STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

RENEE MICHELLE OLIVER, ON BEHALF OF AND AS PARENT AND NATURAL GUARDIAN OF IAN DAVID OLIVER, A MINOR, AND RENEE MICHELLE OLIVER, INDIVIDUALLY,	)	
Petitioners,	)	
vs.	)	Case No. 06-0318N
FLORIDA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION ASSOCIATION,	)	
Respondent,	)	
and	)	
CENTRAL FLORIDA REGIONAL HOSPITAL, INC., DAVID C. MOWERE, M.D., and MID-FLORIDA OB/GYN SPECIALISTS, P.A.,	)	
Intervenors.	)	

ORDER ON COMPENSABILITY AND NOTICE

Pursuant to notice, the Division of Administrative Hearings, by Administrative Law Judge William J. Kendrick, held a hearing in the above-styled case on October 10, 2006, by video teleconference, with sites in Tallahassee and Orlando, Florida.

APPEARANCES

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For Intervenors David C. Mowere, M.D., and Mid-Florida OB/GYN Specialists, P.A.:

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STATEMENT OF THE ISSUES

1. Whether Ian David Oliver, a minor, qualifies for coverage under the Florida Birth-Related Neurological Injury Compensation Plan (Plan).

2. If so, whether the hospital and the participating physician provided the patient with notice, as required by Section 766.316, Florida Statutes.

3. Whether "the composition of the NICA Board of Directors is biased on it's [sic] face and it creates an unconstitutional

lack of due process and proper access to the Courts"; whether "the NICA Act is unconstitutional as written and unconstitutional as specifically applied to this claim"; and whether "the NICA statute is unconstitutional because it does not provide pain and suffering to Renee Oliver and Ian Oliver, and the $100,000.00 cap on non-economic damages is a violation of equal access to the Courts, due process and patently inadequate." (Joint Pre-Hearing Stipulation, Petitioners' Position.)

PRELIMINARY STATEMENT

On January 25, 2006, Renee Michelle Oliver, on behalf of and as parent and natural guardian of Ian David Oliver (Ian), a minor, and Renee Michelle Oliver, individually, filed a petition with the Division of Administrative Hearings (DOAH) to resolve whether Ian qualified for compensation under the Plan and, if so, whether the healthcare providers complied with the notice provisions of the Plan. More particularly, with regard to notice, the petition alleged:

> 4. . . . Petitioners state that clear and concise notice was never given to Renee Oliver by either Dr. Mowere or Central Florida Regional Hospital as required by [Section] 766.316[,] Florida Statutes[,] of her rights and limitations under the NICA plan.

Additionally, the petition, and ultimately the parties' Joint Pre-Hearing Stipulation, raised the constitutional issues noted in the Statement of the Issues.

DOAH served the Florida Birth-Related Neurological Injury Compensation Association (NICA) with a copy of the petition on January 25, 2006, and on July 28, 2006, following a number of extensions of time within which to do so, NICA responded to the petition and gave notice that it was of the view that the claim was compensable, and requested that a hearing be scheduled to resolve the issue. In the interim, Central Florida Regional Hospital, Inc., David C. Mowere, M.D., and Mid-Florida OB/GYN Specialists, P.A., requested and were accorded leave to intervene.

Given the pleadings, a hearing was scheduled for October 9 and 10, 2006, to address the issues related to compensability and notice, and to afford Petitioners an opportunity to make a record with regard to the constitutional issues they raised. However, at the request of Intervenors David C. Mowere, M.D., and Mid-Florida OB/GYN Specialists, P.A., and with assurances that the case would only require one day for hearing, the hearing was renoticed to commenced on October 10, 2006.

At hearing, Petitioners offered the testimony of Renee Michelle Oliver, and Petitioners' Exhibits 1-12, Respondent's Exhibits 1-3, Central Florida Regional Hospital's

(Hospital's) Exhibit 1, and David C. Mowere, M.D., and Mid-Florida OB/GYN Specialists, P.A.'s (Doctor's) Exhibits 1 and 2, were received into evidence.[1] Post-hearing, official recognition was taken of the documents attached to Petitioners' Notice of Filing, filed October 9, 2006, and the documents attached to Respondent's Motion to Take Official Recognition, filed October 6, 2006. (See Order of October 30, 2006.)

