

Florida Birth-Related Neurological Injury Compensation Association

A UNIQUE PARTNERSHIP



NICA
SUPPORTIVE SERVICES FOR FAMILIES AND PHYSICIANS

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY COMPENSATION
ASSOCIATION

*N*ICA is an innovative and effective alternative to costly malpractice litigation. The NICA fund, supported in part by participating OB/GYN's, is also augmented by annual assessments paid by all Florida physicians and hospitals. Money is made available from the NICA fund to pay for the care of children with certain birth-related neurological injuries specified by law.

NICA is an important step in tort reform for the medical community. Unlike other reforms that simply limit the amount of money that may be awarded through malpractice litigation, the State of Florida has created a system that resolves certain catastrophic claims without costly legal proceedings. As such, NICA may be a model worth considering for use in medical practices other than obstetrics and gynecology.

Because insurance spreads risk, all physicians have been affected by NICA. Although only OB/GYN's have direct coverage, the malpractice premiums for all Florida physicians have been lower for many years because these truly catastrophic claims have been covered by NICA – not the tort system.



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BENEFITS

The primary advantage for the family practitioner, the obstetrician and the delivery team, is the freedom to concentrate on patient care, rather than direct involvement with costly and lengthy litigation. In addition, the Plan allows for a faster resolution of claims than can be achieved through malpractice lawsuits.

The medical community has campaigned for tort reform and this Plan is a first step in that direction. In the event there is a claim, the patient is protected and there is no need to prove fault.

Professional Liability

The law provides that awards under the Plan are exclusive. This means that if an injury is covered by the Plan, the child and its family are not entitled to compensation through malpractice lawsuits.*

Participation in the Plan provides physicians with unlimited* coverage for catastrophic claims resulting from birth-related neurological injuries. Claims are resolved in a timely manner without assessment of fault.

In order to participate, physicians must:

- be licensed to practice medicine in Florida;
- practice obstetrics or perform obstetrical services on a full or part-time basis; and
- have paid, or been exempted from paying, the required assessment when the incident occurred.

Funding

The Plan is funded by a combination of state funds, physician fees, and hospital assessments.

If you wish to have your births covered, you are required to pay a \$5,000 fee each year, for coverage which runs January 1st through December 31st. There is no provision for a prorated fee; if payment is made after January 31st, coverage begins the day the payment is received. You may wish to send the payment by certified mail.

A mandatory fee of \$250 is paid by all licensed Florida physicians, regardless of specialty. Hospitals pay \$50 for each live birth during the previous calendar year. Certain exemptions apply to all these categories including resident physicians, retired physicians and government physicians and facilities. In the future, casualty insurers may also provide a source of funding assessments.

Criteria for Coverage

Birth-related neurological injuries have been defined as an injury to the spinal cord or brain of a live-born infant weighing at least 2500 grams at birth. The injury must have been caused by oxygen deprivation or mechanical injury, and must have occurred in the course of labor, delivery or resuscitation in the immediate post delivery period in a hospital. Only hospital births are covered.

The injury must have rendered the infant permanently and substantially mentally and physically impaired. The legislation does not apply to genetic or congenital abnormalities. Only injuries to infants delivered by participating physicians are covered by the Plan.

Compensation

Compensation may be provided for the following:

- Actual expenses for necessary and reasonable care, services, drugs, equipment, facilities and travel, excluding expenses that can be compensated by state or federal government or by private insurers.
- In addition, an award, not to exceed \$100,000 to the infant's parents or guardians.
- Death benefit of \$10,000.
- Reasonable expenses for filing the claim, including reasonable attorney's fees.



*See S766.314 (9) (c) for Claims Limitation

If you would like more information or have any questions, please contact us at:



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Compensation Association**

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