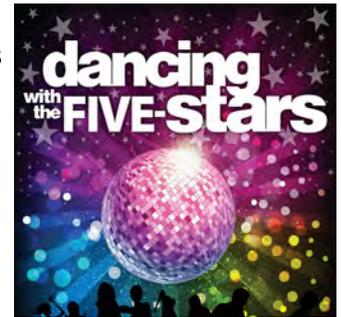


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LNHA Spring Conference & Trade Show!

The 2016 LNHA Spring Conference & Trade Show starts on Tuesday, May 3! Before you leave for the conference, be sure to print or download the handouts from the [LNHA website](#). If you registered online, you should have received an email entitled "To Do: Print Handouts Before LNHA Spring Conference" with the conference password and instructions. LNHA will not supply printed materials.



If you would like to attend and haven't registered online, come to the registration desk once you arrive at the Crowne Plaza in Baton Rouge. To view the agenda, click [here](#).

National Nursing Home Week is May 8-14

As you know, National Nursing Home Week is less than **two** weeks away. This is a great time to invite the community into your facility to take a tour and celebrate with your residents. Take this opportunity to show your community that today's nursing facilities are indeed small worlds operating with a big heart. I encourage you to submit a letter to the editor of your local newspaper inviting the community to visit your facility for National Nursing Home Week during May 8-14. Click [here](#) to download a draft letter to the editor for you to personalize and submit.

LNHA Celebrates National Nursing Home Week with Public Relations Campaign



LNHA is celebrating National Nursing Home Week with a statewide public relations campaign. This touching [commercial](#) communicates the emotional decision a loved one makes when deciding to place their elderly parent, loved one or friend in a nursing facility. As we know, oftentimes family caregiving can be overwhelming for the caregiver, especially when cognitive decline is a factor. This commercial shares the Care Conversations™ resource for those who need to start this tough conversation with their parent, loved one, spouse or sibling. The website

also shares tips on how to choose a facility and plan and prepare for the future.

The commercial is scheduled to run statewide to remind the public of the quality care nursing facilities provide while also showing the need for around-the-clock care. Familiarize yourself with [CareConversations.org](#) and share this commercial on your social media pages. The commercial will run in Baton Rouge on May 2-6. On May 9-13, the commercial will run on several networks in Alexandria, Lafayette, Lake Charles, Shreveport and Monroe. If you have any questions, call Karen Miller, Communications Director, at 225.927.5642.

Nursing Facility Influenza Study Opens Enrollment: Free Vaccine Available

AHCA has notified LNHA of the following opportunity for nursing facilities to enroll in a national quality improvement program which will provide facilities with free influenza vaccines for both residents and staff for the 2016-2017 influenza season. If interested in participating, contact Insight Therapeutics, LLC listed in the notice below and inform them you are an AHCA member.

A team of nationally-recognized long-term care researchers from Brown University and Case Western Medical Center is undertaking a national quality improvement study to evaluate the impact of the annual influenza vaccine on rates of hospitalization among long-term care residents during the 2016-2017 influenza season. Nursing facilities whose leaders agree to participate will receive free vaccine for 2016-2017 and be randomized to receive either the standard annual trivalent influenza vaccine or the adjuvanted trivalent influenza vaccine, Flud. Both vaccines are FDA-approved and recommended by the CDC for annual protection against influenza infection in adults so no patient consent is necessary. Facilities will receive free vaccines for residents and staff, as well as compensation for data entry.

If you are interested in participating in this important project, notify Dr. Vincent Mor and Dr. Stefan Gravenstein by contacting Insight Therapeutics, LLC (the study coordinating center) at 757.625.6040 or edavidson@inther.com. They can provide you with more details about the study objectives and procedures.

