



CHARGE

Michigan Department of Licensing and Regulatory Affairs
Employment Relations Commission (MERC)
Labor Relations Division
313-456-3510

Authority: P.A. 380 of 1965, as amended.

INSTRUCTIONS: File an original and 4 copies of this charge (including attachments) with the Employment Relations Commission at: Cadillac Place, 3026 W. Grand Boulevard, Suite 2-750, PO Box 02988, Detroit MI 48202-2988 or 611 W. Ottawa St, 2nd Floor, PO Box 30015, Lansing, MI 48909. The Charging Party must serve the Charge on the opposing side within the applicable statute of limitations, and must file a statement of service with MERC.
(Refer to the "How to File a Charge" document under the "Forms" link at www.michigan.gov/merc.)

Complete Section 1 if you are filing charges against an employer and/or its agents and representatives. —or—
Complete Section 2 if you are filing charges against a labor organization and/or its agents and representatives.

1. EMPLOYER AGAINST WHICH THE CHARGE IS BROUGHT

Check appropriate box: Private Governmental

Name and Address:

Regents of the University of Michigan
2901 Hubbard
Ann Arbor, MI 48109

2. LABOR ORGANIZATION AGAINST WHICH THE CHARGE IS BROUGHT

Name and Address:

3. CHARGE

Pursuant to the ~~Labor Mediation Act (LMA)~~ or Public Employment Relations Act (PERA) (*cross out one*), the undersigned charges that the above-named party has engaged in or is engaging in unfair labor practices within the meaning of the Act.

On an attached sheet you must provide a clear and concise statement of the facts which allege a violation of the LMA or PERA, including the date of occurrence of each particular act and the names of the agents of the charged party who engaged in the complained of conduct. The charge should describe who did what and when they did it, and **briefly** explain why such actions constitute a violation of the LMA or PERA.

The Commission may reject a charge for failure to include the required information. However, it is not necessary to present your case in full at this time. Documentary material and exhibits ordinarily **should not** be submitted with this charge form.

4. Name and Address of Party Filing Charge (Charging Party)
(if labor organization, give full name, including local name and number)

Michigan Nurses Association
2310 Jolly Oak Road, Okemos, MI 48864

Telephone Number:

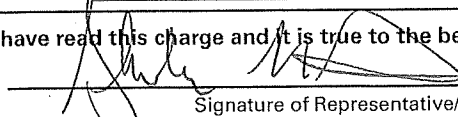
(517) 349-5640

5. List ALL related MERC case(s) (if any): _____
(Name of parties)

Case No.: _____ Judge: _____

Case No.: _____ Judge: _____

I have read this charge and it is true to the best of my knowledge and belief.



Signature of Representative/Person Filing Charge

Email:
sbobryk@whiteschneider.com

Telephone/Cell No.:
517-347-7209

Print Name and Title:
Shirlee M. Bobryk (P36919) Attorney - White Schneider PC

Fax No.:
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Street Address:
1223 Turner Street, Suite 200

City: Lansing

State:
MI

Zip Code: 48906

The Department of Licensing and Regulatory Affairs will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

CHARGE

3. Respondent, the Regents of the University of Michigan ("University"), has violated various provisions of Section 10(1) of the Michigan Public Employment Relations Act ("PERA" or "Act") in that:

- A. Charging Party, the Michigan Nurses Association and the University of Michigan Professional Nurse Council ("MNA"), is the sole and exclusive bargaining representative for all full-time and regular part-time and per diem registered professional nurses employed by the University of Michigan at all facilities, as listed in Appendix B of the collective bargaining agreement executed by the parties on March 25, 2013, but excluding nursing supervisors, managers, Clinical Nurse Manager/Nurse Supervisors, Nurse Managers, all other supervisors, instructional staff, and all other employees. Also included in the bargaining unit are graduates of a registered nursing program pending licensure by the State of Michigan as a registered nurse.
- B. The bargaining unit consists of approximately 6,000 members.
- C. The University is a public employer as defined by the Act, and is the employer of MNA's members.
- D. The University and MNA are parties to a collective bargaining agreement which expired on June 30, 2018.
- E. These charges stem from the University's failure to bargain in good faith.
- F. The parties began bargaining a new contract on January 22, 2018, which included nurse staff levels. Bargaining has continued since then but no agreement has yet been reached.
- G. In an attempt to circumvent the MNA's bargaining team, on or about July 1, 2018, the University's President, David A. Spahlinger, and the University's Chief Nurse Executive, Ann Scanlon McGinity, together directly emailed the MNA members, notifying them that "the University has committed to maintaining current staffing levels."
- H. On or about July 2, 2018, the University posted the same communication to the MNA members and the general public on the University's website page entitled "Information About 2018 Contract Negotiations":

"[T]he University has committed to maintaining current staffing levels."

