



Mississippi Hospital Association

2009



LEGISLATIVE REPORT

2009 Legislative Session Health Care Related Bills

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Blood Donations/Age Definition

HB 150	
AGE SPECIFICATION FOR BLOOD DONATION	
Status	Approved by Governor on 4/17/09
Effective Date	July 1, 2009
Authors	Ishee
Code Sections Affected	41-41-15

- Amends 41-41-15 to allow persons 16 years of age or older to voluntarily donate blood written consent from a parent or guardian

Cigarette Tax

HB 364	
CIGARETTE TAX INCREASE	
Status	Approved by Governor on 05/13/09
Effective Date	Sections 1 and 2 took effect on May 15, 2009; Sections 3, 4 and 5 took effect from and after July 1, 2009
Authors	Watson
Code Sections Affected	27-69-13; 27-51-103; 27-65-75; 27-65-201

- Increases the Mississippi excise tax on cigarettes by 50 cents per package, which hasn't increased since 1985
- Provides a credit from July 1, 2009 through June 30, 2010 (FY 2010) towards the tax liability on the amount of ad valorem taxes due during the taxable year on private carriers of passengers and light carriers of property in an amount equal to 4.25% of the assessed value of the motor vehicle

Community Hospitals

SB 2911	
COMMUNITY HOSPITAL ANNUAL REPORT	
Status	Approved by Governor on 3/16/09
Effective Date	July 1, 2009
Authors	Browning
Code Sections Affected	41-13-47

- Amendment to 41-13-47 extends deadline for community hospital Board of Trustees to file finalized financial statements with owners from (first Monday in) January to (first Monday in) March

HB 1131	
COMMUNITY HOSPITAL BOARD COMPENSATION	
Status	Approved by Governor on 3/26/09
Effective Date	July 1, 2009
Authors	Barker
Code Sections Affected	41-13-29

- Establishes 41-13-29 to increase the community hospital board per-diem compensation up to a maximum of \$150 for each meeting of the board of trustees, or a meeting of a committee established by the board of trustees when the trustee was in attendance

CON & Department of Health

SB 2580	
MS QUALIFIED HEALTH CARE GRANT PROGRAM AUTHORIZATION	
Status	Approved by Governor on 4/14/09
Effective Date	July 1, 2009
Authors	Bryan
Code Sections Affected	41-99-5

- Extends the time period the State Department of Health can make grants under the Mississippi Qualified Health Center Grant Program to July 1, 2014

SB 2573	
MS PUBLIC HEALTH LABORATORY	
Status	Approved by Governor on 01/28/09
Effective Date	Upon passage – 01/28/09
Authors	Bryan
Code Sections Affected	41-3-21

- Creates a Public Health Laboratory through code section 41-3-21 to perform laboratory tests and procedures as determined beneficial to the health of Mississippians
- Establishes a Mississippi Public Health Laboratory Fund

Hospital Reporting

HB 1449	
PREMATURE INFANTS- HOSPITAL DISCHARGE	
Status	Approved by Governor on 4/17/09
Effective Date	July 1, 2009
Authors	Holland
Code Sections Affected	None

- Creates an act to make certain legislative findings regarding premature births, the risk of health and developmental issues with premature infants, the importance of focusing on care and management of premature infants, the necessity to examine and improve the discharge process follow-up care and management of premature infants to foster better health outcomes and lower risks for readmissions and complications
- Requires Medicaid and The Children’s Health Insurance Program to examine and improve hospital discharge and follow-up care for premature infants earlier than 37 weeks gestational age and implement programs to improve newborn outcomes, reduce newborn health costs and establish ongoing quality improvement
- Requires hospitals who serve infants eligible for Medicaid and The Children’s Health Insurance Program to report to the state the cause and incidence of all readmissions of infants born premature at earlier than thirty-seven weeks gestational age
- Data regarding the incidence and cause of re-hospitalization in the first 6 months of life for infants born premature at earlier than thirty-seven (37) weeks gestational age shall be reported by the Mississippi State Department of Health utilizing the mandated hospital discharge data system authorized in MS Code 41-63-4.

