

**IN THE NEWS**

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## **N.O. clinic's reins shift to Charity Hospital system**

**Times – Picayune | 05.13.08**

By Leslie Williams

Eastern New Orleans residents with little or no health insurance again have access to a community health clinic.

The Charity Hospital system has taken over operation of a clinic at 5501 Read Blvd. previously operated by Operation Blessing.

"What you have here are people who are really mission-minded and dedicated to the people of this community," said Dr. Cassandra Youmans, the system's medical director for outpatient clinics and services.

Youmans joined a group of medical officials Monday to celebrate the opening.

Operation Blessing, an international, faith-based group, had operated the clinic from April 3, 2006, through Dec. 21, 2007. The Charity Hospital system began operating the clinic April 28, Youmans said.

"We will be able to see all patients regardless of their ability to pay," she said. "Some will be sent bills based on ability to pay. Others will qualify for free care."

The clinic will be staffed with two full-time physicians, a nurse practitioner, a medical assistant, a certified wound-care specialist and a hospital admission technician.

The staff ought to be able to see more than 70 patients a day, Youmans said.

The clinic will provide preventative care, acute primary care, prenatal care and link patients to mental-health care, including counseling and affordable medications, she said.

Walk-ins will be accommodated, but the clinic prefers patients to make an appointment by calling 245-7951.

Operation Blessing is providing modular buildings for the clinic and Greater St. Stephen Full Gospel Baptist Church is providing the land. The clinic is being financed by patient fees, federal grants and state money, Youmans said.

<http://www.nola.com/timespic/stories/index.ssf?/base/news-0/121065617396690.xml&coll=1>

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## Notes and quotes from the Louisiana Legislature The Associated Press | 05.12.08

BATON ROUGE, La. (AP) — With higher state income estimates in hand, a Senate panel decided Monday that lawmakers should get paid more for their work at the Capitol. The Senate Finance Committee without objection approved the legislative pay raise proposal, only a day after its House counterpart committee cut millions of dollars in education and health care spending from next year's budget proposal to set aside more money as savings. The Finance Committee had delayed the vote for a week, waiting to see if the state's income projections would be boosted — and by how much. The state forecasting panel then increased estimates by \$824 million over 14 months. Supporters of the pay raise measure by Sen. Ann Duplessis, D-New Orleans, said lawmakers don't earn enough money to compensate them for the workload required of the job. Legislators get a base salary of \$16,800 per year, plus a \$6,000 annual expense allowance and \$143 per day they're in session or at a committee meeting. In an 85-day regular session like the current one, lawmakers will receive per-day payments of \$12,155 — and they received per diem for two special sessions called by Gov. Bobby Jindal so far this year. Duplessis' bill (Senate Bill 672) would raise the base salary to 30 percent of what members of Congress earn, or about \$50,700 per year, plus a \$12,000 annual expense allowance. The \$143 per-meeting-day expense payments would stay the same. The salaries would be adjusted annually, as members of Congress get raises. Also, the top two leaders of each chamber would be set at a higher percentage of congressional pay. The proposal goes next to the full Senate for debate.

The state should set aside \$10 million each year in a "rapid response" fund for worker training programs at the state's community and technical colleges, the House Appropriations Committee decided Monday. The committee without objection approved the proposal sought by Gov. Bobby Jindal's administration. Labor Secretary Tim Barfield said the fund would address high-demand training needs that arise quickly, like when a new company or business is starting up in the state and needs workers with certain skills training. "It's intended to give a lot of flexibility," Barfield said. The dollars would be spent based on a plan worked out by the labor secretary, economic development secretary, the head of the board that oversees the community and technical college system and the commissioner of higher education. The proposal (House Bill 1018) heads next to the House floor for debate. Dollars for the fund would have to be appropriated in a separate budget bill to pay for it.

In other legislative action:

— Louisiana should expand its prohibition on smoking inside a vehicle when a child is present, a House panel voted. State law now prohibits smoking while the passengers include a child young enough that a safety seat is required. The bill by Rep. Walker Hines, D-New Orleans, would make it illegal to smoke cigarettes, a pipe or cigar when a child younger than 16 is present. The measure (House Bill 1021) moves to the full House for debate.

