



VIRGINIA BIRTH-RELATED  
NEUROLOGICAL INJURY  
COMPENSATION PROGRAM

*A lifetime of help*

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7501 Boulders View Drive

Suite 210

Richmond, VA 23225

www.vabirthinjury.com

October, 2022

## RE: State Mandated Assessment & Participation Fees

Dear Physician:

For 2023, as in recent years, the Virginia State Corporation Commission has determined that all applicable fees and assessments will be implemented to support the Virginia Birth-Related Neurological Injury Compensation Program. All physicians licensed in Virginia, regardless of specialty, are required to respond annually either by filing an exemption, payment of the non-participating assessment or participation in the Program.

**NOTE: if you need to make a payment, you also have the option of doing so online at [www.officialpayments.com](http://www.officialpayments.com). A convenience fee will be charged by the web site provider.**

*FOLLOWING ARE INSTRUCTIONS FOR EACH OF THE POSSIBLE RESPONSES.*

### **OPTION 1: CERTIFY YOU ARE EXEMPT**

**New:** You now have the option to submit an exemption completely online. Simply go to [www.vabirthinjury.com](http://www.vabirthinjury.com), click on the **Physician Exemption** tab, then complete the online form. If you prefer to file a paper form follow the directions below.

State law allows a physician to be exempt from paying the mandated assessment if one of five criteria are met — they are listed below. Remember, qualification for one or more exemptions for 2023 is based on your status as of September 30, 2022. You may claim an exemption if on this date you were:

- Employed by the Commonwealth of Virginia or the federal government and income from professional fees from a source other than the Commonwealth of Virginia or the federal government is less than 10% of your annual salary.
- Enrolled in a full-time graduate medical education program accredited by the American Council for Graduate Medical Education.
- Retired from active clinical practice.
- Engaged in active clinical practice that was limited to the provision of services, voluntarily and without compensation, to any patient of any clinic organized in whole or in part for the delivery of health care services without charge.
- Not practicing medicine in Virginia (either not currently practicing or practicing in another state).

To file an exemption, complete the **green exemption form** and return it along with the invoice in the provided return envelope. Claiming an exemption for any assessment year(s) does not affect the status of your medical license.

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## **Frequently Asked Questions About The Virginia Birth-Related Neurological Injury Compensation Program**

### **I am not an obstetrician and I do not deliver babies, do I have to pay this assessment?**

The assessment applies to all Virginia licensed physicians regardless of specialty or income. However, if you meet one of the five exemption categories you may file an exemption affidavit instead of paying the assessment. If you become a participating provider and pay the \$6,200 annual fee you do not have to pay the additional assessment.

### **How is the money used?**

All fees and assessments are utilized by the Virginia Birth-Related Neurological Compensation Program to provide medically necessary care for the children in the Program. The Birth-Injury Program operates according to its authorizing statutes in the Code of Virginia-§38.2-5020 through 5021.

### **Does participation in the Program replace my malpractice insurance?**

No. Participation in the Program only entitles a qualifying birth-injured child you deliver to enter the program. The Program then pays medically necessary care for the child for life. Additionally, upon reaching the age of 18, the child receives a wage benefit.

### **If I pay the \$300 assessment, does that make me a participating physician in the Birth-Related Injury Program?**

No. To become a participating physician you must pay the participating physician fee and sign a participating provider agreement.

### **What happens if I do not respond to this assessment?**

The Program may turn over the names of all non-compliant physicians to the State Corporation Commission for enforcement.

### **What qualifies a child to enter the program?**

From §38.2-5001 of the Code of Virginia:

*“Birth-related neurological injury” means to the brain or spinal cord of an infant caused by the deprivation of oxygen or mechanic injury occurring in the course of labor, delivery or resuscitation necessitated by a deprivation of oxygen or mechanic injury that occurred in the course of labor or delivery, in a hospital which renders the infant permanently motorically disabled and (i) developmentally disabled or (ii) for infants sufficiently developed to be cognitively evaluated, cognitively disabled. In order to constitute a “birth-related neurological injury” within the meaning of this chapter, such disability shall cause the infant to be permanently in need of assistance in all activities of daily living.*

Per applicable law, entry into the Program is decided solely by the Virginia Workers’ Compensation Commission.

