

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

GIOVANNI PILLONATO, a minor, by
and through his parents and next
best friends, BETSY PINTO AND
DUSTIN PILLONATO, individually,

Petitioners,

vs.

Case No. 14-1980N

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY COMPENSATION
ASSOCIATION,

Respondent,

and

WELLINGTON REGIONAL MEDICAL
CENTER, JULIE PASS, M.D., AND
OB/GYN SPECIALISTS OF THE PALM
BEACHES, P.A.,

Intervenors.

_____ /

FINAL ORDER ON NOTICE

Pursuant to notice, a final hearing on the issue of notice was held in this case on April 9, 2015, via video teleconference with sites in Key West and Tallahassee, Florida, before Barbara J. Staros, an Administrative Law Judge of the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioners: Darla L. Keen, Esquire
Lytal, Reiter, Smith, Ivey & Fronrath
515 North Flagler Drive, 10th Floor
West Palm Beach, Florida 33401

For Respondent: David W. Black, Esquire
Frank, Weinberg and Black, P.L.
7805 Southwest 6th Court
Plantation, Florida 33324

For Intervenor Wellington Regional Medical Center:

Jeffery L. Blostein, Esquire
The Law Office of Jay Cohen, P.A.
100 Southeast Third Avenue, Suite 1500
Fort Lauderdale, Florida 33394

For Intervenors Julie Pass, M.D., and OB/GYN Specialists of
the Palm Beaches, P.A.:

Josh Bloom, Esquire
Lubell Rosen
200 South Andrews Avenue, Suite 900
Fort Lauderdale, Florida 33301

STATEMENT OF THE ISSUES

The issues in this case are whether Julie Pass, M.D., and
OB/GYN Specialists of the Palm Beaches, P.A., and Wellington
Regional Medical Center provided appropriate notice as required
by section 766.316, Florida Statutes.

PRELIMINARY STATEMENT

On April 25, 2014, Petitioner, Giovanni Pillonato
(Giovanni), a minor, by and through his parents and next best
friends, Betsy Pinto and Dustin Pillonato, filed a Petition Under

Protest for Determination of Eligibility for NICA Benefits
Pursuant to Florida Statute Section 766.301 (Petition) with DOAH.

The Petition provided that Julie C. Pass, M.D., was the physician providing obstetric services at the birth of Giovanni, who was born at Wellington Regional Medical Center (Wellington Regional). DOAH served the Birth-Related Neurological Injury Compensation Association (Association or NICA) with a copy of the Petition on May 2, 2014. On May 7, 2014, DOAH received a return receipt from the United States Postal Service showing that Dr. Julie C. Pass had been served with a copy of the Petition. On May 9, 2014, DOAH received a return receipt from the United States Postal Service showing that Wellington Regional Medical Center had been served with a copy of the Petition.

On May 1, 2014, Wellington Regional filed a Petition to Intervene, which was granted by Order dated May 15, 2014. On October 7, 2014, Dr. Pass and OB/GYN Specialists of the Palm Beaches, P.A., filed a Petition to Intervene, which was granted by Order dated October 15, 2014.

On October 13, 2014, Respondent filed a Motion for Summary Final Order, alleging that Giovanni sustained a birth-related neurological injury as defined in section 766.302(2), Florida Statutes. On October 31, 2014, a Partial Summary Final Order on Compensability was entered, finding that Giovanni sustained a birth-related neurological injury, which is compensable under the

Florida Birth-Related Neurological Injury Compensation Plan (Plan). Jurisdiction was retained on the issues of notice and award.

At the final hearing, Petitioners presented the testimony of Betsy Pinto. The testimony of Arlene Morea, Hawley Campbell, Ann Roth, R.N., and Julie Pass, M.D., were presented by deposition. Joint Exhibits 1 through 17, which include these deposition transcripts, were admitted into evidence.

Neither Respondent nor Intervenors presented any live witnesses.

