Collective bargaining and private sector professionals

Researchers review the history and current status of unionism and assess the prospects for collective bargaining among private sector professionals

Sar A. Levitan
and
Frank Gallo

The fact that unionization rates are now higher among professionals than nonprofessionals—26.8 percent versus 17.8 percent in 1988[1]—has led to predictions that professionals are ripe targets for unionization. However, the increase in collective bargaining by professionals is almost entirely caused by the rise in government organization. More than 1 of 3 professionals is employed by the government and 4 of 5 professionals represented in collective bargaining work in the public sector. But the influence of government unionization among professionals is waning because public sector unionization rates have declined in recent years, and the government work force is growing much more slowly than employment in private industry.

Only 1 in 10 private sector professionals bargains collectively, a proportion which has remained basically unchanged in more than two decades and is unlikely to change significantly in the foreseeable future. Associations representing physicians, lawyers, engineers, scientists, and other professionals historically have perceived little conflict of interest between management and labor, often because their members are in both camps. Hence, major private sector professional associations have shown little interest in collective bargaining.

Private sector professional associations include in their memberships individuals in the top income brackets, with little need for collective bargaining. Also, job security is taken for granted by most professionals as their unemployment rates in the 1980's have been only a third as high as those of the overall work force. Although professional associations are often concerned with educational and licensing standards, ethical codes, and advancing the state of knowledge in their professions, these activities also serve the interests of their members. For example, restricting access to a profession reduces the supply of eligible personnel, benefiting those who obtain the coveted credentials.

Overview

The labor relations policies of a professional association depend partly upon the extent that the organization has gained control over the profession. Physicians' and attorneys' associations have been extremely successful in furthering their members' interests by controlling admittance to the profession and through recommended fee schedules. Although the American Nurses' Association is the only major private sector association which bargains collectively, it has been unable to raise educational requirements for nurses. Other private sector profes-

Sar A. Levitan is research professor of economics and director of the George Washington University Center for Social Policy Studies. Frank Gallo is a research associate at the Center.

sional associations have concentrated on the subject matter of the profession rather than the interests of the professionals. The distinction between these types of professional associations is rooted in the history of the respective professions. Physicians and lawyers are members of professions with longstanding power to regulate professional practices, even those affecting members employed in bureaucracies such as hospitals, the court system, and large government agencies. In contrast, the engineering and scientific professions were largely created by the large industrial and government bureaucracies which employed them.

Major private sector professional occupations and their median weekly earnings in 1987 are shown in the following tabulation:

	Number (in thousands)	*Median weekly earnings*
Total professionals	14,426	$518
Engineers	1,731	720
Registered nurses	1,588	482
Math and computer scientists	685	624
Natural scientists	388	615
Lawyers	672	2,173*
Physicians	514	2,298**

* Partners, 1986
** Nonfederal physicians, 1986

From 1983 to 1987, employment for engineers, natural scientists, and attorneys grew at a slightly slower pace than did overall national employment, and the number of physicians may have reached a temporary plateau. (Data prior to 1983 are not comparable because the government agencies that collect the statistics revised their occupational classifications.) In contrast, the number of math and computer scientists rose by 48 percent over these 4 years (compared with 11.5-percent growth in the total work force).

Power without picket lines

Associations representing physicians and attorneys are not thought of as labor organizations, but they are more influential in determining the compensation and working conditions of their members than are most unions. These associations employ rigorous educational requirements and entrance examinations in order to regulate the supply of professionals. They also control access to the medical and legal systems, although their power in this area has been narrowed somewhat in the last two decades. Physicians control admissions of patients to hospitals, and insurance reimbursement is usually contingent upon physician care. Although citizens may act as their own attorneys, laws and court regulations place them at a distinct disadvantage if they do so.

Lawyers. Of the 672,000 lawyers employed in 1987, slightly more than half were members of the American Bar Association, founded in 1878. In 30 States, practicing lawyers are required by law to belong to the association. Although the association has been remarkably successful in maintaining the status and earning power of attorneys, several Supreme Court decisions have weakened its control over the profession by striking down "recommended" fee schedules and bans on advertising.[2] The median salaried attorney who works full time, year round earns about $50,000 annually. Law firm partners, who account for about three-fourths of the attorneys in private practice, had a median income of $113,000 in 1986, while associates received $46,000.[3]

The American Bar Association has never considered bargaining collectively on behalf of its members, but it has gradually accepted the idea that lawyering and collective bargaining are not incompatible. In 1947, the association advised an insurance company attorney who wished to join a union of claims adjusters that the action would violate the profession's ethics. Two decades later, the association amended its Code of Professional Responsibility, stating that union membership was "not necessarily improper." In 1975, an American Bar Association committee concluded that strikes were permissible in some cases.

