

Reforming the System:

Tort Reform, New Laws, and What's Ahead for WC and Liability

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Introduction

Overview of tort reform and its impact on
WC & Liability claims

Key areas of change:

- ▶ Medical treatment
- ▶ Claims processing
- ▶ Worker's benefits
- ▶ Government Liability

Reforming Florida's WC & Liability System



Tort Reform in Florida

Legislative efforts to modify liability rules, medical treatment protocols, and sovereign immunity.



Workers' Compensation (WC) Adjustments

New policies affecting medical benefits, claims processing, and first responder protections.



Legal Landscape Shift

How recent laws reshape employer and insurer responsibilities in liability claims.

Florida House Bill 837 (HB 837)

Key Legislative Changes & Their Implications

- ▶ **Modified Comparative Negligence**

Plaintiffs found more than 50% at fault are barred from recovering damages.

- ▶ **Reduced Statute of Limitations**

Negligence claims must be filed within 2 years instead of 4.

- ▶ **Medical Expense Revisions**

Limits on admissible medical evidence in court to control claim costs.



Modified Comparative Negligence

Understanding the Legal Shift to Introduced by HB 837

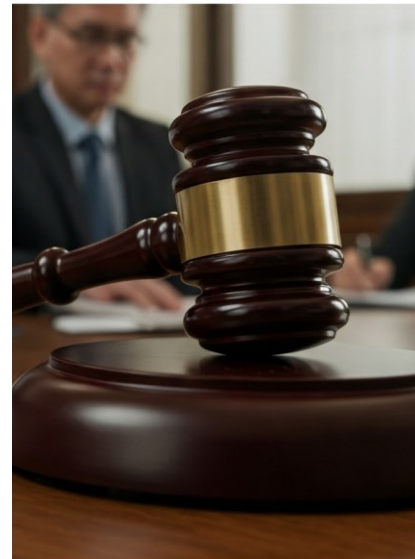


- ▶ **Legal Transition:** Florida transitioned from pure to modified comparative negligence under HB 837.
- ▶ **Pre-HB 837 Standard:** Plaintiffs could recover damages even if 99% at fault, with damages reduced accordingly.
- ▶ **Post-HB 837 Rule:** Plaintiffs found 51% or more at fault are completely barred from any recovery.
- ▶ **Impact on Litigation:** Significantly alters plaintiff strategy and increases litigation risk for those marginally at fault.

Attorneys Fees under HB 837

Restructuring Legal Cost Recovery and Insurer Recovery

- ▶ **Lodestar Presumption:** HB 837 establishes a strong presumption that lodestar fees are sufficient and reasonable for court awarded attorney fees.
- ▶ **Impact on Claim Strategy:** Increases litigation risk and cost burden for plaintiffs pursuing legitimate but complex claims.
- ▶ **Repeal of One-Way Fee Statutes:** Eliminates provisions allowing plaintiffs automatic recovery of attorney fees in insurance disputes.
- ▶ **Defensive advantage:** Insurers and defendants gain a procedural edge by limiting fee recoverability for plaintiffs.



Impact on Medical Treatment & Worker Benefits

Changes in WC Medical Coverage & Benefits Under HB 837



Restricted Medical Evidence

New rules limit the admissibility of medical expenses to actual costs paid, affecting case valuations.



Impact on Worker Benefits

Potential reductions in claim payouts due to revised damage calculations.



Treatment Access Challenges

Changes may lead to increased difficulty in securing medical care under WC claims.

Restrictions on Medical Admissibility

Evidence and Valuation Changes Under HB 837



- ▶ **Past Medical Treatment:** Admissible evidence limited to amount paid, regardless of source.
- ▶ **Unpaid Charges:** Proof depends on claimant's health care coverage (excluding Medicare/Medicaid).
- ▶ **Future Medical Damages:** Restricted to either health coverage amount or Medicare reimbursement rate (if uninsured).
- ▶ **Strategic Evidence Use:** Requires tailored expert testimony and medical billing records to meet new standards.

Impact on Medical Reimbursements and Expert Witness Fees

- ▶ **Cost Implications for Claims:** Higher reimbursements could elevate total claim valuations and legal costs.
- ▶ **Physician Reimbursement Rise:** Maximum reimbursement for physicians increases from 110% to 175% of the Medicare reimbursement rates.
- ▶ **Surgical Procedure Boost:** Reimbursement cap for surgeries jumps from 140% to 210% of the Medicare reimbursement amount.
- ▶ **Expert Witness Fee Increase:** Hourly fee cap for expert witnesses increases from \$200 to \$300, incentivizing participation.



