



The Union for

Doctors

*The First 40 Years of UAPD,
the Union of American Physicians and Dentists*

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By Gary Robinson

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Chapter One: The Beginning

In early 1972 Dr. Sanford A. Marcus, a private practice surgeon at Seton Hospital in San Mateo County, concluded that physicians in America needed to form a union.

Hospital administrators easily manipulated physicians and treated them as if they were hired hands. Insurance companies were dealing with doctors as if they were employees. Government programs such as Medicare and Medicaid controlled key aspects of doctors' work, told them how much they would be paid, and what procedures they would be paid for, just as if they were employees. Physicians' professionalism was under attack. Those in the media were continually criticizing doctors or, as Dr. Marcus said, "Pushing them off the pedestal." But the most ominous trend was that medicine was becoming an enormous industry that was ripe for takeover by giant corporations with little or no interest in providing good quality medical care. If the present looked bad to Dr. Marcus, the future seemed even bleaker.

Dr. Marcus loved his private practice, but he was convinced that it, and the private practices of all of his colleagues, were "Soon going to be as extinct as the dodo bird." He saw that the medical associations were looking to the past and were not up to the task of saving the medical profession. He decided that there was only one effective organizational structure available to American workers to level the playing field with employers, that of a union.

The surgeon from San Mateo began to talk with his colleagues at Seton hospital about the need to



join together to form a doctors' labor union so that they would have the clout to negotiate with their adversaries. Some of the doctors thought he was crazy. Others said it was a good idea but they were tired of hearing him repeating the same thing in the hospital cafeteria every day. They told him that he would have to form the union himself. And so he did.

Dr. Marcus first called on the American Medical Association (AMA) to organize a union. The president of the AMA wrote a front page editorial in the AM News rejecting unionism for physicians. Dr. Marcus wrote a letter to George Meany, the President of the AFL-CIO, asking him to form a union for doctors. Meany replied personally and said, "I can't help you now. But come back in ten years. Most of you will have become employees. Then we will be able to talk."

After these two rejections Dr. Marcus purchased a mailing list of 5,000 physicians living in the San Francisco Bay Area. He, several of his colleagues, and his wife, Hannah, sitting around his kitchen table, pasted the labels on envelopes, licked stamps, and inserted letters from Dr. Marcus asking the physicians to pay a \$25 initiation fee to join a doctors' union. The letter said, "There are three commodities for which we labor—money, the power to determine our own destinies, and intangibles such as honor or the satisfaction of healing." Much to his surprise, some 500 replies soon stuffed his mailbox, and 250 of the responses included checks. When the San Francisco Chronicle wrote an article about the letter and the strong response, several dentists contacted Dr. Marcus and mailed their checks to him, too.

Dr. Marcus hired a medical law firm to get advice on forming a union. They told him that private practice doctors could form a union but that the union would be a toothless tiger, unable to negotiate or perform other services for the doctors. He fired them and hired a prominent local labor lawyer who tried to steer the doctors into the Service Employees International Union. Dr. Marcus and the temporary union Executive Board politely said "No thanks" and hired the San Francisco

law firm of Davis, Cowell and Bowe. They have provided excellent legal advice for the union throughout its history.

On April 18, 1972 the new doctor union members approved a constitution and bylaws and elected a slate of officers. Dr. Marcus told the members at the meeting that he didn't want an Association or a Guild and so the new organization was called the Union of American Physicians and Dentists. The first elected officers were Dr. Marcus, President; Dr. Edward Kelley, an orthopedist and former president of the San Francisco Medical Society, Vice-President; Dr. Joseph Albrecht, a San Francisco surgeon, Treasurer; and Dr. William Anderson, a San Mateo neurologist, Secretary.

Dr. Marcus said that the UAPD would not be run by lawyers, but that the union would be governed by physicians and run by a professional staff that had labor union work experience. In January, 1973, the fledgling union opened an office in the World Trade Center at the foot of Market Street in San Francisco and hired its first employee, Gloria Duarte, as a secretary. Several years later Gloria Duarte was given the title Office Manager, and she has remained in that position to the current day.

In the 1970s there was widespread interest in the concept of physician unionization. Twenty-six doctors' unions were formed in states as varied as Illinois, Texas, Nevada and Florida. The UAPD, the Doctors' Council in New York, and a small local in Florida are the only doctors unions still in existence from that era.

The UAPD survived and prospered because it followed the model of labor unions and provided both traditional union and innovative services for its members. The UAPD formed an insurance grievance department that helped union doctors fight through the bureaucratic mazes erected by insurance companies and government programs to deny or downgrade the physicians' bills. In one case the UAPD grievance department won \$4,014 from Blue Cross for a union member in a claim that the insurance company had previously denied. There were many similar cases of the UAPD getting Blue Cross, Blue Shield, Medi-Cal, and Medicare to pay physicians' bills that they previously had denied. The UAPD also assisted members in their battles with hospitals, worked on legislation in Sacramento to advance pro-doctor positions, organized new members, and aggressively countered doctor bashing in the media. All of the UAPD's battles with the adversaries of medicine, and its more than occasional victories, were written about in the UAPD newsletter which was mailed regularly to all union members.

THE FIRST UAPD BARGAINING UNIT

Even though all of the first UAPD members were in private practice, union President Dr. Marcus repeatedly preached that the future of the UAPD lay in organizing salaried doctors. In 1974 several physicians employed by San Mateo County contacted the UAPD. Fifty physicians and dentists were in a wall-to-wall professional healthcare bargaining unit, and they wanted to be represented by the UAPD in a unit of doctors only. They were the lowest paid publically employed physicians and dentists in the San Francisco Bay Area.

The UAPD filed a petition with the county to place the doctors in a separate bargaining unit. The petition was successful and the UAPD won an election to be the certified representative of the doctors.

A lengthy and difficult negotiation process produced an outstanding labor contract. The San Mateo County employed doctors received a written contract including a strong grievance procedure, major fringe benefit increases, and a cost of living raise. The agreement provided that the UAPD could petition for a fair share (agency shop) election. The labor agreement also established a joint labor/management committee which was charged with determining the prevailing wage for publically employed doctors in the Bay Area. The results of the survey were to be implemented by the Board of Supervisors. The doctors received an average pay increase of more than 20% a few months later as the result of the survey, and the UAPD easily won a fair share election.

THE MALPRACTICE STRIKE

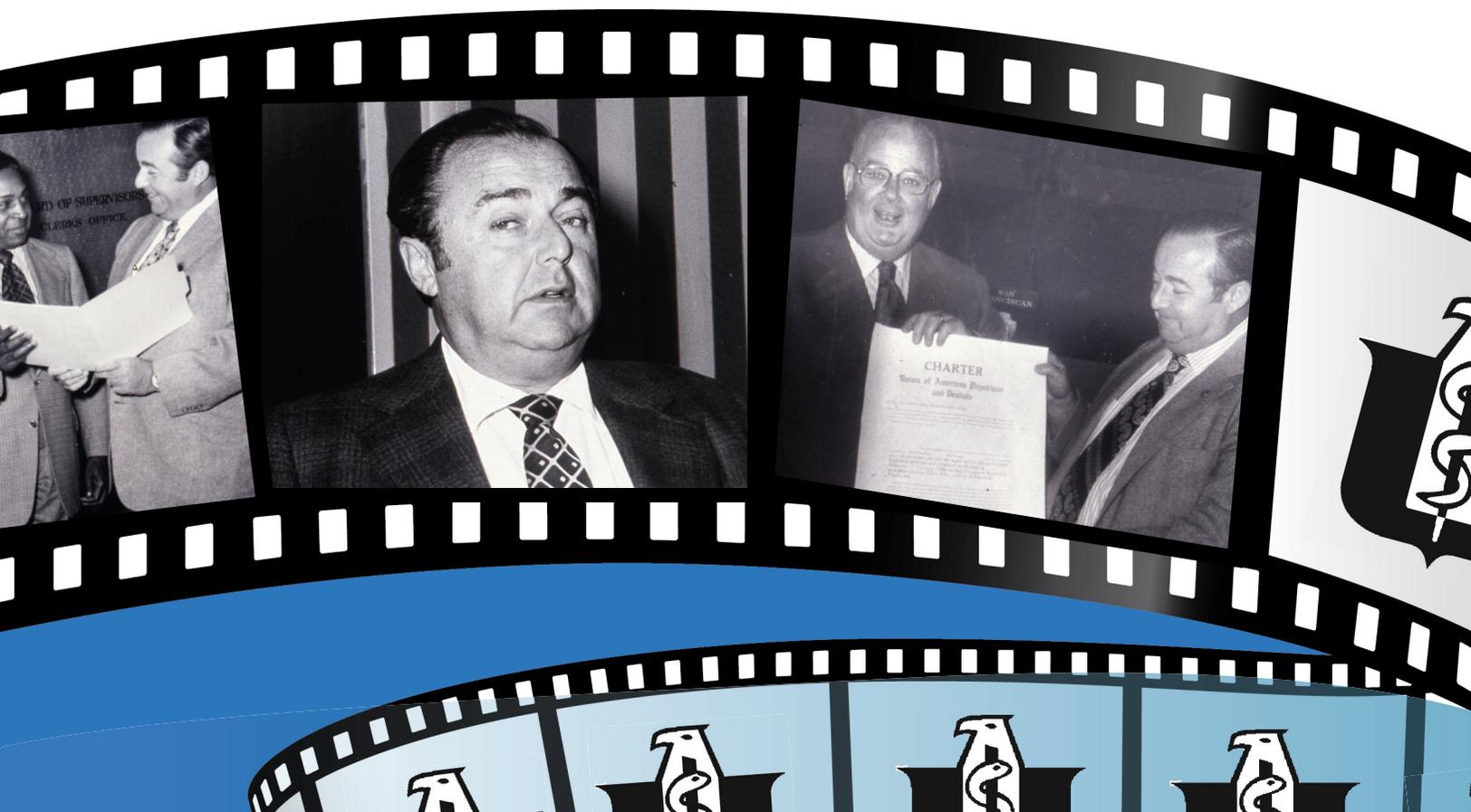
In 1975 insurance companies announced astronomical increases in their malpractice rates for California physicians. The date for the increases was set for January 1, 1976. California anesthesiologists would have to pay 500% more. The President of the California Society of Anesthesiologist was Dr. Seymour Wallace. He was also an active member of the UAPD executive board and a great believer in unionism and in the UAPD. He said that anesthesiologists would not buy malpractice insurance at those rates and would not provide services without reasonably priced malpractice insurance. Virtually all of the anesthesiologists in California agreed with him.

The UAPD sent a strike ballot to all 40,000 physicians practicing in California. Nearly twenty thousand of them returned ballots and by a three to one majority favored a strike if the new rates went into effect. The UAPD received 25 to 30 new membership applications accompanied by dues checks per day along with the strike votes.

The UAPD then called a mass meeting in San Francisco for physicians. Dr. Marcus chaired the meeting and nearly 2,000 physicians attended. Dr. Wallace spoke eloquently to the doctors of the need to take aggressive action. The meeting was covered live on the most watched news show in America, the CBS Evening News with Walter Cronkite. The Northern California doctors voted unanimously to strike.

