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# LOUISIANA HEALTHCARE MATTERS

## CHARITY LAWSUIT ON THE MOVE

On May 23, Judge Ethel Simms-Julien of the Orleans Parish Civil District Court rendered two key decisions in the landmark LeBlanc v. Thomas case, the litigation aimed at forcing LSU Health Sciences Center-New Orleans to replace the care provided through Charity Hospital and its network of clinics before Katrina.

Attorneys for defendants, LSU Health Sciences Center - New Orleans, requested that the court change venue, arguing that the case involving Charity Hospital should be heard by a state court in East Baton Rouge Parish instead of Orleans Parish Civil District Court. Counsel for the defendants also argued that the LSU Board of Supervisors should be a named defendant. Attorneys for the plaintiffs cited the fact that all of the operative decisions, actions and facts related to the case took place in New Orleans; the defendants lived in the New Orleans area, and that the outcome of the case would most affect the New Orleans community.

Judge Simms-Julien disagreed with the defendants' arguments, ruling the proper party was named in the suit and that the case should be properly heard before Orleans

Parish Civil District Court. Counsel for the defendants have appealed Judge Simms-Julien's ruling to the Louisiana Fourth Circuit Court of Appeal.

During an information forum that followed the May 23 hearing, attorneys Leonard Aragon of Hagens Beran Sobel Shapiro law firm and Steve Jupiter of the Louisiana Justice Institute cautioned that though today's rulings are a step in the right direction, there is much work left to be done. In summarizing the current health legislation, Brad Ott noted, "Healthcare is being paraded as a commodity that we have to buy and sell."

Stephen Rosenfeld of Health Law Advocates closed the forum with an inspirational message, reminding the audience that while the legal argument in this case is a good one, "a good legal argument by itself never toppled a large institution." Rosenfeld stressed that in order to prevail, a coalition of concerned citizens must join together and provide a human face to the issue. That coalition should not be comprised solely of New Orleanians, but residents from across the state.

## 2008 LOUISIANA STATE LEGISLATIVE RECAP: AN EXCERPT FROM BRAD OTT

- Governor Jindal's endorsement of the primacy of the LSU-run state Charity Hospital system dismayed conservative and corporate allies who thought that Jindal would champion their redesign initiatives that favored privatization.
- Senator Julie Quinn (R-Metairie) started the session by virtually demanding an investigation as to why Big Charity wasn't reopened after Katrina. During the same legislative hearing on March 25th, community advocates demanded again why an independent inspection of the facility hadn't commenced, two years after the state legislature mandated it under HCR 89.
- John LaBruzzo (R-Metairie) authored two bills, HB 808 and HB 919, which sought to dismantle and de-fund the Charity Hospital system by shifting assets towards local hospital service districts. Neither bill made it out of committee.
- One legislative flashpoint concerning Big Charity system care and funds involved SB 402, authored by Senator Bill Cassidy (R-Baton Rouge), which called for the reallocation of uncompensated care payments towards a more equalized system of sharing. The bill was defeated in the House.
- Governor Jindal pledged to make executive changes and consider planning for an early-2009 healthcare special session. It may be then that the full impact of his decidedly reserved legislative response to date will become fully apparent – and give advocates of healthcare for all and for reopening Big Charity time to organize.

For the full version of this article visit our blog, [justiceroars.org](http://justiceroars.org)

## SPOTLIGHT

### ALICE CRAFT-KERNEY, RN



Amidst the devastation in the Lower Ninth Ward lies a healthcare oasis spearheaded by Alice Craft-Kerney, a dedicated and passionate nurse who functions as the clinic's executive director. Craft-Kerney was raised in the Lower Ninth Ward in Orleans Parish, and began pursuing a career in nursing in the early 1980s. She was drawn to the field because her older sister was a high-achieving nurse, and her mother had instilled in Craft-Kerney the values of kindness and caring for others, both of which are integral to the nursing profession. Before Hurricane Katrina, Craft-Kerney worked at Charity Hospital and chose to see medically indigent patients because they represent a patient population that is commonly overlooked and under-resourced.

