

Supreme Court of Florida

COPY

LHERISSON DOMOND, M.D., et al.,
Petitioners,

vs.

KELLY A. MILLS, etc., et al.,
Respondents.

No. 87,270

[May 1, 1997

PER CURIAM.

We have for review Mills v. North Broward Hospital Dist., 664 So. 2d 65 (Fla. 4th DCA 1995), wherein the Fourth District Court of Appeal certified the following question to be of great public importance:

Does § 766.316, Fla. Stat. (1993), require that health care providers give pre-delivery notice to their obstetrical patients of their participation in the Florida Birth Related Neurological Injury Compensation Plan as a condition precedent to the providers invoking NICA as the patient's exclusive remedy?

664 So. 2d at 66. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

In Galen of Florida, Inc. v. Braniff, Nos. 86,485 & 86,486 (Fla. May 1, 1997), we have answered this question by holding "that as a condition precedent to invoking the Florida Birth-Related Neurological Injury Compensation Plan as a patient's exclusive

remedy, health care providers must, when practicable, give their obstetrical patients notice of their participation in the plan a reasonable time prior to delivery." Id., slip op. at 1. Accordingly, we answer the certified question as we did in Galen and approve the decision under review to the extent it is consistent with our prior opinion.

It is so ordered.

KOGAN, C.J., and SHAW, HARDING, WELLS and ANSTEAD, JJ., concur.
OVERTON and GRIMES, JJ., dissent.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Application for Review of the Decision of the District Court of Appeal - Certified Great Public Importance

Fourth District - Case Nos. 93-1661 & 93-2588

(Broward County)

Jennifer S. Carroll of Metzger, Sonneborn & Rutter, P.A., West Palm Beach, Florida,

for Petitioners

William deForest Thompson, P.A., Fort Lauderdale, Florida; and Philip M. Burlington of Caruso, Burlington, Bohn & Compiani, P.A., West Palm Beach, Florida,

for Respondents