The union opened an office in Los Angeles to help organize Southern California doctors for the upcoming battle. On December 11th the UAPD held a strike vote meeting for Southern California physicians at the Los Angeles Arena. Over 2,000 physicians attended. Their unanimous vote to strike and to provide only emergency care was the lead story in Southern California newspaper, television, and radio news reports and was reported nationally.

When the rate increases went into effect in January, the anesthesiologists and other physicians stopped performing routine surgeries. Many California hospitals closed. The UAPD demanded that the legislature and the governor act. In rapid order the California state legislature passed a major medical liability reform bill and the governor signed it into law. When new medical malpractice insurance companies formed in California and charged reasonable rates for anesthesiologists and other physicians, the doctors went back to work.



Chapter Two: State of California Organized

In 1974 and early 1975 the UAPD was approached by several state employed physicians who wanted to be represented by the UAPD. At that time there was no collective bargaining for California state employees and no fair share rules. State employees could join as many organizations as they wanted, or none, but no organization could officially represent them. One of the UAPD private practice physicians, Dr. Truman Newberry, was also a part-time state employee and an officer of a small group of state employees called the California State Employed Physicians Association (CSEPA). Dr. Newberry wanted the UAPD and the CSEPA to work together, and so he asked UAPD President Dr. Sanford Marcus to organize state employed physicians.

CSEPA was part of the CSEA (California State Employees Association) Health Care Division. The Division's chair was a registered nurse, and all of the state physicians' complaints and grievances had to be cleared through her before they were processed. The CSEPA had a declining membership, no clout, no staff, little money, and many problems. There were ineffective medical staffs in the state's mental hospitals and developmental centers, psychologists and pharmacists overrode medical decisions, the pay was low, and morale was rock bottom.

In early 1975 the CSEPA doctors unanimously approved an affiliation with the UAPD. The affiliation provided that the CSEPA would give advisory input to the UAPD and support the representation efforts of the UAPD. Several years later, CSEPA changed its name to the State Employed Physicians Association (SEPA).

SAN FRANCISCO CITY AND COUNTY SALARIED DOCTORS

In 1974 the UAPD filed a petition to represent the physicians and dentists employed by San Francisco City and County, and in 1975 the UAPD won an election to become the certified representative of the bargaining unit. The key issues were wages and the lack of respect for the doctors from the management. After the substantial raise that the UAPD won for San Mateo County doctors, the San Francisco physicians and dentists became the lowest paid publically employed doctors in the Bay Area.

The UAPD negotiated a labor agreement with San Francisco but the contract did not include wages and key fringe benefits. They were to be set for all city and county workers under a prevailing wage formula laid out in a charter provision which had been adopted by the voters.



The UAPD provided extensive data on salaried physician wages to the San Francisco Civil Service Commission, the body designated to enforce the prevailing wage formula. But the Civil Service Commission refused to accept the accurate information submitted by the UAPD and substituted inaccurate, and some totally bogus data. As a result of the San Francisco Civil Service Commissions shenanigans, the doctors received a small raise instead of a pay increase of more than 30%. With the San Francisco doctors' wages lagging far behind their salaried colleagues, the UAPD was unable to win a fair share election and less than one-half of the doctors paid union dues.

The UAPD, utilizing the law firm of Davis, Cowell and Bowe, filed a class action lawsuit against San Francisco. The UAPD lost the Superior Court decision and after several years won in the Court of Appeals. San Francisco Mayor Dianne Feinstein ordered her administration to refuse to honor the appellate judges' decision. The UAPD had to go back to the Court of Appeals. Because of an enormous court back log and court administrative incompetence, the case dragged on for eight years.

PRIVATE PRACTICE MEMBERSHIP GROWS

While almost all of the other American doctors unions formed in the 1970s to organize private practice doctors were failing, the UAPD survived and prospered. There are several reasons for the UAPD's success during the late 1970s and 1980s, when labor unions throughout the country were under attack.

Dr. Marcus traveled extensively across the United States giving charismatic speeches to groups of physicians. He spread the story of doctors' unionism and signed up significant numbers of new UAPD members. He also wrote numerous articles in medical journals and for newspapers. He said:

“There are no dinosaurs left, simply because they were unable to adapt to changing environmental conditions. We doctors are now faced with the greatest revolution in the allocation of medical care since the time of Hippocrates, yet we too, are presently milling about ponderously, waiting for the old watering holes to refill. They never will...

“We stand a much better chance of preserving our professionalism through the process of becoming unionized workers-- admittedly a terribly unprofessional thing to do, by my own estimation, just a few short years ago. But then, that's just the sort of adaption those

now extinct dinosaurs were incapable of making, isn't it?"

In addition to terrific speeches by its president, the UAPD used traditional union programs such as organizing salaried doctor bargaining units, winning grievances for individual private practice union members, negotiating agreements for small groups of hospital physicians, filing amicus briefs, going to the state legislature to correct inequities, fighting for the rights of doctors in a wide variety of forums, filing lawsuits, and writing about these battles and victories in its newsletter.

But the most important reason for the UAPD's success in expanding its private practice membership was a series of organizing mailings it sent to every physician in the State of California. Two or three times every year Dr. Marcus would write a letter or a brochure, enclose it with a UAPD membership application, and mail it. Each of these statewide mailings broadcast the UAPD's philosophy and successes to every active physician in the state. The union organized twenty or more new UAPD members per mailing.

UAPD FIGHTS FOR ITS MEMBERS

Dr. Marcus left the work of organizing, negotiating, and servicing the agreements for salaried doctors to the union's professional staff led by Gary Robinson who was hired by the UAPD in 1975 and became the Executive Director in 1978. Mr. Robinson had an M.B.A. from U.C. Berkeley and, before joining the UAPD staff, had experience working for SEIU.

Even though there was no state employer collective bargaining law, the UAPD provided extensive representation for state employed physicians. This cost was far more than the dues that the state physicians paid at the time. The UAPD's private practice doctors subsidized the state and county salaried doctors throughout this period in order to help attain the UAPD's goal of better pay, benefits, and working conditions for all doctors, regardless of their practice setting, and higher quality care for their patients.

In the late 1970s, the UAPD sued the State of California over the poor psychiatrist-to-patient ratio at Napa State Hospital and throughout the Department of Mental Health. The lawsuit was an important factor in helping win improved staffing standards. The UAPD also began to organize state employed dentists and to represent them in grievances and in State Personnel Board proceedings.



The UAPD also won elections to represent the psychiatrists working for Santa Clara County and the physicians employed by Alameda County. The union negotiated agreements with both counties and won an agency shop election in the Alameda County bargaining unit.

COLLECTIVE BARGAINING FOR STATE DOCTORS

In the early 1980s the UAPD moved its headquarters to the Flood Building on Market Street in San Francisco. Five years after the UAPD began to represent state employed doctors, a collective bargaining bill was signed by Governor Jerry Brown. The State of California, as the employer, and nearly 50 labor unions presented their cases to the Public Employment Relations Board on what should be the appropriate bargaining units. Bargaining unit hearings lasted for almost one year. The UAPD Executive Director Gary Robinson represented the UAPD in the hearings, going head-to-head with some of the top labor attorneys in America.

The UAPD faced enormous obstacles. No state had ever established a separate bargaining unit for doctors. New York, with a labor law similar to California's, had placed physicians and dentists in a unit including psychologists, pharmacists, and all other health care professionals. The State of California and the CSEA each presented cases in the California Public Employment Relations Board (PERB) hearing in favor of an all-professional unit such as the one set up by New York.

The UAPD's theory of the case called for a separate doctors' bargaining unit based on the role of doctors as the medical supervisors of other healthcare employees and of the responsibility of



medical staffs for improving the quality of medical care. An extensive list of UAPD's witnesses and documents laid out the case and a lengthy UAPD's legal brief convinced PERB to rule in its favor and establish Bargaining Unit 16 for physicians, dentists, and podiatrists.

UAPD WINS LANDSLIDE VICTORY AND CSU PHYSICIANS ORGANIZE

The California State Employees Association (CSEA) challenged the UAPD in the election to represent Bargaining Unit 16. The California Medical Association, supported by the California Dental Association and the California Podiatric Association, formed its own labor union to challenge the UAPD, but only 7 doctors joined the CMA union. The CMA spent nearly \$100,000 of its members' dues money to gain those 7 members. The UAPD filed an unfair labor practice against the CMA union and the State because state supervisory employees had illegally helped the CMA union gather the signatures to qualify for the ballot.

A PERB hearing officer made a preliminary ruling against the State and the CMA. The CMA appealed the decision but before a definitive ruling from PERB and before the election, the CMA union dropped out of the race, removed its name from the ballot, and endorsed the California State Employee Association. The California Dental Association and the California Podiatry Association also urged doctors to vote for the CSEA.

The UAPD staff and members worked tirelessly in the election and won a great victory. On May

11, 1981 seventy-three percent of the doctors voted for the UAPD! Only 27% voted for the CSEA or no union. During the first negotiation for a labor agreement with the state, Mr. Robinson as the UAPD's chief negotiator, along with a strong union team of state doctors, won an excellent contract which was overwhelmingly ratified by the members. The UAPD won for the first time the right to have strong medical staffs in State of California facilities. The UAPD gained improved medical officer of the day compensation, the right to continuing medical education time off with pay, and better salaries, benefits, and working conditions. In 1983 the UAPD won an election for an agency shop or fair share fee arrangement for State Bargaining Unit 16.

After the initial negotiations, Cesar Bacal became the chief negotiator for the UAPD with the State. When Mr. Bacal retired, Ms. Joan Bryant was the chief negotiator. She was the first woman and the first African-American to be a chief negotiator for a state union. In each state negotiation the union won a wide variety of improvements in its collective bargaining agreement on issues such as wages, continuing medical education, health benefits, holidays, on-call, medical officer of the day, and working conditions.

In the late 1970's the UAPD began to organize the California State University student health physicians. In 1981 the UAPD went through separate and lengthy bargaining unit hearings. After the Public Employment Relations Board ruled that CSU student health center physicians would be CSU Bargaining Unit 1, the UAPD won an overwhelming victory in a 1982 election to represent the physicians. The final tally was UAPD 83, AFT 3, and No Representation 17.

The UAPD negotiated a first memorandum of understanding with the CSU that included many improvements in wages, benefits and job protections. One important gain was the new union contractual right of CSU physicians to have their salaries averaged, and to be paid, for 12 months per year and to receive benefits for 12 months per year. Previously CSU student health physicians had not received pay or benefits for the two months they were out of work each summer.

Chapter Three: LA Psychiatrists and Dentists Join UAPD

When the UAPD was asked by several doctors employed by Los Angeles County to organize a bargaining unit in the late 1970s, the doctors' union threw its resources into a major organizing campaign in L.A. County. For several months the UAPD staff visited every hospital and clinic run by L.A. County and signed up doctors on union authorization cards. More than fifty percent of the psychiatrists and dentists signed cards, but although there was strong union support among the primary care physicians working in the clinics, the specialist physicians in the county hospitals were not interested in unionization.