After the storm, Craft-Kerney grew increasingly disappointed in the way things were being handled in the Lower Ninth Ward. She was getting her news updates on the Lower Nine from Common Ground Relief, which fostered a strong relationship between Craft-Kerney and Michelle Shin, the Lower Ninth Ward coordinator for Common Ground. After identifying the community's need for a clinic and receiving funding from Leaders Creating Change Through Contribution, Shin approached Craft-Kerney to spearhead the project. Initially, Craft-Kerney was reluctant because she felt that there were others better suited for the job with more administrative experience. As the clinic talks ensued, Craft-Kerney decided to accept Shin's invitation, but only if her friend and fellow nurse Patricia Berryhill would lead the project with her. The clinic became a full-fledged community effort, with many people donating their expertise and making sacrifices to get the clinic up and running. Berryhill, the clinical director, even donated her home in order to house the clinic! Since March 2007 the clinic has been providing primary care to

the Lower Ninth Ward community, seeing about 15 patients each day.

Craft-Kerney has created a medical home that promotes holistic health and wellness. She says, "It's not just a clinic. We have an unconditional acceptance of our patients; we do not judge them, but we still give them a sense of personal responsibility." True to her word, there is even a shower and toiletries available for patients who may be concerned with their hygiene before seeing a doctor.

When asked about the future of the clinic, Craft-Kerney envisions expanding into a larger building with more examination rooms, and an on-site laboratory for simple tests like x-rays and mammograms. But it doesn't end there. She hopes to provide the community with a space for exercise equipment, a lecture hall for community education, and a medical library for patients to conduct research. These innovative measures reflect her philosophy that healthcare must "empower, not enable," and that a clinic should make its patients feel "comfortable, accepted, and no shame."

In response to LSU's plans for their new state-of-the-art facility, Craft-Kerney said, "We cannot just think about the long-term. My biggest concern is the immediate and intermediate plans for healthcare. There are not enough resources allocated for that." One thing is certain, Craft-Kerney will continue to relentlessly provide "high quality, cost-effective, and culturally sensitive healthcare" to the community she so passionately cares for.



**The Lower Ninth Ward Healthcare Clinic is located at 5228 St. Claude Avenue. The phone number is (504) 309-0918.**

## LONG AWAITED INDEPENDENT ASSESSMENT OF CHARITY'S CONDITION COMMENCES

On May 20th the National Trust for Historic Preservation named Charity Hospital and its surrounding neighborhood in their annual list of the 11 Most Endangered Historical Places in the country. Though it may not directly "replace the care," the inclusion of Charity Hospital could be monumental in the fight to preserve the Art Deco structure on Tulane Avenue.

The announcement comes at a critical time for activists and residents alike who seek to stop LSU's plans to demolish one of the historic neighborhoods of New Orleans, and a hospital that has served millions of ailing and afflicted citizens for more than 60 years. Several months ago, LSU first announced its plans to demolish Charity and its surrounding neighborhood to make way for a new medical facility. Nearly 200 homes that fell into LSU's development "footprint" were constructed prior to 1880. The decision is all the more controversial because of the existence of a nearby site that is uninhabited.

The National Trust's announcement adds another voice to the call to save Charity Hospital. Walter Gallas,

director of the New Orleans field office of the National Trust remarked that LSU needs to have transparent plans for the redevelopment of this area, as many of the proceedings to this point have been shrouded in secrecy. Gallas was quick to echo the opinion of many preservation and healthcare activists that saving Charity and developing state-of-the-art health facilities are not mutually exclusive.

In addition to the support of the National Trust in the effort to save Charity Hospital, the Foundation for Historic Louisiana acting pursuant to a legislative resolution has contracted an independent architectural firm to investigate and evaluate the condition of the building and determine whether it can serve as a functional hospital, fulfill other healthcare delivery needs, or might be suitable for other use. This is the first independent assessment of Big Charity since Hurricane Katrina. Many activists are optimistic that the study's findings will conclude that Charity is a viable option for providing the healthcare the city so desperately needs. Their report is tentatively scheduled for release on August 21st.

## CONGRESS WITHDRAWS \$157 MILLION FROM SPENDING BILL FOR NEW ORLEANS HOSPITALS

Submitting to pressure from the Bush Administration and the U.S. House of Representatives, the U.S. Senate, on Tuesday, June 24, 2008, passed an emergency supplemental spending bill withdrawing formerly identified funds for New Orleans hospitals. The funds totaled \$157 million and were set to balance the aggregate losses of hospitals following struggling to provide care post-Katrina. Although Mary Landrieu, D-La., has suggested enacting another emergency supplemental spending bill to address this and other domestic spending needs, this second bill has little chance of being signed into law. The reason for the second bill's slim chances is that the Senate exhausted its Iraq and Afghanistan war money bargaining power with the Bush Administration in the first bill.