HB 722	
BURN INJURY NOTIFICATION TO STATE FIRE MARSHAL	
Status	Approved by Governor on 4/13/09
Effective Date	July 1, 2009
Authors	Robinson
Code Sections Affected	None

- Creates an act requiring hospitals and certain licensed facilities, who is responsible for the initial treatment or transportation of an individual for a burn injury, to notify the State Fire Marshal or his/her designee within 24 hours by phone or facsimile
- Burn injury is defined as:
 - Which causes second- or third-degree burns to 16 nine percent (9%) or more of the patient's body
 - Which causes injury to the upper respiratory tract or laryngeal edema caused by inhaling super-heated air
 - Which causes death
- Reporting requirements include the following:
 - The name and address of the patient
 - A description of the burn injury

- The reported cause of the burn injury
- The patient's disposition
- Any other fact concerning the burn injury which 27 might assist in detecting arson
- Requires the State Department of Health to report any burn-injury related death
- If an investigation is conducted after notification is given under the law, the investigating agency is responsible for reporting its findings on an incident reporting system report and send it to the State FIRE MARSHAL for record retention
- Information obtained or disclosed to the State Fire Marshal is held as confidential by the State Fire Marshal and shall not be disclosed unless given written consent by burn victim, or in the case of death or minor without written consent of a parent or legal representative or by court order

Insurance

SB 2842	
COMPREHENSIVE HEALTH INSURANCE RISK POOL ASSOCIATION	
Status	Approved by Governor on 3/18/09
Effective Date	July 1, 2009
Authors	Clarke
Code Sections Affected	83-9-203; 83-9-205; 83-9-209; 83-9-211; 83-9-213; 83-9-215; 83-9-217; 83-9-221

Amends the following code sections:

- 83-9-203- allows the legislature to establish a mechanism to allow health and accident coverage for those with pre-existing health conditions, which would otherwise hinder them from coverage
- 83-9-205- revises and/or clarifies definitions
- 83-9-209- increases lifetime maximum benefits
- 83-9-211- revises the membership of the Board of Directors
- 83-9-215- clarifies the powers and duties of the administering insurer
- 83-9-217- provides for filing reports necessary for assessments
- 83-9-221- revises the primary sources of benefits

Medicaid

HB 865	
DIVISION OF MEDICAID DIALYSIS TRANSPORTATION	
Status	Approved by Governor on 3/20/09
Effective Date	June 30, 2009
Authors	Stringer
Code Sections Affected	NONE

- Appropriates any unused money out of the Unclaimed Property Fund to defray expenses from the Division of Medicaid and fund a temporary program providing non-emergency transportation to locations for dialysis services in end-stage renal disease for eligible patients.

HB 71	
MEDICAID REAUTHORIZATION	
Status	Approved by Governor on 6/30/09
Effective Date	July 1, 2009
Authors	Dedeaux
Code Sections Affected	43-13-107; 43-13-117; 43-13-145; 43-13-407

House Bill 71, enacted during the 2009 Second Extraordinary Session of the Mississippi Legislature, extends the Division of Medicaid until 2012 and enacts new technical amendments regarding hospitals' roles in financing the state Medicaid program. The following information outlines the assessments and hospital safeguards included in the bill.

Assessments

New annual assessments are levied on hospitals on a "sliding scale" across fiscal years 2010, 2011, and 2012 and the current "bed tax" is repealed. The "sliding scale" is a complex formula that can best be summarized as follows:

- FY 2010- Hospitals' exposure in new taxes will be \$60 Million plus 25 percent of any deficit, up to a maximum of \$6 Million.
- FY 2011- Hospitals' exposure will be \$63.75 Million plus 25 percent of any deficit, up to a maximum of \$8 Million.
- FY 2012- Hospitals' exposure will be \$90 Million plus 25 percent of any deficit, up to a maximum of \$10 Million.

As in the past 15 years, these new assessments are in addition to the hospitals' exact state match of the DSH and UPL programs. Also, if CMS does not approve the lower-of-logic provision described below, the amount of the assessment in each year will be reduced \$7 Million.

