

the Reporter

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Illinois Supreme Court Strikes Down Medical Liability Law

The State Supreme Court issued its [ruling](#) on Thursday in *Lebron v. Gottlieb Memorial Hospital*, striking down the entire Illinois medical liability reform law, including caps on non-economic damages. In a summary of its ruling, the Court said: “The damage limitation violates the constitutional principle of separation of powers by interfering with the authority of the judicial branch to reduce verdicts... The supreme court agreed with the circuit court that, because the challenged provision is not severable, the entire statute is invalid. However, the legislature is free to reenact the other provisions.” The four Democratic justices on the court voted to overturn the law, while two Republican justices dissented.

In a [statement](#), IHA President Maryjane Wurth said, “The Illinois Hospital Association is disappointed that the Illinois Supreme Court has struck down critically needed medical liability reforms that were improving health care access throughout the state and restoring predictability to our broken medical liability system.” Wurth added, “...caps on medical liability damages in many states (33) across the country have already proven to be effective at reducing health care delivery costs. We call on the President and Congress to include this important cost-reducing solution to the federal health reform package.” For IHA’s summary of the ruling, [click here](#).

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Obama Releases Budget; Contact Senators on FMAP

President Obama released his FY 2011 budget proposal this week,

THIS WEEK'S MAIL

[RAC DRG Validation Audits of Critical Access Hospitals \(password required\)](#)
TO: CEOs; CFOs; Critical Access Hospitals

[Fair Patient Billing Act](#)

TO: CEOs; CFOs; Chief Compliance Officers; Patient Account Managers

[IHFSRB Notices](#)

TO: CEOs; VPs, Planning, Marketing & Business Development

[IHA Management Institute 101](#)

TO: CEOs; CFOs

[Webinar: CMS and The Joint Commission Standards on Informed Consent: Ensuring Compliance](#)

TO: CEOs

[IHA/Joint Commission Resources Continued Service Readiness Workshop and Seminar](#)

[Quality Improvement and Public Reporting](#)

TO: CEOs; CIOs; CMOs; CFOs; CQOs

[This Week's Mail Archive](#)



CALENDAR OF EVENTS

Feb. 10: [CPT Coding: Overview and Surgery Changes](#)

Feb. 11: [HITECH Act Compliance Deadline: Are You Ready?](#)

Feb. 11: [Building Customer Loyalty With a Significant Focus on Outcomes](#)

including a request of \$25.5 billion for a six-month extension of the temporary increase in Medicaid's federal medical assistance percentage (FMAP). Under the President's budget, Illinois would receive a total of approximately \$7.9 billion in Medicaid funds to provide health coverage to low-income children and families, including \$700 million from extending the FMAP provision through June 30, 2011.

The inclusion of the FMAP extension in the President's budget as well as in the U.S. House jobs bill presents a prime opportunity for the hospital community to aggressively push for the extension. We also need to make sure that the U.S. Senate also includes the extension in its version of the jobs bill.

The House's version of the jobs bill, passed in December, includes a provision to extend the economic stimulus law's temporary FMAP increase through June 30, 2011. The Senate was expected to announce its approach to jobs legislation by the end of this week.

Members are strongly urged to [contact](#) Senators Durbin and Burris as soon as possible and ask them to support including a six-month FMAP extension in the Senate jobs bill. For IHA's detailed memo with key points, [click here](#).

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IHA to Push for Key Health Care Funding Issues

As the state faces mounting budget challenges, IHA will continue to aggressively advocate for adequate Medicaid funding and for the state to find new or increased sources of revenue to support health care. At the same time, IHA is looking for opportunities to protect and enhance health care funding for hospitals. To that end, the IHA Board at its Feb. 4 meeting directed the Association to explore options for improved Medicaid reimbursements for Critical Access Hospitals (CAHs) and to seek the restoration of mental health funding for hospitals.

The Board decided to support the concept of Medicaid reimbursement based on costs for CAHs. Randy Dauby, IHA Board member and CEO of **Hamilton Memorial Hospital**, McLeansboro, presented the proposal to the Board, following previous discussions by the Small & Rural Hospitals Steering Committee and the Policy Council last month. Many states reimburse CAHs at cost for Medicaid claims, but Illinois does not. On average, CAHs in Illinois receive only 41% of their Medicaid costs without the Hospital Assessment Program and 73% with the assessment program, excluding costs for those eligible for both Medicaid and Medicare. IHA will now begin discussions with legislators and the Administration on potential options to implement the concept.

The Board also agreed to direct the Association to pursue restoration of \$9.4 million in annual funding for the Community Hospital

Feb. 17: [CPT Coding: E&M, Radiology, Path/Lab and Medicine Changes](#)

Feb. 18: [Complying with the CMS Interpretive Guidelines on Infection Control](#)

[Education Programs](#)

[COMPdata Programs](#)

[Governance Education](#)

[IHA 2010 Calendar](#)
(new programs added)

[Sponsorship Opportunities](#)

Inpatient Psychiatric Services (CHIPS) program. CHIPS was originally established to provide inpatient psychiatric services, in private hospitals, for persons with serious mental illness who did not have public or private health care coverage. The funding was eliminated by the Illinois Division of Mental Health last July.

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IHA Board Receives Update on Quality Care Institute

The IHA Board received an update on several activities relating to IHA's Quality Care Institute. IHA Senior Vice President Pat Merryweather spoke of the evolving role of government in setting the stage for quality requirements due to the huge amount of government expenditures on health care. Government expenditures on health care are expected to exceed private sector expenditures for the first time in 2012, according to a new [report](#) in the online journal *Health Affairs*. Quality and patient safety are issues that "won't go away," she said, simply because health care reform efforts have slowed down. IHA Board member James Leonard, MD, President and CEO, **Carle Foundation Hospital**, Urbana, is chair of the Institute's Advisory Group.