Union contracts cover less than one-tenth of lawyers, most commonly relatively low paid government attorneys who represent the indigent. Most of these lawyers are represented by the American Federation of State, County and Municipal Employees, the Service Employees International Union, and independent unions. A United Auto Workers affiliate, the National Organization of Legal Services Workers, represents 4,000 legal aid attorneys. In a few cases, some organizations that represent lawyers have resorted to strikes. During 1983 and 1984, staff attorneys of the federally-funded Legal Services Corporation, which assists the poor in noncriminal cases, unsuccessfully attempted to unionize. Staff lawyers of the California State Bar, represented by the Service Employees International Union, struck in May 1986.[4]

The distribution of lawyers by type of employer has remained remarkably stable over the past quarter century. In 1985, 70 percent of attorneys were in private practice, 14 percent

worked for the government, and 10 percent were employed in private industry, proportions virtually identical to those in 1960. This distribution is not likely to change in the near future. Although law firms are increasing in size, two-thirds of the lawyers in private practice labor in firms with five attorneys or less, and solo practices account for almost half of all lawyers in private practice.[5] It is not likely that attorneys will unionize in order to advance their economic status or to win a greater measure of job security.

Almost one-tenth of all physicians belong to organizations that directly address the working conditions of their members.

Physicians. More than 500,000 physicians were employed in 1987, almost half of whom were members of the American Medical Association (AMA). Founded in 1847, the Association has had a long, although not necessarily venerable, record of controlling the professional standards of health care. In 1938, officials of the AMA were indicted and later convicted for violating antitrust laws in pressuring hospitals to deny admittance privileges to doctors belonging to a pioneer health maintenance organization. Although the U.S. Supreme Court in 1943 upheld the AMA's conviction, the association successfully blocked other cooperative and prepaid group practice health plans for another three decades.[6] The AMA maintains that its practices are necessary in establishing the highest standards.The profession has historically limited the number of entrants to medical schools and thus the supply of doctors, thereby indirectly influencing earnings. Although the AMA initially opposed Medicare and Medicaid, its lobbying efforts have ensured that physicians would be reimbursed handsomely by these Federal programs.

More recently, the Federal Government, large corporations, insurance companies, and consumer groups have challenged the AMA's domination in setting health care standards, including the costs of delivery. To constrain rapidly growing Federal Medicare and Medicaid outlays, the government has set limits on reimbursable services as well as the level of reimbursement. Rising costs also have stimulated the expansion of health maintenance organizations (HMO's), which charge flat fees rather than separate fees for each service. (Some plans charge nominal fees per visit, in addition to the monthly payment.) Full-time HMO doctors are usually salaried employees rather than self-employed. These developments have diminished the influence of the AMA, and the proportion of physicians belonging to the association has dropped from two-thirds in 1940 to less than half today.[7]

In late 1988, an assistant attorney general warned an AMA audience, "You can go to jail" for antitrust violations. Several grand jury investigations into price-fixing are now under way, which may lead to the first criminal prosecutions against individual physicians for violating antitrust laws.[8]

In 1973, the AMA vehemently condemned collective bargaining by doctors, and its president raised the specter of "strikes against sick people, of strong arm squads, picket lines, scabs, and violence." Two years later, the organization backpedaled from its position and accepted collective bargaining for interns and residents. The AMA remains opposed to physician unionism, but has abandoned the hostility voiced in the early 1970's.

Considering their pay and working conditions, interns and residents are obvious candidates for organization. They work extremely long hours at low pay, sometimes not much more than the Federal hourly minimum wage. The Committee of Interns and Residents, formed in 1957, currently represents about 5,000 individuals in the Northeast.[9] However, the temporary status of interns and residents makes them difficult targets for organization. While they labor hard for low pay under onerous working conditions, they are wary of jeopardizing their careers by challenging the medical establishment. A 1976 U.S. National Labor Relations Board ruling compounded the obstacles to unionizing interns and residents. The agency held that residents are students rather than employees and thus are not subject to the National Labor Relations Board's jurisdiction.

Almost one-tenth of all physicians belong to organizations that directly address the working conditions of their members; these organizations do not necessarily bargain collectively because some include self-employed physicians. Post-resident physicians first began to form unions in the early 1970's.[10] Some 40,000 of the roughly 50,000 currently organized doctors are members of the Union of American Physicians and Dentists, founded in 1972. However, the organization has little in common with the traditional activities of unions because 70 percent of its members are self-employed physicians, and even the remainder who are salaried employees are not necessarily represented in collective bargaining. The Union of American Physicians and Dentists assists members in private practice by lobbying legislatures and by representing individuals in their dealings with State licensing boards and third-party insurance payers. Although the organization is considered a junior partner in the medical establishment, the AMA shows little tolerance for such competition. In a case of the pot calling the kettle black,

the AMA charged the organization with trying to influence the compensation of self-employed physicians in violating antitrust laws.[11]

The largest doctors' union—the American Federation of Doctors in the New York metropolitan area—has only 3,500 members.[12] Doctors employed by the Group Health Association in Washington, DC, who staged a 26-day strike in March 1986, also are represented by an independent union. In addition, the Service Employees International Union, the American Federation of State, County and Municipal Employees, and the American Federation of Teachers have organized a few doctors in their health care bargaining units.

