

SENATE RESOLUTION NO. 108

BY SENATOR LUNEAU

A RESOLUTION

To urge and request the Louisiana Patient's Compensation Fund Board to research and gather certain information and present their findings to the Senate Committee on Health and Welfare.

WHEREAS, the Louisiana Patient's Compensation Fund, R.S. 40:1231.1 et seq., was created by Act 817 of the 1975 Louisiana Legislature; and

WHEREAS, the Patient's Compensation Fund was created to provide coverage to private health care providers in Louisiana, ensuring that a stable and affordable market existed for malpractice insurance which would keep practitioners in the state; and

WHEREAS, the Patient's Compensation Fund was also created to provide a viable resource for compensating claimants; and

WHEREAS, Act 817 provided for the Medical Review Panel process which is the first step in pursuing a claim against a health care provider; and

WHEREAS, in 1984, the law was amended to allow for the payment of all related medical expenses which allowed those patients with more severe injuries to have medical expenses paid by the Patient's Compensation Fund on an ongoing basis for life; and

WHEREAS, in 1990, the law was again revised to create the Patient's Compensation Fund Oversight Board which gives providers greater input and greater responsibility in the operation of the Patient's Compensation Fund because members of the board are representatives of the provider groups that pay into the fund; and

WHEREAS, R.S. 40:1231.9(A) requires, within thirty days after a payment for malpractice, each insurer of a health care provider and each health care provider in Louisiana who is self-insured to provide a written report to the provider's licensing board; and

WHEREAS, in 2015, R.S. 40:1231.9(D) was enacted to require the executive director of the Patient's Compensation Fund to submit a report on an annual basis to the

Senate and House committees on health and welfare containing every claim against an individual practitioner who had five or more claims for the previous year paid by the fund; and

WHEREAS, in January 2021, the Senate Health and Welfare Committee received a letter from the Patient's Compensation Fund containing a report of claims that had triggered the reporting requirement of R.S. 40:1231.9(D) for the first time since the enactment of the provision; and

WHEREAS, some of the claims were being reported years after the original requests for a panel review were filed due to the delays in panel review, claim settlement, or claim adjudication; and

WHEREAS, during the April 14, 2021, meeting of the Senate Health and Welfare Committee, the committee held a discussion regarding the medical malpractice paid claim report issued on January 25, 2021, which included Ken Schnauder, executive director of the Louisiana Patient's Compensation Fund, and Dr. Vincent Culotta, executive director of the Louisiana State Board of Medical Examiners; and

WHEREAS, during the committee discussion, Mr. Schnauder stated that the Patient's Compensation Fund does not report to the Louisiana State Board of Medical Examiners when a request is filed for the Medical Review Panel to review alleged acts of medical malpractice; and

WHEREAS, Dr. Culotta stated that the Louisiana State Board of Medical Examiners is considering potential opportunities to receive notice of alleged violations of the state medical malpractice act such as adverse decisions by the Medical Review Panel; and

WHEREAS, Louisiana law concerning medical malpractice claims against health care providers has remained largely untouched since first being passed in 1975; and

WHEREAS, in order to protect the public and make informed decisions about necessary updates to the medical malpractice statutes, it is imperative that the Legislature of Louisiana have accurate data and information.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby urge and request the Louisiana Patient's Compensation Fund Board to research and gather all of the following information:

- (1) The number of requests filed for the Medical Review Panel to review alleged medical malpractice in the last ten years and the average length of time elapsing between the date the Patient's Compensation Fund receives a request and the Medical Review Panel convenes to review the alleged malpractice.
- (2) The number of claims paid by the Patient's Compensation Fund in the last ten years, the amount paid for each of those claims, and the length of time elapsed between the date the Patient's Compensation Fund received notice that a claim was adjudicated or settled and payment was made by the fund.
- (3) The number of states that also have a medical malpractice review panel or other similar requirement in their state law.
- (4) The policy and procedures for when the Patient's Compensation Fund provides notice of the payment of a claim or any other data of alleged medical malpractice to the Louisiana State Board of Medical Examiners.

BE IT FURTHER RESOLVED that the Senate of the Legislature of Louisiana does hereby urge and request the Louisiana Patient's Compensation Fund Board to present their findings to the Senate Committee on Health and Welfare on or before October 1, 2021.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be transmitted to the executive director of the Patient's Compensation Fund.

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PRESIDENT OF THE SENATE