Hospital Safeguards

- Services provided at “off-campus” outpatient facilities in existence or under construction as of July 1, 2009, will be reimbursed at outpatient rates; Services in such facilities constructed on or after July 1, 2009, will be reimbursed in accordance with the Medicare “thirty-five mile” rule
- UPL assessments will be used for the sole purpose of financing the UPL program
- Subject to CMS approval (via a state plan amendment) crossover claims for inpatient services and those covered under Medicare Part B will be reimbursed in the manner in effect January 1, 2008
- Prohibits any changes in payment methodologies used to determine reimbursement rates for inpatient and outpatient services, except as required by federal regulations
- Allows implementation of “managed care” in January, 2010 if the following conditions are met:
 - (1) program is limited to 15 percent of the Medicaid population; (2) a 30-day “opt-out” option must be provided all beneficiaries; (3) all payments to the managed care companies must be considered regular Medicaid payments for purposes of the UPL and DSH programs; (4) DoM must request and be granted a CMS waiver on **all** of the above provisions before it can implement any form of managed care program; (5) all managed care companies are required to reimburse all providers at rates no lower than those provided those who do not participate in the managed care program.
- Allows DoM to implement a DRG system after July 1, 2010, **provided** the system uses the prevailing corresponding Medicare DRG rate (or a closely related Medicare DRG rate) and applies to each hospital the applicable federal wage index being used by CMS for the hospital’s geographic location
- Provides there shall be no cuts in inpatient and outpatient hospital payments or allowable days or volumes as long as the assessment is in place
- Codifies the Scheer Plan
- Requires maximization of DSH and UPL
- Requires timely payments of DSH and UPL
- Requires that hospitals will receive the Medicare published market basket inflationary index payment increase
- Allows all hospitals meeting minimum federal eligibility requirements to participate in DSH program
- Prohibits the levying of any other tax on hospitals by any governmental entity except the State

- Provides all fees for physician services covered only by Medicaid shall be increased to 90 percent of the rate established on January 1, 2010, and as may be adjusted each July under Medicare
- Prohibits conducting of audits beyond that time period for which books and records are not required to be retained
- Effective January 1, 2010, restores the 5 percent cut in physician reimbursement rates enacted during the Musgrove Administration

**The APR-DRG provision was amended and inserted in the legislation by the Division of Medicaid, and approved by legislative negotiators, without MHA's knowledge or acceptance. MHA was not informed of the change and only discovered it after the bill was signed into law by the Governor.*

Medical Equipment

HB 193 HOME MEDICAL EQUIPMENT SALES TAX EXEMPTION	
Status	Approved by Governor on 3/26/09
Effective Date	July 1, 2009
Authors	Howell
Code Sections Affected	27-65-105

- Provides exemption from sales tax for sales of certain medical equipment and home medical supplies paid for under specific circumstances
- Recipients must be eligible for payment under Title XVIII of the Social Security Act or under the state plan for medical assistance under Title XIX of the Social Security Act (includes prosthetics orthotics, hearing aids, hearing devices, prescription eyeglasses, oxygen and oxygen equipment)
- Prescriptions must be made by a licensed physician for medical purposes of a patient, and when payment for such equipment or supplies, or both must be made in part or in whole under the provisions of Medicare or Medicaid program.

Medical Malpractice

HB 78 DISCOVERY RULE AND HEARING PROCEDURES	
Status	Approved by Governor on 3/31/09
Effective Date	Upon Passage (3/31/09)
Authors	Bondurant
Code Sections Affected	73-25-27

Amendment to Code Section 73-25-27:

- Authorizes the State Board of Medical Licensure to adopt the Rules of Discovery and Procedure for Hearings
- Provides for appeals of orders of the Board to the Chancery Court
- Authorizes the Board to issue subpoenas during an investigation
- Provides procedures for disciplinary proceedings before the board

Medical Records

SB 2618	
HOSPITAL RECORD REPRODUCTION	
Status	Approved by Governor on 03/11/09
Effective Date	July 1, 2009
Authors	Tollison
Code Sections Affected	41-9-77

- Amends code section 41-9-77 to allow hospitals to reproduce their records in any form of electronic or digital media format

HB 870	
HOSPITAL RECORDS OBTAINED BY HEIRS	
Status	Approved by Governor on 04/13/09
Effective Date	July 1, 2009
Authors	Holland
Code Sections Affected	41-9-65

- Creates an act to amend 41-9-65, which authorizes heirs of a descendant to obtain a copy of the deceased person's medical records before an executor or administrator is appointed. Access is limited to three heirs
- Amendment to code section states nothing in the section shall be construed to prevent an heir from obtaining access to a descendant's medical records under the first section of the act

HB 578	
HOSPITAL RECORD REPRODUCTION	
Status	Approved by Governor on 03/18/09
Effective Date	July 1, 2009
Authors	Reed
Code Sections Affected	41-9-77

