

STATEMENT OF ESTHER MARISSA CUELLAR

Representative Kline and Committee Members:

Thank you for the opportunity to appear today and express the views of ordinary workers who find themselves thrust into the middle of stealthy and vicious union organizing campaigns.

My name is Marissa Cuellar. I am a Registered Nurse with twenty-two years experience, the last five working at Cypress Fairbanks Medical Center in Houston, Texas, in the Telemetry Department. Up until 2008, our small community hospital had no unions, and no major workplace problems.

The trouble began in 2007 when Tenet Corporation, the parent company of my hospital, entered into a secret “neutrality agreement” with the California Nurses Association. The CNA has unionized several Tenet hospitals in California, and I am sure that the union brought incredible pressure on the Tenet chain to sign this one-sided organizing agreement, to spread unionization to nurses all over the country. In fact, this organizing agreement was utilized to settle labor disputes between CNA and Tenet in California, essentially making us nurses in Texas and elsewhere nothing more than pawns in a corporate game.

The terms of this organizing agreement were kept confidential from employees, and when the CNA organizers showed up at our hospital in January of 2008 we had no idea that the agreement even existed. What happened next was shocking.

In accordance with the terms of the organizing agreement, our hospital gave the

union organizers our home addresses and other personal information without our permission or knowledge.

The hospital gave union organizers virtually free reign to campaign throughout the hospital, including in nurses' lounges and breakrooms. The hospital gave the union access to a conference room to campaign in the hospital. But when we asked for equivalent use of conference room facilities to spread our message of nursing professionalism instead of unionization, both the union and the hospital cited their organizing agreement and blocked our equal access. If we wanted to have any meetings with our peers, they had to be held outside the hospital building, which we did, even in 40 degree weather.

To my knowledge, no group of nurses or employees has ever been blocked from using meeting rooms or conference rooms for educational purposes, except for us, solely because we wished to spread our message against unionization by CNA. All we desperately wanted was an opportunity for our peers to be fully informed regarding unionization, but the Tenet and CNA organizing agreement blocked many of our efforts.

We were also limited from posting our literature in the hospital, and restricted from using many of the bulletin boards. On the other hand, because of the organizing agreement, CNA had protected rights to post its material in the hospital.

The organizing agreement also literally "gagged" our entire Management Team from holding any conversations with us regarding the union and the effect that it would have on our working environment. These front line managers were afraid to even speak to

us about any union matters for fear they would be reprimanded. In the organizing agreement there is a paragraph indicating exactly what our managers were allowed say, and nothing more.

The union was also provided with a “binding arbitration” agreement that allowed it to promise employees that they would have a first contract if the union was voted in, even though no other entity or group received the same commitment from the hospital.

It was extremely depressing to see what the presence of this union had on our everyday work environment, and the negative impact it made even on patient care. Our once small family-oriented community hospital was now divided, and the intense tension created by the union organizing campaign was constantly in the air. I personally encountered threats, from losing my job to being stalked in the hallways by union organizers. How extremely uncomfortable it is to leave a job you love in the late evening and constantly check your rear view mirror to see if you are being followed.

In short order, before we knew what hit us, a rigged vote was held by the National Labor Relations Board. I say it was rigged because the organizing agreement stripped the NLRB of any oversight over the election, instead delegating the oversight to a private arbitrator. The election was also rigged because charge nurses who were known to be anti-CNA were excluded from the voting pool, but other charge nurses who were pro-union were not excluded. No reason was ever given for the differing treatment between the charge nurses. Those reasons were kept confidential between the hospital and the

union, and the NLRB had no role in deciding who was eligible and who was not.

The union won this election by a razor-thin vote of 119-111. Evidence of major improprieties was swept under the rug by the NLRB and the union's arbitrator. The NLRB certified the results of this disgraceful election even though it held no hearings and did not investigate the offensive conduct. All of this is documented in the papers that my attorney has supplied to the Committee.

Only after the union was certified did the NLRB finally take any action at all. That action was to issue a formal complaint against the hospital over its denial of equal access to myself and other nurses to campaign against the union. However, the NLRB has taken no action against the union, which remains in place to this day as the supposed "representative" of the nurses.

By the spring of 2009, we were able to file for a decertification of this unwanted and uninvited union. The NLRB held that election in June, 2009, but impounded the ballots, supposedly because we have filed numerous unfair labor practice charges against the union. We have asked that the NLRB count the ballots and not let our unfair labor practice charges block our own election, but to this day the NLRB refuses to count them! Regardless of the result of the ULP charges, the count does not change, so for what possible reason should our votes remain impounded? Almost six months have passed since our decertification election, and we still do not know the results. In the meantime, we are stuck with an unsupported union that is trying to bargain a contract for employees

it likely does not represent. We are working as dedicated nurses to care for our patients in a stressful environment, but are burdened with additional stress as we fight both the union and the NLRB to see our votes counted and our rights protected.

And so I ask, How can this happen in America? How can a company be pressured to help foist a union on its workers? How can unions be allowed to sign secret back room organizing deals with employers, and not even tell the terms of the agreement to the targeted employees? How can a union be allowed to have access to employees' addresses and other personal information without their consent? There are HIPPA laws to protect patients' information, yet there do not appear to be any laws to protect employee information! How can the NLRB allow its processes to be rented out to unions and employers, but refuse to process the complaints of the employees it is supposed to protect? I have witnessed how the NLRB goes out on a limb to protect those employees who want unionization, but does not reciprocate for those of us who do not. My attorney has filed numerous unfair labor practice charges against Tenet and CNA, and to date the NLRB has done precious little to protect my rights and the rights of other employees who do not wish to have a union foisted upon them.

History clearly shows the negative impact that forced unionization has had on other industries. Can we really afford that negative impact in healthcare? Absolutely not.