The UAPD filed petitions to represent the psychiatrists and the dentists with the Los Angeles County Employee Relations Commission. The commission approved a Department of Mental Health psychiatric bargaining unit and a dental bargaining unit. The UAPD won elections to represent both bargaining units and, after difficult negotiations, signed labor agreements with the county for substantial improvements in wages, working conditions, and benefits for the represented doctors. The psychiatric and dental units were consolidated several years later.

DOCTOR SUBSTITUTE BATTLES

In the 1980s the UAPD established an office in Sacramento and hired one employee to be a representative and lobbyist. Over the years the union expanded its Sacramento staff so that it now includes a chief lobbyist, a legislative analyst, two senior representatives, and a secretary.

In the 1980s the union helped defeat proposed bills that would have granted nurse anesthetists the right to practice without physician anesthesiologist supervision. The UAPD successfully demanded that a denturist clinic be closed because it was operating in violation of the dental practice act. It successfully fought against the expansion of the duties of nurse practitioners, physician assistants, and chiropractors.

The doctors' union also defeated an attempt by the psychologists to greatly expand their duties and to become members of the medical staffs of state facilities. A major factor in the victory was a UAPD white paper detailing why it would be more expensive and not in the best interest of the patients or of the Department of Mental Health to expand the duties of the psychologists and place them on medical staff. After the white paper was given to the department, members of the legislature and the press, support for the change gradually declined and the proposal died. The UAPD has continued to fight similar attempts by the psychologists almost every year since this first battle.

COUNTY BARGAINING UNITS IN THE 1980S

The UAPD organized the doctors employed by Sacramento, Solano, and Santa Barbara Counties during this period. Although the Sacramento and Solano County units were small, with less than twenty doctors each, and the negotiations were tough, both negotiations resulted in good contracts with fair share clauses and strong membership support for the UAPD. Santa Barbara County, by contrast, decided to fight the UAPD with everything it had.

When the UAPD filed a petition to represent the county's seven employed physicians, Santa Barbara said that the physicians did not have the right to collective bargaining in a separate unit. Since the state Public Employment Relations Board did not gain the authority to adjudicate violations of the Meyers, Milias, Brown Act (the law that established the right to collective bargaining for local government employees in California) until years later, the UAPD filed a lawsuit against the county.

As a settlement of the lawsuit, the county and the UAPD agreed to binding arbitration of the dispute. Nearly two years after the initial representation petition was filed, the arbitrator ruled that the physicians were entitled to a separate bargaining unit. The union won the election and, after lengthy negotiations, obtained a written labor agreement guaranteeing the wages, fringe benefits, and working conditions of the physicians. But the UAPD lost a fair share election because one of the Santa Barbara union members voted No. He was a libertarian who liked the union but didn't think it was right to ask non-members to pay their fair share of the cost of representation. When it was pointed out to him that four union members out of seven physicians in the unit could not



pay even a fraction of the cost of representation, he changed his mind and the UAPD won a fair election the next year. Over the years the unit has increased to some thirty physicians and the strong Santa Barbara union members, with leadership from the UAPD Los Angeles office, have negotiated excellent contracts.

The lawsuit that the UAPD filed against San Francisco City and County in 1978 for failing to pay prevailing wages as prescribed by the city charter went back and forth through the courts for eight torturous years. Finally, when a new mayor took office in 1986, San Francisco decided to drop its series of frivolous appeals and to pay more than \$15 million in back pay to the UAPD represented doctors. Many of the doctors receiving payments had left city service years before the 1986 settlement, but the Davis, Cowell, and Bowe law firm tracked them down all over the United States. After the settlement, the UAPD won a fair share election in the bargaining unit. When the San Francisco electorate rescinded the prevailing wage section of the charter and restored collective bargaining for wages and most fringe benefits, the UAPD used the much higher wage base which resulted from the lawsuit to negotiate further improvements.

THE UAPD COMES TO THE BRINK OF STRIKE IN TWO COUNTIES

In the early 1980s a few anti-union physician managers working for San Mateo County took it upon themselves to get rid of the UAPD. They falsely told several psychiatrists in the bargaining unit that the county wanted to give the psychiatrists raises of twenty percent but that the UAPD would not allow the county to do it. These managers also got the county to give raises to the resident physicians in the unit without notifying the union that the raises had been proposed and granted. The managers promised more raises to the residents if they decertified the UAPD. Unfortunately a few psychiatrists believed the managers and, along with a few resident physicians, surreptitiously obtained signatures on a decertification petition just as the UAPD members were developing bargaining proposals for a contract reopener.

The UAPD handily won the resulting decertification election, but, as negotiations got underway, all of the union members were extremely angry at the county management for its misconduct, distortions, and outright lies. As the difficult and heated negotiations got down to the last few days the county proposed a wage increase that was considerably above the cost of living but was far short of the twenty percent that had been promised by the physician managers.



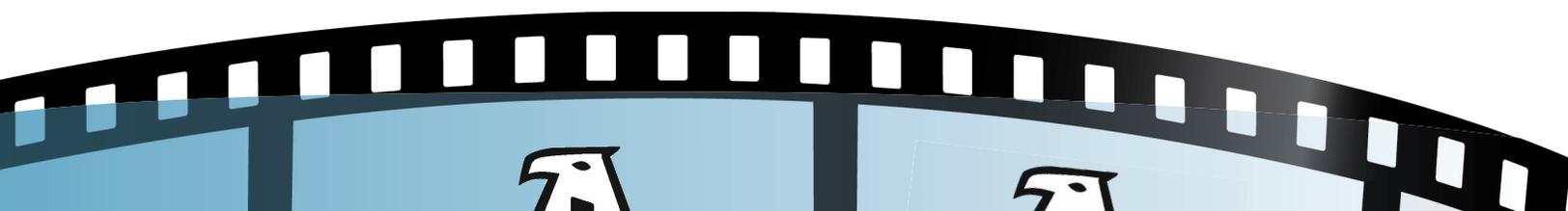
The county's representatives told the union team that the physician managers had acted without authority, that their promises were irresponsible, and that the management doctors had been admonished. The union members were not satisfied with that answer.

At an extraordinary Thursday evening meeting attended by 67 or the 68 doctors in the unit, the doctors voted unanimously to go on strike on Monday morning if their demands were not met. San Mateo began to implement plans to close the county hospital. One final negotiating session started early Friday morning and lasted until minutes before a pre-scheduled union meeting at 7 pm. The union team presented the county's last, best, and final offer to the members-- an immediate twenty percent wage increase with cost of living increases in the second and third year of an agreement along with major improvements in benefits and in contract language. The county's offer was exactly what the UAPD had asked for in its initial proposals some four months earlier. The union members overwhelmingly approved the contract.

Several years later the union narrowly avoided a strike in its Alameda County bargaining unit. The county was having great difficulty in recruiting psychiatrists to its psychiatric crisis unit. The UAPD demanded a large pay increase so that the county could fill the psychiatric vacancies and provide an equity increase for the other physicians in the unit. A few days before a strike deadline, the county agreed to the union's demands and offered substantial increases to the psychiatrists and to the other physicians. The union members approved the county's proposal by a large majority.

THE UAPD'S PRIVATE PRACTICE VICTORIES IN THE 1980S

The UAPD continued to send two or three mailings per year to every private practice physician in California. UAPD President Dr. Marcus wrote, "With the cash flow of the health care industry now coming under almost total control of a new class of managers, a trade union offers the only vehicle that doctors, as the de fact employees of those managers, can use to develop effective negotiating power given the new market conditions under which they must now serve."



The union continued on the attack whenever the State of California made a misstep. When the Department of Health Services issued regulations establishing a Medi-Cal Surveillance and Utilization Review (SUR) unit to make unannounced random inspections of private practice physicians' offices based on anonymous complaints, the UAPD sued to block the program. The UAPD also objected to SUR's practice of reporting physicians to the Medical Board prior to filing official complaints against the doctors.

In a statewide mailer Dr. Marcus ridiculed Medi-Cal for using the term "surveillance" and for making surprise inspections of Medi-Cal physicians. He said that it was a back door attempt to cut program costs by intimidating the physicians who were providing health care for the lowest income citizens of the State of California. The real purpose of the SUR, he said, was a cynical attempt to force doctors to quit the Medi-Cal program so that there would be fewer Medi-Cal providers in California. Medi-Cal settled the union's lawsuit by amending the regulations to provide for advance notice to physicians of the inspections, allowing physicians to have UAPD representatives present during interviews, and prohibiting SUR from reporting physicians to the Medical Board before they had notified the physicians of the charges.

UAPD Vice-President Dr. Robert Weinmann, a San Jose neurologist, learned that the Stanford University Hospital had been involved in a practice that Dr. Weinmann called "double billing", i.e., billing Medicare twice for the same services. In some cases it had billed for the services of senior physicians who were not in the county at the time that the care was provided for the patients. Dr. Weinmann revealed the information at a series of widely attended press conferences, and Stanford was required to repay money to the Medicare program.

The union sued Santa Clara County for failing to pay private practice physicians who had provided emergency medical care for indigent patients. The county had also threatened physicians with misdemeanor prosecution if they failed to provide free medical care for indigent patients. When the union lost the lawsuit it co-sponsored legislation that obligated counties throughout the state to pay physicians for emergency indigent care when the county failed to meet its statutory requirement to provide the care. The bill passed and was signed into law.

The UAPD filed an appeal with the state Office of Administrative Law asking it to review a new Medi-Cal audit process because it was implemented without being published as



a regulation. The union said that the Department of Health Services regularly used its own definition of the RVS (Relative Value System) to reduce payments to doctors. When the UAPD won the ruling that the department had failed to follow the proper administrative procedures, the state refused to comply with the ruling. The UAPD went to court and the judge forced the state to issue written regulations with the correct definition of the RVS code.

In 1986 the state renamed its ill-advised SUR program. The new Director of Audit and Investigation set a quota of 1,000 Medi-Cal provider audits per year. When he couldn't find probable cause to audit enough physicians, he decided to audit ten percent of Medi-Cal providers every year. The UAPD filed another lawsuit on behalf of UAPD private practice members throughout the state. The UAPD won and the department agreed to do informational audits rather than punitive audits. The UAPD newsletter reported, "... only members of the UAPD can file claims against the Department of Health Services over the department's improper audit techniques. All audits of UAPD members concluded before Mary 15, 1988 were declared invalid. The department estimates that as much as \$31 million may be reimbursed to physicians as the result



of this decision.”

The California Medical Board ruled in the case of an individual physician that the doctor was incompetent because his treatment of an 80 year old patient did not meet the standard of care as determined by the board. The UAPD filed an amicus brief saying that the doctor was competent and that the medical profession determined the standards of medical practice and not the California Medical Board. The court ruled in favor of the physician.

In the late 1980s with office rents escalating rapidly in San Francisco, the UAPD moved its headquarters office to Oakland. Although the UAPD had fewer members and a much smaller budget than either the AMA or the California Medical Association, it led the way in defending the medical profession in California. What were the traditional medical associations doing? Dr. Marcus wrote, “Physicians have been drawn to us because the AMA and the state societies have done nothing but retreat and wring their hands. ... (They are) toothless fogies who clutter up the socioeconomic battlefield.”