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LNHA Staff Discuss Financial Exploitation Safeguards with Legislative Auditors

On Thursday, April 14, Joe Donchess, Executive Director of LNHA, Mark Berger, Reimbursement Director, and Rita Finn, Regulatory Director, met with Krista Baker-Hernandez and Brett Long, Louisiana Legislative Auditors, to discuss Financial Exploitation of the Elderly. Ms. Baker-Hernandez requested the meeting as a preliminary Informational Audit. As explained by Ms. Baker-Hernandez, the Legislative Auditors Division has been asked by Louisiana legislators to examine all venues where elder financial exploitation could occur, and to report their findings and recommendations back to the legislature. Mr. Long explained that the overall objective of this project is to examine current legislation regarding elder financial exploitation to determine if existing legislation was adequate or if new legislation is needed to provide more protection for the elderly. The purpose of meeting with LNHA staff was to discuss the management of personal funds for residents in long-term care facilities.

Mr. Donchess and Mr. Berger discussed at length the safeguards in place to protect nursing facility residents from institutional financial abuse. They discussed the long-term care survey process and federal tag numbers 158-162 which deal specifically with regulatory requirements regarding residents' funds. Additionally, numerous other resources and reference sites were shared with the auditors to assist them in identifying where and how this crime is perpetrated. LNHA staff also shared best practices used to prevent its occurrence. Links to several of those sites are listed below.

As a final note, the Louisiana Legislative Auditor's office serves as the fiscal advisor and auditor of state and local government. Its purpose is to make sure that state government is aware and responsive to the needs of the citizens of Louisiana. It accomplishes this goal by providing independent, objective, and detailed information to legislators through various types of audits. This proactive guidance allows elected officials to make informed decisions and enact pertinent legislation.

Resources:

<http://www.elderweb.com/organization/long-term-care-ombudsman-louisiana>
<http://www.napsa-now.org/policy-advocacy/exploitation/>
<http://www.nij.gov/topics/crime/elder-abuse/pages/financial-exploitation.aspx>
<http://new.dhh.louisiana.gov/index.cfm/page/120/n/126>



Author: Rita Finn, MSN, RN, LNHA Regulatory Director

Social Service Director Two-Day Workshop: Online Registration Now Open

Join LNHA on June 23-24, 2016 for a two-day workshop specifically designed for social service directors in long-term care. Attendees will receive training and insight from seasoned experts in the profession. They will discuss best practices and learn how to do the following:

- Improve communication with persons with Alzheimer's disease and dementia
- Identify sources of behavioral and psychological symptoms and understand these behaviors
- Manage and process resident and/or family grievances in a systematic approach
- Successfully appeal nursing facility "level of care" denials in various state offices
- Improve skills needed in all domains of social work such as communication and validation
- Resolve ethical dilemmas in the workplace

This training will be held on Thursday and Friday (June 23-24) at the Crowne Plaza in Baton Rouge. The cost of the event is \$250 for members and \$500 for nonmembers and lunch is included. The deadline to register is Friday, June 17. To make hotel reservations, contact Crowne Plaza at 225.925.2244 and mention the code **NHA** to receive the group discount. You can also reserve your hotel room online at www.crownebaton.com. To receive CEUs, directors must attend both sessions. See the agenda on page 2 of the [flyer](#) for more details.

This program is pending approval for contact hours of continuing education credits by the Louisiana State Board of Social Work Examiners through the LSU School of Social Work, an official approval site of the Louisiana State Board of Social Work Examiners. If you have questions, contact Maureen Velez at 225.927.5642 or at mvelez@lnha.org.

View the [agenda](#) and [register online](#) today! Space is limited.

Louisiana Supreme Court Clarifies What Is and Is Not Medical Malpractice

Once again, the protections of the Louisiana Medical Malpractice Act (MMA) were under attack by plaintiffs trying to strip a hospital of its limited liability. The allegation at issue was an alleged failure to properly maintain and service equipment utilized in the sterilization of surgical instruments. Plaintiffs claimed their allegation did not fall with the MMA, because the actions were taken by maintenance men, not healthcare professionals, and the District and Appellate Courts agreed. The Louisiana Supreme Court reversed finding that the allegation did fall within the MMA. *Dupuy et al v. NMC Operating Company, LLC d/b/a The Spine Hospital of Louisiana*, 2016 WL 10515232015-1754 (La. 3/15/16).

