

Regular Session, 2008

SENATE BILL NO. 301

BY SENATOR CHAISSON

LIABILITY. Provides immunity for certain medical personnel during evacuation or treatment of patients. (gov sig)

1 AN ACT

2 To enact R.S. 29:735.3, relative to civil liability of medical personnel; to provide immunity
3 for medical personnel during a declared state of emergency who render emergency
4 care, health care services, or first aid as a result of evacuations or treatment
5 conducted in accordance with disaster medicine protocol and at the direction of
6 military or government authorities; to provide for a definition of disaster medicine
7 protocol; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 29:735.3 is hereby enacted to read as follows:

10 **§735.3. Immunity for evacuation or treatment**

11 **A. During a declared state of emergency, medical personnel immune**
12 **from liability in R.S. 37:1731, who render or fail to render emergency care,**
13 **health care services, or first aid, shall not be liable for any civil damages to**
14 **patients as a result of an evacuation or treatment or failed evacuation or**
15 **treatment conducted in accordance with disaster medicine protocol and at the**
16 **direction of military or government authorities, unless such damage or injury**
17 **was caused by willful misconduct by such medical personnel.**

1 **B. As used in this Section, "disaster medicine protocol" means the order**
 2 **of evacuation and treatment of patients by priorities in accordance with the**
 3 **recognized triage process applicable when disastrous conditions may prevent**
 4 **evacuation or treatment of all patients.**

5 **C. As used in this Section, "disaster medicine" means the art and science**
 6 **of patient care under circumstances of stress when the number of patients**
 7 **exceeds the normal medical capacities, in which a sudden concentration of**
 8 **casualties overwhelms existing medical facilities and personnel.**

9 **D. As used in this Section, "during a declared state of emergency"**
 10 **means the time period as set forth in the declaration of the emergency and shall**
 11 **be retroactive to the precipitating event requiring the declaration.**

12 Section 2. This Act shall become effective upon signature by the governor or, if not
 13 signed by the governor, upon expiration of the time for bills to become law without signature
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 16 effective on the day following such approval.

The original instrument was prepared by Curry Johnson. The following
 digest, which does not constitute a part of the legislative instrument, was
 prepared by Michelle Broussard-Johnson.

DIGEST

Chaisson (SB 301)

Present law (R.S. 37:1731) provides for limitation of liability for certain medical professionals who in good faith gratuitously render emergency care or services at the scene of an emergency to persons in need.

Proposed law provides that during a declared state of emergency, medical personnel immune from liability in R.S. 37:1731, who render or fail to render emergency care, health care services, or first aid, shall not be liable for any civil damages to patients as a result of an evacuation or treatment or failed evacuation or treatment conducted in accordance with disaster medicine protocol and at the direction of military or government authorities, unless such damage or injury was caused by willful misconduct by such medical personnel.

Proposed law provides that "disaster medicine protocol" means the order of evacuation and treatment of patients by priorities in accordance with the recognized triage process applicable when disastrous conditions may prevent evacuation or treatment of all patients.

Proposed law provides that "disaster medicine" means the art and science of patient care under circumstances of stress when the number of patients exceeds the normal medical capacities, in which a sudden concentration of casualties overwhelms existing medical

facilities and personnel.

Proposed law provides that "during a declared state of emergency" means the time period as set forth in the declaration of the emergency and shall be retroactive to the precipitating event requiring the declaration.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 29:735.3)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill.

1. Adds definition of "disaster medicine."

Senate Floor Amendments to engrossed bill.

1. Defines "during a declared state of emergency" to be the time period in the emergency declaration and that it is retroactive to the precipitating event.