



**LOUISIANA STATE
MEDICAL SOCIETY**

**LEGISLATIVE
SESSION
SUMMARY
2018**

The 2018 Regular Session of the Louisiana Legislature adjourned sine die at 9 p.m. on Friday, May 18, 2018. Unfortunately, there wasn't a resolution reached for how to tackle the fiscal cliff/budget fiasco. The final budget will hopefully be adopted upon the adjournment of the 2nd Special Session of 2018, which Governor John Bel Edwards called in advance, having presumed the House and Senate would be unable to resolve their differences in House Bill 1. That session began on Tuesday, May 22nd and must end no later than Monday, June 4th.

This year, the LSMS Governmental Affairs' staff tracked 135 pieces of legislation. The Council on Legislation took a position of support on 54 bills, a position of oppose on 11 bills, and monitored the remaining bills. This report highlights some of the notable pieces of legislation that were up for consideration this session.

BUDGET

House Bill 1 by Rep. Cameron Henry (R-Metairie) was the proposed state budget. By all accounts this budget was a "pretend" budget – but very real to those affected by it. State agencies would have taken a hit of more than 20% - effectively rendering them inoperable. TOPS was funded at approximately 70% and while the public/private partnership hospitals were restored some funding in the Senate, it was definitely not enough to keep them in the business of serving Louisiana's indigent. The Governor promptly vetoed the budget upon adjournment of the Legislature, and we now must wait and see what happens in the 2nd Special Session.

Final Action: Vetoed by the Governor

LSMS LEGISLATION

Senate Bill 75 by Senator Gerald Boudreaux (D-Lafayette) is LSMS-requested legislation which clarifies the opioid legislation that LSMS requested last year. It simply provides that the prescriber's licensing board shall give the prescriber notice and an opportunity to come into compliance with the statutory PMP requirements upon the prescriber's first failure to comply and shall only consider second and subsequent failures to comply as a complaint against the license.

Final Action: Signed by the Governor – ACT 405

Senate Bill 284 by Senator Jay Luneau (D-Alexandria) removes references to the LSMS's disaster and emergency medical services committee from the law. This committee hasn't been in existence in many years.

Final Action: Signed by the Governor – ACT 152

BOARD OF MEDICAL EXAMINERS

House Bill 324 by Franklin Foil (R-Baton Rouge) would have provided that all monies collected by the La. State Board of Medical Examiners which remain unexpended and unencumbered at the end of each fiscal year would revert to the state general fund. The board would be required to charge fees as authorized in present law in amounts that fund the operating costs of the board. Any fee amounts collected in excess of amounts necessary to fund the operating costs of the board would revert to the state general fund.

Final Action: This legislation never had a hearing in House Health & Welfare

House Bill 778 by Katrina Jackson (D-Monroe) increases the number of members of the Louisiana State Board of Medical Examiners (LSBME) from seven to 10 (and the quorum number to six) by adding the following members:

- One member from LSU Health Sciences Center Shreveport (distinguishing from the other member now coming from LSU Health Sciences Center New Orleans)
- One member from a list submitted by the Louisiana Hospital Association
- One consumer member who shall be a full voting member

At least every other member appointed from these four entities shall be a minority.

The board shall only initiate an investigation based upon one or more of the following causes:

- A complaint received from a person other than an employee of the board.
- Any report from a law enforcement or federal or state regulatory agency that contains information that supports a conclusion that a violation of present law, or any rule promulgated pursuant to present law, may have occurred.
- The duly adopted motion in an executive session of the board by a two-thirds vote of the members of the board making an affirmative finding that sufficient evidence exists to conclude that a violation of present law, or any rule promulgated pursuant to present law, may have occurred.

This legislation also mandates that a physician is allowed to confront his accuser in connection with the notice of the filing of a formal administrative complaint – unless an independent counsel deems that the complainant may remain anonymous. The board may overrule the independent counsel by 2/3 vote on this issue.

Prior to being offered a consent order, a person licensed by the board, shall have available to him all files and records which pertain to the case against him before the board, and which are not required by law to remain confidential or which are not otherwise privileged. Any files in question are ruled upon by the independent counsel.

