

Virginia Birth-Related Neurological Injury Compensation Program

A Lifetime Of Help



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Let's Go Back To

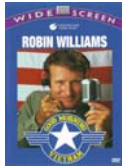
1987



2

1987

Popular Movie: Good Morning Vietnam
Top Song: That's What Friends Are For, Dionne Warwick



3

1987

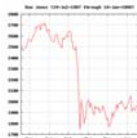
In The News:
Thatcher Wins Third Term as Britain's Prime Minister &
The Iran Contra Affair



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1987

Other News:
AZT Approved For HIV &
Black Monday – Stock Market drops 508 points



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But In Virginia

- One-fourth of Virginia's OBs may lose insurance coverage by end of year
- Thousands of patients face no OB provider
- Several malpractice insurers leaving Va. or will stop writing policies
- Malpractice rates often doubling with no associated lawsuits
- Va. General Assembly passes reforms including Birth-Injury Act



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History

- Established in 1987 during malpractice insurance crisis
- Successful in keeping insurers in Va. Market
- Helps control malpractice premiums in Va.
 - Currently Va. premiums are not rising as quickly as those in many other states



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JLARC results

- ... As a result, ob/gyns in Virginia were able to obtain malpractice insurance at lower rates than their counterpart in many other ...and the birth-injury program appears to have had a positive effect on claims costs, and subsequent malpractice premiums. (Page 32)
- ...the malpractice cap and birth injury program appear to have had a positive effect on claims costs, and subsequent malpractice premiums. (Page 32)
- Some issues of concern pointed out as well including funding needs.



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How it works

- Delivering physicians and hospitals participate
- When a qualifying event takes place involving participating provider or hospital, child is admitted into program – no tort alternative
- Determination made by Workers Compensation Commission



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Definition of injury

- ...injury to the brain or spinal cord of an infant caused by the deprivation of oxygen or mechanical injury occurring in the course of labor, delivery or resuscitation necessitated by a deprivation of oxygen or mechanical injury that occurred in the course of labor or delivery.



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Definition of injury, continued

- ...renders the infant permanently motorically disabled and developmentally disabled...



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Definition of injury, continued

- ...such disability shall cause the infant to be permanently in need of assistance in all activities of daily living.



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Benefits for child & family

- Pays medically related expenses for life of child including:
 - Home nursing care
 - Medical expenses (after any existing insurance)
 - Rehabilitation expenses
 - Housing benefit – will cover cost of modifying home
 - Special equipment
 - Compensation for lost earnings – beginning age 18
 - Attorney's fees



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Funding (2008)

- Participating physicians and midwives - \$5,400 annually
- Participating hospitals - \$50 per live birth in prior year (\$190,000 max)
- All physicians practicing in Va. pay \$290 annually (reinstated for 2002)
- Liability insurers (reinstated for 2002)



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Who should participate?

- All delivering physicians & midwives
- All delivering hospitals



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5 Reasons to Participate

1. Provides best possible care for qualifying child
2. Eliminates expensive and time consuming malpractice lawsuits
3. A malpractice insurance credit for MDs and Hospitals
4. A no-fault approach
5. Begin anytime (after a 30-day waiting period)



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Program Status

- 136 accepted claimants
- More than 600 participating physicians
 - Additional physicians in residency programs
- 31 participating hospitals
- \$200 million in reserves



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In The News

- Due to Program's growth, now "technically" actuarially unsound – although financially sound
- Key stakeholder's recently completed 18-month process to develop funding recommendations for General Assembly.



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Faces of those helped



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