The prospect of doctors engaging in collective bargaining on a broader scale is not promising. Physicians employed by HMO's might be thought of as likely candidates for organizing, but only about 5 percent of doctors work full time for HMO's, and most negotiate their compensation and working conditions on an individual basis. One half of all physicians continue to work in solo practices.[13] The profession is extremely lucrative, with the average physician working outside the Federal Government earning $119,500 in 1986. Salaried doctors earned $91,700, compared with $131,100 for physicians in private practice. The differential may be explained by the younger ages of salaried doctors.[14] Although salaried physicians remain a minority, their proportion has increased slightly in recent years. The AMA reports that one-fourth of doctors are salaried employees. Younger doctors are more likely to be salaried employees, but as they progress in their careers, many will probably move into private practice.[15]

The attitudes of doctors toward unionization and their ability to organize will be influenced by their future autonomy and earning power. Thus far, the AMA has succeeded in limiting the supply of physicians, but analysts are divided as to whether this situation will continue.[16] Continued aging of the population and expansion of Federal legislation to cover health care is likely to prevent a glut of physicians. However, earnings may not remain as lucrative. Pressure to constrain medical care costs by all levels of government and by other third-party payers will undoubtedly continue, which may cause physicians to defend even more vigorously their autonomy and earnings. Increases in the proportion of salaried doctors are most likely to come from the continued expansion of HMO's but given the financial losses many HMO's have experienced recently, their long-term growth rates are uncertain. More than 29 million Americans now belong to HMO's.[17] Cost-cutting measures by financially strapped HMO's could also spur some doctors to organize.

Registered nurses: a unique case

Registered nurses, the largest single occupational group among the health professions, outnumber physicians by about 3 to 1. This numerical advantage has not afforded them much influence, however, and in spite of halting steps toward the consolidation of the profession, nurses remain subordinate to physicians.

In 1896, when the American Nurses' Association (ANA) was founded, most nurses were self employed. As health institutions assumed an increased role in caring for the sick, the nursing profession shifted to hospitals. By 1950, one-half of all nurses were employed by hospitals or other health institutions.[18] Low pay and onerous working conditions stimulated interest in collective bargaining. During World War II, the War Labor Board awarded ANA's California affiliate a 15-percent salary increase. Prompted by this feat, as well as the fact that union representatives were eager to enlist nurses, the ANA in 1946 reversed its opposition to collective bargaining.[19]

Negotiation of contracts proceeded very slowly, even after the ANA endorsed collective bargaining. In 1966, fewer than 17,000 of 200,000 nurses in the ANA were covered by contracts. The absence of State legislative authorization to bargain and the 1947 Taft–Hartley Act's exclusion of nonprofit hospitals from the protection of the law impeded bargaining. Almost three decades passed before the Congress reversed itself, voting in 1974 to apply the National Labor Relations Act to nonprofit hospitals. The law encouraged organizing efforts among nurses, and reinforced laws in several States that had been enacted during the preceding decade. Since the mid-1960's, there has been a large increase in the number of nurses covered by ANA contracts:[20]

Year	*Nurses covered by ANA contracts*	*ANA membership*
1956	5,900	181,400
1966	16,900	204,700
1974	66,000	196,000
1977	100,000+	193,400
1988	133,000	188,000

Competition by other unions, particularly the Service Employees International Union and the National Union of Hospital and Health Care Employees (both AFL–CIO affiliates), prompted ANA to engage in collective bargaining. Follow-

ing the enactment of the 1974 health care amendments to the National Labor Relations Act, more than 20 unions showed an interest in organizing nurses.[21]

The ANA vests State affiliates with the power to act as a bargaining agent for their members. Only 17 State associations do so (some affiliates have adopted and subsequently abandoned collective bargaining), limiting both the association's influence and the likelihood of dissension. Currently, a little more than half of its 188,000 members are part of bargaining units. ANA affiliates represent, under agency shop agreements, another 30,000 nonmembers, as well as an additional 5,000 health personnel not in the nursing profession.[22]

The American Bar Association has gradually accepted the idea that lawyering and collective bargaining are not incompatible.

In adopting collective bargaining, the ANA had to resolve several controversial issues. First, nurses' strikes provoke negative publicity and nurses concerned about denying care to the sick are loath to strike. But by the mid-1960's, nurses in New York City, San Francisco, and other cities were so frustrated by poor pay and working conditions that they resigned en masse in protest.[23] In 1968, the ANA abandoned its longstanding policy against strikes, but it stopped short of endorsing such action where it is illegal. Second was the issue of expanding the association's turf. The ANA decided to remain a nurses' organization, but allowed State affiliates to include other health care workers in bargaining units. Continued raids by other unions resulted in a 1982 ANA ban on dual membership. Finally, the ANA's endorsement of bargaining as an essential tool for nurses in "achieving and retaining control over their practice" and in ensuring "the welfare of patients and . . . the quality of care," has not settled the presumed conflict between professonalism versus unionism.[24]