The original transcript of the hearing was filed October 25, 2006, and the parties were accorded 10 days from that date to file proposed orders or written argument. Respondent and Intervenor Central Florida Regional Hospital elected to file proposed orders, and they have been duly-considered.[2]

FINDINGS OF FACT

Findings related to compensability

1. Renee Michelle Oliver is the natural mother and guardian of Ian David Oliver, a minor. Ian was born a live infant on May 9, 2003, at Central Florida Regional Hospital, a "hospital," as defined by Section 766.302(6), Florida Statutes, located in Sanford, Florida, and his birth weight exceeded 2,500 grams.

2. The physician providing obstetrical services at Ian's birth was David C. Mowere, M.D., who, at all times material hereto, was a "participating physician" in the Florida Birth-

Related Neurological Injury Compensation Plan, as defined by Section 766.302(7), Florida Statutes.

3. Pertinent to this case, coverage is afforded by the Plan for infants who suffer a "birth-related neurological injury," defined as a "injury to the brain . . . caused by oxygen deprivation . . . occurring in the course of labor, delivery, or resuscitation in the immediate postdelivery period in a hospital, which renders the infant permanently and substantially mentally and physically impaired." § 766.302(2), Fla. Stat. See also §§ 766.309(1) and 766.31(1), Fla. Stat.

4. Here, the proof was compelling, and uncontroverted, that Ian suffered an injury to the brain caused by oxygen deprivation during the course of labor, delivery, or resuscitation in the immediate postdelivery period in the hospital, which rendered him permanently and substantially mentally and physically impaired. Consequently, the record demonstrated that Ian suffered a "birth-related neurological injury," and since obstetrical services were provided by a "participating physician" at birth the claim is compensable. §§ 766.309(1) and 766.31(1), Fla. Stat.

The notice issue

5. While the claim qualifies for coverage under the Plan, Petitioners would prefer to pursue their civil remedies, and avoid a claim of Plan immunity by the healthcare providers in a

civil action. Therefore, Petitioners have averred, and requested a finding that, the hospital and the participating physician who delivered obstetrical services at Ian's birth, failed to comply with the notice provisions of the Plan. See Galen of Florida, Inc. v. Braniff, 696 So. 2d 308, 309 (Fla. 1997) ("[A]s 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.") Consequently, it is necessary to resolve whether the notice provisions of the Plan were satisfied.[3]

The notice provisions of the Plan

6. At all times material hereto, Section 766.316, Florida Statutes, prescribed the notice requirements of the Plan, as follows:

> Each hospital with a participating physician on its staff and each participating physician, other than residents, assistant residents, and interns deemed to be participating physicians under s. 766.314(4)(c), under the Florida Birth-Related Neurological Injury Compensation Plan shall provide notice to the obstetrical patients as to the limited no-fault alternative for birth-related neurological injuries. Such notice shall be provided on forms furnished by the association and shall include a clear and concise explanation of a patient's rights and limitations under the plan. The hospital or the participating

> physician may elect to have the patient sign a form acknowledging receipt of the notice form. Signature of the patient acknowledging receipt of the notice form raises a rebuttable presumption that the notice requirements of this section have been met. Notice need not be given to a patient when the patient has an emergency medical condition as defined in s. 395.002(9)(b) or when notice is not practicable.

7. Responding to Section 766.316, Florida Statutes, NICA developed a brochure (as the "form" prescribed by the Plan), titled "Peace of Mind for an Unexpected Problem" (the NICA brochure), which contained an explanation of a patient's rights and limitations under the Plan, and distributed the brochure to participating physicians and hospitals so they could furnish a copy of it to their obstetrical patients. (Petitioners' Exhibit 7.)

