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## LEGISLATIVE UPDATE

June 13, 2008

During the Regular Session, weekly updates will be available on the LAFP website at [www.lafp.org](http://www.lafp.org). Information on legislators, bill text, status of bills, and legislative committee membership, can be found on the website of the Louisiana State Legislature <http://www.legis.state.la.us>. Contact with individual legislators may be made by using the information below:

The Public Update Legislative Service (PULS) line 225.342.2456 in Baton Rouge and 800.256.3793 from elsewhere, gives you the status of a bill over the phone.

Contact Senate Switchboard: 225.342.2040 or 225.342.0617 fax

Contact House Switchboard: 225.342.6945 or 225.342.8336 fax

Below are issues that were followed the week of June 9<sup>th</sup> thru June 13<sup>th</sup>. Please contact the LAFP office if you have any questions.

### SMOKING

HB 466 by Rep. Richard repeals an exception to the LA Smoke Free Air Act, which allows smoking in a designated area in a nursing home. An amendment to HB 466 was adopted by the Committee, allowing the continuation of a designated smoking area in a nursing home, but providing “the smoking room shall not be the reception area, lobby, waiting room, dining room, or any other room as defined as a public place . . .” HB 466 passed the Senate by a vote of 35-0 and is pending the governor’s executive action..

*LAFP Position: Monitor*

HB 1021 by Rep. Hines prohibits operators or passengers of a motor vehicle from smoking when any individual under the age of 16 is an occupant of the motor vehicle. The bill passed the House by a vote of 54 yeas and 33 nays on a third attempt by Rep. Hines. HB 1021 has been referred to the House Transportation, Highways, and Public Works Committee and failed by a 3-2 vote.

*LAFP Position: Support*

HCR 174 by Rep. Hines urges and requests DHH to study issues related to prohibiting the possession of tobacco products by persons under the age of 21 and report its findings to the legislature. The resolution was referred to the House Health and Welfare Committee, where it was reported favorable and is pending final passage in the House.

*LAFP Position: Support*

### ETHICS/CODE

HB 922 by Rep. Henderson allows a physician on the board of commissioners of a hospital service district to engage in certain transactions and to own an interest in entities engaging with the hospital service district. A summary of the House amendments adopted are: 1) allows the physician board member to own an interest in an

entity which contracts with the hospital service district; 2) allows the physician board member to be employed by a person, who contracts with the hospital or hospital service district; 3) allows a physician board member to have a professional services contract with or be employed by a person, who contracts with the hospital or with the hospital service district; 4) removes the requirement for recusal and provides the physician board member may participate, including, without limitation, voting, in any transaction before the board, relating to such a person with whom he has a professional services contract or by whom he is employed; 5) limits application of this proposed law providing the hospital service district be located in a parish in which medical facilities were damaged or destroyed in the previous six-year period, as the result of a hurricane; and 6) provides proposed law shall be applied retroactively to August 15, 2007, as well as, prospectively. The Senate and Governmental Affairs Committee reported the bill favorable with an amendment changing the effect date of the legislation from December 31, 2010 to August 1, 2008. HB 922 is pending final passage in the Senate.

*LAFP Position: Monitor*

SB 287 by Sen. Mount provides for Louisiana health care consumers' right to know. This bill was reported favorable in the House where no amendments were made.

*LAFP Position: Monitor*

## **HEALTHCARE**

SB 261 by Sen. Jackson extends the sunset date of the Interagency Task Force on Family Medicine. This bill became law without the Governor's signature and was assigned Act 118. This will be come law August 15, 2008.

*LAFP Position: Strongly Support*

HB 1071 by Rep. Ellington establishes a program to fund forgiveness of medical student loans. A summary of the amendments adopted in the House are: 1) provides the program only applies to primary care physicians, but includes those practicing internal medicine pediatrics, medicine/pediatrics, obstetrics, gynecology and general surgery; 2) deletes the requirement an eligible physician practice in a rural hospital and related entities and clinics, and instead requires the physician practice at an office, with a physician group, or licensed entity in a rural health professional shortage area, while maintaining staff privileges at a rural hospital and serve on the active staff of a rural hospital as provided by current law and defines such a physician; and 3) changes the contractually required period of service, from three to five years, except an applicant may agree to practice in a rural hospital, for not less than three years, for consideration of loan repayment assistance. HB 1071 passed the House by a vote of 100-0 and has been referred to the Senate Finance Committee because of its fiscal nature.