Upon filing of a formal administrative complaint against a physician, all files of the board regarding the complaint which are not required by law to remain confidential or which are not otherwise privileged shall be made available to the physician through full discovery and shall be disclosed to the physician upon request.

If the board intends to use records from any prior investigation of a physician in the case against the physician before the board, then the board shall notify the physician and his counsel of this intention, and the records shall be deemed to be records of the case before the board and subject to all discovery provisions mentioned above.

Final Action: Signed by the Governor – ACT 599

Senate Bill 40 by Fred Mills (R-Parks) adds a consumer member to each healthcare professional licensing board that did not previously have one. Provides standardized eligibility criteria for such consumer members. Requires the governor to ensure that his appointments to healthcare professional licensing boards demonstrate diversity with respect to race, gender, ethnicity, and geography.

Final Action: Signed by the Governor – ACT 515

Senate Bill 260 by Senator John Milkovich (D-Shreveport) allows a person who has a disciplinary action brought against him by a professional licensing board or commission to elect to have the matter moved to the division of administrative law for a disciplinary adjudication by an administrative law judge. The bill was amended in the House & Governmental Affairs Committee to narrow the scope to the Dental Board, the Auctioneers Board and the Board of Medical Examiners. On the House floor, the Board of Medical Examiners was deleted from the bill at the request of the legislators working on House Bill 778.

Current Status: Awaiting Gubernatorial Action

Senate Bill 186 by Senator Fred Mills (R-Parks) would have repealed the enumerated provision that required the Louisiana State Board of Medical Examiners to approve of the board in order for the physician to reference it in his advertisement.

Final Action: Never had a hearing in Senate Health & Welfare Committee

Senate Bill 277 by Senator Dan Claitor (R-Baton Rouge) was amended on the House floor to resemble Senate Bill 186 – originally filed at the request of the Board of Medical Examiners, that would have repealed the enumerated provision that required the Louisiana State Board of Medical Examiners to approve of the board in order for the physician to reference it in his advertisement. Because it was never heard in its committee of origin, it ran into trouble when it was returned to the Senate floor for concurrence in its new form and died in a conference committee that was never fully formed.

Final Action: Died in Conference Committee

Senate Bill 286 by Senator John Milkovich (D-Shreveport) would have enacted the “Physician’s Bill of Rights” granting physicians the right to true due process relative to investigations and the disciplinary proceedings of the Louisiana State Board of Medical Examiners (LSBME). This bill would have also allowed a physician the right to have his case transferred to the administrative law or an independent administrative law judge.

Final Action: Involuntarily deferred in House Health and Welfare

SCOPE OF PRACTICE

Senate Bill 435 by **Senator Fred Mills (R-Parks)** would have eliminated collaborative practice agreement requirements for advanced practice registered nurses who work in a hospital or nursing home facility.

Final Action: Failed to pass on the Senate floor (10-25)

House Bill 483 by **Representative Joe Stagni (R-Kenner)** was a duplicate of SB 435. After the vote on SB 435, Rep. Stagni decided not to ask for a vote on his bill in House H&W Committee.

Final Action: Voluntarily deferred in House Health & Welfare

House Bill 421 by **Representative Walt Leger (D-New Orleans)** repeals the duty of the acupuncturist to maintain a relationship with a physician.

Final Action: Signed by the Governor – ACT 93

Senate Bill 528 by **Senator Eric LaFleur (D-Villa Platte)** increases the number of physician assistants a primary supervising physician can supervise from four to eight. This bill also prohibits the Board of Medical Examiners from imposing additional prescription authority qualifications through administrative rulemaking.

Final Action: Signed by the Governor – ACT 475

SMOKING

House Bill 56 by **Representative Frank Hoffman (R-West Monroe)** requires the telephone number and website for the La. Tobacco Quitline to be included on signs displayed at the point of purchase or on the vending machine of any tobacco product, alternative nicotine product, or vapor product.

