



Hot Topics in Employment Law for Massachusetts Health Care Organizations

Part 4: Labor Relations in Health Care

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August 23, 2023

Seyfarth Shaw LLP

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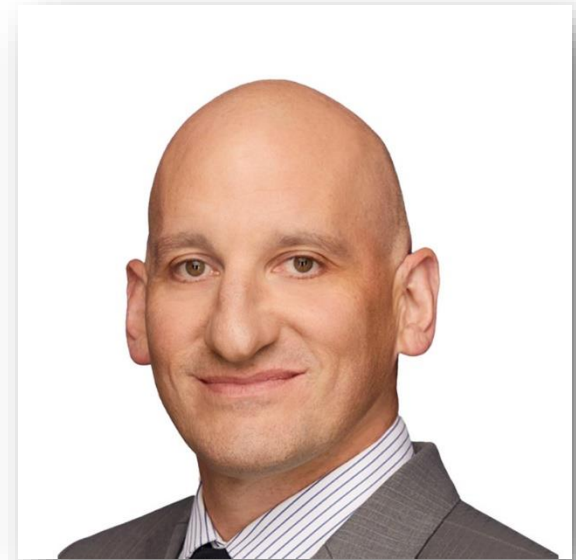
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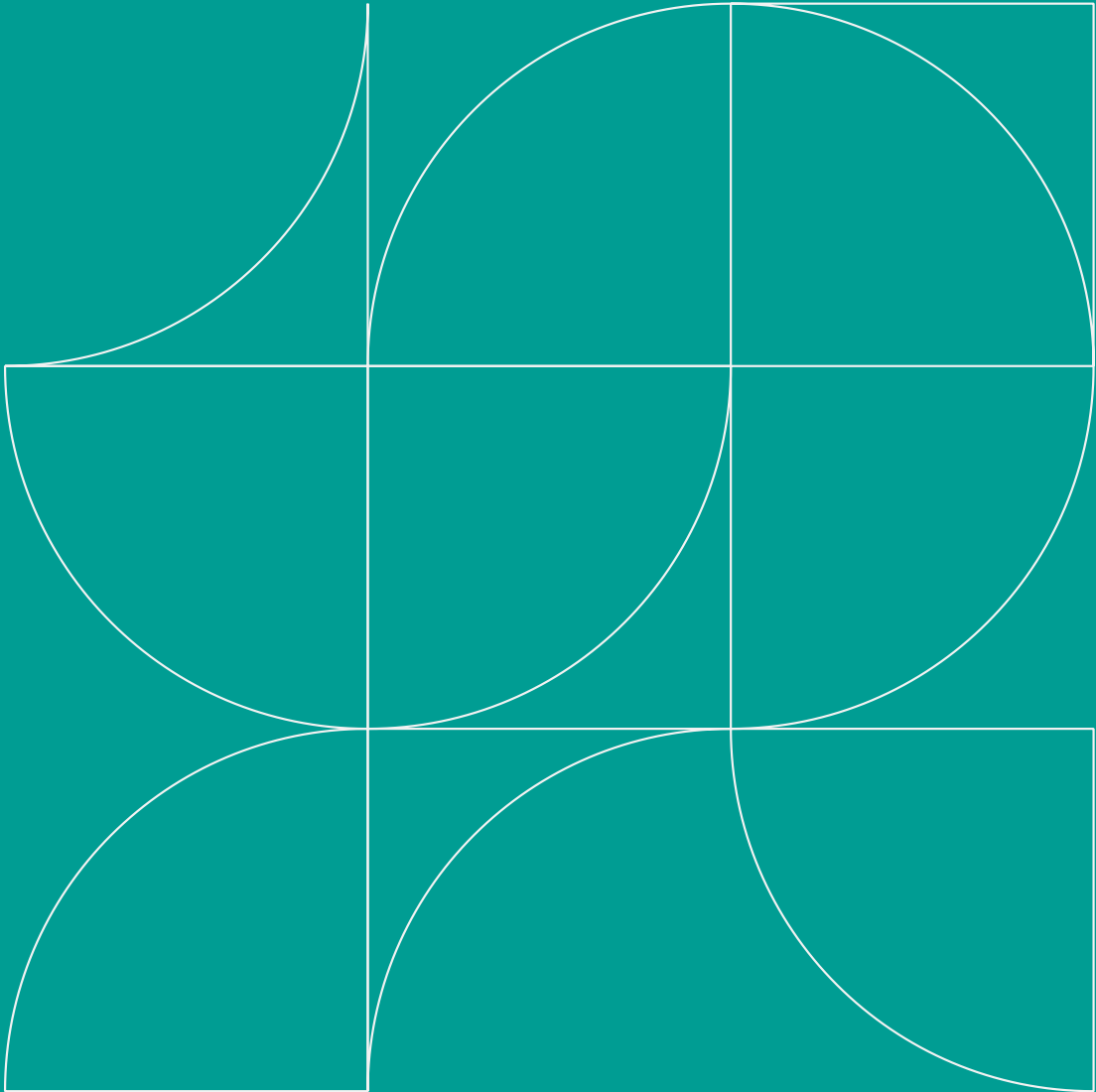


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Agenda

- 01** Labor Negotiations in the Health Care Industry in 2023
- 02** Work Stoppages
- 03** Medical Residents and Interns

Labor Negotiations in the Health Care Industry in 2023



Labor Negotiations in Health Care in 2023

- How has the collective bargaining landscape for unionized Employers changed since March 12, 2020?
- How has all that impacted what is happening at the bargaining table?
- How can Employers make sure they are well prepared for negotiations (or adjust their approach if already bargaining now)?