### QUOTES OF THE DAY:

"In this place, politics rule. In this place, money is directed by politics."

-- Sen. Bill Cassidy, R-Baton Rouge, asking lawmakers to rework the funding for the state's charity hospitals and arguing that politics has had a heavy hand in how it's worked so far.

"Frankly, this is monkey dust."

-- Cassidy, saying a senator's arguments against his bill weren't based on proposals included in the legislation.

<http://www.nola.com/newsflash/louisiana/index.ssf?/base/news-38/1210625651323140.xml&storylist=louisiana>

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## **Panel backs doubling lawmakers' pay**

**Times – Picayune | 05.13.08**

By Jan Moller

BATON ROUGE -- A bill that would more than double the salaries of state senators and representatives sailed out of a Senate committee Monday after supporters argued that lawmakers often work full-time hours in their part-time positions.

The move by the Senate Finance Committee on Senate Bill 672 came three days after the state's revenue forecast grew by \$824 million.

But it also comes as the House is considering \$120 million in cuts to health care, education and other spending initiatives proposed by Gov. Bobby Jindal.

"The pay should be appropriate to the number of hours and amount of time" that legislators work, said Sen. Ann Duplessis, D-New Orleans, who sponsored the bill.

Lawmakers currently are paid \$16,800 in base salary, plus \$6,000 a year in unvouchered expenses and a \$143 per-diem allowance while in session or attending a committee meeting between sessions.

Duplessis' bill would tie legislative salaries to the pay given to members of Congress, who currently make \$169,000 a year. Rank-and-file lawmakers would get 30 percent of congressional pay, or \$50,700, while the chairs of the money committees in each chamber would get \$59,150 and the presiding officers would be paid \$76,150 per year.

The bill also would double the unvouchered expense account given to legislators to \$12,000 a year. It would make Louisiana lawmakers the ninth-highest-paid in the country.

The bill passed with little discussion and now heads to the full Senate for more debate.

Duplessis said she saw no problem with legislators raising their own pay at a time when the House is considering cutting the budget to create more surpluses in future years. She said she had not yet seen the cuts proposed by a House committee, which would reduce the money earmarked for higher education, preschools, Medicaid payments and literacy programs, among other things.

"Even though the House made recommendations for cuts, it still has a whole process to go through," Duplessis said.

<http://www.nola.com/news/t-p/capital/index.ssf?/base/news-6/121065620196690.xml&coll=1>

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## Senate agrees to rework charity hospital funding

The Associated Press | 05.13.08

By MELINDA DESLATTE

BATON ROUGE, La. (AP) — A proposed restructuring of the way the state pays the LSU-run public hospitals for uninsured care, which would strip dollars from the charity hospital in New Orleans, received overwhelming approval Monday from the Louisiana Senate.

The measure, approved in a 27-8 vote, would shuffle dollars among the seven LSU hospitals in south Louisiana, based on the percentage of uninsured care provided at each hospital. The bill by Sen. Bill Cassidy, R-Baton Rouge, would be fully phased in within six years.

Supporters said the reshuffling of hundreds of millions of dollars in state and federal cash that flows to the hospitals for uninsured patients would bring fairness to the system, letting dollars follow where patients receive care.

"Twenty percent of the uninsured live in New Orleans, but 50 percent of the money goes to New Orleans," said Cassidy, a doctor who works at LSU's Earl K. Long Medical Center in Baton Rouge.

Cassidy distributed a chart that showed the New Orleans region is slated to receive \$308 million for uninsured care in the new year that begins July 1. Cassidy said that's an estimated \$3,144 per uninsured resident — compared to \$1,132 per uninsured resident in Baton Rouge, \$1,006 in Houma, \$820 in Lafayette, \$835 in Lake Charles, and \$993 in the Bogalusa hospital.

Opponents, mainly from New Orleans, said the measure would strip needed money from a hospital that provides the bulk of medical training in south Louisiana and provides more specialized, costly care. They said it would remove \$70 million in funding annually from Universty Hospital, the charity hospital in New Orleans.

"We ought to let the medical professionals make a determination on this ... This ought not be a political decision," said Sen. John Alario, a Democrat who lives in the New Orleans suburb of Westwego.