The Transcript of the final hearing was filed on April 30, 2015. Petitioners filed a Motion for Extension of Time in Which to File Findings of Fact and Conclusions of Law, which was granted by Order dated April 30, 2015. Petitioners and Intervenors timely filed their Proposed Final Orders on May 18, 2015, which have been considered in the preparation of this Final Order on Notice. Respondent did not file a proposed final order.

FINDINGS OF FACT

1. On June 16, 2011, Betsy Pinto, who is the mother of Giovanni Pillonato, first presented to OB/GYN Specialists of the Palm Beaches at their Boynton Beach Office for her initial prenatal visit. She went to the front desk where she was handed a clipboard and some documents to review and to fill out. One of the documents handed to Ms. Pinto was a form entitled, "OB/GYN

Specialists of the Palm Beaches Routine Obstetrical Laboratory Studies/Information and Consents." Ms. Pinto filled out these papers in the reception area and then was taken to a patient room with a nurse to review the forms with her.

2. Ann Roth is a licensed LPN who works for OB/GYN Specialists. She has been employed with OB/GYN Specialists for 17 years. She was the nurse who brought Ms. Pinto back to review the forms with her. She then reviewed the forms with Ms. Pinto, and signed the form as a witness to Ms. Pinto's signature.

3. According to Ms. Roth, the NICA brochure, which informs patients about the NICA program, is and was always included in the initial documents handed to a patient upon the initial visit, along with an information and consent form (acknowledgement form), which includes acknowledgement of receipt of the NICA brochure.

4. The consent form consists of one page and contains information regarding routine laboratory testing at different times in a patient's pregnancy. The form identifies tests to be administered in four segments: Initial labs; 16-19 weeks labs; 28-32 weeks labs; and 36 week labs. Following the paragraphs enumerated above, and approximately halfway down the page, the form contains the following:

You should receive a pamphlet at the time of your first visit explaining in further detail:

1. AFP testing
2. Cystic fibrosis testing
3. Serum Integrated Screen Nuchal Translucency

4. NICA participation brochure.

I acknowledge receipt of the pamphlets and agree to all testing. **I have been informed that the doctors in this practice participate in the Florida Birth-Related Neurological Compensation Association (NICA) 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 NICA directly at the address or phone number listed in the brochure that I have received today.**

(emphasis in original).

Ms. Roth signed the acknowledgement form executed by Ms. Pinto, indicating that Ms. Roth witnessed Ms. Pinto signing the acknowledgement form. The date appearing below their signatures is June 16, 2011.

5. It was Ms. Roth's practice to then answer any questions the new patient might have regarding the papers the patient received. Ms. Roth did not recall whether Ms. Pinto had any questions or specifically what she discussed with Ms. Pinto that day in 2011, which was approximately four years prior to her deposition testimony.

6. Initials appear in the margin to the immediate right of the bolded language regarding NICA on the form signed by Ms. Pinto and Ms. Roth. According to Ms. Roth, these initials

were made by Dr. Debra Balliram, the obstetrician who saw Ms. Pinto on her first prenatal visits.

7. Dr. Julie Pass is an obstetrician who has been employed by OB/GYN Specialists since August 2000, and who works in the Wellington, Florida, office. Dr. Pass described the normal procedure used in the Wellington office when a new patient presented there. The new patient was given a clipboard of papers to fill out which included the acknowledgement form, at the front desk. The patient would then come into the room after she had reviewed everything. At that point, the patient was asked if they had any questions about anything she received and whether she received the NICA pamphlet. Once a patient indicated that she had, the nurse would witness the acknowledgement. According to Dr. Pass, the doctor would then initial the form.

8. On August 18, 2011, Ms. Pinto presented to the Wellington, Florida, office of OB/GYN. Ms. Pinto recalls receiving multiple forms at that visit, meeting with the OB coordinator and seeing one of the doctors at that visit. Ms. Pinto signed another acknowledgement form which is identical to the form she signed on June 16, 2011, in the Boynton Beach office. The form contains initials in the blank for a witness to sign, but does not contain initials to the right of the NICA language. Ms. Roth identified the initials of the person who

witnessed Ms. Pinto's signature as those of Jennifer Kirkbride, the OB/GYN coordinator at the Wellington office.