The New Bargaining Landscape

- Changes at the NLRB
 - Decisions
 - General Counsel's agenda and directives
- Changes in union strategy and tactics
 - Strikes
 - Use of Referendums



Changes at the Bargaining Table

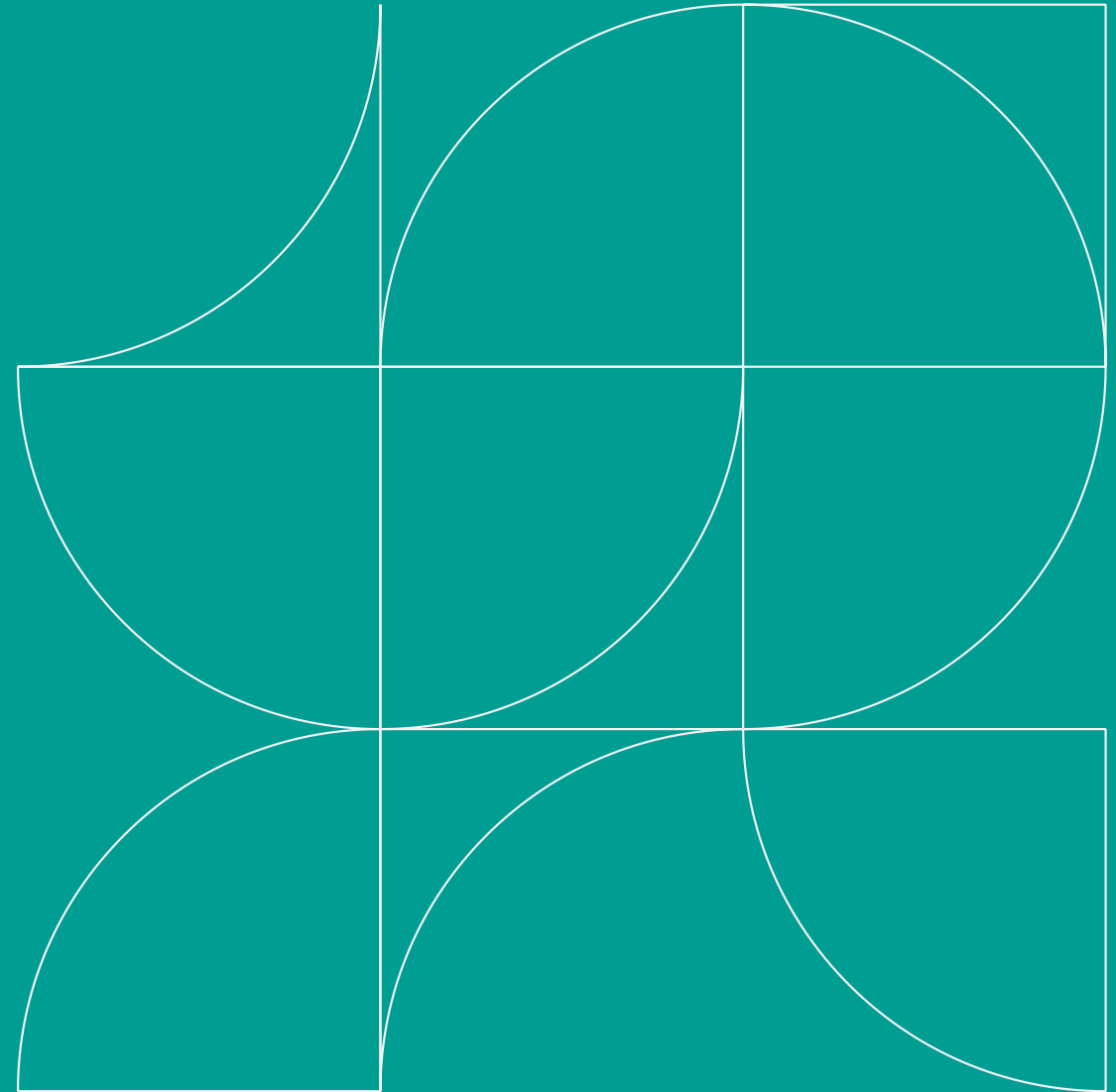
- Types of proposals being made
- Bargaining stance
- Demonstrations and public/media actions
- Coordination of local and regional actions