Chapter Four: Dr. Weinmann Becomes UAPD President

In 1990 Dr. Sanford Marcus retired from his position as UAPD President. During his nineteen years in office, the UAPD had grown from a fledgling organization fighting for its own survival into a powerful labor union with thousands of members that had improved the lives of its members and defended the rights of the medical and dental professions.

UAPD Vice-President Dr. Robert L. Weinmann, a private practice neurologist from San Jose, was unanimously elected as his successor. Dr. Weinmann was the president of the UAPD's local union in Santa Clara County and had taken an aggressive role in lobbying for legislation benefiting physicians and recruiting new UAPD members.

UAPD DEFEATS ATTEMPTS TO DESTROY COLLECTIVE BARGAINING

During the next decade the UAPD undertook a series of innovative steps to help both its private practice and salaried doctor members and to organize new members. In 1989 a patient at Napa State Hospital severely beat up UAPD psychiatrist Dr. William Bewley. The UAPD filed a safety grievance. As part of the discovery process, the union learned that the Department of Mental Health (DMH) had spent \$17 million in one year (ten percent of its personnel budget) paying employees who were off the job because of Workers Compensation injuries. In settling the union's safety grievance, DMH agreed to hire an outside consulting firm to review all of the safety issues in the state's mental health hospitals and to write a comprehensive report recommending improvements. Many of the recommendations were later implemented through the meet and confer process between DMH and the unions. The safer working conditions greatly reduced the number of on the job injuries and DMH Workers Compensation payments declined.

With the election of Pete Wilson as governor, the UAPD's state employed physician, dentist and podiatrist members faced a series of crises. In the early 1990s Governor Pete Wilson attempted to destroy collective bargaining for state employees. His administration first undertook efforts to contract out Department of Corrections health care to a private company. If he had been successful, the jobs of every CDC dentist, primary care physician, and psychiatrist in unit 16 would have been privatized. Despite years of maneuvering by his administration, the UAPD was able to block his efforts at every turn.

In 1991 Governor Wilson wanted to implement, for all of the state labor unions, a retroactive 5% pay cut, reduce all fringe benefits to the minimum allowed under state law, and eliminate all union negotiated contract guarantees. He couldn't be successful unless he could force all of the union negotiations into a formal process called "impasse". While negotiations were underway with all 21 of the state employee unions, the Governor took away every union's fair share agreement and the right to arbitrate grievances. He hoped that the greatly reduced dues income would force the unions to throw in the towel. He guessed wrong.

The UAPD was not going to let a hostile Governor harm its members. Just before the old agreement expired on June 30, 1991, Executive Director Gary Robinson told the state negotiators that it would take until Christmas for the Department of Personnel Administration to force the UAPD into impasse and by then the state would have committed so many unfair labor practices that it would not be allowed to implement its impasse request.

In July the Department of Personnel Administration (DPA) asked the Public Employment Relations Board to declare impasse in the negotiations with the UAPD. The UAPD had 48 hours to respond. Executive Director Robinson worked straight through, writing a 17 page brief, and the UAPD won. PERB ordered the DPA back into negotiations with the doctors' union. Twice more the state filed for impasse, twice more Mr. Robinson wrote the UAPD's briefs and PERB ruled in the UAPD's favor and ordered the two parties back to the negotiating table. Meanwhile all of the other 20 bargaining units were forced into impasse. But Governor Wilson could not implement his anti-union last, best, and final offer because the UAPD alone stood in his way.

On the DPA's fourth impasse request, in November, 1991, PERB declared impasse in Bargaining Unit 16. But the UAPD had laid a trap for the state. The UAPD filed a wide-ranging unfair labor practice charge against the state, and PERB ruled that it was a blocking charge. The Governor was, once again, blocked from implementing his take away offer. No other union fought the state through the unfair labor practice process.

Nationally known labor attorney Mr. Rich McCracken brilliantly presented the UAPD's case during four days of hearings beginning a few days before Christmas and continuing until December 26th. The Administrative Law Judge for PERB ruled decisively in favor of the UAPD. In a crucial opinion that Judge James Tamm later said was one of the most



important of his 25 year career, he ruled that the state had committed unfair practices by bargaining in bad faith with the UAPD.

Despite the Judge's decision, Governor Wilson tried to unilaterally implement his take away offers for all 21 bargaining units including the UAPD. PERB decided to go to court on behalf of the UAPD to get an injunction to prevent the Governor from acting. When the parties walked into the court room, the state asked for a delay. Within days the state withdrew its take away offers to all of the unions, settled the unfair labor practice charge with the UAPD, and negotiated fair and reasonable agreements with all of the labor unions including the UAPD. Because of the UAPD's strong and effective actions, collective bargaining was saved for California's state employees.

THE UAPD WINS TWO NEW SALARIED DOCTOR BARGAINING UNITS

The UAPD continued to win new bargaining units in the 1990s. The physicians, dentists, and nurse practitioners at Gardner Community Health Center in San Jose voted to be represented by the UAPD in an election conducted by the National Labor Relations Board (NLRB). Negotiations dragged on for nearly a year, but they resulted in a strong contract and a very successful collective bargaining relationship between the UAPD and the employer.



Santa Cruz County employed doctors had formed their own independent bargaining unit, but negotiations with their county employer fell apart when the bargaining became embroiled in charges and counter charges. The doctors phoned UAPD representative Al Groh, and he convinced the physicians to affiliate with the UAPD. Mr. Groh, as the leader of the new UAPD team, got the negotiations back on track. The county's offer of pay and benefit increases was ratified by the doctors in a close vote.

The UAPD made substantial financial and working condition improvements for its members in all of its county bargaining units during this decade, but San Francisco, despite its reputation as a pro-union county, proved to be a particularly difficult employer. Year after year the UAPD fought county attempts to fire union members, to increase workloads of the physicians, and to undercut the authority of the physicians. The union won incremental victories on these and many other fronts. One big victory came on the issue of the county retirement plan.

The San Francisco pension plan only applied to full time county employees. More than sixty percent of the doctors in the UAPD unit worked part time. Some physicians and dentists had worked schedules of 38 hours per week for years without being eligible for the county's defined benefit plan. The UAPD made this issue a top priority. San Francisco management agreed to the UAPD's proposal, but the San Francisco pension board refused to abide by the collective bargaining contract.

The UAPD sued the pension board which then reversed course. The UAPD doctors with less than full time work schedules became part of the county's pension plan. No other San Francisco union won this benefit for its members.

In 1996 Alameda County laid-off 12 physicians working in its clinics and gave lay-off notices to 55 physicians working in the county's medical center. The county contracted out the jobs of the doctors to a corporation run by a physician who had close ties to certain members of the Board of Supervisors. The UAPD strongly opposed the lay-offs in negotiations, in a lawsuit, and through a public relations campaign that ridiculed the county's phony cost saving data. After months of hearings, a Superior Court judge issued an injunction ordering the county to cease and desist from carrying out the lay-offs and to reinstate the 12 physicians with full back pay for all time lost. Alameda County appealed the decision and refused to reinstate the laid-off UAPD doctors.

Nearly two years after the fight began, the Court of Appeals ruled in favor of the UAPD. The lay-off notices were rescinded. The 12 physicians were offered their jobs back and received more than \$1 million in pay for all time lost. Meanwhile the UAPD negotiated an excellent memorandum of understanding with the county. The three year agreement had a 21% total pay raise and included county payment of DEA license fees along with increased continuing medical education reimbursement and improved medical, dental, vision, sick leave, and vacation provisions.

PRIVATE PRACTICE INITIATIVES

With the election of Bill Clinton as President of the United States, UAPD private membership surged. President Clinton proposed a national health insurance plan, and many more California doctors began to understand that they needed a strong and effective representative with the skill to negotiate on their behalf.

The union's grievance department continued to fight for UAPD members when the insurance companies and government health care programs failed to follow their own rules and contracts. In one case the grievance department won \$70,000 in payments that had been denied to a UAPD private practice surgeon by Medicare. The surgeon endorsed the UAPD and urged doctors to join the union in two highly successful brochures mailed to all of the private practice physicians in the State of California.

The UAPD reviewed proposed contracts sent to UAPD members by HMOs and PPOs and

recommended changes that would make the contracts fairer. The union also contacted third party payers on behalf of individual union members and helped the doctors negotiate improvements in contract language and rates.

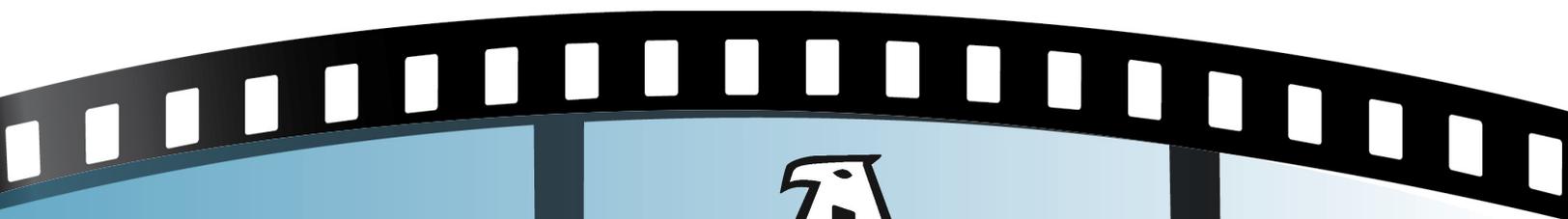
The union developed model medical staff bylaws and distributed them to all union members. Then the UAPD helped union doctors negotiate improvements in their medical staff bylaws using the UAPD model by-laws as a guide. When a new state law passed requiring the offices of all private practice physicians in California to have written protocols for handling blood borne pathogens, the UAPD developed suggested language that would comply with the law and mailed it to UAPD physician members.

In response to the UAPD's successes, the American Medical Association started its own labor union. It struggled for several years, spent \$3 million, organized 38 physicians, and then was disbanded as a costly failure. The AMA printed a lengthy negative article in the AMA newspaper on doctors' unions. The AMA article strongly suggested that the UAPD was violating anti-trust laws. The Federal Trade Commission soon notified the UAPD that it had opened an investigation into the practices of the union. The FTC letter to the UAPD included quotes from the AMA article.

The FTC spent two weeks in the UAPD's offices Xeroxing all union letters, documents, memos, newsletters, and other pieces of paper the FTC, in its feverish imagination, thought were relevant to its investigation into the union's dealings with HMOs, PPOs, insurance companies, Medicare, Medicaid, and hospitals. FTC attorneys then held three full days of hearings interrogating UAPD officers and staff about the contents of the union's files, the AMA newspaper article, the UAPD's officers and staffs knowledge of anti-trust law, and other various and miscellaneous matters related to anti-trust in the healthcare field.

When the FTC found no violations of anti-trust law, it notified the UAPD that the federal agency had closed its investigation without taking any action. Sometime later an FTC attorney making a presentation to a conference on anti-trust law in the health care industry recommended that other organizations follow the procedures used by the UAPD in dealing with third party payers although the FTC attorney did not give credit to the UAPD for developing the procedures.