9. Despite her signature on the acknowledgement forms dated June 16 and August 18, 2011, Ms. Pinto insists she did not receive a NICA brochure on those dates and that no one mentioned the word NICA to her. According to Ms. Pinto, she read the top part of the form regarding labs but did not read the bottom part because she was concerned about the labs and medical conditions contained in the earlier paragraphs. Ms. Pinto acknowledges that she had an opportunity to read the entire form and the opportunity to ask questions on those dates.

10. The routine practice described by Ms. Roth regarding OB/GYN's practice of providing NICA information to new patients was substantially consistent with that of Dr. Pass. Considering that the forms were signed on two occasions by Ms. Pinto in conjunction with the testimony of both Ms. Roth and Dr. Pass as to the routine practice regarding giving the NICA brochure along with the acknowledgement form to new patients, the greater weight of the evidence demonstrates that more likely than not, Dr. Pass's office provided the NICA brochure to Ms. Pinto on both June 16 and August 18, 2011, the dates that she signed the forms acknowledging receipt of the NICA brochure.

11. On May 31, 2011, Ms. Pinto presented to Wellington Regional Medical Center (Wellington Regional). She was noted to

be pregnant and was treated for nausea and vomiting in the emergency room.

12. During Ms. Pinto's visit to Wellington Regional on May 31, 2011, the hospital did not provide her with notice concerning the Plan. At hearing, Ms. Pinto acknowledged that in May of 2011, she had no plan to deliver at Wellington Regional.

13. On October 10, 2011, Ms. Pinto returned to Wellington Regional with a complaint of abdominal cramping. She was seen in the emergency room where she was hooked up to a fetal monitor and received a labor check and sonogram. She was 26 weeks 3 days pregnant according to the sonogram report in her hospital record dated October 10, 2011.

14. During her hospital visit on October 10, 2011, Wellington Regional did not provide Ms. Pinto notice concerning the plan. Ms. Pinto has no recollection of telling anyone at the hospital of her intention to deliver her baby at Wellington Regional, nor of anyone at the hospital asking her if she planned to deliver there.

15. According to Hawley Campbell, a labor and delivery nurse at Wellington Regional, an obstetrical patient whose pregnancy is over 20 weeks' gestation is generally seen in labor and delivery. This comports with Dr. Pass's testimony that after about 20 weeks' gestation, her patients generally are seen in labor and delivery, although where they are seen may depend on

why the patient was being seen at the hospital. In any event, even if Ms. Pinto had been sent to labor and delivery, the NICA brochure and acknowledgement form would not have been given to her at that time. According to Ms. Campbell, it is hospital policy to give the NICA forms to obstetric patients if they are admitted for a 23-hour observation or as an inpatient unless they had previously signed the form during pre-admission. This comports with the testimony of Arlene Morea, patient access director for the hospital, who testified that hospital policy is to give pregnant patients the NICA forms when they are inpatient, not to outpatients treated in the ER.

16. According to Ms. Morea, it would be possible but not practical to give NICA notice to all of the ER patients who are pregnant, as many do not ultimately deliver at Wellington Regional. Ms. Morea noted that the registrars in the ER are not clinical and are not always aware of who is pregnant and who is not. The NICA forms are given by the hospital in three scenarios. First, a pregnant patient who takes a tour of the hospital is given a copy of the preregistration packet which includes the NICA forms. Second, a pregnant patient who preregisters is given the NICA forms which would be signed with the admitting clerk. Third, the NICA forms are given to the patient when she arrives at the hospital for delivery.

17. On December 1, 2011, Ms. Pinto went to an outpatient facility of Wellington Regional to have a left lower extremity Doppler venous ultrasound performed because of calf cramps. She did not tell anyone at this outpatient facility that she planned to deliver at the main Wellington Regional nor did she receive any NICA forms.

18. Ms. Pinto was aware of the option of preregistration, but did not do so. Ms. Pinto also did not take a tour of the labor and delivery department prior to her delivery.

