

2021 Regular Session

SENATE RESOLUTION NO. 108

BY SENATOR LUNEAU

MALPRACTICE. Requests the Louisiana Patient's Compensation Fund Board to gather certain information and present their findings to the Senate Committee on Health and Welfare.

1 A RESOLUTION

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

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

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

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

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

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

17 WHEREAS, in 1990, the law was again revised to create the Patient's Compensation
18 Fund Oversight Board which gives providers greater input and greater responsibility in the

1 operation of the Patient's Compensation Fund because members of the board are
2 representatives of the provider groups that pay into the fund; and

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

6 WHEREAS, in 2015, R.S. 40:1231.9(D) was enacted to require the executive
7 director of the Patient's Compensation Fund to submit a report on an annual basis to the
8 Senate and House committees on health and welfare containing every claim against an
9 individual practitioner who had five or more claims for the previous year paid by the fund;
10 and

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

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

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

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

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

30 WHEREAS, Louisiana law concerning medical malpractice claims against health

1 care providers has remained largely untouched since first being passed in 1975; and

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

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

8 (1) The number of requests filed for the Medical Review Panel to review alleged
9 medical malpractice in the last ten years and the average length of time
10 elapsing between the date the Patient's Compensation Fund receives a request
11 and the Medical Review Panel convenes to review the alleged malpractice.

12 (2) The number of claims paid by the Patient's Compensation Fund in the last ten
13 years, the amount paid for each of those claims, and the length of time
14 elapsed between the date the Patient's Compensation Fund received notice
15 that a claim was adjudicated or settled and payment was made by the fund.

16 (3) The number of states that also have a medical malpractice review panel or
17 other similar requirement in their state law.

18 (4) The policy and procedures for when the Patient's Compensation Fund
19 provides notice of the payment of a claim or any other data of alleged
20 medical malpractice to the Louisiana State Board of Medical Examiners.

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

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