8. In this case, it is undisputed that Ms. Oliver was given a NICA brochure when she presented to Mid-Florida Obstetrics & Gynecology Specialists, P.A. (Mid-Florida OB/GYN Specialists, P.A.), for her initial prenatal visit on December 11, 2002, and that she was advised the members of that practice (Juan Ravelo, M.D., David Mowere, M.D., and Michael Geiling, M.D.) were participating physicians in the program.[4] It is also undisputed that Ms. Oliver was given a NICA brochure when she was admitted to Central Florida Regional Hospital on May 8, 2003, for Ian's birth.[5] What is at issue is

whether the brochure prepared by NICA, and given to Ms. Oliver, was sufficient to satisfy the notice provisions of the Plan, which require that the form "include a clear and concise, explanation of a patient's rights and limitations under the plan."

The NICA brochure

9. Pertinent to this case, the NICA brochure given to Ms. Oliver by the hospital and participating physicians provided[6]:

> The birth of a baby is an exciting and happy time. You have every reason to expect that the birth will be normal and that both mother and child will go home healthy and happy.
>
> Unfortunately, despite the skill and dedication of doctors and hospitals, complications during birth sometimes occur. Perhaps the worst complication is one which results in damage to the newborn's nervous system - called a "neurological injury." Such an injury may be catastrophic, physically, financially and emotionally.
>
> In an effort to deal with this serious problem, the Florida Legislature, in 1988, passed a law which created a Plan that offers an alternative to lengthy malpractice litigation processes brought about when a child suffers a qualifying neurological injury at birth. The law created the Florida Birth-Related Neurological Injury Compensation Association (NICA).
>
> EXCLUSIVE REMEDY
>
> 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.

CRITERIA AND 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. In the case of multiple gestation, the live birth weight is 2000 grams for each infant. The injury must have been caused by oxygen deprivation or mechanical injury, which 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, as defined in s. 766.302(7), Florida Statutes, 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.

Funeral expenses are authorized up to $1,500.

Reasonable expenses for filing the claim, including attorney's fees.

> NICA is one of only two (2) such programs in the nation, and is devoted to managing a fund that provides compensation to parents whose child may suffer a qualifying birth-related neurological injury. The Plan takes the "No-Fault" approach for all parties involved. This means that no costly litigation is required and the parents of a child qualifying under the law who file a claim with the Division of Administrative Hearings may have all actual expenses for medical and hospital care paid by the Plan.
>
> You are eligible for this protection if your doctor is a participating physician in the NICA Plan. If your doctor is a participating physician, that means that your doctor has purchased this benefit for you in the event that your child should suffer a birth-related neurological injury, which qualifies under the law. If your health care provider has provided you with a copy of this informational form, your health care provider is placing you on notice that one or more physician(s) at your health care provider participates in the NICA Plan.

(Petitioners' Exhibit 7.)

10. Here, Petitioners contend the brochure prepared by NICA was insufficient to satisfy the notice provision of the Plan (which requires that the form "include a clear and concise explanation of a patient's rights and limitations under the plan"), because it failed to include an explanation of the civil remedies (or damages) a patient would forego if she chose a participating provider. (Transcript, pages 80 and 81.) However, the unambiguous language the Legislature chose

evidences no such obligation. Rather, the Plan requires that the form "include a clear ['[f]ree from doubt or confusion'][7] and concise ['[e]xpressing much in few words; succinct'][8] explanation ['the process of making plain or comprehensible'][9] of the patients' rights and limitations under the plan," and does not include an obligation to explain a patient's potential civil remedies at common law or otherwise. Rinella v. Abifaraj, 908 So. 2d 1126, 1127 (Fla. 1st DCA 2005)("Where the plain and ordinary meaning of statutory language is unambiguous, we cannot construe the statute in a manner that would extend, modify, or limit its express terms or its reasonable and obvious implications."); Seagrave v. State, 802 So. 2d 281, 287 (Fla. 2001)(quoting Hayes v. State, 750 So. 2d 1, 4 (Fla. 1999))("[I]t is a basic principle of statutory construction that Courts 'are not at liberty to add words to statutes that are not placed there by the Legislature.'"); Crutcher v. School Board of Broward County, 834 So. 2d 228, 232 (Fla. 1st DCA 2002)("When a court construes a statute, its goal is to ascertain legislative intent, and if the language of the statute under scrutiny is clear and unambiguous, there is no reason for construction beyond giving effect to the plain meaning of the statutory words."); American Bankers Life Assurance Company of Florida v. Williams, 212 So. 2d 777, 778 (Fla. 1st DCA 1968)("Words of common usage should be construed in their plain and ordinary

