

Where Will You Be November 4?

Kathleen Ream
Director of Government Affairs

Be Informed!

Before going to the voting booth on November 4, make sure you know the candidates' positions. AAEM's Legislative Action Center contains a comprehensive resource specifically designed to meet all your 2008 election needs whether they are federal, state or local. From detailed candidate bios to voter registration services, from information about specific ballot initiatives to help in locating polling sites, all this can be found under the "**Elections & Candidates**" tab on the homepage of the Legislative Action Center at <http://capwiz.com/aaem/home>.

The features include:

- ZIP code and address-to-district matching for a list of presidential, congressional, statewide and state legislature candidates
- Candidate biographical and contact information
- Candidate position statements
- Links to candidate meet ups
- Statewide ballot initiative information
- Voter guide information including key dates and deadlines, ID needed at the polls, and links to voting machine descriptions and polling locations
- Voter registration forms

In addition, for any of your federal legislators, look up their voting record on the issues of concerns to AAEM and the emergency medicine community. Go to your representatives or senators homepage on AAEM's Legislative Action Center, and click on the tabs "Votes" and "Bills" to see how they align with AAEM positions.

But most important, VOTE on November 4!

Low-Income Children Predominate in ED Visits

According to a recent News and Numbers summary from the Agency for Healthcare Research and Quality (AHRQ), lower-income children made almost twice as many visits to hospital EDs than higher-income children in 2005. AHRQ's analysis, which was based on more than 12 million ED visits by children under age 18 in 23 states, compared the number of ED visits by children from low-income communities, where the average household income was \$36,999, to those of children from high-income communities with an average household income of more than \$61,000. The rate for those from low-income communities was 414 visits for every 1,000 children, while the rate for those from high-income communities was 223 visits for every 1,000 children.

AHRQ also found that:

- Children were treated and released in 96% of all visits. The reasons for those visits included: respiratory conditions; superficial injuries such as bruises; middle ear infections; open wounds such as cuts and scrapes on arms and legs; and muscle sprains and strains.
- For the 5% of children admitted to hospitals, the top reasons were: pneumonia; asthma; acute bronchitis; appendicitis; dehydration and other fluid and electrolyte disorders; depression and other mood disorders; and epileptic convulsions.
- Roughly 45% of the visits were covered by Medicaid, 43% were covered by private insurance, 9% were uninsured, and 3% had other types of coverage.

State News

Trial Courts Rule Cap on Noneconomic Damages Unconstitutional

A Georgia trial court has found the state's \$350,000 limit on noneconomic damages unconstitutional. Fulton County Superior Court Judge Marvin S. Arrington, Sr., said the cap violated patients' equal protection rights and access to a jury trial. Lawyers involved expect an appeal, which would send the issue to the state Supreme Court.

A similar decision was made in Illinois, where a trial court last November struck down the state's \$500,000 cap for violating the separation of powers between the legislature and judiciary. The case was appealed to the state Supreme Court. The Litigation Center of the AMA and State Medical Societies and the Illinois State Medical Society (ISMS) filed a friend-of-the court brief in May. A ruling is expected later this year.

Physicians say the court decisions threaten to undo improvements in the medical liability environment in their respective states. Noting that, in the past three years, Georgia's medical liability insurance rates have stabilized, companies have reported an overall drop in claims filings and defense costs, competition is on the rise, and the state has seen a 10% increase in obstetricians at a time when few were practicing; Donald Palmisano, Jr., General Counsel to the Medical Association of Georgia, stated, "What this all results in is greater access to care for patients, and that's what we should be looking at."

Despite similar progress in Illinois, ISMS president Shastri Swaminathan said excessive jury awards still plague the legal system and that the state's cap is critical to help retain doctors. According to a February AMA report, states with noneconomic damage limits have an increased supply of high-risk specialists. Doctors in those areas also pay at least 17% less in insurance costs.

Trial lawyers, however, argue that the caps come at the patients' expense and praise the courts for restoring their rights. The Georgia Trial Lawyers Association called attention to research contradicting AMA's report. A March study conducted by the Harvard School of Public Health and George Mason University showed that most OB-GYNs' decisions to relocate or stop practicing are unrelated to insurance premiums or tort reform.