Merryweather also announced that "Illinois Hospitals Caring for You," IHA's new quality web site, will be released for preview to hospital contacts next week. The site will feature a wide range of consumer-focused health care information along with photos and additional information from member hospitals.

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IHA Adopts Guiding Principles on Disease-Specific Regulation

To address the challenges posed by legislation attempting to prescribe the management of specific diseases or conditions, a member Task Force on Disease-Specific Regulation worked for the past several months to develop a framework of guiding principles. The IHA Board this week adopted the group's report, which provides a series of recommendations for the Association in assessing future disease-specific legislative and regulatory proposals.

The report includes several overall philosophical recommendations:

- Illinois hospitals are committed to providing all patients exceptional timely, equitable, high-quality patient-centered care.
- Disease-specific regulation should improve patient outcomes and not adversely affect hospitals' or clinicians' ability to provide patient care within their capabilities and resources. To the extent possible, the regulation should stimulate broad-based access to the desired service.
- IHA does not support the legislation or regulation of clinical

protocols. Doing so freezes treatment protocols in time, therefore putting in jeopardy clinicians' ability to provide services based on the most current, nationally-recognized, evidence-based practices, and possibly disincentivizes scientific advancements. Because science, and therefore medicine, advances rapidly, IHA cannot support government legislation or regulation that incorporates clinical protocols, as legislative and regulatory processes are not designed to change easily.

--IHA encourages efforts to support and strengthen the EMS system with funding, training, and infrastructure, and recognizes it as a critical partner in the provision of timely, safe, and effective disease-specific emergent care.

The full report, "[The Illinois Hospital Community's Response to Disease-Specific Regulation](#)," can be viewed on our web site.

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Nurse Staffing Ratios Proposed Again

A bill that would impose mandatory nurse staffing ratios has been introduced again in the General Assembly, for the ninth year in a row. **House Bill 5033** is nearly identical to ratio bills that have been proposed over the past several years. The bill, sponsored by Rep. Mary Flowers (D-Chicago), would impose ratios more stringent than those in California's law and would allow IDPH to prescribe even more stringent ratios in the future beyond those specified in the bills.

While California's law has been in place since 2004, research indicates that ratios there have not had a clear impact on quality measures associated with nursing care. According to a [study](#) on the impact of ratios in California recently released by the California HealthCare Foundation, "trends in rates of decubitus ulcer, failure to rescue and deep vein thrombosis, were not changed." But hospital leaders told the researchers that they have had "difficulties in absorbing the costs of the ratios, and many had to reduce budgets, reduce services or employ other cost-saving measures."

IHA is ready again this year to mount an aggressive effort to block the proposal legislation as it has done for the past eight years. Members are urged to tell their state legislators that nurse staffing ratios would be harmful to hospitals and patients. Share with legislators the positive impact that your hospital's implementation of the Nurse Staffing by Patient Acuity law, with the input and active participation of your bedside, direct care nurses, has made.

In addition, tell your story about how your hospital is implementing the Hospital Report Card Act, including using measures reported under that law in nurse staff committee discussions to assess appropriateness of their staffing plan and the impact that has made for their direct care staff and patients. See our [web site](#) for more information and resources on this issue.

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Provider Tax Case Receives Favorable Ruling

IHA received notice this week that the Provider Reimbursement Review Board has issued a unanimous favorable ruling involving a hospital group appeal that the Illinois Medicaid tax assessment is an allowable cost for Medicare cost reporting purposes. While this decision is a positive step in an appeal process that has gone on for more than two years, the CMS Administrator could overturn this decision within 60 days. If that were to happen, the case would be brought to the district court. IHA will continue to share any updated information regarding the status of the appeal.

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IHA Health Reform Task Force Will Meet Feb. 16

Jim Skogsbergh, President and CEO, **Advocate Health Care**, Oak Brook, and Harry Wolin, Administrator & CEO, **Mason District Hospital**, Havana, will lead IHA's new Health Reform Task Force when the group meets for the first time on Feb. 16. The task force includes 17 other CEOs of member hospitals or health systems, appointed by IHA Chair Patrick Magoon, President and CEO, **Children's Memorial Hospital**, Chicago, to reflect the full member and geographic diversity of IHA's member organizations. The charge of the task force is to develop a blueprint of the most significant drivers of reform to assist IHA in setting priorities and determining resources related to advocacy and assistance to members.

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IHA Hosts Calls on Lifelong Learning Accounts

IHA will hold informational calls on Feb. 10 and Feb. 16 regarding Lifelong Learning Accounts (LiLAs), a grant-funded initiative to help address health care workforce shortages in Illinois. Through the [LiLA program](#), hospitals receive funding support and career coaching resources to participate in a 401k-type program benefiting individual employees' educational training. Approximately 75 positions are still available. Contact [Marsha Curtis](#) for call-in information at 630-276-5504.

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Briefly Noted

- 1 The Illinois Dept. of Public Health has [announced](#) \$50,000 in health care grants to improve the health of women and young girls in Illinois. The grants will be used for the IDPH Women

Out Walking Program and a pilot program targeting childhood obesity in young girls.

- 1 The Office of the Illinois Attorney General is offering electronic registration and training for Open Meetings Act/Freedom of Information Act Officers for public hospitals as required by law. [Registration](#) is required before the training in order for OMA/FOIA Officers to receive certificates.
- 1 The Illinois Attorney General has developed a [required notification form](#) to assist hospitals with providing a notice to insured patients regarding out-of-network providers as required by the Fair Patient Billing Act. The Office strongly urges use of the form for compliance purposes.

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[Reporter Archives](#)

1151 E. Warrenville Road, P.O. Box 3015, Naperville, IL 60566

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