

BY SENATOR MOUNT AND REPRESENTATIVES ARMES, BARRAS, BURFORD, HENRY BURNS, CORTEZ, DOERGE, FANNIN, GEYMANN, GISCLAIR, GREENE, HILL, HOFFMANN, JOHNSON, KATZ, KLECKLEY, LABRUZZO, LEBAS, MILLS, MORRIS, NOWLIN, PEARSON, POPE, SIMON, GARY SMITH, JANE SMITH, ST. GERMAIN, WILLIAMS AND WILLMOTT

1 AN ACT

2 To enact Part XV of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 40:2200.11 through 2200.15, relative to proton beam
4 radiotherapy; to provide for the registration of all proton beam radiotherapy
5 equipment; to provide for a moratorium on registration; to provide for a termination
6 date; to provide for definitions; to provide for rules and regulations; and to provide
7 for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part XV of Chapter 11 of Title 40 of the Louisiana Revised Statutes of
10 1950, comprised of R.S. 40:2200.11 through 2200.15, is hereby enacted to read as follows:

11 **PART XV. REGISTRATION OF PROTON BEAM**

12 **RADIOTHERAPY EQUIPMENT**

13 **§2200.11. Definitions**

14 **As used in this Part, the following terms shall have the following**
15 **meanings, except when the context clearly indicates otherwise:**

16 **(1) "Department" means the Department of Health and Hospitals.**

17 **(2) "Proton beam radiotherapy equipment" means any equipment which**
18 **generates and uses protons or heavy charged particles to irradiate diseased**
19 **tissue.**

20 **(3) "Proton beam radiotherapy facility" means any facility which**
21 **provides proton beam radiotherapy treatments.**

22 **§2200.12. Registration of providers**

23 **Prior to the operation of any proton beam radiotherapy equipment, such**
24 **equipment shall be registered with the department. The department shall**
25 **promulgate all rules and regulations, in accordance with the Administrative**

1 Procedure Act, which are necessary to perform this registration requirement.

2 §2200.13. Operation of equipment without prior registration

3 A. If a public or private proton beam radiotherapy facility is operating
4 without prior registration with the department, the department shall have the
5 authority to issue an immediate cease and desist order to that facility. Any such
6 facility or provider receiving such a cease and desist order from the department
7 shall immediately cease operations until such time as that provider is properly
8 registered with the department.

9 B. The department shall seek an injunction in the Nineteenth Judicial
10 District Court against any facility or provider who receives a cease and desist
11 order from the department under Subsection A of this Section and who does not
12 cease operations immediately. Any such facility or provider against whom an
13 injunction is granted shall be liable to the department for attorney fees, costs,
14 and damages.

15 §2200.14. Registration; moratorium

16 There is hereby placed a moratorium on all registrations of proton beam
17 radiotherapy equipment by the department except for the registration of
18 facilities which meet any of the following criteria:

19 (1) A major Louisiana cancer center which functions as the primary
20 sponsoring institution for any of the following accredited graduate medical
21 education programs related to oncology including radiation oncology, medical
22 oncology or hematology/oncology, and maintains an accredited Institutional
23 Review Board for Research.

24 (2) A National Cancer Institute designated Comprehensive Cancer
25 Center.

26 (3) A Louisiana non-profit corporation organized and formed to
27 undertake, promote, develop, support, and carry on the treatment of patients
28 with cancer through charitable, scientific, and educational activities which
29 meets any of the following:

30 (a) Serves as the primary clinical training site for an accredited radiation

1 oncology residency program.

2 (b) Operates a radiation oncology physics residency program accredited
3 by the Commission on Accreditation of Medical Physics Education Programs,
4 Inc. (CAMPEP).

5 (c) Operates with a state university a joint graduate medical physics
6 program that is accredited by the Commission on Accreditation of Medical
7 Physics Education Programs, Inc. (CAMPEP).

8 (4) Any facility that has executed a contract, secured by a deposit, for
9 proton radiotherapy equipment prior to January 1, 2010.

10 (5) A state operated hospital located in a city in which a state operated
11 medical school is located.

12 §2200.15. Termination of Part

13 This Part shall cease to be effective ten years from the date of issuance
14 of the first registration issued by the department.

15 Section 2. The Department of Health and Hospitals shall promulgate all rules and
16 regulations necessary to carry out the provisions of this Act by August 20, 2011; however,
17 failure by the department to promulgate rules and regulations by that date shall not affect the
18 validity of any rules and regulations promulgated pursuant to this Act.

19 Section 3. This Act shall become effective upon signature by the governor or, if not
20 signed by the governor, upon expiration of the time for bills to become law without signature
21 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
22 vetoed by the governor and subsequently approved by the legislature, this Act shall become
effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____