19. On the afternoon of January 7, 2012, Ms. Pinto presented to the labor and delivery in labor and having contractions. Ms. Campbell provided the NICA brochure and acknowledgement form to Ms. Pinto within 20 minutes of Ms. Pinto's admission to labor and delivery. According to Ms. Pinto, she was in a hospital bed and already hooked up to a fetal monitoring machine at the time she was presented with a form to sign.

20. Ms. Pinto signed a form entitled Receipt of Notice to Obstetric Patient, which read as follows:

RECEIPT OF NOTICE TO OBSTETRIC PATIENT

I have been furnished information in the form of a Brochure prepared by the Florida Birth-Related Neurological Injury Compensation Association (NICA), pursuant to Section 766.316, Florida Statutes, by Wellington Regional Medical Center, wherein certain limited compensation is available in the

event certain types of qualifying neurological injuries may occur during labor, delivery or resuscitation in a hospital. For specifics on the program, I understand I can contact the Florida Birth-Related Neurological Injury Compensation Association, Post Office Box 14567, Tallahassee, Florida 32317-4567, (850)398-2129.

I specifically acknowledge that I have received a copy of the Brochure prepared by NICA.

21. Ms. Pinto signed the NICA acknowledgement form and Ms. Campbell witnessed Ms. Pinto's signature. Ms. Campbell gave Ms. Pinto the NICA brochure and testified that it is her normal practice to give the NICA brochure to every patient who signs a NICA acknowledgement form. Ms. Pinto was given an opportunity to read the form before signing it and had an opportunity to ask questions about the content of the form if she wanted to do so. In any event, Ms. Pinto's signature was dated January 7, 2012, the day before her baby's delivery date. Giovanni was born the next morning, on January 8, 2012.

22. Despite her signature appearing on the acknowledgement form, Ms. Pinto denies receiving a NICA brochure at the hospital. Upon consideration of the signed acknowledgement form along with the testimony of Ms. Campbell regarding her routine practice of always giving a NICA brochure to the patient with the NICA acknowledgement form, the greater weight of the evidence established that more likely than not, Wellington Regional

provided the NICA brochure to Ms. Pinto on January 7, 2012, when she signed the acknowledgement form.

CONCLUSIONS OF LAW

23. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. §§ 766.301-766.316, Fla. Stat. (2012).

24. The only issue that was to be determined in the final hearing is whether notice was provided pursuant to section 766.316, which provides:

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(8)(b) or when notice is not practicable.

25. Section 395.002(8)(b) defines "emergency medical condition" as follows:

(8) "Emergency medical condition" means:

* * *

(b) With respect to a pregnant woman:

1. That there is inadequate time to effect safe transfer to another hospital prior to delivery;
2. That a transfer may pose a threat to the health and safety of the patient or fetus; or
3. There is evidence of the onset and persistence of uterine contractions or rupture of the membranes.

26. Section 766.309(1)(d) provides:

(1) The administrative law judge shall make the following determination 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.

27. Ms. Pinto signed two acknowledgement forms stating that her physicians had provided her with a brochure prepared by NICA. She also signed an acknowledgement form that she received a NICA brochure from Wellington Regional. Her signature on these forms raises a rebuttable presumption that the notice requirements of section 766.316 have been met. Ms. Pinto contends that she did not receive the NICA brochure from OB/GYN Specialists or from Wellington Regional pursuant to section 766.316. Intervenors,

Dr. Pass and OB/GYN Specialists, and Wellington Regional, contend that sufficient notice was provided pursuant to section 766.316. As the proponents of the proposition that appropriate notice was given or that notice was not required, the burden on the issue of notice is upon the Intervenors. Tabb v. Fla. Birth-Related Neurological Injury Comp. Ass'n., 880 So. 2d 1253, 1257 (Fla. 1st DCA 2004).