- Companion bill to SB 2618, which amends code section 41-9-77 to allow hospitals to reproduce records in any form of electronic or digital media format

Mental Health

SB 2016 INVOLUNTARY COMMITMENT	
Status	Approved by Governor on 04/15/09
Effective Date	July 1, 2009
Authors	Fillingane
Code Sections Affected	41-4-7; 41-21-77

- Authorizes and directs the State Board of Mental Health to establish minimum standards and certify county facilities used for housing those who have been involuntarily committed pending transportation and admission to a state treatment facility.
- Requires counties without approved facilities to contract with another county having an approved facility and reimburse the county for the costs
- Clarifies nothing in the Department of Mental Health statutes shall preclude the service of a psychiatric/mental health nurse practitioner in accordance to established protocol. A repealer is set to this portion of the statute for July 1, 2010

HB 897 JOINT LEGISLATIVE STUDY COMMITTEE ON MENTAL HEALTH SYSTEM	
Status	Approved by Governor on 04/17/09
Effective Date	Upon Passage (4/17/09)
Authors	Clarke
Code Sections Affected	None

- Creates a joint legislative study committee to analyze and make recommendations for improving the mental health system in Mississippi
- Requires the committee to report findings and recommendations to the legislature

Miscellaneous

HB 1530 PILOT OBESITY PROGRAM	
Status	Approved by Governor on 03/23/09
Effective Date	July 1, 2009
Authors	Holland
Code Sections Affected	25-15-9

- Establishes a program designed to address the problem of the high obesity rate in Mississippi

- The program will be conducted by the State and School Employees Health Insurance Management Board through the State and School Employees Health Insurance Plan
- The Board develops the criteria for patient and facility eligibility for the program
- The Board reports back to the Chairmen of the House Public Health and Human Services Committee and Senate Public Health and Welfare Committee with detailed information on the initial trends of the program.
- Limits program to no more than one hundred patients from different regions in the state for each of the first two years
- Beginning on July 1, 2012, the benefits provided under the program shall become a benefit for all participants in the State and School Employees Health Insurance Plan who are eligible for the program.

HB 468	
VULNERABLE ADULT ABUSE INVESTIGATIONS	
Status	Approved by Governor on 3/30/09
Effective Date	July 1, 2009
Authors	Holland
Code Sections Affected	43-47-7

- Amends code section 43-47-7 to raise the response time to investigate vulnerable adult abuse, neglect and exploitation reports when the vulnerable adult is not in immediate danger
- Raises response time from 48 hours to 72 hours if the vulnerable adult is not in immediate danger

HB 458	
ORIENTAL MEDICINE PRACTICE ACT	
Status	Approved by Governor on 3/26/09
Effective Date	July 1, 2009
Authors	Holland
Code Sections Affected	None

- Provides practitioners of acupuncture can only perform acupuncture on a patient if the patient has received a prescription for acupuncture from a physician
- Acupuncture can only be performed under the supervision of the patient's referring or prescribing physician
- The State Board of Medical Licensure administers the act
- Creates Mississippi Council of Advisors in Acupuncture to advise the Board in administering the act

Nursing

SB 3040	
NURSE PRACTICE LAW RESTRICTIONS	
Status	Approve by Governor on 3/11/09
Effective Date	July 1, 2009
Authors	Burton
Code Sections Affected	73-15-33

- Amends code section 75-13-33 to prohibit the use of any designation, abbreviation or title for any person representing themselves as any type of nurse unless the person is licensed under the Nursing Practice Law
- This amendment does not prohibit a certified nurse assistant or certified nursing assistant from using “nurse” or “nursing” as part of their job title

HB 1260	
CERTIFIED NURSE PRACTITIONER INSURANCE REIMBURSEMENTS	
Status	Approve by Governor on 3/31/09
Effective Date	July 1, 2009
Authors	Coleman (59 th)
Code Sections Affected	73-15-5; 73-15-20; 83-41-213

- Deletes requirement that certain regulations relating to the practice of nursing shall be jointly promulgated by the State Board of Nursing and the State Board of Medical Licensure
- Defines clinical nurse specialist practice
- Defines advanced nursing practice
- Creates a new code section, 73-15-20 to outline qualifications for advanced practice registered nurses
- Prescribes practice requirements for advance practice registered nurse
- Amends code section 83-41-213 to delete the requirement that certified nurse practitioners shall be under the supervision of a licensed physician for insurance reimbursement