Final Action: Signed by the Governor - ACT 188

House Bill 881 by **Representative Dustin Miller (D-Opelousas)** would have added to the Louisiana Smoke Free Air Act of 2007 by increasing areas in which smoking is prohibited. This bill could not make it out of committee. Rep. Miller then filed:

House Concurrent Resolution 76 which creates a study committee to evaluate Louisiana's prevalence of tobacco-related illnesses resulting from secondhand smoke exposure.

Final Action: Sent to the Secretary of State

MEDICAL MALPRACTICE

House Bill 586 by **Representative Jimmy Harris (D-New Orleans)** would have modified medical malpractice claims, and provided for an alternative to the medical review panel for complaints filed against a healthcare provider or insurers.

Final Action: Never had a hearing in House Civil Law

House Bill 713 by Representative Steve Pugh (R-Ponchatoula) would have added licensed athletic trainers under the protections of the medical malpractice cap.

Final Action: Died in Judiciary A Committee

Senate Bill 503 by Senator Rick Ward (R-Port Allen) would have raised the medical malpractice cap to \$750,000, lowered the underlying layer to \$50,000 and among many other things, eliminated the state from any changes to the law. Senator Ward requested several meetings with providers and their insurance carriers and wants to continue conversations during the interim.

Final Action: Died sitting on the Senate floor at the request of the author

FEES

House Bill 539 by Representative Walt Leger (D-New Orleans) provides for fees for expedited licensing surveys for certain facilities and providers licensed by the La. Department of Health.

Final Action: Signed by the Governor – ACT 324

House Bill 681 by Representative Walt Leger (D-New Orleans) would have increased license fees assessed by the La. Department of Health (LDH) on health facilities and providers. This was the third consecutive year this bill was introduced and opposed by the LSMS.

Final Action: Never had a hearing in House H&W at the request of the author

OPIOIDS

House Bill 548 by Representative Dustin Miller (D-Opelousas) would have required prescribers to transmit opioid prescriptions to pharmacies electronically. Those that requested the legislation were unwilling to work with providers and Rep. Miller to compromise on the implementation of the legislation.

Final Action: Died on the House floor at the request of the author

Senate Bill 29 by Senator Fred Mills (R-Parks) requires the Louisiana Board of Pharmacy and the Louisiana State Board of Medical Examiners develop a single uniform prescription drug prior authorization form for all health insurance issuers, Medicaid managed care organizations, and their respective pharmacy benefit managers. The single uniform prescription drug prior authorization form does not apply to specialty drugs or in cases where electronic prescriptions are utilized.

Final Action: Signed by the Governor – ACT 423

Senate Bill 285 by Senator Gary Smith (D-Norco) prohibits a health insurance issuer from denying coverage of a non-opioid prescription drug in favor of an opioid prescription drug. It provides that when opioids are deemed medically necessary by a licensed physician, it shall be unlawful for an insurer to deny a physician prescribed medication and recommend an alternative prescription which requires any of the following:

- (1) An increased number of pills per prescription.
- (2) A higher Drug Enforcement Administration schedule medication than the one prescribed.
- (3) The substitution of an extended release medication that does not have defined abuse deterrent properties for a prescription of a medication that does have defined abuse deterrent properties.

Final Action: Signed by the Governor – ACT 372

Senate Bill 477 by Senator Eric LeFleur (D-Ville Platte) adds a definition for chart order with respect to electronic prescribing of noncontrolled legend drugs and provides for bilateral transmission of prescriptions.

Final Action: Signed by the Governor – ACT 602

BALANCED BILLING

House Bill 369 by Representative Kirk Talbot (R-River Ridge) would have provided for mediation of the settlement of out-of-network health benefits claims involving balance billing in an amount over \$500. It would have authorized an enrollee to request mediation of a settlement of an out-of-network health benefit claim if both of the following apply:

- (1) The amount for which the enrollee is responsible to a facility-based provider or emergency care provider, after copayments, deductibles, and coinsurance, including the amount unpaid by the administrator or insurer, is greater than \$500.
- (2) The health benefit claim is for either emergency care or healthcare or medical service or supply provided by a facility-based provider in a facility that is a preferred provider or that has a contract with the administrator.