The measure heads next to the House for debate. Exempted from the bill are LSU's three public hospitals in north and central Louisiana; rural, psychiatric and community hospitals that get uninsured care dollars; and dollars that help provide for graduate medical education.

New Orleans senators questioned why three of the LSU hospitals — overseen by the public hospital in Shreveport — were excluded from the restructured spending proposed by Cassidy.

"If it's going to be equitable, let's let the system regulate the system and not pick and choose which part of the system we're going to regulate, because it truly does look like it's north versus the south," said Sen. Ann Duplessis, D-New Orleans.

"We are a state. Together we need to help solve the health care crisis, not alone," said Sen. David Heitmeier, D-New Orleans.

Cassidy, who initially proposed including all the LSU-run hospitals, said he removed the north and central Louisiana facilities because lawmakers who represent the area and patients who receive care at the facilities didn't want to change the system.

"The folks in north Louisiana like the way the system works," he said.

On the Net:

Senate Bill 402 can be found at <http://www.legis.state.la.us>  
<http://www.nola.com/newsflash/louisiana/index.ssf?base/news-38/121062714162210.xml&storylist=louisiana>

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## **Bill would cut N.O.'s health care**

**Times – Picayune | 05.13.08**

By Jan Moller

BATON ROUGE -- The New Orleans region could lose up to \$70 million a year in health care financing under a bill approved overwhelmingly by the Senate on Monday that aims to redistribute the way money is divided among southern Louisiana charity hospitals.

Sen. Bill Cassidy, R-Baton Rouge, said his Senate Bill 402 was filed to correct what he views as a disparity between the amount of tax dollars that flow to the New Orleans Charity Hospital facilities compared with other hospitals in the public hospital system run by Louisiana State University.

Cassidy, who works as a liver specialist at Earl K. Long Medical Center in Baton Rouge, said New Orleans gets three times more per uninsured resident than hospitals in other regions. The result, he said, is that patients in other parts of the state have to wait longer for certain procedures or travel to New Orleans for care.

"There is no evidence that the patients are sicker in New Orleans," Cassidy said. "Poor people, uninsured people are sick. They may be less sick in New Orleans because care does not have to be delayed."

Opponents said New Orleans deserves the money it gets because a disproportionate amount of expensive and complex procedures, such as open-heart surgery, are performed there while regional hospitals often focus on routine primary care.

"Is it possible that in New Orleans they're treating AIDS patients, which might be a little more expensive than, for example, an ingrown toenail," Sen. John Alario, D-Westwego, said.

Currently, most of the uninsured care in the public hospital system is financed by Medicaid "disproportionate share" dollars. The LSU Health Care Services Division, which oversees the seven state hospitals in southern Louisiana, decides how the money should be divided among the various facilities.

According to a chart that Cassidy distributed to his colleagues, New Orleans has about 20 percent of the state's uninsured, but gets nearly 50 percent of the \$653 million the state spends each year for uninsured care.

The bill would direct LSU to work with the state Department of Health and Hospitals to develop a formula by Feb. 1, 2009, that distributes indigent-care dollars based on the number of uninsured in each region. The new formula would have to be approved by the health care committees in the House and Senate and would be phased in over five years starting in 2010.

The bill, which passed 27-8 and next moves to the House, would not affect financing for private and community hospitals, rural hospitals or charity hospitals in Alexandria, Monroe and Shreveport.

<http://www.nola.com/capital/t-p/index.ssf?base/news-6/121065618196690.xml&coll=1>

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## Construction budget revamp gets Senate approval

### The Associated Press | 05.12.08

BATON ROUGE, La. (AP) — The Jindal administration's proposal for revamping the state's annual construction budgeting process received near-unanimous approval Monday from the state Senate, over the objections of one senator who called the bill "fluff."

Supporters said the measure by Sen. Rob Marionneaux, D-Livonia, makes improvements to the way the state spends dollars on construction projects each year by requiring more study of projects and a tighter rein on spending. Marionneaux said the proposal places "some measure of control and responsibility and feasibility into the process."

"We ought to be proud of what we're doing," he told senators, who voted 33-3 for the bill.

Opponents said the bill codifies into law a broken system that gives Louisiana's governors too much control and allows their administrations to use construction projects to get favorable votes for their agendas.