The UAPD sent a mailing to all California's private practice physicians saying that the FTC had, very indirectly, endorsed the UAPD's program for negotiating with HMOs and PPOs. Forty physicians joined the union as the result of its FTC statewide mailing.



GOVERNOR WILSON TRIES TO UNDERCUT UNIONS A THIRD TIME

In 1996 Governor Pete Wilson was at it again. He proposed that there be individual “pay for performance” instead of union negotiated pay raises for all of the doctors in the bargaining unit. He wanted all future pay increases for State employees to be individually approved by the employees’ supervisors. After the expiration dates for union contracts the governor also canceled, for all of the state unions, the contract sections on arbitration of grievances and fair share payments by non-members.

After lengthy negotiations the UAPD got the State to back-track on all of the Governor’s anti-employee proposals. Despite a fiscal crisis, the State agreed to extend safety retirement to the doctors in the Department of Mental Health. Unfortunately the UAPD and the Department of Personnel Administration reached an agreement only one week before the legislature adjourned for the year, and there was not enough time to have it approved by the state legislature.

In Pete Wilson’s last year as governor, the UAPD negotiated an excellent agreement with the State. While most other labor unions got a 3 percent raise for their members, the UAPD negotiated a 13 percent increase for its physicians, dentists, and podiatrists working in institutions. The union improved compensation for MOD and continuing education and expanded safety retirement to departments other than the Department of Corrections.

UAPD AFFILIATES WITH AFSCME

In the mid-1990s union leaders held a series of meetings with four different AFL-CIO international unions. In August 1997 the UAPD Executive Board agreed to an affiliation with the American Federation of State County and Municipal Employees (AFSCME). UAPD members overwhelmingly ratified the affiliation in a mail ballot, and the UAPD signed an agreement with AFSCME.

There were many reasons UAPD chose to affiliate. AFSCME is one of the most politically power-



ful unions in America, with 1.4 million members and a grassroots base of mobilized members second to none. AFSCME has a terrific research office in Washington D.C. that would prove to be important in supporting the UAPD's negotiating, organizing, political, and lobbying efforts. AFSCME has an extremely successful lobbying office in Sacramento led by Mr. Willie Pelote, one of the top lobbyists in the state. After the affiliation, Doug Chiappetta, the UAPD's highly effective lobbyist in Sacramento, developed a close working relationship with Mr. Pelote and used the UAPD's expertise on medical issues and AFSCME's political clout in the state capital to advance the UAPD's legislative program.

As part of the affiliation the UAPD gained three seats on the statewide AFSCME California steering committee which shapes AFSCME's California political and legislative agenda. AFSCME gave the UAPD cash to hire a new organizer and the support of three full time international staff as part of the organizing campaign for Los Angeles County employed physician specialists. One of AFSCME's full time organizers working with the UAPD was a young, energetic physician. The affiliation also gave the UAPD the autonomy to handle its own programs, negotiations, finances, staff, and elections.

THE UNION WINS AND THEN LOSES IN LOS ANGELES COUNTY

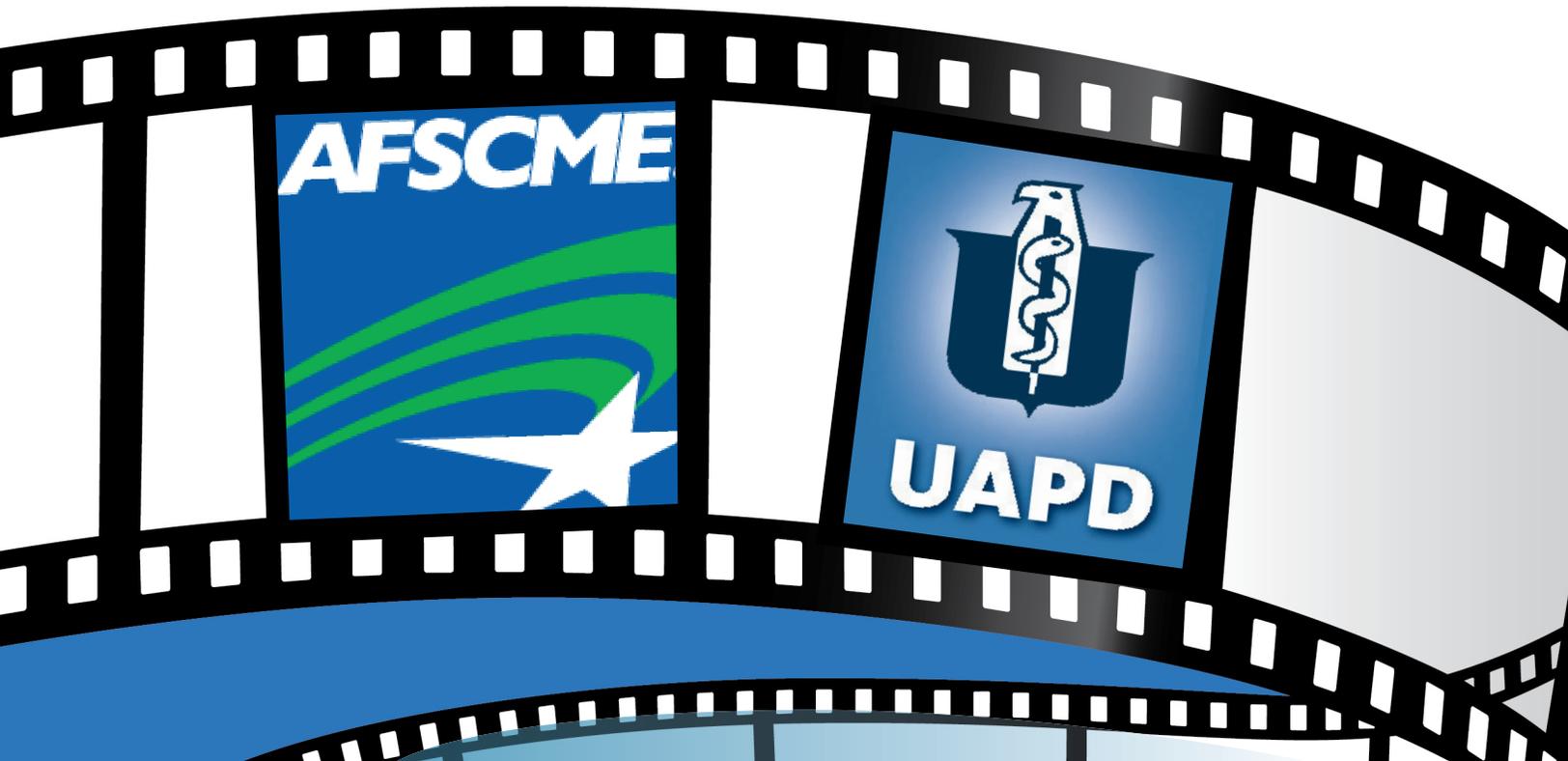
For twenty years the UAPD had represented a Los Angeles County bargaining unit of psychiatrists and dentists, but the primary care and specialist physicians had no representation. In the late 1990s the UAPD, with the strong support of AFSCME, filed a petition for a bargaining unit of 800 primary care and specialist physicians working in the county's clinics and hospitals.

The union's team of doctors from the bargaining unit, UAPD staff and board members, and AFSCME staff held meetings in each facility, mailed and handed out many pro-union letters and brochures, and personally visited or phoned most of the physicians in the unit. The county put up a ferocious and sophisticated campaign, led by surrogate county employed physicians, in opposition to the union. The anti-union physicians held meetings throughout the county and mailed a series of carefully worded glossy brochures to the bargaining unit telling the doctors to vote No. The anti-union physicians said that the physicians would lose their Megaflex benefit if the union won, but the physicians voted overwhelming for the UAPD in a secret ballot mail election. It was the largest physicians' bargaining unit to go union in the United States in nearly twenty years—since the UAPD victory in the State of California unit in 1981.

Negotiations were difficult. The county insisted that it would take away the doctors lucrative Megaflex fringe benefit because they had voted to unionize. With negotiations at impasse, the parties took the issue to an impartial fact finder. The fact finder's decision said that it was improper for the county to terminate Megaflex, but his opinion was advisory and the county implemented its last, best, and final offer—taking away Megaflex from the unionized doctors. The UAPD filed an unfair labor practice charge with the Los Angeles County Employee Rela-

tions Commission (ERCOM). ERCOM, appointed by the Board of Supervisors, delayed conducting a hearing on the union's charge for months and then for years.

The anti-union physicians who had originally opposed the UAPD then gathered signatures on a decertification petition and filed it with ERCOM. ERCOM expedited the anti-union petition and set an election on short notice. The doctors voted out the UAPD as their representative, and Los Angeles County immediately restored Megaflex for the doctors. When ERCOM finally got around to holding a hearing on the union's unfair labor practice charge, the Commission said that it was perfectly okay for Los Angeles County to punish the doctors when they voted to unionize by taking away Megaflex. The UAPD appealed the ERCOM decision to Superior Court.



Chapter Five: A New Governor

AFSCME and the UAPD strongly supported Gray Davis when he ran for governor in 1998. With his election California unions had a friend in the governor's chair for the first time in 16 years. With AFSCME as the sponsor, the legislature passed and Governor Davis signed a bill allowing unions to have fair share agreements in their California State University and University of California bargaining units. The UAPD signed up many new members as it implemented a fair share agreement in CSU Bargaining Unit 1.

After strong lobbying by labor unions the governor also signed legislation giving the Public Employment Relations Board jurisdiction over enforcement of local government labor law in California. One provision of this law allowed California public employee unions to have fair share elections by filing petitions signed by members of the bargaining units. Under the prior law, local public employers could block fair share elections by simply refusing to give their consent. For more than 20 years Santa Clara County had refused to allow a fair share election in the UAPD's county bargaining unit. With the new law in effect the UAPD filed a petition signed by Santa Clara County employed physicians; PERB held a secret ballot election; the union won; and fair share was implemented in the UAPD's Santa Clara County bargaining unit.

UAPD IPA AND OTHER PRIVATE PRACTICE REPRESENTATION

In the early 1990s the UAPD had formed a non-profit Independent Practice Association (IPA) to negotiate contracts on behalf of groups of UAPD private practice physicians. More than seven hundred individual California physicians joined the UAPD IPA and the UAPD. The UAPD IPA negotiated contracts on behalf of these members with twelve separate PPOs. The UAPD IPA also affiliated groups of physicians in Santa Rosa, Stockton, Palm Springs, Los Angeles, and Santa Barbara, representing them in negotiating agreements with hospitals, medical foundations, HMOs, PPOs, and hospitals.

The UAPD's extensive research unearthed unethical and fraudulent practices by health-care organizations. The union informed its members and government oversight agencies of these improper actions. The doctors' union also documented and publicized the excessive pay of healthcare executives. The UAPD prevented HMOs from discharging good physicians, and it won large sums of money for union doctors from for-profit insurance companies, HMOs, and PPOs including \$18,000 for a San Diego surgeon and \$5,000 for another UAPD Southern California physician.