Current Status: After two hearings and adamant opposition from LSMS & LHA, the bill author didn't ask for a vote on the legislation and instead opted to request the study resolution below.

House Resolution 208 by Representative Kirk Talbot (R-River Ridge) urges and requests the Dept. of Insurance to establish a task force to research and make recommendations for proposed legislation and policy changes to address the issue of balance billing in La.

Final Action: Sent to the Secretary of State

House Bill 556 by Representative Kirk Talbot (R-River Ridge) would have provided for a reimbursement rate for out-of-network claims and required health insurers to establish a mediation process for the settlement of claims.

Final Action: Never had a hearing in House Insurance

INSURANCE

House Bill 246 by Representative Major Thibaut (D-New Roads) authorizes the commissioner of insurance to apply for a state innovation waiver and establish a reinsurance program pursuant to the waiver.

Current Status: Awaiting Gubernatorial Action

House Bill 472 by Representative Major Thibaut (D-New Roads) would have created the La. Health Reinsurance Assoc. and authorized the commissioner of insurance to assess a fee on behalf of the association.

Final Action: Died on the Senate Floor

House Bill 460 by Representative Julie Stokes (R-Kenner) authorizes mammography examinations to be conducted through digital breast tomosynthesis.

Final Action: Signed by the Governor – ACT 494

MARIJUANA

House Bill 579 by Representative Ted James (D-Baton Rouge) adds the following to the set of conditions for which medical marijuana may be recommended:

- (1) Glaucoma
- (2) Severe muscle spasms
- (3) Intractable pain
- (4) Post-traumatic stress disorder
- (5) Parkinson's disease

Defines "intractable pain" as a pain state in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts

Current Status: Awaiting Gubernatorial Action

House Bill 627 by Representative Rodney Lyons (D-Harvey) authorizes the recommendation or prescription of medical marijuana in treating certain health conditions associated with autism spectrum disorder.

Final Action: Signed by the Governor – ACT 496

House Bill 823 by Representative Vincent Pierre (D-Lafayette) repeals the termination date for recommending or prescribing marijuana for therapeutic use.

Current Status: Awaiting Gubernatorial Action

IMMUNIZATION

House Bill 74 by Representative Paula Davis (R-Baton Rouge) requires schools to provide up-to-date information about influenza and immunization against the influenza virus and the state Dept. of Education to provide such information to parents of students enrolled in approved home study programs.

Final Action: Signed by the Governor – ACT 262

House Bill 176 by Representative Walt Leger (D-New Orleans) requires current immunization against meningococcal disease by students who are entering 11th grade or who are age 16 and entering any grade; effective July 1, 2019.

Final Action: Signed by Governor - ACT 196

MISC.

House Bill 148 by Representative Reid Falconer (R-Mandeville) provides for implementation of the "zero suicide initiative", a state suicide prevention plan, and duties of the office of behavioral health of the La. Department of Health with respect to suicide prevention.

Final Action: Signed by the Governor – ACT 450

House Bill 657 by Representative Scott Simon (R-Abita Springs) would have established the implementation of an interoperable electronic health records system for all hospitals and healthcare providers, requiring all hospitals and healthcare providers to implement an interoperable electronic health records system.

Final Action: Died in House Health and Welfare

House Bill 724 by Representative Dustin Miller (D-Opelousas) provides an exception to the ethics code to allow a licensed physician to perform the duties of assistant secretary for the office of public health, Medicaid medical director, medical director of the office of behavioral health, physician at Eastern Louisiana Mental Health System, competency restoration program, and cancer policy director at the La. Dept. of Health and to practice medicine outside of the performance of such duties.

Specifies that the compensation paid by the La. Dept. of Health to each physician serving in such positions shall be commensurate with the number of hours worked in the position.

Requires each physician, except a physician serving the Eastern La. Mental Health System, competency restoration program, to work full-time. Requires the La. Dept. of Health submit a

quarterly report to the legislature containing the name of the physician, the position, the number of hours worked during the previous quarter, and the amount of compensation received during the previous quarter.

Final Action: Signed by the Governor – ACT 463