Sen. Robert Adley, R-Benton, said the measure was designed to "make it look like we're creating reform." He said instead the bill would give more power to the governor.

"I've just had enough," he said. "Too much fluff for me."

The bill would require feasibility studies before projects could be included in the annual construction budget, known as the "capital outlay" bill, and it would limit the amount of dollars that could be spent on local projects sought by lawmakers to 25 percent of the total. Non-state entities also would have to come up with a quarter of the money needed for a project before getting state construction money, with some exceptions.

The governor's office would rank projects and would oversee the feasibility studies — and that was what raised complaints from Adley and Sen. Troy Hebert, D-Jeanerette.

"I've been round here long enough to know, if you pay the right person, I promise you your project's going to be feasible," Hebert said.

Hebert said lawmakers control the state's purse strings by constitutional authority and shouldn't give away their ability to determine what's in the construction budget each year. Hebert said governors use construction projects sought by lawmakers as a way to buy votes, and he said Marionneaux's bill wouldn't do anything to give the Legislature more independence.

Adley said he wanted to remove "the ability of a governor to sit as a king and pick and choose projects." Senators narrowly rejected his attempt to give lawmakers more oversight over which projects get chosen, in an 18-17 vote against the amendment.

Marionneaux argued the governor's office controls the process now, only without any set list of priorities or actual studies done of the projects that get state funding.

Louisiana has a cap on annual borrowing that limits spending on construction projects each year, and the capital outlay bill approved by lawmakers each year essentially has been a wish list that leaves decision-making to the governor.

The governor's office submitted its recommendations for the bill. Lawmakers then added more projects than there was money. That left the governor's office to choose among hundreds of items to determine which few actually get in line for state dollars.

"We keep loading it up, and we keep sending it over there," Marionneaux said. "I've been here 13 years, and we haven't changed it."

Besides Adley and Hebert, Sen. Joe McPherson, D-Woodworth, voted against the bill.  
<http://www.nola.com/newsflash/louisiana/index.ssf?/base/news-38/1210637666134530.xml&storylist=louisiana>

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#### **4 Investigates: Millions spent to keep utilities on at shuttered Charity**

**WWL – TV | 05.12.08**

Charity Hospital in New Orleans has been closed since Hurricane Katrina and the state has indicated it has no plans to ever open it as a hospital again.

Video: Watch the Story

Yet since the storm at the end of August 2005, the state has spent millions in tax dollars to keep the utilities running in the complex, day and night.

According to documents Eyewitness News acquired through a public records request, from October 2005 to last month, the state has spent a total of \$4,449,000.25 to keep utilities on in big Charity's complex of buildings.

"We've had to keep air conditioning on, we've had to keep climate control in the building because of the way that we're working with FEMA very meticulously to go through the building and document flood damage," said Dr. Fred Cerise, Vice President for Health Care & Medical Education of the LSU Hospital System.

Here's a breakdown of how your taxes are being spent to keep utilities running at Charity's complex of eight buildings, according to the utility bills:

- More than \$1,372,579.74 for electricity
- More than \$182,302.30 for water
- More than \$2,894,119.21 for air conditioning and heating

That brings the total to \$4,449,000.25.

"We are still using some of the building as warehouse space. As we repair other assets, we've moved equipment in there and it's being stored in that building," Cerise said.

LSU hospital officials place the value of those assets stored inside big Charity at \$35,892,790.39.

But in an interview with Eyewitness News, Dr. Cerise repeatedly blamed FEMA rules for the need to spend so much to keep utilities running around the clock.

"The FEMA guidelines that we're following are that we've got to maintain the integrity of the facility and so that's why we've had to board the windows," he said. "That's why we've had to maintain the air in there. Because if we don't, mold will overgrow and water will leak in."

"If we haven't kept the climate adequately controlled, then we're putting at risk all of the claims we have – multiple millions of dollars for damages that are due to the state from the federal government," he added.

FEMA paints a different picture, however.

"I don't believe we've required them to spend \$4.5 million to keep the lights on," says FEMA official Jim Stark. "I'd have to look at that. We're talking about lights, air conditioning, heating and water?" Stark asked.

And when Eyewitness News asked whether Stark thought FEMA rules had required the state to spend that much money, he responded, "I have not heard that until today."