The union continued to file lawsuits and amicus briefs on behalf of union members, and it embarked on an aggressive lobbying program in Sacramento to defend the rights of union physicians. The UAPD's lobbying team in Sacramento defeated attempts by psychologists and other non-physicians to expand their scopes of practice and successfully sponsored legislation to rein-in some of the abuses in physician credentialing that were being carried out by HMOs and PPOs.

During the 1990s the UAPD mailed 26 brochures or letters explaining its programs and victories to all of the private practice physicians in California. One thousand one hundred and sixty-one private practice physicians joined the UAPD as the result of these statewide mailings and paid more than \$1,460,000 in UAPD dues and UAPD IPA fees.

WHEN DOCTORS JOIN UNIONS

In 1997 Grace Budrys, a professor of sociology at DePaul University, published a book on the origins and development of the Union of American Physicians and Dentists. *When Doctors Join Unions* (Cornell University Press) told of the union's founding by a charismatic leader, continuing opposition by hostile organizations, and its survival and triumph.

Ms. Budrys said:

“The UAPD is an unusual organization, exceptional in its ability to offer a range of new and valued services to its members.... The UAPD's special achievement was to convince doctors that joining this physicians' union would not compromise their professionalism, no matter what form of practice they pursued. Indeed, it has been able to convince increasing number of physicians that UAPD membership would enhance their professionalism...

“White collar and professional workers did not join unions in the past because, they said, belonging to a union would deny them the opportunity to be rewarded individually for particularly noteworthy achievements. As is apparent from the UAPD's experience... this fear is not well grounded.

“.. it is the continuity provided by an organizational structure, and not the threat of strikes, that gives workers, especially those who are highly skilled and educated, the means to voice their views on institutional policy—and have their voice acknowledged....

THE UAPD IN THE TWENTY-FIRST CENTURY - SAN JOAQUIN COUNTY

In 2001 the UAPD filed for a PERB secret ballot mail election in a bargaining unit of physician specialists, primary care physicians, and psychiatrists employed by San Joaquin County's acute care hospital and clinics. The county decided to engage in a dirty tricks campaign to disrupt the election. It gave the wrong mailing addresses to PERB for 15 eligible physician voters. The day after the ballots were mailed, San Joaquin County placed the UAPD's key physician organizer on administrative leave.

The union filed an unfair labor practice charge with PERB and asked the labor board to seek an immediate court order prohibiting these blatantly anti-union actions from interfering with the election and harming the career of the union organizer obstetrician. PERB took the extraordinary step of going to court to obtain a temporary restraining order against the county. It was the first request for injunctive relief granted by PERB under the law which recently had been signed by Governor Davis granting PERB the authority to oversee enforcement of local government labor law in California. Within days the local Superior Court judge issued a temporary restraining order reinstating the physician.

Despite the county's outrageous interference in the election process, the doctors voted to join the UAPD by a 58 percent majority. The negotiations for a first contract were drawn out and difficult. After many sessions including several mediated by the State Conciliation Service, the two sides reached an agreement that was ratified by the members. One key issue remained unresolved. The union negotiated an increase in the county's contribution to the doctors' 401K plans, but San Joaquin County insisted that the unionized physicians not be allowed to become members of the county's defined benefit pension plan.

A few months later the county suspended the UAPD organizer without pay. The union filed another unfair labor practice charge. PERB held an administrative hearing and ordered the obstetrician reinstated with full back pay, over \$30,000, for all time lost. Several years later the county fired the obstetrician. Although PERB failed to reinstate the doctor, he filed a lawsuit which was settled by the county making a payment to the physician of \$999,999. Evidently the San Joaquin County Board of Supervisors had its principles. It wouldn't give a \$1 million settlement to anybody.

UAPD LOBBYING IN SACRAMENTO

In the 1980s the UAPD had established its Medical Defense Fund – Electoral to collect voluntary political contributions from UAPD members. The union made all of its political contributions from this fund. Although the fund was very small at first, by the year 2000 the UAPD was making more than \$100,000 per year in contributions from the MDF-E to California political candidates and ballot initiatives. Under federal law, the UAPD was not allowed to, and made, no contributions to federal candidate from this fund.

In 2000 a chiropractor who was a member of the State Assembly introduced a series of anti-physician bills. The UAPD led the opposition in defeating his ill-advised proposals. This chiropractor had the political support of many other labor unions but when he decided to run for the State Senate, the UAPD became the first union to oppose him in a special election. The UAPD MDF-E made the maximum allowable contribution to his opponent, and the chiropractor lost by a 2 to 1 margin. As the direct result of the UAPD

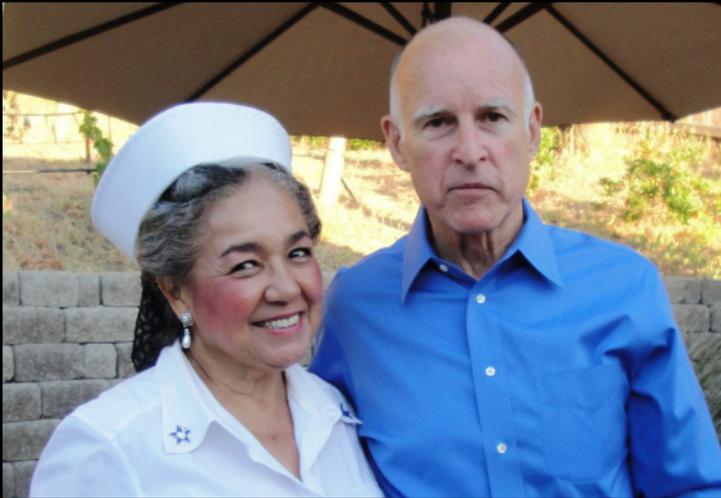


members' voluntary political contributions, an enemy of physicians was defeated and his political career ended.

Many HMOs were pocketing enrollees' premiums and making no per capita payments to their private practice doctors until the enrollees became sick. The UAPD sponsored a major bill to overturn this fast-buck practice. The UAPD bill passed and was signed into law requiring HMOs to make sure that every enrollee was assigned a primary care physician upon enrolling in the HMO.

In 2001 legislation passed the State Assembly turning over control of funding for the state's developmental centers to California's regional centers. The bill called for closing one developmental center by July 1, 2004 and two more by December 31, 2008. UAPD lobbyist Doug Chiappetta and AFSCME lobbyist Willie Pelote led a coalition of unions in opposing this bill in the State Senate. Despite enormous pressure to drastically cut the Developmental Services budget and a series of tricky behind-the-scenes legislative maneuvers, the UAPD defeated the bill. The union victory saved thousands of seriously developmentally disabled patients from being discharged into a regional center system that was woefully unprepared for them and also, for the time being, saved the jobs of more than 125 UAPD physicians and dentists working in the state's developmental centers.





Later, the Department of Corrections asked for a \$7.9 million supplemental budget appropriation to contract out the mental health services at three state prisons. The UAPD testified to the state legislature about the absurdity of increasing state expenditures to have a private company provide the same services that the civil service doctors and nurses were providing at lower cost. The proposal was soundly defeated.

The UAPD introduced legislation to amend the California local government collective bargaining law, retroactive to 1998, to make it illegal for a California County with a population of more than 3 million people to take away a health care benefit (Megaflex was defined in Los Angeles County ordinances as a health care benefit) from a group of employees newly certified as a collective bargaining unit. Los Angeles was the only county covered by this bill. The UAPD and AFSCME made the passage of this legislation a top priority. It took a major lobbying campaign to get the bill passed by both the State Assembly and the State Senate. Then UAPD and AFSCME undertook another intensive lobbying effort to obtain Governor Gray Davis approval. When Governor Davis signed the bill into law, the UAPD was confident that it would win its unfair labor practice lawsuit against Los Angeles County.



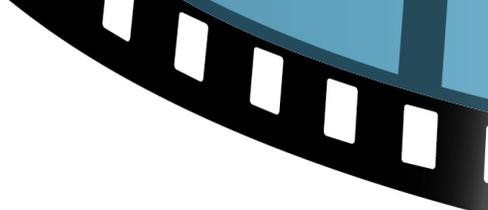
Chapter Six: The Terminator and the DSS

In 2003 amid a deep recession and the most serious fiscal crisis in the history of California, Governor Gray Davis was recalled and actor Arnold Schwarzenegger, most famous for his role as The Terminator, was elected governor of California. The UAPD and all other labor unions representing California public employees faced difficult times.

Meanwhile the administration of President George Bush announced that it was planning on eliminating the jobs of all the state employed physicians in America who did disability evaluations for the Social Security program. The work would be given to selected contractor physicians. Over 140 UAPD represented Medical Consultants in Bargaining Unit 16 would lose their jobs if this proposal were approved by Congress.

Within days after the Social Security Administration made the announcement, the UAPD and its physicians began developing a strategy to defeat the plan. The first step was a white paper analysis of the shortcomings of the proposal. The UAPD white paper showed that contracting out would be far more expensive for Social Security in the long run, and it would result in slower and less accurate evaluations for the applicants. Unfortunately the privatization plan was moving forward rapidly and no one in the Republican Administration was willing to listen to the doctors' union. The UAPD's second step was to marshal its allies and supporters.

Contacts with other unions and associations gave the UAPD new information about the plan and gained support for the Medical Consultants. The UAPD asked AFSCME for help, and the international union put together a coalition of all the AFL-CIO unions in America representing Medical



Consultants who were employed by the states to do disability evaluations for the Social Security program. The UAPD and AFSCME provided leadership for the AFL-CIO coalition.

The union coalition quickly convinced the Democrats in the House of Representatives, where the proposal was being considered, to oppose it. But the Republicans were in the majority. A UAPD member who had been active in Republican politics in the Sacramento area wrote to, and talked with, the Republican staff of the House Ways and Means Sub-Committee that was considering the proposal. He was invited to testify before the sub-committee in Washington D.C. His eloquent testimony together with the analysis in the White Paper and the support of the AFL-CIO coalition and other UAPD allies convinced the Social Security Administration to change its plan. In a major victory for the UAPD, the federal bureaucracy agreed to allow disability evaluations to continue to be carried out by state employed Medical Consultants in California and in other states.

DR. STUART BUSSEY ELECTED UAPD PRESIDENT

After 16 years as UAPD President, Dr. Robert Weinmann decided to retire. Dr. Weinmann, a crusader for the rights of doctors, had been one of the original UAPD members from the San Jose area. His years as president included many battles on behalf of the medical and dental professions and many victories.

Dr. Stuart Bussey had been an active member of the UAPD state negotiating team. Dr. Bussey won election to the UAPD post in 2006. He is both a physician and an attorney. He has a primary care private practice in Contra Costa County and at the time of his election had worked for more than a decade as a Medical Consultant for the California Department of Social Services. After his election, in a letter to all of the private practice physicians in California Dr. Bussey said, “To level the playing field, doctors need the right to negotiate with payers and an organization that can make that happen. The Union of American Physicians and Dentists is that organization.”