SB 366 Expands Disability Protections

Enhanced Provisions for Florida's First Responders



Presumptive Coverage Expansion: The bill proposes that any health condition or impairment that results from tuberculosis, heart disease or hypertension will be presumed to have occurred in the line of duty.



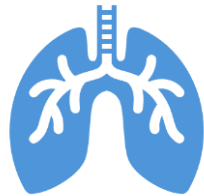
Eligibility Tied to Initial Service Physicals: Conditions will be considered accidental provided that the individual passed a physical examination entering service that did not indicate any of these conditions.



Burden of Proof Shift: Employers and insurers now carry the responsibility to disprove duty related causes for listed conditions.

Specialist Access Rights for First Responders

Expanded Autonomy in Medical Treatment for Service-Related Conditions



Authorized Provider

Selection: Eligible first responders may choose a qualified specialist to treat service-related tuberculosis, heart disease, or hypertension.



Treatment Relevance and

Reasonability: Selected specialist care must be directly tied to the qualifying condition and deemed medically necessary. Reimbursement for specialist services is limited to no more than 200% of the applicable Medicare rate.

Protections for First Responders

New Legal Safeguards Under Florida Law

- ▶ **The ‘Halo Law’ (SB 184)**
Provides enhanced legal protections for emergency personnel in high-risk situations.
- ▶ **Increased Penalties**
Harsher consequences for those who intentionally harm or obstruct first responders.
- ▶ **Expanded Benefits**
Improvements in workers’ compensation coverage for PTSD and other job-related injuries.



Expert Witness Compensation Reform Updated Fee Limits in Florida Workers' Compensation Cases

- ▶ **Hourly Cap Raised:** Expert witness reimbursement increased from \$200 to \$300 per hour, incentivizing greater participation.
- ▶ **Legal Access Enhancement:** Higher compensation aims to attract qualified experts, improving case quality and fairness.
- ▶ **Cost-Benefit Considerations:** Increased expert fees may elevate litigation costs, influencing case strategy and settlement dynamics.



Changes to Claims Processing

How HB 837 Reshapes Florida WC & Liability Claims



Stricter Filing Deadlines

Reduced statute of limitations requires claimants to act quickly.



Increased Documentation Requirements

Claimants must provide more detailed medical and financial records.



Effects on Settlement Negotiations

New limits on medical damages impact how claims are valued and settled.

Expansion of Government Liability

Changes to Florida's Sovereign Immunity Laws

- ▶ **Sovereign Immunity Limits (CS/SB 472 and HB 301)**
Proposed legislation aims to increase the \$200,000 per-individual cap on damages.
- ▶ **Implications for Government Entities**
Potential rise in lawsuits against state and local agencies.
- ▶ **Impact on Public Services**
Concerns over increased financial liability leading to budgetary constraints.



Florida Case Studies

Real-World Applications of Recent Legal Changes



Simmons v. Public Health Trust (2022)

Court upheld strict notice requirements for claims against public entities.



Keck v. Eminisor (2012)

Confirmed sovereign immunity for government employees acting within official duties.



New HB 837 Challenges

Early lawsuits are testing the constitutionality and retroactive application of HB 837.

Strategies for Legal Practitioners

Adapting to Recent WC & Liability Reforms

- ▶ **Compliance with New Procedural Rules**

Understanding revised deadlines and procedural requirements is crucial.

- ▶ **Leveraging Expert Testimony**

Stronger reliance on medical and financial experts to navigate evidentiary restrictions.

- ▶ **Client Education & Risk Mitigation**

Helping businesses and individuals adapt to legal changes proactively.



Best Practices for WC & Liability Claims Navigating Florida's Updated Legal Environment



- ▶ **Early Case Evaluation**
Assess claims quickly to determine liability risks and settlement potential.
- ▶ **Proactive Risk Management**
Implementing policies to reduce exposure to claims under new legal standards.
- ▶ **Strategic Use of Mediation**
Leveraging alternative dispute resolution to mitigate costs and uncertainties.

Conclusion & Key Takeaways

Final Thoughts on Florida's WC & Liability Reforms

- ▶ Tort Reform's Broad Impact
Legislation like HB 837 is reshaping liability claims and workers' compensation.
- ▶ New Challenges for Legal Practitioners
Stricter timelines, revised evidentiary rules, and sovereign immunity debates.
- ▶ Future Considerations
Ongoing legal challenges and potential legislative updates may further impact the system.





Questions?