More than two and a half years after Hurricane Katrina, the state and FEMA do agree about one thing – they still have a huge disagreement over the value of damage at Charity Hospital.

"At this point, FEMA's estimate of the storm related damages is \$27 million," Stark said. But engineers for the state argue the claim is much higher. They insist the damage is more than 50 percent.

"They estimated the number to be closer to \$200 million in terms of damages to the facility," Cerise said.

Cerise adds that the failure to resolve that disagreement forces the state to spend millions on utilities to prevent further damage to the Charity Hospital complex.

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"Because even if it was damaged by the hurricane, if we haven't done our part in subsequently protecting it, then we're going to be suspect to argument that the damage was done subsequent, because the state didn't do its role in protecting it," Cerise said.

"We have provided money for them to stabilize the building. How they spend that money is up to the state," countered FEMA's Jim Stark.

Stark says FEMA provided the state \$508,928 in funding specifically to patch roofs, board windows and protect the facility from further damage after the storm. But he questions how well the state has protected Charity, saying the complex has "deteriorated" since the storm.

"There are broken windows," he said. "The elements are still getting in. So I'm not sure what the number will be once it's been all worked up by the engineers. But if there are some damages that are not related to the storm, then we won't pay for those."

In fact, if you check the exterior of Charity Hospital, you do see some holes in the state's argument that it is protecting the asset. You see unboarded broken windows through which the rain can enter and the air conditioning that your tax money is providing can escape.

When asked how he would respond to questions that this is a waste of taxpayer money, Cerise said he would agree that the state and FEMA should be through the negotiating process by now.

WWL's news cameras have not been inside Charity Hospital since January 2006, and Eyewitness News asked to go inside now to see the condition of the building, but the state flatly refused.

"There's been a lot that I think the public has seen in the building, and people from FEMA, independent architectural firms, independent assessors have gone through that building in great detail," Cerise said.

FEMA and the state have settled claims for other public buildings, most notably the Louisiana Superdome. The claim for the Superdome was settled within months, and the building reopened a year later.

"It's a priority that the state has set, in which ones they want to repair or replace quickly. And the Superdome was a priority," Stark said.

He said FEMA provided its damage estimate within months after the storm.

"We're still waiting for the state to bring forth their numbers, their engineer assessments," Stark said.

But Dr. Fred Cerise of LSU says the state is waiting on FEMA.

"We think it should be done by now, and we're working as hard as we can to do whatever we can to move it along, believe me," said Cerise. "But we are dependent upon FEMA to complete their assessment."

So with the state spending an average of \$153,000 a month in your taxes for utilities at Charity, when do state and federal officials expect to settle this claim?

"I don't know," Cerise said. "We're continuing, we are working very closely with FEMA, but it's two and a half years out now."

FEMA has a slightly quicker timetable.

"I think we'll have it done by the end of the month," Stark said, adding that that is only a target, not a deadline. And LSU says it's counting on roughly \$200 million from Charity Hospital to help pay for the new teaching-hospital complex it plans for New Orleans.

<http://www.wvltv.com/local/stories/wwl051208tp4invest.f4ad9dca.html>

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## **Bogalusa Medical Center observing National Hospital Week Bogalusa Daily News | 05.13.08**

BOGALUSA - The 77th annual observance of National Hospital Week at LSU Bogalusa Medical Center begins today as local churches recognize the caregivers among their membership.

On Monday, the parish schools will create ways in which to recognition medical workers.

On Tuesday, the local Rotary Club will present Kurt Scott, hospital CEO, representing to the LSUBMC Foundation Board, a check for \$500 and another check in the same amount to Dr. Richard Friend, interim director, of the LSU-BMC Rural Residency program.

Wednesday will find the administrative staff donning cafeteria clothing and serving hotdogs with all the trimmings to everyone.

Individual departments will plan and recognize members Thursday, along with the bi-monthly meeting of the Community Advisory Committee gathering to recognize the BHS student essay winner on this year's theme, "BMC is 102 and Still Going Strong".

Friday will be "Sundae" Day with a 2 p.m. serving of desserts.

The nurses will recognize and commemorate the May 12, 1820, birthday of Florence Nightingale Tuesday.