LOS ANGELES PHYSICIANS VOTE A SECOND TIME FOR THE UAPD

The California Court of Appeals gave the UAPD a major victory when the court ruled that Los Angeles County had committed an unfair labor practice in taking away the Megaflex benefit from unionized county physicians. The court ordered L.A. County to

The top of the page features a decorative header. It consists of a black film strip with white sprocket holes, curving across the top. Above the film strip, there are three stylized icons: a white speech bubble with a black outline, a white crescent moon with a black outline, and another white speech bubble with a black outline. The background behind these elements is a light blue color.

reinstate Megaflex and to reimburse the doctors for their losses resulting from the county's illegal actions.

The UAPD began a massive organizing drive in the county. It contacted every unorganized physician employed by Los Angeles County through mailings, phone calls, and meetings. Without the ability to threaten to take away benefits, the county's anti-union campaign was ineffective. The Los Angeles Bargaining Unit 324 specialists and primary care physicians voted overwhelmingly to be represented by the UAPD.

Dr. Bussey, UAPD staff, and a team of physicians from the bargaining unit negotiated an agreement with the county to pay \$10 million to the physicians in the bargaining unit as a final settlement of the union's Megaflex lawsuit against the county. The union team also negotiated an excellent memorandum of understanding that included additional seniority steps and salary increases ranging from 12% to 25%. After the contract was ratified, the physicians in the unit petitioned for a fair share election. The doctors voted overwhelmingly in favor of agency shop in an L.A. County Employee Relations Commission supervised election.

CDCR LOSES LAWSUITS AND BLAMES DOCTORS

A series of lawsuits against the Department of Corrections and Rehabilitation in the 1990s claimed that the department provided unconstitutionally poor medical, mental health, and dental care. After lengthy legal arguments, briefs, and hearings lasting many years, three separate federal courts ruled against CDCR. The first two cases, named after lead inmates Plata and Madrid, involved inadequate primary medical care. The Coleman case involved deficient mental health care. The Perez case concerned the department's poor dental care.

The CDCR's first line of defense was to deny that there were any problems. When that defense failed, CDCR said that all the problems were the fault of the state's labor unions and the doctors who worked in the prisons. Unfortunately the judges in the cases, the state legislature, the news media, and the public initially believed the department's wild and untruthful statements.

The Plata judge appointed three neutral experts to recommend changes in CDCR health care. UAPD research quickly discovered that one of “experts” was an officer in a company that contracted with prison systems in other states to replace civil service physicians with the company’s own contract physicians. It was clear to the UAPD that the so-called “neutral experts” and CDCR were working together to discredit the physicians who worked for the department so that their jobs could be privatized.

The UAPD developed a multi-phased program in response to this threat. The first step was to develop a comprehensive CDCR health care reform program. No such program existed. The experts, CDCR, the Schwarzenegger Administration, and the legislature were too busy blaming the unions and the doctors to spend any time coming up with proposed solutions to the serious deficiencies in the system.

The UAPD asked its CDCR physician members to report to the union on the problems and inefficiencies in the healthcare system and to propose solutions. The doctors’ union, with its in-depth knowledge of the system gained from years of negotiations, grievances, and complaints against CDCR, then wrote a glossy booklet entitled CDCR Healthcare Reform that included the union’s 27-point program for reforming CDCR healthcare. The UAPD gave copies of the booklet to every member of the state legislature, the healthcare leadership of CDCR, the court experts, all of the members of the media who had been reporting on the issues, the Governor, the other labor unions representing CDCR employees, and the Special Master in the Madrid case who reported to the federal judge responsible for both the Madrid and Plata cases.



Although CDCR, the Administration, the media, and the legislature attempted to ignore the reform booklet and continued to blame the civil service doctors for all the problems in the system, the union persisted. Union leaders met with the Madrid Special Master. The UAPD learned that he was very interested in reform, and that he wanted the UAPD and the other labor unions to work with him to bring positive changes to CDCR healthcare. The Special Master asked the UAPD to attend several meetings with CDCR leadership. In these meetings the Special Master told the department to make important changes, and he asked the UAPD if it supported these changes. The UAPD leaders said, “Yes!” CDCR’s lies about union obstruction were exposed, and the department was ordered to carry out the changes. Unfortunately, judicial orders were not sufficient to overcome CDCR incompetence.

The UAPD brought together a coalition of the labor unions representing healthcare employees in CDCR. The union coalition met with the editorial board of the Sacramento Bee, and the newspaper wrote a key editorial that attacked CDCR and supported the union’s reform program. The union coalition contacted other members of the media, and the news coverage began to change from scapegoating civil service doctors and unions to exposing CDCR’s incompetent management and willful failures to comply with court orders.

Judge Theldon Henderson held a hearing concerning the possible appointment of a federal receiver to take over the management of medical care in CDCR. The union coalition wrote a legal brief supporting a receiver. In his decision appointing a receiver, Judge Henderson called CDCR “the No Can Do Department”. The department was incapable of doing anything, regardless of how small, to improve the quality of healthcare it provided to inmates. In the months after the court decision, the UAPD worked with the acting receiver to implement a ten percent salary increase for physicians and to bring about several reforms that had long been advocated by the union.



Despite strong UAPD opposition, the Receiver implemented a physician disciplinary system, the Professional Physician Executive Committee (PPEC), which was unfair and did not provide adequate due process rights for doctors. The receiver and the union began negotiations on a new physician disciplinary system for CDCR. The receiver's staff told the union that there could be a substantial pay raise for physicians once a new disciplinary system was in place.

After lengthy negotiations, the parties agreed to new disciplinary procedure with strong due process rights and a clinical practices peer review policy that was a major improvement over the prior system. Although PPEC remained in place its powers were reduced and the union won the right to have two bargaining unit members as voting members of the panel. The union physicians on the PPEC became effective advocates for quality care because they brought knowledge of real world correctional medicine into the discussions that previously had been the purview of Sacramento management doctors. The final steps of the new procedure were binding arbitration by an outside, independent panel of physicians and review of the panel's decision by the State Personnel Board. With the new procedure in place, the Receiver recommended and the federal judge approved a substantial pay increase for CDCR physicians and surgeons. Following the actions of the Plata court, the judges in the Coleman and the Perez cases ordered substantial pay increases for the psychiatrists and the dentists in the Department of Corrections and Rehabilitation.

The first decision of the independent panel of physicians was a complete victory for the accused physician. The panel overruled an earlier PPEC decision against the doctor and said that the physician should be reinstated to his position in CDCR with full back pay for all time lost. In reviewing the panel's action the State Personnel Board said that the ruling was in compliance with California law and must be enforced.

GARY ROBINSON RETIRES; AL GROH NAMED EXECUTIVE DIRECTOR

Gary Robinson retired in 2007. He had started with the UAPD as a labor representative in 1975 and had been Executive Director since 1978. During his nearly thirty years as Executive Director, he had worked closely with all three of the UAPD elected presidents. Under Mr. Robinson's leadership, the UAPD grew from a fledgling union representing mostly private practice doctors to a vibrant organization with fourteen collective bargaining agreements covering more than 3,000 salaried doctors and a strong private practice sector. He has been widely recognized as an important labor figure in California. He continues to work for the UAPD as a consultant.

Al Groh, who had been a UAPD Senior Representative for twelve years, was named by Dr. Bussey and approved by the union's Executive Board as the new UAPD Executive Director. He is a strong union leader with the proven skills to solve complex problems and to rally staff and members to win important victories. Prior to his employment with the UAPD, Mr. Groh had held leadership positions in a Maritime labor union and with a local of the Service Employees International Union representing resident physicians. While with the UAPD, Mr. Groh had worked in all phases of representation for the union's doctor members including negotiations, grievance handling, organizing, the UAPD IPA and other private practice representation, lobbying, and political action.

Chapter Seven: Raises for State Employed Doctors

The first major problem facing new UAPD Executive Director Groh and President Bussey was the gap in salaries between the state employed union members working for CDCR and for those working for other departments. Although the UAPD/state labor agreement would not expire until the middle of 2008, the union immediately began to negotiate salary increases for members who had been bypassed by the CDCR raises.

Data in hand, the UAPD managed to negotiate significant mid-contract pay increases for the dentists, psychiatrists, and primary care physicians in the Departments of Mental Health (DMH), Developmental Services (DDS), and Veterans Affairs (DVA). The union's proposals to raise mid-contract salaries for the doctors in the Departments of Social Services (DSS) and Health Services (DHS) were rejected by the State, which said that it would only offer raises to the doctors in the departments that directly treat patients. The nine separate salary increases for doctor classification negotiated by the union in 2007 were all implemented by early 2008, including retroactive pay for dentists and psychiatrists. The doctors' union vowed to continue to fight for its members in DSS and DHS.

SCHWARZENEGGER PROPOSES TEXAS-STYLE PRISON HEALTHCARE FOR CALIFORNIA

During his final year in office, Arnold Schwarzenegger made one more attempt to eliminate the jobs of UAPD doctors working for CDCR. He made a "too good to be true" proposal which his administration claimed would cut prison healthcare costs by an amazing \$1.2 billion per year. The proposal had been developed for Schwarzenegger by a Texas for-profit company called NuPhysicia. Texas prison healthcare is managed by University of Texas Medical School, and it uses the NuPhysicia telemedicine system. To give its proposal a veneer of credibility, NuPhysicia recommended transferring California's prison healthcare from CDCR to the University of California.



As soon as the NuPhysicia report was released to the public, UAPD began a multi-faceted attack against it. The union reviewed the document line-by-line; it researched the NuPhysicia Corporation; and it hired consultants to analyze the Texas Correctional medical system. Then union attorneys reviewed every possible legal pitfall which the State of California and the University of California would encounter if they decided to undertake the scheme.

The UAPD reported to the administration, the legislature, the press, and the University of California Board of Regents that the Texas/NuPhysicia experiment wasn't working. Texas prisons had drastically slashed psychiatry and primary care physician staffing, but had only saved \$35 million per year. Even that estimate was wildly optimistic. A Texas University finance and business officer announced that the university stood to lose between \$65 million to \$105 million in 2010-11 on the academic-prison partnership. He said, "It's not working for us, and it's not working for the state." But Schwarzenegger and a few key state Senators continued to support the plan.

The UAPD and its allies then made a presentation at a UC Regents public hearing on prison healthcare. Attorney Andy Kahn testified about the major legal hurdles that the UC would face if it ran healthcare for California's prisons including malpractice liability and labor negotiating obligations. UC Professor and Assembly candidate Dr. Richard Pan opposed the proposal as impractical and financially risky. UAPD President Dr. Stuart Bussey said, "The UCSF and Stanford Medical School merger failed because the cultures were incompatible, but that difference is miniscule compared to the gulf between the cultures of CDCR and the University of



California.” The Board of Regents decided to postpone a decision on the proposed takeover of CDCR healthcare. It never put the idea back on the agenda, and the scheme died when Schwarzenegger left office.

JERRY BROWN IS ELECTED GOVERNOR

In the 2010 election campaign Republican candidate for governor, Meg Whitman declared herself to be an enemy of public employee unions and public employees. The UAPD supported Democrat Jerry Brown and used the voluntary contributions made to its Medical Defense Fund – Electoral to make maximum allowable campaign contributions to Brown in the Primary and General elections. Despite being outspent by a 5-1 ratio, Brown won an easy victory. For the first time in six years, the UAPD had someone in the Governor’s office who had pledged to work with public employee unions in a fair and reasonable manner.