The Georgia case poses an additional threat to liability protections for physicians involved in **emergency care**. Plaintiffs challenged the validity of a provision under the reform statute requiring a higher standard of proof in emergency cases – an issue central to the underlying medical claim. The court said it would take up that question in a separate ruling.

Prior state Supreme Court rulings have invalidated other medical liability reforms. In 2006, the Georgia high court declared unconstitutional the venue portion of the liability reform statute that would have allowed defendants in joint medical liability cases to transfer lawsuits to the county where the alleged negligence occurred. And in 1976 and 1997, Illinois justices struck down award limits in medical liability cases.

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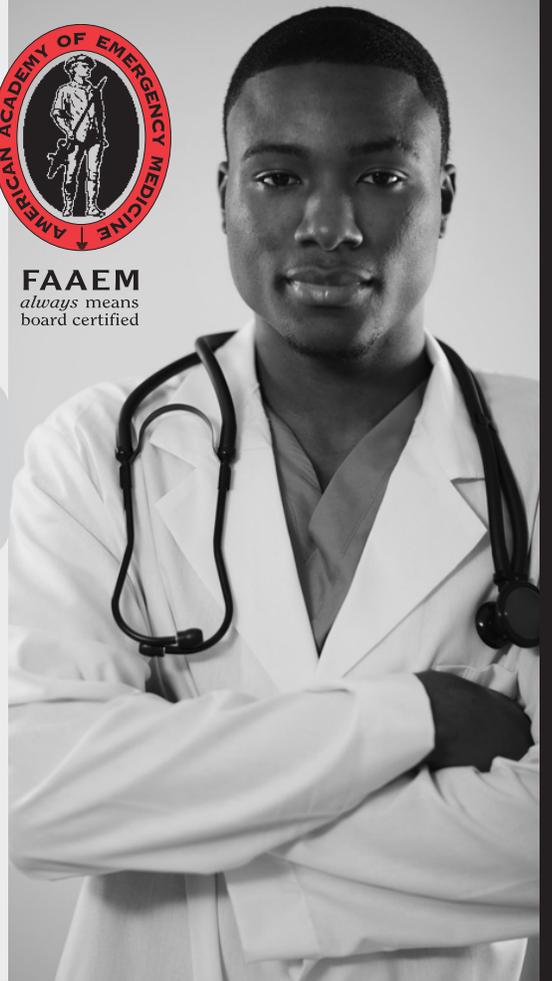
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Louisiana Governor Signs Bills Protecting Medical Professionals

A package of bills designed to protect medical personnel from lawsuits arising from healthcare delivered during declared emergencies was signed into law by Governor Bobby Jindal (R) on June 30, 2008. Two of the measures, SB 301 and SB 330, sponsored by Senator Joel Chaisson, II (D-Destrehan), were inspired and backed by Anna Pou, the New Orleans physician who was arrested but never indicted over patient deaths at Memorial Medical Center after Hurricane Katrina. The bills provide lawsuit protections for paid medical professionals not covered under the existing Good Samaritan Act.

Specifically, SB 301 states that a healthcare official cannot be held liable "as a result of an evacuation or treatment or failed evacuation or treatment" conducted according to the procedures of emergency medicine "and at the discretion of military or government authorities." SB 330 goes a step further with a provision that grants limited immunity for medical personnel working within a disaster zone and

giving medical care affected by the disaster. The bill also protects medical personnel from "simple negligence" but not from "gross negligence." The protection in both bills is intended to apply only to individual employees, not owners of the medical facilities in question.

A separate measure, sponsored by Representative Fred Mills (D-Parks), addressed immunity related to healthcare provided outside the disaster area. That legislation, signed by Governor Jindal, went into effect on August 15, 2008.

As for Louisiana's malpractice reform, another slate of bills altering the \$500,000 cap on awards in medical malpractice suits appears dead for the session. Representative Nick Lorusso, (R-New Orleans) said representatives of the legal and medical communities will continue to work on potential compromises for next year's regular session.

AAEM congratulates Harold A. (Hal) Thomas, MD FACEP, on assuming the presidency of the American Board of Emergency Medicine (ABEM).

Dr. Thomas served ABEM as a Director since 2001.