*LAFP Position: Lightly Support*

SB 401 by Sen. Cassidy requires Medicaid to use the same guidelines employed by CMS with regard to eligibility of newly formed organ transplant centers for payment for transplanted patients. On June 6, 2008 the Governor vetoed SB 401 at the request of the Secretary of DHH and the Secretary from the Division of Survey and Certification, Region VI of the U.S. Department of Health & Human Services, stating exceptions created by SB 401 may violate current federal regulations.

*LAFP Position: Monitor*

## **HOSPITALS**

SB 229 by Sen. Mount provides for health care facilities violations and penalties. This bill was reported favorably in the House and referred to the Legislative Bureau where no amendments were made.

*LAFP Position: Monitor*

SB 332 by Sen. Thompson creates the Health Care Information Technology and Infrastructure Advisory Collaborative and its membership, powers and duties. The Collaborative is composed of the LSUHSC-S and the Rural Hospital Coalition, known as the Louisiana Rural Health Information Exchange (LARHIX), the Health Information Technology Committee of the Louisiana Health Care Quality Forum and any other current or future regional health information exchange. An DHH annual report is required to be submitted by January 30th of each year to the legislature on the development and uniform standards and from the Collaborative for approval by the Joint Health and Welfare Committee. SB 332 was amended in the House adding the language of HB 895 by Rep. Greene, which the health care provider community vehemently opposes and passed by a vote of 99 yeas and 0 nays. The Senate shall vote on Monday, June 16<sup>th</sup> whether to concur or whether to reject the House Amendments to SB 332.

*LAFP Position: Monitor*

## **UNCOMPENSATED CARE**

SB 402 by Sen. Cassidy requires the allocation of uncompensated care payments to “follow the DHH Region, in which the services are rendered” and not be furnished, primarily, to state health care facilities. Over a two hour hearing on SB 402 was held in the House Health and Welfare Committee on Wednesday, June 11<sup>th</sup>. Rep. Abramson offered a set of amendments, relative to the exclusions for uncompensated care payments to state hospitals which, added the Medical Center at New Orleans and uninsured populations in Region One, the greater New Orleans Region. On the motion to adopt Rep. Abramson’s amendments, Rep. Barrow objected and Rep. Abramson withdrew his amendments. Rep. Barrow made a motion to report the bill favorable and a substitute motion to involuntarily defer SB 402 was made and by a vote of 8 to 8 the motion failed. A vote on the original motion to report the bill favorable failed by an 8 to 8 vote. An additional motion was made to reconsider the vote by which it failed and by a vote of 5 yeas and 11 nays it failed. Rep. Mills stated geography and the implementation phase of SB 402 seemed to be the main issues and offered amendments, which deleted provisions concerning the implementation of rules and regulations by DHH and, in lieu thereof, added a provision DHH shall develop a plan for the methodology, with a report to the Joint Health and Welfare Committee by February 1, 2009. The amendments were adopted, without objection and SB 402 was reported favorable with amendments by the Committee. SB 402 is pending final passage in the House.

As reported last week, a summary of SB 402, as amended, in the Senate: 1) removes references to the LSUHSC-S and the Louisiana Hospital Association; 2) rearranges DHH’s medical regions of the state specified to coordinate with existing DHH regions; 3) adds an exception for uncompensated care payments to non-state, non-rural community hospitals for qualifying uninsured costs; 4) adds the exception of uncompensated care payments to the state hospitals that are part of the LSUHSC-S and the corresponding uninsured populations in Regions 6, 7, and 8, as defined in proposed legislation; 5) extends all dates by one year; 6) adds a provision, which requires DHH and LSUHSC Division to submit a status report to the Joint Health and Welfare Committee by February 1, 2009; and 7) adds a provision which requires, beginning in 2010, DHH and LSUHSC Division shall submit the methodology annually to the Joint Committee on Health and Welfare for its review and approval.

*LAFP Position: Monitor*

## **PRACTICE OF MEDICINE**

HB 1384 (Substitute Bill for HB 1268) by Rep. Marchand authorizes the interstate practice of telemedicine. The bill defines “telemedicine”; 2) requires a physician or other health care provider to be in the room, during the telemedicine review of patient; and 3) the LSBME is charged with promulgating rules and regulations under the Administrative Procedure Act. HB 1384, as amended and passed, in the Senate: 1) amends the definition of

“telemedicine” to mean “the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and patient education using interactive telecommunication technology that enables a health care practitioner and a patient at two locations separated by distance to interact via two-way video and audio transmission simultaneously. Neither a telephone conversation or an electronic mail message between a health care practitioner and patient, or a “true consultation”, as may be defined by rules promulgated by the LSBME pursuant to the Administrative Procedure Act.” HB 1384 passed the Senate by a vote of 37-0 and is pending concurrence of Senate Amendments by the House.