28. Petitioners also contend that the acknowledgement form used by OB/GYN Specialists does not meet the requirements of 766.316, in that the form used was not furnished by NICA. Petitioners misread section 766.316. The clear language of the statute states that the notice shall be provided on forms furnished by the Association. This sentence refers to the notice document (the brochure) not any acknowledgement document. Moreover, the statute states that "the hospital or participating physician may elect to have the patient sign a form acknowledging receipt of the notice form." Thus, the use of an acknowledgement form is permissive, not mandatory, and is not required to be on a form supplied by NICA. The NICA language in the consent form was clearly in bold type, slightly above the signature line, and was given to her twice. Ms. Pinto had the opportunity to ask questions after receiving and signing the acknowledgement form on two occasions and had two months in between her appointments to read the document given to her in June 2011. Ms. Pinto's

demeanor at hearing was that of an intelligent, articulate woman who obtained her nursing degree subsequent to the birth of her son. Her failure to read the entire form, on two occasions, does not demonstrate that the acknowledgement form was insufficient. Moreover, there is no requirement for a physician to initial the patient's acknowledgement, and the lack of a physician's initials on the August 18, 2011, acknowledgement form, which was signed by Ms. Pinto and witnessed, does not make that form insufficient.

29. The greater weight of the evidence establishes that Dr. Pass and OB/GYN Specialists provided the notice required by section 766.31 on June 16, and August 18, 2011, and that the notice was sufficient. Petitioners have not rebutted the presumption that notice was provided by Dr. Pass and OB/GYN Specialists.

30. The greater weight of the evidence establishes that Ms. Pinto did receive the NICA brochure from Wellington Regional when she signed the acknowledgement form dated January 7, 2012. Section 766.316 provides that a signed acknowledgement creates a rebuttable presumption that notice has been provided, and Petitioners have not rebutted the presumption that notice was provided by the hospital.

31. However, Petitioners also contend that any notice given to her by Wellington Regional was untimely, and therefore, insufficient.

32. In Weeks v. Florida Birth-Related Neurological Injury Compensation Association, 977 So. 2d 616, 618-619 (Fla. 5th DCA 2008), the court stated:

[T]he formation of the provider-obstetrical patient relationship is what triggers the obligation to furnish the notice. The determination of when this relationship commences is a question of fact. Once the relationship commences, because [section 766.316] is silent on the time period within which notice must be furnished, under well-established principles of statutory construction, the law implies that notice must be given within a reasonable time. Burnsed v. Seaboard Coastline R. Co., 290 So 2d 13, 19 (Fla. 1974); Concerned Citizens of Putnam County v. St. Johns River Water Mgmt. Dist., 622 So. 2d 520, 523 (Fla. 5th DCA 1993). The determination depends on the circumstances, but a central consideration should be whether the patient received the notice in sufficient time to make a meaningful choice of whether to select another provider prior to delivery, which is the primary purpose of the notice requirement.

33. Ms. Pinto was given a brochure prepared by the Association when she presented to Wellington Regional on January 7, 2012, and she did sign a NICA acknowledgement form on that date. However, at the time she was given the brochure and signed the acknowledgement form, she was in labor. By definition, she had an emergency medical condition. § 766.302(8)(b)3, Fla. Stat. It was too late at that time for Wellington Regional to give notice pursuant to section 766.316

when it had an opportunity prior to Ms. Pinto's admission on January 7, 2012, to provide notice.

34. The court in Weeks held:

[T]he NICA notice must be given within a reasonable time after the provider-obstetrical relationship begins, unless the occasion of the commencement of the relationship involves a patient who presents in an "emergency medical condition," as defined by the statute, or unless the provision of notice is otherwise "not practicable." When the patient first becomes an "obstetrical patient" of the provider and what constitutes a "reasonable time" are issues of fact. As a result, conclusions might vary, even where similar situations are presented. For this reason, a prudent provider should furnish the notice at the first opportunity and err on the side of caution.

Id. at 619-620.