sense."). The brochure prepared by NICA satisfies the legislative mandate. Jackson v. Florida Birth-Related Neurological Injury Compensation Association, 932 So. 2d 1125, 1128 (Fla. 5th DCA 2006)("The ALJ properly recognized that NICA developed a pamphlet titled 'Peace of Mind for an Unexpected Problem.' The pamphlet contains a clear and concise explanation of a patient's rights and limitations under the NICA plan, as is required by the terms of the statute."). Consequently, the participating physician and hospital satisfied the notice provisions of the Plan.

The constitutional challenges to the Plan

11. Here, Petitioners have raised a number of constitutional challenges to the Plan. However, an administrative law judge does not have jurisdiction to consider or determine constitutional issues. Florida Hospital v. Agency for Health Care Administration, 823 So. 2d 844, 849 (Fla. 1st DCA 2002). Nevertheless, since Petitioners may challenge the constitutionally of the Plan on appeal, they have the right, as they have been accorded here, to build their record for appeal. Anderson Columbia and Commercial Risk Management, Inc. v. Brown, 902 So. 2d 838, 841 (Fla. 1st DCA 2005).

CONCLUSIONS OF LAW

Jurisdiction

12. The Division of Administrative Hearings has jurisdiction over the parties to, and the subject matter of, these proceedings. § 766.301, et seq., Fla. Stat.

Compensability

13. In resolving whether a claim is covered by the Plan, the administrative law judge must make the following determination based upon the available evidence:

> (a) Whether the injury claimed is a birth-related neurological injury. If the claimant has demonstrated, to the satisfaction of the administrative law judge, that the infant has sustained a brain or spinal cord injury caused by oxygen deprivation or mechanical injury and that the infant was thereby rendered permanently and substantially mentally and physically impaired, a rebuttable presumption shall arise that the injury is a birth-related neurological injury as defined in s. 766.303(2).
>
> (b) Whether obstetrical services were delivered by a participating physician in the course of labor, delivery, or resuscitation in the immediate postdelivery period in a hospital; or by a certified nurse midwife in a teaching hospital supervised by a participating physician in the course of labor, delivery, or resuscitation in the immediate postdelivery period in a hospital.

§ 766.309(1), Fla. Stat. An award may be sustained only if the administrative law judge concludes that the "infant has

sustained a birth-related neurological injury and that obstetrical services were delivered by a participating physician at the birth." § 766.31(1), Fla. Stat.

14. "Birth-related neurological injury" is defined by Section 766.302(2), Florida Statutes, to mean:

> . . . injury to the brain or spinal cord of a live infant weighing at least 2,500 grams for a single gestation or, in the case of a multiple gestation, a live infant weighing at least 2,000 grams at birth caused by oxygen deprivation or mechanical injury occurring in the course of labor, delivery, or resuscitation in the immediate postdelivery period in a hospital, which renders the infant permanently and substantially mentally and physically impaired. This definition shall apply to live births only and shall not include disability or death caused by genetic or congenital abnormality.

15. In this case, it has been established that the physician who provided obstetrical services at Ian's birth was a "participating physician," and that Ian suffered a "birth-related neurological injury." Consequently, Ian qualifies for coverage under the Plan, and Petitioners are entitled to an award of compensation. §§ 766.309 and 766.31, Fla. Stat. However, in this case, the issues of compensability and notice, and issues related to an award were bifurcated. Accordingly, absent agreement by the parties, and subject to the approval of the administrative law judge, a hearing will be necessary to resolve any disputes regarding the amount and manner of payment

of "an award to the parents . . . of the infant," the "[r]easonable expenses incurred in connection with the filing of . . . [the] claim . . ., including reasonable attorney's fees," and the amount owing for "expenses previously incurred." § 766.31(1), Fla. Stat.