A 1983 decision by the U.S. Court of Appeals for the Second Circuit (*NLRB* v. *North Shore University Hospital*) threatened the ANA's collective bargaining activities. The court held that the New York affiliate's inclusion of both supervisory and nonsupervisory nurses violated Federal labor relations law, and barred the organization from representing nonsupervisory nurses.[25] In response to the court's decision, the association's State affiliates insulated their collective bargaining divisions from supervisory influence. The *North Shore* decision was not appealed to the U.S. Supreme Court, and the National Labor Relations Board has not found the decision applicable in any of seven subsequent challenges brought by hospitals.[26]

The ANA remains the single largest organization representing nurses in collective bargaining, although other organizations collectively represent the majority of organized nurses. About one-fifth of the 1.6 million registered nurses are covered by collective bargaining contracts, a proportion which has changed little in the last decade. ANA's principal competitor is the Service Employees International Union which, following a late 1988 merger with the National Union of Hospital and Health Care Employees, represents about 50,000 nurses.[27] The American Federation of Teachers represents another 38,000 nurses.[28] Possibly 100,000 nurses or more are represented by local unions or associations. During the early 1980's, the nurses' association won a higher proportion of hospital elections than any of its major union competitors.[29]

Continued poor pay and arduous working conditions make nurses a prime prospect for further organization. Most nurses are qualified to perform some of the duties of a physician, and often are an "extension" of the physician. However, they say they do not receive the respect they deserve from doctors or the public. Also, nurses maintain that they are denied the rewards that normally come with experience in other professions.[30]

While nurses' educational attainment and salaries have increased, their pay improved little relative to the earnings of other professionals since 1979, the earliest year for which information is available from the Bureau of Labor Statistics.[31] The salaries of full-time nurses are comparable with teachers' pay, but nurses' work is generally more demanding. Hospitals (where more than two-thirds of nurses work) frequently require evening and weekend work, but the shift differential pay is skimpy. These conditions coexist with a serious nursing shortage, which could be compounded in future years by decreases in enrollments in undergraduate nursing programs.[32] The nursing shortage should facilitate organizing efforts, but the American Medical Association has endeavored to establish a new low-paid occupation with the imposing title of registered care technologist.[33] The National Labor Relations Board also made organizing easier in 1988 by allowing eight separate categories of hospital employees to form bargaining units.[34] Previously, the board reviewed appropriate bargaining units on an individual basis, often resulting in protracted, costly legal battles because employers sought to lump disparate workers who were unlikely to vote for a union in a single unit. Smaller units of similar workers are more readily organized.

Several obstacles impede what would normally be fertile ground for organizing. No more than a few hospitals dominate the local labor markets for nurses. Absent competition by em-

ployers, nurses have limited bargaining leverage. Many health care institutions employ licensed practical nurses as substitutes for registered nurses, paying them one-third less. Licensed practical nurses, currently numbering about half a million, generally receive no more than 1 year of training. Rather than increase pay to address the nursing shortage, hospitals also recruit foreign nurses.[35] Bargaining leverage is also diminished because 27 percent of nurses work part time, and 80 percent of nurses work in the private sector where antiunion efforts are most evident. Private sector health care employment has been rising much faster than government health care jobs, exacerbating the organizing difficulties faced by nurses.

Engineers, scientists eschew bargaining

Engineers' and scientists' associations have never attained the influence in labor relations of physicians and lawyers. Despite the importance of engineers and scientists in an advanced economy, and generally favorable public attitudes towards these professionals, specialization has fragmented their associations and limited their power. Moreover, engineering and scientific societies have concentrated on the subject matter of their professions and largely ignored labor relations questions.

Engineers. Engineers are the largest single professional occupational group other than teachers. The first engineering societies were formed more than a century ago and many others followed, but attempts to form a united engineers' society have not been successful. The National Society of Professional Engineers numbers 75,000 members—less than 5 percent of engineers—in diverse specialties. A broad variety of associations address the professional interests of mechanical, civil, aerospace, mining, electrical, metallurgical, and petroleum engineers. Unlike doctors, who helped create health care institutions and have retained influence over them, most engineers work for large organizations in varied industries and consequently never attained an independent source of power. None of the specialty associations has either engaged in collective bargaining or merged with a union, although some engineers working for a single employer have banded together to improve their working conditions. Currently, unions represent approximately one-tenth of engineers, a proportion which has not changed appreciably during the past decade.

The expansion and bureaucratization of the profession during World War II spurred organizing efforts. The reluctance of engineers to be included in blue-collar unions was also instrumental in the formation of the first engineering unions. Until the passage of the 1947 Taft–Hartley Act, the National Labor Relations Board sometimes placed employees with divergent skills, including professionals, in a single bargaining unit. To maintain their identity and separate bargaining, engineers formed exclusive unions, anticipating more favorable rewards by separate bargaining. For example, the Association of Professional Engineering Personnel states explicitly that it was formed "for the purpose of preventing the engineers [employed by Radio Corp. of America (RCA)] from being included in various labor organizations being formed at the corporation during the early 1940's."[36] Altogether, 17 independent engineering unions were organized in the immediate postwar period. The Taft–Hartley Act's prohibition on including professionals against their will in broader bargaining units of nonprofessionals halted the growth of engineering unions formed to avoid mixing with the hoi polloi.