35. Wellington Regional could have provided Ms. Pinto with notice when she presented at the hospital on October 10, 2011, but it did not do so. At that time, hospital staff was aware that Ms. Pinto was pregnant as she presented with obstetrical issues. She came into the ER at 26 weeks' gestation with complaints of cramping, received a labor check, was hooked up to a fetal monitor, and had a sonogram. The nature of this visit was obstetrical. It is concluded that the hospital-obstetrical patient relationship did not begin during her May 31, 2011, visit to Wellington Regional, but that the hospital obstetrical patient

relationship was formed between the hospital and Ms. Pinto during her October 10, 2011, visit.

36. Ms. Pinto became an obstetrical patient of Wellington Regional well before her delivery, thus triggering the obligation to furnish her with the notice within a reasonable time, which was not excused by the subsequent emergency (presenting in labor to delivery her baby). Id. at 620.

37. By January 7, 2012, Ms. Pinto did not have sufficient time to make an informed choice on whether to use a participating health care provider prior to delivery, as she was in labor. The hospital had an opportunity to provide notice to Ms. Pinto prior to her presenting for delivery, but did not do so. Thus, the notice provided by Wellington Regional Medical Center on January 7, 2012, was insufficient to meet the requirements of section 766.316.

CONCLUSION

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

ORDERED:

1. Wellington Regional Medical Center failed to provide notice for the hospital in compliance with section 766.316.

2. Dr. Pass and OB/GYN Specialists of the Palm Beaches provided notice in compliance with section 766.316.

It is further ORDERED that the parties are accorded 30 days from the date of this Order to resolve, subject to approval of the Administrative Law Judge, the amount and manner of payment of an award to Petitioner; the reasonable expenses incurred in connection with the filing of the claim, including reasonable attorney's fees and costs; 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.

It is further ORDERED that in the event Petitioner files an election of remedies declining or rejecting NICA benefits, this case will be dismissed with prejudice and DOAH's file will be closed.

DONE AND ORDERED this 24th day of June, 2015, in Tallahassee, Leon County, Florida.



BARBARA J. STAROS
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 24th day of June, 2015.

COPIES FURNISHED:
(via certified mail)

Darla L. Keen, Esquire
Lytal, Reiter, Smith, Ivey & Fronrath
515 North Flagler Drive, 10th Floor
West Palm Beach, Florida 33401
(eServed)
(Certified Mail No. 7014 2120 0003 1052 7173)

Kenney Shipley, Executive Director
Florida Birth Related Neurological
Injury Compensation Association
2360 Christopher Place, Suite 1
Tallahassee, Florida 32308
(eServed)
(Certified Mail No. 7014 2120 0003 1052 7180)

David W. Black, Esquire
Frank, Weinberg and Black, P.L.
7805 Southwest 6th Court
Plantation, Florida 33324
(eServed)
(Certified Mail No. 7014 2120 0003 1052 7197)

Josh Bloom, Esquire
Lubell Rosen
200 South Andrews Avenue, Suite 900
Fort Lauderdale, Florida 33301
(eServed)
(Certified Mail No. 7014 2120 0003 1052 7203)

Jeffery L. Blostein, Esquire
The Law Office of Jay Cohen, P.A.
100 Southeast Third Avenue, Suite 1500
Fort Lauderdale, Florida 33394
(eServed)
(Certified Mail No. 7014 2120 0003 1052 7210)

Amie Rice, Investigation Manager
Consumer Services Unit
Department of Health
4052 Bald Cypress Way, Bin C-75
Tallahassee, Florida 32399-3275
(Certified Mail No. 7014 2120 0003 1052 7227)

Elizabeth Dudek, Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308
(Certified Mail No. 7014 2120 0003 1052 7234)

NOTICE OF RIGHT TO JUDICIAL REVIEW

Review of a final order of an administrative law judge shall be by appeal to the District Court of Appeal pursuant to section 766.311(1), Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of administrative appeal with the agency clerk of the Division of Administrative Hearings within 30 days of rendition of the order to be reviewed, and a copy, accompanied by filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal. See § 766.311(1), Fla. Stat., and Fla. Birth-Related Neurological Injury Comp. Ass'n v. Carreras, 598 So. 2d 299 (Fla. 1st DCA 1992).