The BMC Foundation, composed of local citizens, is funding the events with private funds.

Jill Breazealle, Beth Knight and Carolyn Stroud, are serving as coordinators for the week-long event.  
<http://www.edailynews.info/articles/2008/05/12/news/news04.txt>

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## **Lallie Kemp RMC Hospital Week Culminates with Way-Goners Concert and Picnic LSU Hospitals | 05.13.08**

Baton Rouge (May 13, 2008) – Lallie Kemp Regional Medical Center (LKRMC) will celebrate National Hospital Week with five days of activities for employees, culminating in a free concert for employees on Friday, May 16, from 11:00 a.m. to 1:00 p.m., by the country band The Way-Goners, which released “Kickin’ Up Dust,” in 2007.

Besides the concert, LKRMC will host a picnic for employees, beginning at 11:30 a.m., at the LKRMC Foundation Circle.

“Hospital Week gives us an opportunity to say thank you to our employees,” said Sherre Pack-Hookfin, LKRMC hospital administrator. “Their dedication to their patients and their excellent health care skills are responsible for the great respect that people in the community have for Lallie Kemp Regional Medical Center.”

Throughout the week, LKRMC is featuring events from employees. Monday’s events was a Baby Picture Contest in which employees brought in pictures of themselves as babies and a Basketball Shootout.

Tuesday’s event will be an ice cream social, and Wednesday’s will be the Service Award Ceremony, honoring employees for their years of service to LKRMC. Many have lengthy careers at LKRMC. For example, Mae Dean Robertson in patient billing and John Thornhill in pathology each have 25 years of service. Joyce Cryer in admitting has 20 years.

Thursday’s event will be a Dunking Booth, a good way to cool off, as the week heats up for its Friday party, whose menu includes sliced BBQ brisket, baked beans, corn on the cob, Texas Toast, and tea. Friday’s party also includes a homemade dessert contest.

In September the Way-Goners will be sharing the stage with Dale Watson and others at the kick off for the Outlaws Music Fest in San Marcos, Texas. This is an extension of the Outlaws shows in Nashville, where The Way-Goners have performed twice.

The LSU Health Care System is one of the largest public health care delivery systems in the country. It has over 60,000 admissions, 350,000 patient days, 1 million outpatient visits, and over 350,000 emergency department visits. Each year 1700 residents from the LSU and Tulane Schools of Medicine and Ochsner Health System and 4,000 nurses and allied health students from many colleges and universities are trained in LSU facilities.

LSU is the largest single provider of uncompensated inpatient care in Louisiana. LSU hospitals have an economic impact of over \$1.6 billion in asset business activity, \$918 million in personal earnings, and support over 10,000 jobs.

For more information, contact Marvin McGraw, Director of Communications and Media Relations, LSU Health Care Services Division, 225.922.1424 or [mmcgra@lsuhsc.edu](mailto:mmcgra@lsuhsc.edu).

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**Stabbing leaves one wounded**  
**Houma Courier | 05.12.08**

HOUMA -- A Sunday fight between two ended with one stabbing the other in the hand with a knife, authorities said.

Police were called to Leonard J. Chabert Medical Center just before 4 a.m. Sunday by hospital personnel who were asked to treat Derick Singleton's wound.

Singleton, 28, allegedly burst through the door of a Woodlawn Ranch Road home where his 26-year-old girlfriend was visiting with 40-year-old Robert Hudson, police said.

The two men fought until Hudson pulled a knife and cut Singleton, police said. Afterwards, Hudson allegedly left in a 2005 beige Chevy pickup truck. He ultimately called police and turned himself in, police said, adding that the knife allegedly used was seized from his truck.

Hudson is charged with second-degree aggravated batter and remains jailed in lieu of a bond hearing.

Singleton, who required several stitches, was treated and released.

<http://www.houmatoday.com/article/20080512/NEWS/805120314>

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## **Former execs of The Oath found guilty of conspiracy, fraud**

**The Times-Picayune | 05.12.08**

by Susan Finch,

A New Orleans federal court jury today convicted two officials of The Oath for Louisiana, a health maintenance organization that was \$45 million in the red when the state shut it down in April 2002, of mail and wire fraud in a scheme to send insurance regulators false reports about the firm's net worth and ability to pay claims.

