maryland Board of Social Work Examiners, Illinois Department of Financial and Professional Regulation, etc.). Generally, state licensing boards implement a core mission of protecting the public by assuring high standards of professional practice. Activities that may have the effect of harming the public are suspect. For example, Illinois law (225 ILCS 20/19) indicates that disciplinary action may be taken for actions by licensees that are harmful to the public in a manner defined by the rules of the social work licensing board.

It is noteworthy that many state social work boards have adopted the NASW Code of Ethics as a standard of conduct for licensed social workers (in addition to the state’s own standards). The NASW Code of Ethics (2008) contains a mix of provisions that address labor-management disputes without providing a bright line rule (see Reamer, F., 2006). Standard 3.10(a) states, “Social workers may engage in organized action, including the formation of and participation in labor unions, to improve services to clients and working conditions.” However, this is tempered by sub-section (b) which references social work professional values and ethics and states, “Reasonable differences of opinion exist among social workers concerning their primary obligation as professionals during an actual or threatened labor strike or job action. Social workers should carefully examine relevant issues and their possible impact on clients before deciding on a course of action.” Other provisions of the Code of Ethics point to social workers’ primary commitment to clients’ interests (Standard 1.01), commitment to employers (Standard 3.09) and the need to engage in advocacy to improve the general welfare of society (Standards 6.01 – 6.04).

Labor Laws – Federal and State

Legal rights regarding unionization and collective bargaining for employees of non-public employers that engage in interstate commerce are primarily addressed by the federal National Labor Relations Act of 1935 (NLRA) (29 U.S. C. § 151), as amended. The NLRA guarantees the right of employees to strike while imposing some limitations and qualifications on how the right may be exercised (NLRB, 1997, p. 3). Specific provisions have been provided for labor disputes within the health care industry. Section 8(g) of the NLRA “prohibits a labor organization from engaging in a strike, picketing, or other concerted refusal to work at any health care institution without first giving at least 10 days’ notice in writing to the institution and the Federal Mediation and Conciliation Service” (see NLRB, 1997, p. 32). If an impasse arises in negotiations regarding an existing collective bargaining agreement notice must be given to the Federal Mediation and Conciliation Service (29 U.S.C. § 158(d)(3)(A)) which may appoint a Board of Inquiry to investigate and assist in resolving the dispute if “a threatened or actual strike or lockout affecting a health care
institution will... substantially interrupt the delivery of health care in the locality concerned...” (29 U.S.C. § 183). After convening, the Board of Inquiry is to issue a “written report [which] shall contain the findings of fact together with the Board's recommendations for settling the dispute, with the objective of achieving a prompt, peaceful and just settlement of the dispute. Each such Board shall be composed of such number of individuals as the Director may deem desirable. No member appointed under this section shall have any interest or involvement in the health care institutions or the employee organizations involved in the dispute” (29 U.S.C. § 183).

Individual states’ laws may provide protections for public employees that have collective bargaining rights and these may include provisions for situations where a strike could affect the public. For example, Illinois labor law provides a mechanism for a public employer to petition the court in circumstances where a strike would present a clear and imminent danger to the public (5 ILCS 315/18, 2013) and to make orders regarding specified categories of employees for the protection of the public.

Analysis and Conclusions

The early history of the social work profession is replete with examples of labor organizing initiatives in support of vulnerable workers through efforts of such notable individuals as Florence Kelley, Lillian Walk, Ellen Gates Starr, Mary van Kleck and Bertha Reynolds (Reisch, M., 2008). However, “Social work’s reliance on often rigid notions of professionalism has historically been an obstacle to unionization” among social work employees (Karger, 2008). Social workers may need to carefully weigh whether the short-term harm to clients from a contemplated strike will “contribute to long-run improvements in ... productivity and quality driven by union-related workplace improvement initiatives” (Gruber and Kleiner, 2012; see also Reamer, F., 2006). When social workers engage in union activities on their own behalf they are expected to do so in a professionally responsible manner so that work-stoppages may be avoided if possible and/or to provide the legally-required notice so that dispute resolution mechanisms may be employed to lessen the potential impact on clients or patients.

As these issues tend to be multi-layered and complicated in analysis and application, a careful review of legal and other resources available is recommended before engaging in a work stoppage, as well as consultation with appropriate professionals and documentation of any decision-making process.

References


**Resources**


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