Medical Residents, Yes, but Workers, Too

By SANDEEP JAUHAR

As a medical resident at a private hospital, am I an employee or a student? Do I have the right to form a union? In a reversal of decades of federal labor policy, the National Labor Relations Board recently said yes to the latter question, casting a new backdrop to an old debate about the status of young doctors at teaching hospitals, and emboldening residents at some hospitals to press for collective bargaining rights.

In a case pitting the Boston Medical Center against the Committee of Interns and Residents, an advocacy group for house staff, as interns and residents are called, the labor relations board overturned its own landmark 1973 Cedars Sinai decision. In that decision the board ruled that private hospital residents were students, that they entered into residency only to fulfill certain educational requirements and that, being students, they did not have the right to negotiate their hours or pay.

"We are convinced that the board reached an erroneous result in Cedars Sinai," the board wrote in its decision last November, which was supported by the A.F.L.-C.I.O., the American Nurses Association and medical societies in New York, Massachusetts and California. (The American Medical Association supported granting bargaining rights to residents, but opposed giving them the right to strike.)

The decision corrected an arbitrary inequality. Public hospital residents have been able to form unions for years. They were considered government employees under the 1957 National Labor Relations Act, and their unions have contracts with Veterans Administration and state-owned hospitals in Florida, New Jersey, California and elsewhere.

In the earlier decision the board admitted that the private hospital residents worked long hours, but wrote, "This is simply the means by which the learning process is carried out." Now, the agency has reversed its tack, deciding that residents can be both students and employees.

No one argues that residents aren't still students. Of course they are. All doctors are. For most of us, medical school was something like drinking water from an open fire hydrant. Residency helps fill the unavoidable gaps in knowledge.

But didactic learning is a small part of the job. The biggest part is taking care of patients, day in and day out, which is the best way to learn medicine anyway.

And residency is a job in any conventional sense of the word. Residents earn salaries and receive health insurance and most other emoluments, like paid vacation and maternity and bereavement leave. They are like apprentices in other professions, earning and learning at the same time. Young lawyers, for example, devote considerable time on the job to learning their specialty. Like management consultants fresh from business school, they may discover early on that academic training did not prepare them for life on the job. But who would call these young professionals students?

The counterargument by the Boston Medical Center, supported by the American Association of Medical Colleges and the American Hospitals Association, calling residents employees would strengthen academic relationship with hospitals. Forcing hospitals to work hours, they argued, would threaten their autonomy and in their mission to train good doctors. Would interns, for example, be able to spend as much time as they want on call in the intensive care unit as students negotiate their own home? These are valid concerns, but overlooked. First, resident unions got started with public hospitals without major problems. They tried to take advantage of bargaining. It stands to reason that residents negotiate themselves out of need.

Residents are unlike students because they are. But even if they tried, hospitals could still invoke academic status. They would just have to negotiate table. So what will happen? Will residents start to form unions?

My guess is probably not to a great degree, although, according to the fee of interns and Residents, unionizing campaigns are starting in some New York City private hospitals. The incentive to negotiate wages with residents will have a lifetime of financial advantage. And their work schedule is determined much more by demands than by hospital administration.

Besides, residency training has changed a lot in the last few decades. It has become easier — and perhaps that much more right to change the profession. Work and a general relaxation in the training have been driven by factors, including changing demographics, half of today's medical students are women — and legal pressures, the result of any concerted action by what the labor relations board will do is not so much unleashed strikes and reforms as give residents a better chance to protect the reforms they already