Wrapping up a trial that began late last month before U.S. District Judge Eldon Fallon, the jury convicted Oath owner and Massachusetts health care consultant Barry Scheur of conspiracy, three counts of mail fraud and four counts of wire fraud and found Robert McMillan, who was chief financial officer of the health maintenance organization, guilty of conspiracy and one count each of mail fraud and wire fraud.

A third defendant, Boston accountant Danette Bruno, was acquitted on the conspiracy and fraud charge against her. She was charged in connection with her role as comptroller of a Scheur company that was paid \$200,000 to \$350,000 a month to manage The Oath. Bruno attorney Donald "Chick" Foret said the jury reached "absolutely the right verdict" as to his client.

Scheur and McMillan face sentencing Aug. 13 along with Oath executive vice president Rodney Moyer, who testified against his former colleagues at the trial in exchange for being allowed to plead guilty of the conspiracy charge only. Each count on which they were convicted carries a maximum possible sentence of five years in prison.

Scheur attorney Shaun Clark said the verdict marked a sad day for his client's family but added the decision is only one step in the legal process. McMillan's lawyer, Herbert Larson, likewise expressed disappointment with the jury's decision and said he hopes McMillan will have a better outcome when his conviction is appealed.

According to the government, Scheur came to Louisiana in 1999 after being hired to straighten out the financially troubled Southeast Medical Alliance health plan, an HMO owned by five New Orleans area hospitals. Instead, he persuaded the state Department of Insurance to let him take over the health plan, assuming control of it in January 2000.

Prosecutors claimed that Scheur, McMillan and Moyer began a pattern of illegal conduct in September 2000 when the Oath was struggling financially and they feared the business wouldn't be able to meet its legally required net worth of \$3 million.

In one of the counts, the government claimed they kept the business afloat by including artificially-inflated and nonexistent accounts receivable in a report mailed to the state in November 2000. Another count said that \$1.2 million in personal loans Scheur obtained from a New Orleans bank were temporarily counted on the books of The Oath's parent firm in Massachusetts to make it appear the business was in good shape.

Prosecutors contended that at the time The Oath wasn't meeting its \$3 million net worth requirement, the defendants illegally enriched themselves by continuing to collect premiums from individuals and groups insured by The Oath, and by having the HMO pay management fees to Scheur's firm.

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## Jury's award tossed in suit over doctor's drug use

The Associated Press | 05.09.08

By MICHAEL KUNZELMAN

NEW ORLEANS (AP) — A Louisiana hospital wasn't obligated to notify a doctor's new employer that he had been fired for practicing while under the influence of narcotics, a federal appeals court ruled this week, tossing out a multimillion dollar verdict. The case decided Thursday by the 5th U.S. Circuit Court of Appeals in New Orleans centers around Dr. Robert Berry, an anesthesiologist who surrendered his medical license in Washington state after a patient nearly died while in his care. Berry, who practiced at Lakeview Regional Medical Center in Covington, was fired by his colleagues at Lakeview Anesthesia Associates in March 2001 for using prescription painkillers while on duty.

Berry allegedly continued to abuse drugs when he went to work at Kadlec Medical Center in Richland, Wash. In November 2002, he failed to resuscitate one of his patients, Kimberly Jones, after she stopped breathing during what was supposed to be a routine procedure. Jones remains in a coma to this day and is living at a nursing home in Lansing, Mich. Her family sued Berry and Kadlec and later settled the cases for \$8.5 million. Kadlec, in turn, sued Lakeview and Berry's former LAA supervisors for failing to disclose his firing or history of drug abuse when the Washington hospital asked for his employment record.

In 2006, a federal jury in New Orleans held the Louisiana hospital and doctors liable for misrepresentation and awarded the Washington hospital and its insurer \$8.2 million — an amount later reduced to \$5.5 million. On Thursday, a three-judge panel from the 5th Circuit vacated the award and reversed the judgment against Lakeview hospital. But the court upheld the jury's finding of liability against Lakeview Anesthesia Associates and ordered a new judgment to be entered against the group.