Several independent engineers' unions banded together to form the Engineers and Scientists of America, a confederation representing some 50,000 engineers in 1952. These organized engineers expressed their antipathy toward other unions saying, "We are not part of the labor movement nor have we any particular kinship with those who are."[37] By 1961, the federation was disbanded, its ranks depleted by raids of other unions, decertifications, and internal dissension over whether to admit technicians.

During the past three decades, employment of engineers has been subject to the changing fortunes of military spending and space exploration. The space program and the Vietnam War boosted demand for engineers in the 1960's, but the curtailment of these endeavors in the 1970's generated layoffs and relatively high unemployment. Job insecurity prompted organizing efforts, but only 2,500 engineers joined unions in the 1970's, and the largest unit was decertified within 2 years.[38] Job opportunities for engineers subsequently improved in the late 1970's and 1980's.

Attempts to form a united engineers society have not been successful.

The difficulties of the early 1970's stimulated engineering associations to become more concerned with job security issues. In 1973, the National Society of Professional Engineers led a joint effort of 20 engineering associations to establish employment guidelines on salary and layoff questions. However, a survey by The Conference Board found that only one-third of the firms employing engineers claimed to have received the guidelines, and only half of those reviewed them.[39] The National Society of Pro-

fessional Engineers was founded during the Great Depression in response to the failure of other engineering associations to address unemployment issues, but the society's policy guidelines state that "collective bargaining is not the desirable, effective or appropriate mechanism to achieve the objectives of professional employment practices." A former society president probably reflected the sentiments of the membership when he asserted, "One cannot be a professional and belong to a union."[40]

If scientists decide to bargain collectively, they will probably do so either as academics or government employees.

In 1968, 10 engineering unions which had survived since the 1940's banded together to form the Council of Engineers and Scientists Organizations. Its primary function is to lobby for its constituent autonomous units. The Seattle Professional Engineering Employees Association, which represents approximately 24,000 Boeing employees equally divided between engineers and technicians, is the largest affiliate. Other affiliates represent employees of the Tennessee Valley Authority, the city of Los Angeles, McDonnell Douglas, Lockheed, and General Electric. The Council, which has 70,000 to 80,000 members, has experienced little growth in the past decade.[41]

The International Federation of Professional and Technical Engineers (IFPTE) is an AFL-CIO affiliate. Initially dominated by engineers and technicians in the private sector, the union's membership has changed dramatically during the past 15 years. Many of its private sector members have left the organization, and its organizing director claims that it has "become extremely difficult to even find leads" in the private sector, but there is little evidence that the established unions, including the Federation, have tried.

The union's current 23,000 members make up a peculiar amalgam of mostly government workers, including engineers (7,000 at NASA), blue-collar workers (almost a third of dues payers), and even scholars at the Library of Congress' Congressional Research Service. During one campaign, the International Federation of Professional and Technical Engineers failed to recruit civil engineers associated with a highway project but successfully organized the road crews.[42] A Service Employees International Union (SEIU) local in Michigan represents approximately 1,500 State engineers and scientists, and the New York Public Employee Federation, affiliated jointly with the SEIU and the American Federation of Teachers, may include three times as many engineers and scientists.[43]

The post-World War II interest by engineers in collective bargaining has long waned, and currently they display little inclination to engage in union activities. According to the founder of the Council of Engineers and Scientists Organizations, the average engineer has a negative image of unionism. The IFPTE organizing director supports this view, maintaining that engineers are "basically conservative people who identify themselves with management."[44] A 1970's survey also indicated that engineers as well as scientists view unions negatively.[45]

However, engineers who have joined unions have been satisfied with the arrangement, which explains the longevity of the independent engineers' unions.[46] By boosting salaries, protecting against dismissals, and defending seniority in ways that are compatible with engineers' views of professionalism, the independent unions have demonstrated that collective bargaining is feasible for engineers. But it is not likely that many engineers will band together to bargain collectively so long as other professionals in the for-profit sector eschew unionism. Management opposition and engineers' identification with management suggest that engineering will remain largely a union-free profession.

Without clear educational or occupational standards, it is not feasible to regulate entry into the engineering profession, as the American Medical Association and the American Bar Association have done. A third of engineers do not have degrees in engineering, and many with a more advanced educational background report that they do not use much of what they have learned. Unlike lawyers and, until recently, physicians, engineers must contend with the power of large firms. Moreover, the ethical precepts which help to unite the professions of law and medicine are absent in engineering. Nor do salary scales provide grounds for dissatisfaction.[47] Historical comparisons indicate that engineers' salary trends have been comparable with other professions. Unless the profession is jolted by the kind of major economic and political changes which occurred in the early 1970's, the status quo is likely to characterize labor relations in engineering.