ORGANIZING NEW BARGAINING UNITS

The union’s aggressive program to organize doctors continued when the fifty psychiatrists and primary care physicians employed by Ventura County signed cards to become members of the UAPD and the Public Employment Relations Board certified the UAPD as the representative despite strong opposition and unfair labor practices by the county Board of Supervisors. When the UAPD team began to negotiate for an initial contract, the county reconfigured the unit and refused to bargain. The UAPD filed new charges. The hearing officer ruled for the union, but the county appealed and the case is pending at this time.

A group of sixty primary care and specialist physicians working for Kern County asked the UAPD to represent them, and the county recognized the UAPD as the bargaining agent. Negotiations have begun with the key issues being job security, retirement provisions, and a fair compensation system.

The union also began a campaign to organize the doctors working for health clinics. Seventy-eight physicians, dentists, and nurse practitioners at Northeast Valley Health Corporation outside of Los Angeles became the first Southern California private clinic doctors to join the UAPD when they signed union cards and the employer recognized the UAPD as their exclusive collective bargaining representative. Negotiations are underway for a first contract.



CALIFORNIA COUNTIES

The 2008 recession hit California public employers hard. Revenues for the state, the counties, and the CSU plummeted. The UAPD had to fight in every jurisdiction to preserve doctors' salaries and fringe benefits. In some counties simply preventing layoffs was a victory. Even in these difficult times, the UAPD won some notable victories.

In San Joaquin County the UAPD never gave up on its fight to have bargaining unit doctors covered by the county's defined benefit pension plan. The union's negotiating team made entry into the plan a top priority in contract bargaining, but the county was adamantly refused to agree to the proposal. The union was forced to file a lawsuit against the county over the issue. The lawsuit dragged on for months and then years. Under intense pressure, the county's pension board finally agreed to settle the lawsuit and allow the doctors to join the defined benefit pension plan. But the County Board of Supervisors refused to agree to the proposed settlement. After many months of further negotiations, the UAPD reached a settlement with the County that was a total victory. The UAPD represented doctors were allowed to join the county's defined benefit pension plan.

The UAPD's initial contract with Los Angeles County provided for a multi-step salary schedule. Despite the county's financial distress after the recession hit, and a series of freezes on cost of living salary increases, almost all of the physicians and dentists in the bargaining units continued to receive negotiated seniority salary step increases every year.

The union negotiated a Los Angeles County physician registry. Under the registry, UAPD physicians will have first priority over outside contractors for any extra paid hours of work that the county has available. Once the registry is fully implemented union physicians who volunteer for the registry could earn thousands of dollars extra per year.

The 2012 negotiations with San Francisco County ended in a total victory for the UAPD doctors. In recognition of San Francisco's dire financial condition during the first years of the recession, the county doctors had agreed to financial concessions. By the spring of 2012 it became clear to the union negotiating team that San Francisco was financially sound although it continued to pretend to be broke.

Using the unique San Francisco negotiation/mediation/arbitration process, the union won substantial pay increases for everyone in the bargaining unit. The union's arbitrated agreement also improved contract language and ended all concessions.

ARE DEPARTMENT OF SOCIAL SERVICES BONUS PLAN EARNINGS PENSIONABLE?

When the United States Congress changed Social Security disability law in the mid-1990, it created a huge backlog of Social Security disability applications. In California the Department of Social Services (DSS) and the UAPD negotiated a bonus plan so that Medical Consultants could earn extra income for completing large numbers of disability evaluations. Many doctors worked very hard to complete extra cases and earned substantial bonuses in addition to their regular salaries. The Bonus Program was a great success, and the initial backlog of cases was erased.

The bonus plan remained in place because the department often needed Medical Consultants to complete additional cases in order to keep new backlogs from developing. Over the years the UAPD suggested improvements to correct flaws in the Bonus Plan, but the Department blocked the union's proposals.

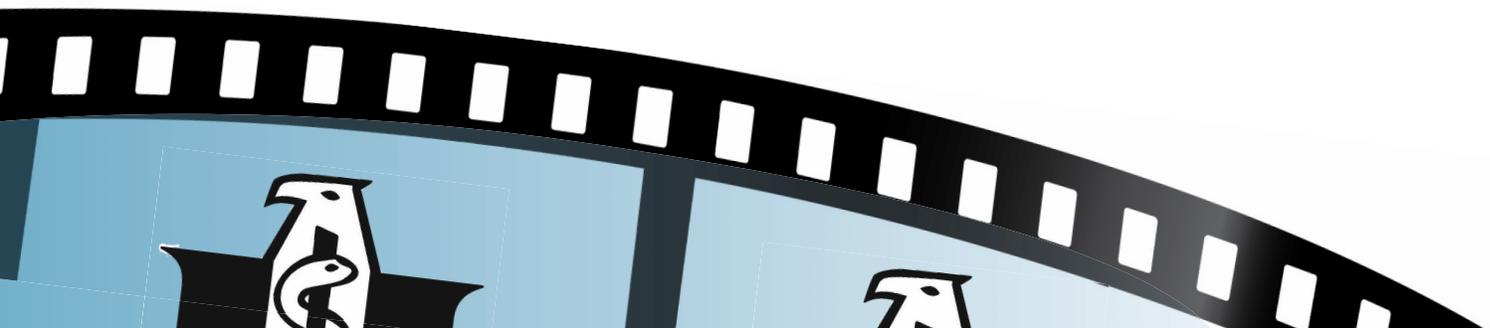
The state always deducted PERS contributions from DSS Medical Consultants Bonus Plan earnings. Everyone assumed that Bonus Plan earnings were pensionable. In 2011 when two UAPD doctors retired after years of working for the Department of Social Services, CalPERS informed the doctors that their pensions would be based on their regular salaries. CalPERS said Bonus Plan earnings didn't count. CalPERS didn't even offer to repay the doctors' pension contributions made on their bonus plan earnings.

The UAPD appealed the CalPERS decision. After a series of legal briefs and counter-briefs and a formal hearing, an administrative law judge ruled in favor of the UAPD doctors. He said that DSS Bonus Plan earnings are pensionable!

The department is appealing the law judge's ruling, and a final decision is pending. If it is upheld, the ruling will be a precedent for all of the Medical Consultants in DSS.

A UNION COALITION FIGHTS FOR STATE HOSPITAL EMPLOYEES' SAFETY

When a psychiatric technician at Napa State Hospital was murdered by a patient in 2010, the labor unions representing workers in the Department of State Hospitals formed a coalition to demand a safe workplace. Staff pleas for help had been ignored for years, and the unions learned that level of care workers in the Department of State Hospitals



were being attacked at an alarming rate—on average three attacks per day at each of the hospitals.

With the UAPD providing leadership, the coalition launched an intensive effort to improve safety. As an initial step, the unions developed a wide-ranging series of safety proposals. The coalition negotiated with the state and demanded that the department reverse its lackadaisical attitude about the safety of its own employees. The coalition pressured the department by holding large, enthusiastic employee rallies and press conferences at the state hospitals. Local television stations, NPR, and many newspapers covered the story as it evolved from a local issue into a statewide scandal. UAPD physicians gave on-camera and newspaper interviews. They provided quotes and important clinical background information to a Los Angeles Times reporter who wrote a series of front page articles exposing the financial and human costs associated with the safety violations.

The unions also worked directly with members of the State Senate and Assembly, convincing them to introduce safety legislation in Sacramento. A UAPD-sponsored bill to streamline the involuntary medication process for patients judged incompetent to stand trial was passed and signed into law by the governor in October 2011.

Despite extreme pressure from the unions, the department moved slowly, but eventually began to implement aspects of the coalition's program. In one important move, the department purchased a state of the art personal alarm system, which has been distributed to every Napa employee as a pilot program. The system will next be put in place at Metropolitan and Patton. After the department mandated that Napa employees wear the new alarm on a lanyard around their necks, the coalition again engaged the media and legislative allies, quickly forcing the department to reverse course and allow the devices to be attached to employees' belt loops. While many issues remain unsolved and the unions continue the battle, the coalition's strong actions have brought about a sea change in the attitude and actions of the department concerning patient and employee safety.

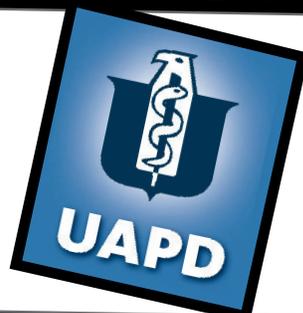
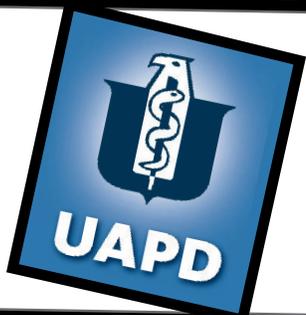
NEW DIRECTIONS

Under the leadership of UAPD President Dr. Stuart Bussey and Executive Director Al Groh the union continues to develop new programs and to expand the services it provides for union members. One new program is free continuing medical education classes that meet the state CME requirements. Union doctors can use their UAPD negotiated CME time and expense allowances to attend the programs. The wide-variety of UAPD CME classes offered include the following: A Guide to Healthcare Reform, Peer Review, Forensic Pathology, Communication and Privacy, and Patient Addiction and Recovery Strategies.

In 2009 the UAPD founded a chapter for its retired employees to stay involved in key issues that affect them such as pension and health care reform. The union also started a Legal Defense Fund with reimbursements of up to \$1,000 for a member facing actions against his or her employment. And the UAPD continues to negotiate contracts, handle grievances, lobby in Sacramento, fight aggressively for its members wherever and however they are challenged, and advance the interests of the medical and dental professions and their patients.

The staff of the UAPD will continue to assist members in achieving union goals in the decades to come. In 2012 that staff includes Al Groh (Executive Director), Patricia Hernandez (Senior Representative), Sue Wilson (Director of Communications), Jeff Duritz (Representative), Gloria A. Duarte (Office Manager), Cheryl A. Clark (Bookkeeper), Claudia Modrall (Practice Management Manager), Christine Cordova (Clerical Assistant) and Laurel Dunn (Clerical Assistant), all working out of the Oakland office. In Sacramento, the UAPD staff is made up of Zegory Williams (Senior Representative), Jim Moore (Senior Representative), Nereyda Rivera (Labor Representative), Doug Chiappetta (Chief Legislative Representative) and Carolyn Snipes (Clerical Assistant). The Los Angeles office is home to John Murillo (Regional Administrator), David Trujillo (Representative), Lux Irvin (Representative), Andrew “Jake” Baxter (Lead Organizer and Representative), Steve Cook (Representative and Organizer), Chris Ige (Representative and Organizer) and Nancy Baldovinos (Clerical Assistant).

Professor Grace Budrys in her book about the UAPD, *When Doctors Join Unions*, aptly described the Union of American Physicians and Dentists when she wrote, “While I cannot say with certainty that the UAPD’s success will provide a model for other occupational groups, I am convinced that it has the potential to serve as a harbinger signaling the emergence of new forms of collective representation. I find it hard to imagine another organization that is in a better position to do so.”



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