*LAFP Position: Monitor*

HB 378 by Rep. Armes provides relative to noncomplex health procedures performed by certain school employees. HB 378, as amended, in the Senate requires the Louisiana State Board of Nursing shall set policy, which establishes the level of care required for students who need oral pharyngeal suctioning as specified as a “needed health maintenance procedure.” The bill passed the Senate, as amended, by a vote of 34 yeas and 0 nays and the House refused to concur in the Senate Amendments and HB 378 has been assigned to a Conference Committee.

*LAFP Position: Support*

## **MEDICAL MALPRACTICE**

SB 652 by Sen. Michot was heard in the House Civil Law and Procedure Committee on Monday, June 9<sup>th</sup>. The bill, as amended relative to the allocation of and liability for court costs by the health care provider or his professional liability insurer states “The sole cost of which a health care provider may be assessed by a trial court shall be limited to the cost incurred prior to the rendering of a final judgment against the health care provider, not as a nominal defendant, after a trial on a malpractice claim, including but not limited to, costs in any instance where the board was not the offeror or offeree of the proposed settlement amount. The health care provider shall not be assessed costs in any action in which the fund intervenes or the health care provider is a nominal defendant after there has been a settlement between the health care provider and the claimant.” SB 652 is pending final passage in the House.

*LAFP Position: Support*

HB 193 by Rep. Katz provides for medical malpractice coverage for physicians who offer voluntary telemedicine services to DHH. The bill was reported favorable by the Senate Judiciary A Committee and is pending final passage in the Senate.

*LAFP Position: Support*

## **APPROPRIATIONS**

HB 1 by Rep. Fannin, the State’s General Appropriations Bill for Fiscal Year 2008-09, has been referred to the Senate Finance Committee. Members of the Committee continue their review and proposing of amendments and are meeting today to finalize its amendments to HB 1. Provisions for physician reimbursement in the Reengrosed HB 1, include the following budgetary allocations:

Schedule 09 Department of Health and Hospitals

*Additional Funding Related to Hurricane Disaster Recovery*

Medical Vendor Administrative Program \$165,160

Means of Finance: Federal Funds

09-306 Medical Vendor Payments

Payments to Private Providers \$4,614,664,955

Payments to Public Providers 745,107,478

Medicare Buy-Ins and Supplements	306,043,875
Uncompensated Care Costs	1,010,124,522
Means of Finance:	
State General Fund (Direct)	1,531,648,130
State General Fund by:	
Interagency Transfers from Prior and Current Year	1,491,469
Statutory Dedications:	
LA Medical Assistance Trust Fund – Provider Fees	106,495,356
LA Medical Assistance Trust Fund – FY06 Excess	72,166,660
Louisiana Fund	6,696,071
Health Excellence Fund	20,317,427
LA Health Care Redesign & Reform Fund	8,265,301
Medical Assistance Program Fraud Detection Fund	3,131,547
New Opportunities Waiver Fund	46,723,055
Federal Funds	<u>4,810,951,638</u>
TOTAL EXPENDITURES	<u>\$6,675,940,830</u>

Public Provider Participation in Funding:	
Payments to Public Providers Program for Increased per diem rates at the LA Special Education Center	\$375,201
Payments to Private providers program for a rate Increase for EPSDT dental services	15,000,000
Means of Finance: State General Fund (Direct) & Federal Funds	

*Additional Funding Related to Hurricane Disaster Recovery*

Payments to Private Provider Program	\$27,018,500
Means of Finance: Federal Funds	

09-307 Office of the Secretary

Of the funds provided below continue the Med Job LA, to recruit primary care physicians and mid-levels providers to federally designated Health Professional Shortage Areas in LA

Means of Finance:	
State General Fund (Direct)	\$50,175,577
State General Fund by:	
Interagency Transfers	5,707,530
Fees & Self-generated Revenues	6,798,376
Statutory Dedication:	
Louisiana Fund	500,000
LA Health Care Redesign Fund	4,000,000
2004 Overcollections Fund	11,159,886
Federal Funds	<u>59,044,301</u>
TOTAL EXPENDITURES	<u>\$137,385,670</u>