How to Use These Changes to Your Advantage

- Preparing for Negotiations
- Already at the Table

Work Stoppages





Unions are Striking More Frequently

- 23 major work stoppages in 2022, accounting for more than 120k employees
- Already have been 20 work stoppages in 2023, four of which are in health care



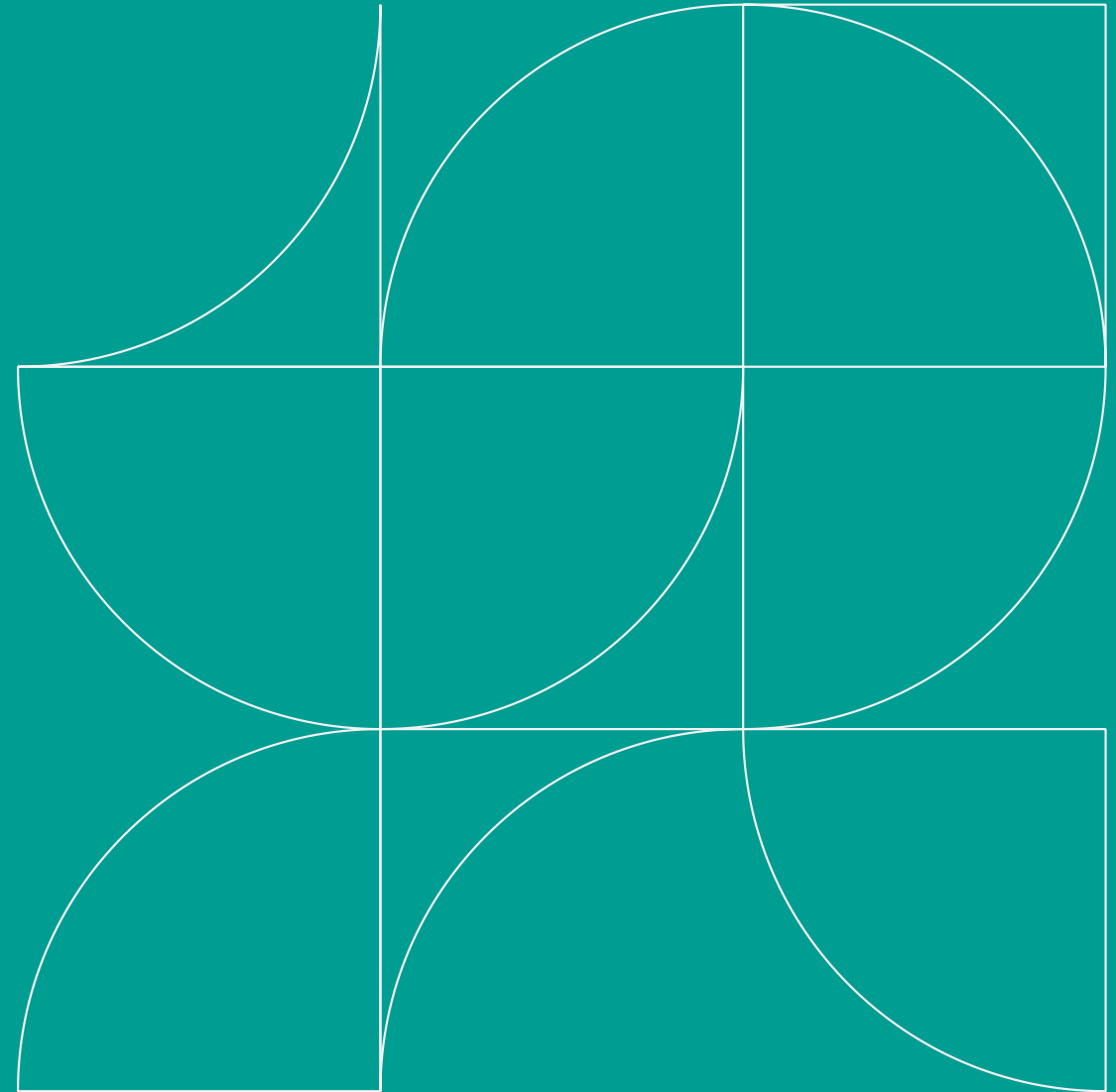
Strikes in the Health Care Setting

- Unions generally do not need to provide notice of employees' plan to strike
- Section 8(g) of the NLRA requires a union to provide at least 10 days' notice before engaging in a strike or picketing at a health care institution
 - Obvious point of the rule is to protect patient care
 - But obligation to provide notice applies to unions, not employees
 - 8(g) does not apply to unions representing non-health care employees at a health care facility

The Problem of Intermittent Strikes

- What is an intermittent strike?
- Generally unprotected by the law
- General Counsel of the NLRB is looking to challenge the existing law and narrow what is an intermittent strike
- In the health care setting, unions historically have used 1 or 2 day strikes after giving notice

Medical Residents and Interns



Ability to Organize

- Under current law, medical residents, fellows and interns are considered employees and have the right to organize
- Issue was largely dormant under the Trump NLRB
- Seeing an uptick in petitions to organize medical residents and interns again



Thank You

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