After Berry's firing, nobody at Lakeview or LAA reported his drug problem to the hospital's board of trustees or the Louisiana Board of Medical Examiners. Berry briefly practiced at a Shreveport hospital before he applied through a staffing firm for credentials to practice at Kadlec. As part of that process, Kadlec asked Lakeview if Berry had been disciplined or shown any signs of "behavior/personality problems or impairments." In response, Lakeview simply said that Berry was on its staff from March 1997 through September 2001. Lakeview didn't disclose his on-duty drug use.

The appeals court ruled that Berry's former supervisors in Louisiana had a duty not to make misrepresentations in the referral letter they sent to Kadlec. But they weren't obligated to disclose any negative information about him, the judges said. Brian Cahill, a lawyer for Kadlec, said the hospital is disappointed by Thursday's ruling and will likely ask for a rehearing of the case by all of the 5th Circuit's judges.

"This decision has provided a road map to the health care profession on how to hand off incompetent and impaired doctors to other hospitals around the country without fear of liability," Cahill said.

The appeals court said Lakeview didn't mislead Kadlec because its referral letter didn't recommend Berry or pass judgment on his work. However, the court faulted two LAA doctors for describing Berry as an "excellent anesthesiologist" and recommending him "highly" in letters sent only 68 days after they fired him.

"These letters are false on their face and materially misleading," Judge Thomas Reavley wrote.

Berry's former employers in Louisiana might have had an ethical obligation to disclose their knowledge of his drug problems, but doing that could have left them open to a possible defamation claim, Reavley noted. Reavley said he couldn't find a single case, inside or outside Louisiana, in which a court has ruled that employers have an "affirmative duty" to disclose negative information about a former employee.

"Finally," he wrote, "concerns about protecting employee privacy weigh in favor of not mandating a potentially broad duty to disclose."

In a statement, Lakeview CEO Jason Cobb said the hospital is pleased with the ruling. A spokeswoman said Cobb wouldn't have any further comment. Ron Perey, a lawyer for Jones and her family, said the 5th Circuit's ruling won't change his clients' view that the Lakeview hospital failed to protect Jones from a dangerous doctor. "They were scoundrels," he said. "They didn't reveal the truth about this guy's obviously impaired status."

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## **Doctor accused after Katrina wants new disaster laws**

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By MARY FOSTER

NEW ORLEANS (AP) — Dr. Anna Pou — the cancer surgeon charged with murder after Hurricane Katrina — and her attorney are spearheading three bills in the Louisiana Legislature aimed at protecting medical personnel in future disasters.

"What happened to Dr. Pou will obviously have a dampening effect of volunteering by doctors during future emergencies if they don't have some guarantees that their medical judgment will not be second-guessed," attorney Rick Simmons said Friday. "You need to give the people who will be important to care during a crisis the assurances that they aren't leaving themselves open to unnecessary problems down the road."

The bills, which have already passed the Senate, would take several steps to protect those caring for disaster victims from both lawsuits and prosecution because of judgments made during a crisis.

A key part of one bill would require a "Disaster Medicine Panel Review" if someone challenges medical workers' actions during disasters.

The three-member panel would include the coroner as chairman of the panel, a doctor and a third person with expertise in disaster medicine appointed by the governor.

Simmons described the bill as containing a "strong statement of legislative intent that would help avoid runaway prosecution."

After the August 2005 hurricane, then-Louisiana Attorney General Charles Foti conducted a criminal investigation of deaths at Memorial Medical Center. It led to the arrests of Pou and nurses Lori Budo and Cheri Landry, who stayed to work at the flooded hospital while the city was being evacuated.

A grand jury refused to indict Pou. Landry and Budo testified before the panel under immunity and were not indicted.

All three women denied the accusations.

Three civil lawsuits against Pou are still pending.

Setting up a medical panel allows input from the physician and ensures that scientifically reliable information is used to decide whether actions were appropriate, Simmons said.

The bills will go before the full house on May 19.

Foti had accused Pou and the nurses of killing patients by overdosing them with a sedative-painkiller mix during the days after Katrina, when the hospital had no power and no way to evacuate.

At the time of the arrests, Foti called the trio's actions murder and accused the doctor and nurses of "playing God."

Foti was widely criticized for his investigations of patient deaths at the hospital and a St. Bernard Parish nursing home. He later lost his bid for re-election.

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