The Supreme Court's opinion in Dupuy is important not only because it protected hospitals from the specific allegations of this case, but also because the Court took the opportunity to explain and clarify previous rulings further aiding in the protections of the MMA. As hospitals and other healthcare providers look at their own cases in the future, they should keep these matters in mind.

In 2002, the Supreme Court developed a six factor "test" in a case named *Coleman v. Deno*, 813 So.2d 303 (La. 2002), to guide lower courts on how to determine if a particular claim is covered under the MMA. Those factors are 1) whether the particular wrong is "treatment related" or caused by a dereliction of professional skill; 2) whether the wrong requires expert medical evidence to determine if the standard of care was breached; 3) whether the pertinent act or omission involved assessment of the patient's condition; 4) whether the incident occurred in the context of a physician-patient relationship, or was within the scope of activities that a hospital is licensed to perform; 5) whether the injury would have occurred if the patient had not sought treatment; and 6) whether the tort alleged was intentional. In this case, the Court examined and further defined four of the factors (factors 3 and 6 were not applicable).

For the first factor, the Court found that maintaining and servicing equipment used in the sterilization process is tied directly to the surgical treatment and thus it is "treatment related" and that places it under protections of the MMA.

Secondly, the Court shot down the Plaintiff's argument that to be malpractice it had to occur at the time of treatment. The Court found there is no requirement that the complained of action must be contemporaneous with a patient's treatment, and that it can occur either before or after. After all, the MMA itself specifically states that allegations of failure to train or supervise a healthcare provider are covered. Also, there is no requirement that the action complained of has to be taken by a physician or medical professional to be covered under MMA. The action simply needs to be "treatment related" and undertaken by hospital in its capacity as a healthcare provider.

For the second factor, in response to the Plaintiff's assertion that expert medical testimony would not be needed because any layperson would know that surgical equipment needs to be sterilized, the Court found that while a lay person could be capable of understanding that surgical instruments **should** be properly sterilized, a lay person **cannot** know if the procedure utilized was appropriate or sufficient. Expert medical testimony is necessary to explain, for instance, what the hospital's protocols for sterilization entail and the necessity for following that protocol.

Under the fourth factor, the Court found that, by law, hospitals are required to follow minimum standards for sterilization procedures in order to maintain its operating license; therefore, it is an activity that the hospital is licensed to perform. Lastly, for factor five, the Court found that it was quite obvious that only a person entering a hospital for medical treatment could be injured by unsterilized equipment.

In conclusion, the Supreme Court held that Plaintiffs' claims that the hospital failed to properly maintain and service equipment used in sterilization of surgical equipment falls within the MMA, but its ruling will help further define the protections of the MMA given to hospitals and other healthcare providers for the foreseeable future.



Barbara A. Olinde is an attorney at Gachassin Law Firm, which is dedicated to the representation and counseling of healthcare providers, whose practice focuses on the defense of healthcare providers in medical malpractice actions.

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LNHA's Upcoming Events and Save the Dates!



New events have been added to the [News and Events webpage](#) and to the online calendar. To register for an event, visit www.lnha.org and click the calendar icon on the homepage and select the appropriate event.

UPCOMING EVENTS:

- May 3-4: LNHA Spring Conference, Baton Rouge

SAVE THE DATES:

- June 23-24: Social Service Director Workshop
- August: Director of Nursing Boot Camp



LNHA Facilities Earn Deficiency-Free Survey

LNHA congratulates two facilities for achieving a deficiency-free annual survey.

- Carrington Place of Springhill, Springhill
- Trinity Neurologic Rehabilitation Center, Slidell

LNHA appreciates your hard work, compassionate care and unyielding commitment to provide quality services to your community.

If your facility achieves a deficiency-free annual survey and would like to be recognized in the *Lagniappe* newsletter, contact Karen Miller at kmiller@lnha.org.



The *Lagniappe* newsletter is published twice a month by the Louisiana Nursing Home Association, 7844 Office Park Blvd., Baton Rouge, LA 70809, 225.927.5642. *Lagniappe* is provided as a membership benefit. Executive Director: Joseph Donchess; Communications Director: [Karen Miller](#).