Notice

16. While the claim qualifies for coverage, Petitioners have sought the opportunity to avoid a claim of Plan immunity in a civil action, by requesting a finding that the notice provisions of the Plan were not satisfied by the healthcare providers. As the proponent of the immunity claim, the burden rested on the healthcare providers to demonstrate, more likely than not, that the notice provisions of the Plan were satisfied. See Tabb v. Florida Birth-Related Neurological Injury Compensation Association, 880 So. 2d 1253, 1260 (Fla. 1st DCA 2004)("The ALJ . . . properly found that '[a]s the proponent of the issue, the burden rested on the health care provider to demonstrate, more likely than not, that the notice provisions of the Plan were satisfied.'"); Galen of Florida, Inc. v. Braniff, 696 So. 2d 308, 311 (Fla. 1997)("[T]he assertion of NICA exclusivity is an affirmative defense."); id. at 309 ("[A]s 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."). Here, for reasons appearing in the Findings of Fact, the participating physician and hospital demonstrated that they complied with the notice provision of the Plan.

CONCLUSION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED that the claim for compensation filed by Renee Michelle Oliver, individually, and as parent and natural guardian of Ian David Oliver, a minor, be and the same is hereby approved.

It is FURTHER ORDERED that the participating physician and hospital complied with the notice provisions of the Plan.

It is FURTHER ORDERED that the parties are accorded 45 days from the date of this order to resolve, subject to approval by the administrative law judge, the amount and manner of payment of an award to the parents, the reasonable expenses incurred in connection with the filing of the claim, including reasonable attorney's fees, and the amount owing for expenses previously incurred. If not resolved within such period, the parties shall so advise the administrative law judge, and a hearing will be scheduled to resolve such issues. Once resolved, an award will

be made consistent with Section 766.31, Florida Statutes, and a final order issued.

DONE AND ORDERED this 16th day of November, 2006, in Tallahassee, Leon County, Florida.

WILLIAM J. KENDRICK
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Filed with the Clerk of the
Division of Administrative Hearings
this 16th of November, 2006.

ENDNOTES

1/ The exhibits to Petitioners' Exhibit 2 (the deposition of Ms. Oliver) and Petitioners' Exhibit 6 (the deposition of Dr. Mowere) were filed post-hearing and, with the parties' agreement, attached to the depositions.

2/ Also considered were several suggestions made by Intervenors Doctor Mowere and Mid-Florida OB/GYN Specialists, P.A., contained in a letter dated November 7, 2006 (filed November 13, 2006), for modifying the proposed order submitted by Respondent. Petitioners elected not to file a proposed order or written argument.

3/ O'Leary v. Florida Birth-Related Neurological Injury Compensation Association, 757 So. 2d 624, 627 (Fla. 5th DCA 2000)("All questions of compensability, including those which arise regarding the adequacy of notice, are properly decided in the administrative forum."). Accord University of Miami v. M.A., 793 So. 2d 999 (Fla. 3d DCA 2001); Tabb v. Florida Birth-Related Neurological Injury Compensation Association, 880 So. 2d

1253 (Fla. 1st DCA 2004). See also Gugelmin v. Division of Administrative Hearings, 815 So. 2d 764 (Fla. 4th DCA 2002); Behan v. Florida Birth-Related Neurological Compensation Association, 664 So. 2d 1173 (Fla. 4th DCA 1995). But see All Children's Hospital, Inc. v. Department of Administrative Hearings, 863 So. 2d 450 (Fla. 2d DCA 2004)(certifying conflict); Florida Health Sciences Center, Inc. v. Division of Administrative Hearings, 871 So. 2d 1062 (Fla. 2d DCA 2004)(same); Florida Birth-Related Neurological Injury Compensation Association v. Ferguson, 869 So. 2d 686 (Fla. 2d DCA 2004)(same); and, Bayfront Medical Center, Inc. v. Florida Birth-Related Neurological Injury Compensation Association, 893 So. 2d 636 (Fla. 2d DCA 2005)(same). See also Senate Bill (SB) 542, approved by the Governor May 2, 2006, which provided in pertinent part, as follows:

> Section 1. Paragraph (d) is added to subsection (1) of section 766.309, Florida Statutes, to read:
>
> 766.309 Determination of claims; presumption; findings of administrative law judge binding on participants.--
>
> (1) The administrative law judge shall make the following determinations based upon all available evidence:
>
> (d) Whether, if raised by the claimant or other party, the factual determinations regarding the notice requirements in s. 766.316 are satisfied. The administrative law judge has the exclusive jurisdiction to make these factual determinations.
>
> Section 2. It is the intent of the Legislature that the amendment to s. 766.309, Florida Statutes, contained in this act, clarifies that since July 1, 1998, the administrative law judge has had the exclusive jurisdiction to make factual determinations as to whether the notice requirements in s. 766.316, Florida Statutes, are satisfied. [Words underlined are additions.]

Ch. 2006-8, §§ 1 and 2, Laws of Fla.

4/ Ms. Oliver also signed a form on December 11, 2002, acknowledging receipt of the NICA brochure. The acknowledgment form provided:

> I have been furnished information by Mid-Florida Obstetrics & Gynecology Specialists, P.A. prepared by the Florida Birth Related Neurological Injury Compensation Association, and have been advised that Drs. Ravelo, Mowere & Geiling are participating Physicians in that program, wherein certain limited compensation is available in the event certain neurological injury may occur during labor, delivery or resuscitation. For specifics on the program, I understand I can contact the Florida Birth Related Neurological Injury Compensation Association (NICA), Barnett Bank Building, 315 South Calhoun Street, Suite 312, Tallahassee, Florida 32301, (904) 488-8191.
>
> I further acknowledge that I have received a copy of the brochure prepared by NICA.

5/ Ms. Oliver also signed a form on May 8, 2003, acknowledging receipt of the brochure. The acknowledgment form provided:

> I have been furnished information by David C. Mowere AND/OR Central Florida Regional Hospital prepared by the Florida Birth-Related Neurological Injury Compensation Association (NICA), and have been advised that David C. Mowere is a participating physician in that program, wherein certain limited compensation is available in the event certain neurological injury may occur during labor, delivery or resuscitation. For specifics on the program, I understand I can contact the Florida Birth-Related Neurological Injury Compensation Association, P.O. Box 14567, Tallahassee, Florida, 32317-4567, 1-800-398-2129. I further acknowledge that I have received a copy of the of the brochure prepared by NICA.

6/ At hearing, two copies of the brochure were marked as exhibits. The first brochure, Petitioners' Exhibit 7, was identified as the brochure Ms. Oliver received on December 11, 2002, when she presented for her initial prenatal visit to Mid-Florida OB/GYN. The second brochure, Petitioners' Exhibit 10, was identified as the brochure Ms. Oliver received on May 8, 2003, at the hospital. However, it is clear from Ms. Oliver's testimony, at hearing and by deposition (Petitioners' Exhibit 2), that the brochures she received from Mid-Florida OB/GYN and the hospital were identical, that the brochures were consistent with Petitioners' Exhibit 7, and that she was not given a brochure similar to Petitioners' Exhibit 10. Notably, Ms. Oliver's recollection is supported by the provisions of the Plan in effect at the time, which provided a funeral expense not to exceed $1,500 (as described in Petitioners' Exhibit 7) and not a death benefit of $10,000 (as described in Petitioners' Exhibit 10), which was not available until a Plan amendment was effective September 15, 2003. § 766.31(1)(b)1., Fla. Stat. (2001); Ch. 2003-416, §§ 78 and 86, Laws of Fla. Consequently, it is accepted that Ms. Oliver received the brochure identified as Petitioners' Exhibit 7 from both Mid-Florida OB/GYN and the hospital.

7/ See "clear," The American Heritage Dictionary of the English Language, New College Edition (1979).

8/ See "concise," Id.

9/ See "explanation," Id.

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