Congress's failure to appropriate the New Orleans hospital money will most likely result in large-scale cost cutbacks by local hospitals. Quoted in the *Times-Picayune* on June 25, Dr. Mark Peters, president of East Jefferson Hospital, said, "if in fact this effort [to secure additional money] has failed, I think hard decisions will have to be made [because] our own losses are not sustainable." Not only is health care in Metro New Orleans insufficient to meet the immediate need, but it currently oper-

ates in an unsustainable system within which hospitals continue to lose money.

So what are the consequences of these major cost cutbacks? Also in the *Times-Picayune*, Dr. Lawrence Van Hoosen, senior vice president of Ochsner Health Systems, said, "We're implementing a variety of initiatives, including only hiring critical positions, not filling positions when people leave and putting capital expenditures on hold." The *Times-Picayune* article notes that these types of cost-reducing initiatives may attempt to "minimize disruptions to patients," but it is only a matter of time before significant impediments to quality care manifest.

An unsustainable system coupled with a dearth of funding creates a recipe for disaster. What some already consider a healthcare crisis in New Orleans will only get worse, as private hospitals make widespread cost cuts and turn away the uninsured. Now more than ever, quality care must be available for the residents of New Orleans. While plans for a new hospital get underway, what happens in the meantime will set the stage for the city's healthcare landscape well into the next decade.

## INCLUDE STAKEHOLDERS IN DECISIONS ON NEW HOSPITAL

A year ago, USA Today told its readers about a feisty Mid-City resident named Bobbi Rogers. Back then, Ms. Rogers was excited about getting started on the renovation of her flood-damaged house. Today, she's dismayed because her home, now beautifully refurbished, is threatened with demolition.

The threat to Ms. Rogers' home -- and many other structures in her neighborhood -- arises from a plan to build a new Veterans Administration medical facility and a 424-bed teaching hospital to replace Charity Hospital, which has been shuttered and moldering since Hurricane Katrina. The plan, which was recently given the go-ahead by Gov. Bobby Jindal and Secretary Alan Levine of the Department of Health and Hospitals, would destroy 150-200 homes and businesses.

In other words, people who saw their homes swamped by rising floodwaters could now see them flattened by roaring bulldozers.

The seriousness of the threat led the National Trust for Historic Preservation to include Charity Hospital and the adjacent historic neighborhood on its 2008 list of America's 11 Most Endangered Historic Places.

The listing spotlights our alarm over the possible loss of "Big Charity," which is New Orleans' premiere example of Art Deco design, and a major part of the Mid-City Historic District, which is listed in the National Register of Historic Places. It also reflects our concern that plans for constructing the new medical facilities are being pushed too fast, before all the facts are in.

As mandated by a resolution of the state Legislature in 2006, an assessment of the Charity Hospital building is currently being carried out under the direction of the Foundation for Historical Louisiana; the final report on the structural condition of this important landmark is expected to be released by mid-August. The information in this report should be a major factor in -- not an afterthought to -- any decision about the need to construct new hospitals.

Similarly, the destruction of part of the historic Mid-City neighborhood and the displacement of its residents should not be contemplated until there has been a full and open discussion of the reasoning behind a decision that will impact hundreds of families. Up to now, most New Orleanians -- including the owners of property within the proposed footprint of the new hospitals -- have learned about the project primarily through the media. That's wrong. When residents are facing the threat of removal from their neighborhood, they shouldn't be expected to comply meekly, with no explanation of why they are being uprooted.

The National Trust urges the New Orleans City Council, the city's Office of Recovery and Development Administration, the Regional Planning Commission, LSU and the VA to open up the process. When site selection and facility design proceed in a manner that is contrary to established guidelines for historic preservation and environmental reviews the public is understandably left with the impression that federal, state and local agencies are merely going through the motions of compliance.

We all deserve better than this. Specifically, we deserve meaningful discussion of alternative sites within New Orleans, a rationale for the choice of the Mid-City location and a discussion of the extraordinary size of the proposed footprint.

No one disputes that New Orleans needs top-quality, 21st-century facilities for health care, medical education and research. But meeting this need doesn't have to involve the needless sacrifice of a historic neighborhood whose residents have already demonstrated their determination to put Katrina behind them and rebuild their lives in the area they love. If the new medical facilities are truly needed, there are viable alternative sites for them -- sites that won't force people to choose between shiny hospitals and familiar homes.

**Richard Moe is President of the National Trust for Historic Preservation ([www.preservationnation.org](http://www.preservationnation.org))**

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