Scientists. A plethora of associations represent natural scientists in different specialties. Of these, only the most numerous occupation—chemists—has demonstrated limited interest in labor relations issues. The American Chemical Society (ACS) represents 130,000 of the nearly 200,000 chemists. Paralleling the experience of the engineering societies, ACS sponsored employment guidelines in response to widespread terminations in the early 1970's. The guidelines cover conditions of employment as well as termination, and include a recommended minimum of 4 weeks advance dismissal notice plus severence pay. The society investigates in-

stances where groups of chemists are terminated and publicizes its findings twice annually in its news magazine. In addition, it also conducts independent investigations when members experience problems with their employers. This assistance differs from union grievance procedures in that the society acts as a neutral investigator rather than as an advocate for members. The potential publicity accorded to the results of the investigation may deter some arbitrary action, but the society uses its investigative activities sparingly. It accepts only about a dozen cases annually, and in about a fourth of these the employer refuses to allow the society to intervene.

The membership has shown little interest in collective bargaining and seems content with the current limited agenda. According to the head of the American Chemical Society's department of professional services, members who are disgruntled with the organization favor tactics similar to those of the American Medical Association, such as restricting the number of chemists. However, scientists' associations would have difficulty following models set by the American Medical Association and the American Bar Association because of the low educational attainment of many scientists. Almost half of all chemists and biologists have no more than a bachelor's degree. The ACS governing board and council have not considered it appropriate to take a position on collective bargaining, and apparently there is little clamor by members to take a stand on the issue.

In short, there is little evidence that the American Chemical Society or other associations of scientists will resort to collective action to improve working conditions. A society official noted, "If chemists aren't engaging in collective bargaining, it's not likely other scientific associations would."[48] An impediment to bargaining is the fact that a fourth of natural scientists are managers and administrators; undoubtedly a much larger proportion rise to these positions by the end of their careers.

Some chemists employed in academia or government are members of unions, but they have no independent organization. If scientists decide to bargain collectively, they will probably do so either as academics or government employees. Three of five life scientists and 2 of 5 physical scientists work for either educational institutions or the government.[49]

Problems and prospects

The American labor movement has had limited success in enticing professional organizations to join the house of labor and individual private sector association members have, with few exceptions, shunned collective bargaining. The only organizations of professionals that are part of the AFL-CIO—the American Federation of Teachers, the Newspaper Guild, Associated Actors and Artistes, and the American Federation of Musicians—were organized prior to World War II.

To date, the American Nurses' Association is the only major professional association to adopt collective bargaining. Doctors and lawyers are primarily self-employed, with no more than about 1 in 4 working as salaried employees. Historically, these professions have been represented by powerful associations which, despite recent challenges by government, business, and consumer groups, remain much more effective than unions in advancing the economic well-being of their members. The fragmentation of engineering societies by specialty has prevented any single association from attaining the influence of either the American Medical Association or the American Bar Association. Virtually all engineers are salaried employees, many of whom work for large corporations or government agencies. But the fact that almost a third of engineers are managers (and many more become managers as they advance in their careers) has inhibited collective bargaining, as younger engineers can see the benefits of acquiescing to existing labor-management relations. Strident opposition to unions by private sector employers also helps explain why the adoption of collective bargaining by professional associations has been concentrated in the public sector.[50]

The issue of "professionalism" remains a stubborn impediment to bargaining by associations whose memberships are concentrated in the private sector. The stumbling block is that many professionals believe that bargaining would cause conflict between managers and professionals. Proponents of bargaining counter that some conflict of interest is inherent in an employment relationship, and that professionals are hurting themselves in believing otherwise.[51] But beyond a declaration in favor of collective action, the AFL-CIO has not undertaken a serious drive to organize professionals, possibly reflecting a belief that such an attempt would be futile.

The debate over perceptions about the relative costs and benefits of maintaining the status quo or adopting collective bargaining cannot be readily resolved. Some proponents of bargaining argue that employers have whittled the influence of professionals so much that they are becoming "proletarianized." While there is little evidence to support this proposition, it is clear that management, not professionals, generally

controls decisions concerning pricing, purchases, and the allocation of resources within the firm.[52]

Professional associations have encountered not only the difficulties common to organizing nonprofessional workers, but other unique barriers as well. The line of demarcation between supervisory and subordinate professional workers is frequently difficult to draw, resulting in both legislative and judicial definitional inconsistencies and internal association problems. Employers have frequently emphasized the dichotomy between supervisors and rank-and-file workers, successfully persuading legislators, regulatory agencies, and the courts to impede employee efforts to band together to improve working conditions and job security. The 1947 Taft–Hartley Act excluded supervisors from the jurisdiction of the National Labor Relations Act, and the U.S. Supreme Court subsequently broadened the exclusion to include managerial employees who do not necessarily supervise other workers. Federal laws, administrative interpretations, and court rulings have created widespread confusion about the definitional differences between professionals, managers, and supervisors. In essence, according to the concept enunciated by the U.S. Supreme Court in the *Yeshiva* case, unions too successful in controlling their working environment are considered part of management, and therefore are not entitled to the protection of laws regulating collective bargaining.[53] This catch-22 doctrine impedes collective action by professionals in securing workplace rights afforded to other employees.