*LAFP Position: Monitor*

**QUALIFIED IMMUNITY FOR HEALTH CARE PROVIDERS DURING DECLARED EMERGENCIES**

HB 53 by Rep. Mills extends a qualified immunity to health care providers providing emergency health care, to assist individuals injured or affected as a result of a declared state of emergency. After an hour and half House Floor debate, HB 53 passed the House with a problematic amendment, which added the requirement such health

care services be provided “without compensation of any kind” by a vote of 83 to 13. This amendment was stripped from the bill by the Senate Health and Welfare Committee “without objection” and reported favorable, as amended. After passing the Senate, the House concurred in the Senate Amendments by a vote of 84 yeas and 0 nays. HB 53 is pending the governor’s executive action.

*LAFP Position: Support*

HB 1379 (Substitute Bill for HB 838) by Rep. Tucker and Rep. Hines establishes an Emergency and Disaster Medicine Review Panel, which may render an advisory opinion, as to whether the clinical judgment of medical personnel was in good faith, prior to the institution of criminal prosecution, for acts arising out of the rendering of or failure to render medical services during a declared state of emergency. This advisory opinion by the panel is, entirely, permissive and any opinion rendered to the prosecuting agency is, purely, advisory. The prosecuting authority, in its sole discretion, may proceed with prosecutorial actions, if deemed actionable by the United State Constitution or the Louisiana State Constitution. HB 1379 was reported favorable by the Senate Judiciary A Committee and is pending final passage in the Senate.

*LAFP Position: Support*

SB 301 by Sen. Chaisson provides a qualified immunity for certain medical personnel during evacuation or treatment of patients in a declared state of emergency. A summary of the amendments adopted in the House are: 1) adds “wanton” to the standard required to obtain the qualified immunity limitation of liability; 2) adds a definition of “disaster medicine protocol” to mean “the order of evacuation and treatment of persons by priority in accordance with recognized triage process applicable when disastrous conditions prevent evacuation or treatment of all patients”; 3) adds a definition of “disaster medicine” to mean “the art and science of patient care when the number of patients, exceeds the normal medical capacities, facilities and personnel”; 4) adds a definition of “during a declared state of emergency” to mean “a declaration of the governor in accordance with R.S. 29:724 or 766 and shall include, the time period as set forth in the declaration and shall, also, be retroactive to the precipitating event, requiring the declaration of disaster or public emergency”; and 5) adds a definition of “medical personnel” to mean “an individual or person subject to the provisions of R.S. 37:1731, regardless of compensation.” SB 301 passed the House by a vote of 97-0 and is pending concurrence of the House Amendments in the Senate.

*LAFP Position: Support*

SB 330 by Sen. Chaisson provides relative to the qualified immunity for medical services during a declared state of emergency. A summary of the amendments adopted in the House are: 1) adds “wanton” to the standard required to obtain the qualified immunity; 2) adds a definition of “medical personnel” to mean “an individual or person subject to the provisions of R.S. 37:1731, regardless of compensation”; and 3) adds a definition of “during a declared state of emergency” to mean “a declaration of the governor in accordance with R.S. 29:724 and shall include the time period, as set forth in the declaration and shall, also, be retroactive to the precipitating event, requiring the declaration.” SB 330 passed the House by a vote of 94-0 and is pending concurrence of the House Amendments in the Senate.

*LAFP Position: Support*

## **LIMITATION OF LIABILITY**

SB 353 by Sen. N. Gautreaux provides for a qualified immunity for volunteer physicians who gratuitously supervise and interpret ultrasound services rendered a state pregnancy resource center. The bill passed the House by a 93-0 vote; the Senate concurred in the House Amendments and is pending the governor’s executive action.

*LAFP Position: Support*

**COMMITTEE SCHEDULES WEEK OF JUNE 9, 2008**

**House Appropriations Committee– House Committee Room 5**

Check the Web Portal for the Louisiana State Legislature for update.

**House Civil Law and Procedure Committee - House Committee Room 2**

Check the Web Portal for the Louisiana State Legislature for update.

**House Commerce – House Committee Room 1**

Check the Web Portal for the Louisiana State Legislature for update.

**House Transportation, Highways, and Public Works – House Committee Room 3**

Check the Web Portal for the Louisiana State Legislature for update.

**House Health and Welfare Committee - House Committee Room 5**

Check the Web Portal for the Louisiana State Legislature for update.

**House Insurance Committee – House Committee Room 2**

Check the Web Portal for the Louisiana State Legislature for update.