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**Virginia Birth-Related Neurological Injury Compensation Program**  
c/o P. O. Box 91739, Richmond, Virginia 23291-1739  
804-330-3021

**2023 PHYSICIAN ASSESSMENT INVOICE**

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Please check only **one** and note new fee amounts:

- I am exempt from the \$300 statutory assessment.
- Any physician claiming one or more of the exemptions in Va. Code § 38.2-5020 should complete the Exemption Form Affidavit and return it to the Fund at the address below.
  - **Qualification for one or more exemptions for 2023 is based on your status as of September 30, 2022**
- The \$300 assessment required by Virginia law for nonparticipating physicians is enclosed.
- Payable by check to “Birth-Related Injury Fund” **OR**
  - Payable online at [www.officialpayments.com](http://www.officialpayments.com) (a convenience fee will be charged by the website provider).
- I wish to be a Participating Physician
- Enclose a \$6200 check payable to “Birth-Related Injury Fund” **OR**
  - Payable online at [www.officialpayments.com](http://www.officialpayments.com) (a convenience fee will be charged by the website provider).
  - Enclose the signed and dated Participating Physician Agreement
  - **To become a participating provider effective January 1, 2023, your participating physician payment must be received by December 1, 2022.**

**PLEASE NOTE: THE PROGRAM CANNOT ACCEPT CASH**

Please enclose this invoice with all correspondence and payment to:

BIRTH-RELATED INJURY FUND  
c/o Truist Bank  
P. O. Box 91739  
Richmond, VA 23291-1739

For address corrections, please fax requests to the Virginia Board of Medicine at (804)527-4426 including name and license number, e-mail [medbd@dhp.virginia.gov](mailto:medbd@dhp.virginia.gov) or call (804)367-4600.



## Virginia Birth-Related Neurological Injury Compensation Program 2023 Participating Physician Agreement

In consideration of the rights and benefits received from my participation in the Virginia Birth-Related Neurological Injury Compensation Program, and as required by §38.2-5001 of the *Code of Virginia* for my qualification as a "participating physician" in the Program, I hereby agree:

(1) To participate with the Commissioner of Health, or his designee, in the development of a program to provide obstetrical care, including prenatal care, labor and delivery services and postpartum care, to patients eligible for Medical Assistance Services ("Medicaid") and to patients who are indigent and, upon approval of this program by the Commissioner of Health, to participate in its implementation (this agreement does not require participation in the Medicaid program); and

(2) To submit to review by the Board of Medicine in its evaluation of claims submitted pursuant to §38.2-5004.

As to paragraph 1 above, the Commissioner of Health agrees to review the program described and, upon approval, provide for its implementation.

**If payment is received by December 1, 2022 this agreement shall be effective from January 1, 2023 through December 31, 2023.** For payments received after December 1, 2022, this agreement shall become effective 30 days after the Virginia Birth-Related Neurological Injury Compensation Program receives written notification from the physician.

\_\_\_\_\_  
Physician/Midwife Signature

\_\_\_\_\_  
Executed on (Date-Required)

\_\_\_\_\_  
Physician/Midwife Printed Name

\_\_\_\_\_  
VA Medical License Number (10 Digits)

\_\_\_\_\_  
Current Address

\_\_\_\_\_  
Telephone Number (with area code)

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
E-mail (Optional)

*M. Norman Oliver MD*

\_\_\_\_\_  
Commissioner of Health

\_\_\_\_\_  
Executed on (Date)

*Walter L. Roper, MD*

\_\_\_\_\_  
Executive Director, State Board of Medicine

\_\_\_\_\_  
Executed on (Date)

### FOR PARTICIPATING RESIDENTS

\_\_\_\_\_  
Name of Medical School or Residency Facility

Program is:       OB       Family Practice       Other



**Virginia Birth-Related Neurological Injury Compensation Program  
2023 Exemption Form Affidavit**

*This Affidavit should be completed only by physicians who claim an exemption from the assessment in Va. Code § 38.2-5020.*

State of residence \_\_\_\_\_ City/County of residence \_\_\_\_\_

I, \_\_\_\_\_, certify that on September 30, 2022, I was the holder of a valid medical license issued by the Commonwealth of Virginia and, under oath, do hereby swear and affirm that I am a physician:

(Check only the boxes that apply)

1.  who is employed by the Commonwealth of Virginia or the federal government and whose income from professional fees is less than 10% of my annual salary (you must be directly employed by the state or federal government).
2.  who is enrolled in a full-time graduate medical education program accredited by the American Council for Graduate Medical Education.  
Place of Medical Residency \_\_\_\_\_.
3.  who has retired from active clinical practice
4.  whose active clinical practice is limited to the provision of services, voluntarily and without compensation, to any patient of any clinic organized in whole or in part for the delivery of health care services without charge.
5.  who does not practice medicine in Virginia.

I understand that this statement is given under oath for the purpose of obtaining an exemption from the payment to the Birth-Related Injury Fund of a \$300 assessment required by Va. Code § 38.2-5020 to be paid by all licensed physicians in Virginia who are not Participating Physicians. This Affidavit will be filed with the Virginia Birth-Related Injury Program to obtain the claimed exemption.

\_\_\_\_\_  
Physician Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Physician Printed Name

\_\_\_\_\_  
VA Medical License Number (10 digits)

\_\_\_\_\_  
Current Address

\_\_\_\_\_  
Telephone Number (with area code)

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
E-Mail (Optional)