

Supreme Court of Florida

UNIVERSITY MEDICAL CENTER,
INC.,
Petitioner.

vs.

DEVIN ATHEY, etc., et al.,
Respondents.

THE BOARD OF REGENTS OF THE
STATE OF FLORIDA, et al.,
Petitioners,

vs.

DEVIN ATHEY, etc., et al.,
Respondents.

Nos. 89,986 & 89,991

[September 25, 1997]

PER CURIAM.

We have for review Board of Regents v. Athey, 694 So. 2d 46 (Fla. 1st DCA 1997), wherein the First District Court of Appeal certified the same question of great public importance it certified in Braniff v. Galen of Florida, Inc., 669 So. 2d 1951 (Fla. 1st DCA 1995):

WHETHER SECTION 766.316,
FLORIDA STATUTES (1993),
REQUIRES THAT HEALTH
CARE PROVIDERS GIVE
THEIR OBSTETRICAL
PATIENTS PRE-DELIVERY

NOTICE OF THEIR
PARTICIPATION IN THE
FLORIDA BIRTH RELATED
NEUROLOGICAL INJURY
COMPENSATION PLAN AS A
CONDITION PRECEDENT TO
THE PROVIDERS INVOKING
NICA AS THE PATIENTS
EXCLUSIVE REMEDY?

694 So. 2d at 50. We have jurisdiction. *Art.*
V, § 3(b)(4), Fla. Const.

In Galen of Florida, Inc. v. Braniff, 696 So. 2d 308 (Fla. 1997), we answered the certified 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." 696 So. 2d at 309. Accordingly, we answer the question certified here as we did in Galen and approve the decision under review to the extent it is consistent with that opinion.¹

It is so ordered.

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

NOT FINAL UNTIL TIME EXPIRES TO

¹ We decline to reach the other issues raised by the petitioners.

FILE **REHEARING** MOTION AND, IF FILED, DETERMINED.

Two Cases Consolidated
Application for Review of the Decision of the District Court of **Appeal** - Certified **Great** Public Importance

First District - Case No. **95-229**

(Leon County)

Stephen E. Day and Rhonda B. Boggess of Taylor, Day, Currie & Burnett, Jacksonville, **Florida**; and Ronald L. Harrop of Gurney & Handley, **P.A.**, Orlando, Florida,

for Petitioners

Joel D. Eaton of Podhurst, Orseck, Josefsberg, Eaton, Meadow, Olin & Perwin, Miami, Florida; and Searcy, Denney, Scarola, Barnhart & Shipley, P.A., West Palm Beach, Florida, on behalf of Devin Athey; and Larry Sands of Sand, White & Sands, P.A., Daytona Beach, Florida, on behalf of Wilson Broaden,

for Respondents