- I. In another attempt to circumvent MNA's bargaining team, on or about July 14, 2018, the University's spokesperson, Mary Masson, speaking publicly to a journalist, stated "Importantly, the University has committed to maintaining current staffing levels."
- J. On July 17, 2018, MNA submitted a bargaining proposal to the University's bargaining team stating, in relevant part:

Staffing

- *[New article, "Safe Patient Care," to read as below]*

*"The University commits to maintaining current staffing levels, at minimum."*¹

(¹Refer to MOU which will contain agreed upon reference point for current staffing levels. This MOU will be finalized before contract is ratified.)

- K. On July 18, 2018, the University responded with a regressive bargaining proposal stating, in relevant part:

The University will maintain current levels of staffing. (as of ratification of the CBA) The parties agree that a process to determine staffing levels to provide nursing care for the projected nursing workload in the patient care units is necessary.

If there are significant changes to staffing needs, the changes will be presented to the Workload Review Committee and substantiated by data.

The actual staffing levels or the inclusion of other management tools is not subject to the Arbitration procedure.

- L. The above-referenced communications from the University were untruthful and were not made to the MNA bargaining team during the negotiation process, thereby misleading MNA's members.
- M. As set forth above, the University has published information to the community regarding the bargaining process which is inaccurate, misleading, and false in an effort to bargain in public and undermine the MNA's bargaining team.

- N. Alternatively, the University agreed to maintain current staffing levels but refused to put it in writing after the MNA bargaining team accepted the University's offer.
- O. By contacting MNA members directly regarding the bargaining unit members staffing levels, a mandatory subject of bargaining, the University has engaged in unlawful direct dealing in violation of Sections 10(1)(a), (b) and (e) of the Act.
- P. By refusing to put in writing what the parties have agreed to at the bargaining table violates Section 10(1)(a) and (e) of the Act.
- Q. The University has, based on its total course of conduct, including the actions set forth herein, engaged in conduct which evidences a refusal to bargain in good faith and, more specifically, regressive bargaining, in violation of Sections 10(1)(a) and (e) of the Act.
- R. The University and its representatives, through their total course of conduct, have demonstrated a lack of honesty and integrity, which are essential to conducting collective bargaining in good faith. Moreover, the University's failure to make good faith proposals demonstrates that it lacks a sincere desire to arrive at a mutually acceptable agreement, which is fundamental and necessary if good faith negotiations are to occur as dictated by the Act. Such conduct violates Sections 10(1)(a) and (e) of the Act.
- S. The statutory issues raised by this case are of sufficient importance as they are capable of repetition and likely to reoccur given the University's conduct as described herein.

WHEREFORE, MNA, as the Charging Party, respectfully requests that the Michigan Employment Relations Commission:

1. Pursuant to the Rules of the Michigan Employment Relations Commission, appoint an administrative law judge and immediately conduct a prehearing conference and/or issue a show cause hearing.
2. Following the prehearing conference, hold an immediate evidentiary hearing in this matter.
3. Find the University in violation of Sections 10(1)(a), (b) and (e) of the Act.

4. Issue an Order directing the University to bargain exclusively with the Charging Party, and cease and desist from bargaining in bad faith, and more specifically regressive bargaining, and to immediately commence negotiations in good faith.

5. Issue an Order directing the University to post appropriate notices of its violations of the Public Employment Relations Act, as well as its intention to renounce such conduct in the future, in conspicuous places throughout the entire workplace, in newspapers of general circulation throughout the Midwest region and on its website.

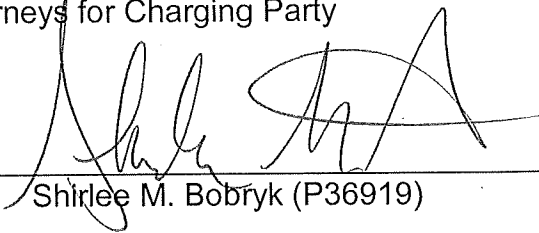
6. Award MNA its costs, expenses, and reasonable attorney fees incurred in bringing this Charge.

7. Grant such other relief and take such affirmative action as this Commission deems just, equitable, and which will effectuate the purposes of the Public Employment Relations Act.

Respectfully submitted,

WHITE SCHNEIDER PC
Attorneys for Charging Party

By


Shirlee M. Bobryk (P36919)

Dated: July 18, 2018