

Bill No. CS/HB 913, 2nd Eng.

Amendment No. Barcode 160830

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Brown-Waite moved the following **amendment to amendment** (913362):

Senate Amendment (with title amendment)

On page 79, between lines 14 and 15,

insert:

Section 27. Subsections (9) and (10) are added to section 766.302, Florida Statutes, to read:

766.302 Definitions; ss. 766.301-766.316.--As used in ss. 766.301-766.316, the term:

(9) "Family member" means a father, mother, or legal guardian.

(10) "Family residential or custodial care" means care normally rendered by trained professional attendants which is beyond the scope of child care duties, but which is provided by family members. Family members who provide nonprofessional residential or custodial care may not be compensated under this act for care that falls within the scope of child care duties and other services normally and gratuitously provided by family members. Family residential or custodial care shall

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1 be performed only at the direction and control of a physician
2 when such care is medically necessary. Reasonable charges for
3 expenses for family residential or custodial care provided by
4 a family member shall be determined as follows:

5 (a) If the family member is not employed, the per-hour
6 value equals the federal minimum hourly wage.

7 (b) If the family member is employed and elects to
8 leave that employment to provide such care, the per-hour value
9 of that care shall equal the rates established by Medicaid for
10 private-duty services provided by a home health aide. A family
11 member or a combination of family members providing care in
12 accordance with this definition may not be compensated for
13 more than a total of 10 hours per day. Family care is in lieu
14 of professional residential or custodial care, and no
15 professional residential or custodial care may be awarded for
16 the period of time during the day that family care is being
17 provided.

18 Section 28. Paragraph (a) of subsection (1) of section
19 766.31, Florida Statutes, is amended to read:

20 766.31 Administrative law judge awards for
21 birth-related neurological injuries; notice of award.--

22 (1) Upon determining that an infant has sustained a
23 birth-related neurological injury and that obstetrical
24 services were delivered by a participating physician at the
25 birth, the administrative law judge shall make an award
26 providing compensation for the following items relative to
27 such injury:

28 (a) Actual expenses for medically necessary and
29 reasonable medical and hospital, habilitative and training,
30 family residential or custodial care, professional
31 residential, and custodial care and service, for medically

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1 necessary drugs, special equipment, and facilities, and for
2 related travel. However, such expenses shall not include:

3 1. Expenses for items or services that the infant has
4 received, or is entitled to receive, under the laws of any
5 state or the Federal Government, except to the extent such
6 exclusion may be prohibited by federal law.

7 2. Expenses for items or services that the infant has
8 received, or is contractually entitled to receive, from any
9 prepaid health plan, health maintenance organization, or other
10 private insuring entity.

11 3. Expenses for which the infant has received
12 reimbursement, or for which the infant is entitled to receive
13 reimbursement, under the laws of any state or the Federal
14 Government, except to the extent such exclusion may be
15 prohibited by federal law.

16 4. Expenses for which the infant has received
17 reimbursement, or for which the infant is contractually
18 entitled to receive reimbursement, pursuant to the provisions
19 of any health or sickness insurance policy or other private
20 insurance program.

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22 Expenses included under this paragraph shall be limited to
23 reasonable charges prevailing in the same community for
24 similar treatment of injured persons when such treatment is
25 paid for by the injured person.

26 Section 29. Paragraph (c) of subsection (4) of section
27 766.314, Florida Statutes, is amended to read:

28 766.314 Assessments; plan of operation.--

29 (4) The following persons and entities shall pay into
30 the association an initial assessment in accordance with the
31 plan of operation:

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1 (c) On or before December 1, 1988, each physician
2 licensed pursuant to chapter 458 or chapter 459 who wishes to
3 participate in the Florida Birth-Related Neurological Injury
4 Compensation Plan and who otherwise qualifies as a
5 participating physician under ss. 766.301-766.316 shall pay an
6 initial assessment of \$5,000. However, if the physician is
7 either a resident physician, assistant resident physician, or
8 intern in an approved postgraduate training program, as
9 defined by the Board of Medicine or the Board of Osteopathic
10 Medicine by rule, and is supervised in accordance with program
11 requirements established by the Accreditation Council for
12 Graduate Medical Education by a physician who is participating
13 in the plan, such resident physician, assistant resident
14 physician, or intern is deemed to be a participating physician
15 without the payment of the assessment. Participating
16 physicians also include any employee of the Board of Regents
17 who has paid the assessment required by this paragraph and
18 paragraph (5)(a), and any certified nurse midwife supervised
19 by such employee. Participating physicians include any
20 certified nurse midwife who has paid 50 percent of the
21 physician assessment required by this paragraph and paragraph
22 (5)(a) and who is supervised by a participating physician who
23 has paid the assessment required by this paragraph and
24 paragraph (5)(a). Supervision shall require that the
25 supervising physician will be easily available and have a
26 prearranged plan of treatment for specified patient problems
27 which the supervised certified nurse midwife or physician may
28 carry out in the absence of any complicating features. Any
29 physician who elects to participate in such plan on or after
30 January 1, 1989, who was not a participating physician at the
31 time of such election to participate and who otherwise

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1 qualifies as a participating physician under ss.
2 766.301-766.316 shall pay an additional initial assessment
3 equal to the most recent assessment made pursuant to this
4 paragraph, paragraph (5)(a), or paragraph (7)(b).

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6 (Redesignate subsequent sections.)

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9 ===== T I T L E A M E N D M E N T =====

10 And the title is amended as follows:

11 On page 85, line 26, after the semicolon,

12
13 insert:

14 amending s. 766.302, F.S.; defining the terms
15 "family member" and "family residential or
16 custodial care"; amending s. 766.31, F.S.;
17 authorizing compensation awards for
18 professional or family residential or custodial
19 care; amending s. 766.314, F.S.; revising
20 requirements for assessments used for certain
21 supervised personnel;

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