The transition to collective bargaining would mean sweeping and probably unsettling changes in professional associations. Many associations have appealed—at least publicly—to the traditional high-sounding ideals of the profession. Appeals for pay increases and improved working conditions fit uneasily into such rhetoric, and many members are especially sensitive about their public image. Turbulence would also likely occur because the elite members dominate most professional and employee associations. The National Education Association's acceptance of collective bargaining democratized the organization and placed the "little people" on top. The Association's administrators and classroom teachers clashed, and the huge majority of teachers rejected the notion that collective action was antithetical to professional aspirations. By the early 1970's, most school administrators had left the National Education Association, a lesson which would not be lost on the leaders of current private sector associations.

Unions have shown little inclination to proselytize private sector professionals. Public approval of unions has increased possibly signifying new organizing opportunities. During the past decade, the proportion of adults who looked favorably upon unions has risen from 55 to 61 percent, and the proportion rating unions negatively has declined from 35 to 25 percent. In the absence of more activist union leadership, however, members of professional associations are likely to depend in the foreseeable future on individual rather than collective bargaining to advance their interests. □

Footnotes

[1] Sar Levitan and Frank Gallo, "Government Employee Associations: can they negotiate new growth?" *Monthly Labor Review*, July 1989, pp. 5–14.

[2] *Goldfarb* v *Virginia State Bar* (1975); and *Bates* v *State of Arizona* (1977).

[3] Altman & Weil, Inc., "Lawyers' Expenses, Fees Up, Earnings Change Little" (Ardmore, PA, press release, May 1987).

[4] Peter Waldman, "More Doctors and Lawyers Joining Unions to Fight Large Institutions," *The Wall Street Journal*, May 23, 1986, p. 21.

[5] Barbara Curran, *The Lawyer Statistical Report* (Chicago, American Bar Foundation, 1985), pp. 12–13; and *Supplement to the Lawyer' Statistical Report* (Chicago, American Bar Foundation, 1986), pp. 3–4.

[6] Paul Starr, *The Social Transformation of American Medicine* (New York, Basic Books, 1982), pp. 305–06.

[7] Robert Ohsfeldt, "The Effect of AMA Membership on Physicians' Earnings," *Industrial and Labor Relations Review*, October 1988, pp. 20–33.

[8] Ruth Marcus, "Doctors Hear Warning on Antitrust Violations," *The Washington Post*, Dec. 11, 1988, p. A4.

[9] Testimony of William Ragen, Committee of Interns and Residents, before the Senate Committee on Labor and Human Resources, U.S. Cong., Subcommittee on Labor, Jan. 29, 1988; and Don Colburn, "Medical Education: Time for Reform?" *The Washington Post*, Health section, Mar. 29, 1988, pp. 6–7.

[10] Mario Bognanno, James Dworkin, and Omotayo Fashoyin, "Physicians' and Dentists' bargaining organizations: a preliminary look," *Monthly Labor Review*, June 1975, pp. 33–35.

[11] "Slow Growth in Physician Unionism Doesn't Deter Union Optimism for Future," *Labor Relations Week* (Washington, The Bureau of National Affairs, Inc., Aug. 5, 1987), pp. 721–24.

[12] "Two New York City Doctors' Unions Merge to Form American Federation of Doctors," *Daily Labor Report* (Washington, The Bureau of National Affairs, Inc., June 2, 1988), pp. A10–11.

[13] David Emmons, "Changing Dimensions of Medical Practice Arrangements," *Medical Care Review*, Spring 1988, pp. 101–28.

[14] Martin Gonzalez and David Emmons, *Socioeconomic Characteristics of Medical Practice, 1987* (Chicago, American Medical Association, 1987), p. 122.

[15] "Slow Growth in Physician Unionism," pp. 721–24.

[16] Public Health Service, *Sixth Report to the President and Congress on the Status of Health Personnel in the United States* (Washington, U.S. Department of Health and Human Services, June 1988), pp. 3: 50–3, 117; and Harold Schmeck, Jr., "Shortage of Doctors Viewed As Likely by End of Century, *The New York Times*, Apr. 7, 1988, p. B7.

[17] Malcolm Gladwell, "Growing Pains Plague Nation's HMO's." *The Washington Post*, Oct. 18, 1988, Health section, p. 5.

[18] Charles Rosenberg, *The Care of Strangers: The Rise of America's Hospital System* (New York, Basic Books, Inc., 1987), p. 236; and Philip A. Kalisch and Beatrice J. Kalisch, *The Advance of American Nursing* (Boston, Little, Brown and Co., 1986), p. 575.

[19] Lyndia Flanagan, *Braving New Frontiers: ANA's Economic and General Welfare Program, 1946–1986* (Kansas City, MO, American Nurses' Association, 1986), p. 11.

[20] Anna Christine Alt-White, *The Evolution of Collective Bargaining in Three State Nurses Associations*, Ph.D. dissertation, University of Maryland, 1987, pp. 96–123 (updated).

[21] Flanagan, *Braving New Frontiers*, p. 15.

[22] Phone conversation with Lawrence MacLachlan, American Nurses' Association labor counsel, Mar. 21, 1988.

[23] Vern L. Bullough and Bonnie Bullough, *The Care of the Sick* (London, Croom Helm, 1979), pp. 210–11.

[24] American Nurses' Association, *The Nature and Scope of ANA's Economic and General Welfare Program* (Kansas City, MO, 1985), p. 4; American Nurses' Association, "Nurses Need Collective Bargaining," ANA pamphlet (undated).

[25] Barbara A. Lee and Joan Parker, "Supervisory Participation in Professional Associations: Implications of *North Shore University Hospital*," *Industrial and Labor Relations Review*, April 1987, pp. 364–81.

[26] Phone conversation with Lawrence MacLachlan, Mar. 21, 1988.

[27] Frank Swoboda, "Merger to Yield Largest Private Health-Care Union, *The Washington Post*, Nov. 18, 1988, p. A10.

[28] Phone conversation with Phil Kugler, assistant to the president of the American Federation of Teachers, Mar. 6, 1989.

[29] Edmund Becker and Jonathon Rakich, "Hospital Union Election Activity, 1974–85," *Health Care Financing Review*, Spring 1988, pp. 59–66.

[30] "Why Nurses Quit," *The Washington Post*, Health section, July 12, 1988, pp. 12–16.

[31] Public Health Service, *Sixth Report to the President and Congress on the Status of Health Personnel in the United States* (Washington, U.S. Department of Health and Human Services, June 1988), pp. 10:15–18.

[32] U.S. Department of Health and Human Services, *Secretary's Commission on Nursing: Final Report, Vol. 1* (Washington, December 1988). pp. 3, 15–16.

[33] "Over Protest from Nurses' Group, AMA Will Train Hospital Aides," *The New York Times*, Dec. 9, 1988, p. B7.

[34] The Bureau of National Affairs, "Board Unveils Revamped Proposal on Health Care Bargaining Units," *Daily Labor Report* (Washington, Sept. 1, 1988), pp. A8–9.

[35] Sue Hong, "A Cure for the Nursing Shortage," *The Washington Post*, Health section, Feb. 23, 1988, p. 10.

[36] Harold J. Ammond, "Engineering Unions," *Exponent*, January 1981.

[37] *Ibid*.

[38] Geoffrey Latta, "Union Organization Among Engineers: A Current Assessment," *Industrial and Labor Relations Review*, October 1981, pp. 29–42.

[39] Eileen Hoffman, *Unionization of Professional Societies* (New York, The Conference Board, 1976), p. 33.

[40] *NSPE Professional and Administrative Policies, 1987*, p. 20; and Harry Bovay, Jr., "Engineers Are United," *Hydrocarbon Processing*, September 1976 (reprint currently distributed by the National Society of Professional Engineers).

[41] Phone conversation with Harold J. Ammond, executive director, Association of Scientists and Professional Engineering Personnel, Mar. 18, 1988.

[42] Phone conversation with Jack Dunne, director of organization, International Federation of Professional and Technical Engineers, Mar. 21, 1988.

[43] Phone conversation with Jean Ross, assistant research director, Service Employees International Union, Aug. 26, 1988.

[44] Phone conversation with Jack Dunne, Mar. 21, 1988.

[45] T. Roger Manley and Charles W. McNichols, "Scientists, engineers, and unions, revisited," *Monthly Labor Review*, November 1977, pp. 32–33.

[46] Michael Gordon, Laura Beauvais, and Robert Ladd, "The Job Satisfaction and Union Commitment of Unionized Engineers," *Industrial and Labor Relations Review*, April 1984, pp. 359–70.

[47] Robert Zussman, *Mechanics of the Middle Class: Work and Politics Among American Engineers* (Los Angeles, University of California Press, 1985), pp. 62–64, 123, 128–32, 165.

[48] Interview with Robert Neuman and Terrence Russell, American Chemical Society, Mar. 24, 1988.

[49] U.S. National Science Foundation, *U.S. Scientists and Engineers: 1986* (Washington, 1987), pp. 78–79, 83–88.

[50] Richard Freeman, *Contraction and Expansion: The Divergence of Private Sector and Public Sector Unionism in the U.S.* (Cambridge, MA, National Bureau of Economic Reasearch, October 1987), Working Paper No. 2399.

[51] AFL-CIO, Department for Professional Employees, *In the Search for Professional Excellence*, undated pamphlet; and address by Dennis Chamot, AFL-CIO Department for Professional Employees, to the American Chemical Society, Feb. 11, 1988.

[52] Eliot Freidson, *Professional Powers* (Chicago, University of Chicago Press, 1986), pp. 168–69.

[53] NLRB and *Yeshiva University Faculty Association* v. *Yeshiva University* (1980).