

N.C.P.I.-Civil. 810.44B

WRONGFUL DEATH DAMAGES - MEDICAL EXPENSES - STIPULATION AS TO
AMOUNT PAID OR NECESSARY TO BE PAID, BUT NOT NEXUS TO
CONDUCT.

GENERAL CIVIL VOLUME

JUNE 2013

810.44B WRONGFUL DEATH DAMAGES - MEDICAL EXPENSES¹ -
STIPULATION AS TO AMOUNT PAID OR NECESSARY TO BE PAID, BUT NOT
NEXUS TO CONDUCT.

*(Use for claims arising on or after 1 October 2011²
when there is a stipulation as to the reasonableness of
the amount of expenses but not the causal nexus of
the expenses to the conduct at issue. For claims
arising before 1 October 2011, use N.C.P.I.-Civil
810.44.)*

Medical expenses include all [hospital] [doctor] [drug] [*state other expenses*] bills reasonably incurred³ by (*name deceased*) as a [proximate result of the negligence] [result of the wrongful conduct] of the defendant.

To be reasonably incurred, medical expenses must have been: (1) reasonably necessary for the proper treatment of (*name deceased*),⁴ (2) incurred as a [proximate result of the defendant's negligence] [result of the defendant's wrongful conduct] and (3) reasonable in amount.

It is [admitted] [stipulated] that the amount of the medical expenses paid (and the amount necessary to satisfy medical expenses that have not yet been paid) is \$_____. I charge you that when the amount actually paid for medical expenses (and the amount necessary to satisfy medical expenses that have not been paid) [is] [are] shown or agreed, the law presumes that [this amount is] [these amounts are] reasonable. Therefore, you will accept as conclusive and binding on you that the amount of \$_____ is reasonable.

Additionally, the plaintiff must prove by the greater weight of the evidence that the medical expenses shown on the bills were reasonably necessary for the treatment of (*name deceased*) and that the expenses were incurred by (*name deceased*) as a [proximate result of the

defendant's negligence] [result of the defendant's wrongful conduct]. [I
already have instructed you on the definition of proximate cause, and
that definition applies equally here.]⁵

1. N.C. Gen. Stat. § 28A-18-2(b)(1).

2. See 2011 N.C. Sess. Laws 317 § 1.1 (modifying 2011 N.C. Sess. Laws 283 § 4.2).

3. *NOTE WELL:* N.C. R. Evid. 414 limits medical expenses evidence to amounts actually paid to satisfy the bill or, if not yet paid, the amount that would satisfy the bill: "Evidence offered to prove past medical expenses shall be limited to evidence of the amounts actually paid to satisfy the bills that have been satisfied, regardless of the source of the payment, and evidence of the amounts actually necessary to satisfy the bills that have been incurred but not yet satisfied. This rule does not impose upon any party an affirmative duty to seek a reduction in billed charges to which the party is not contractually entitled." The Rule does not change existing law that the fact that medical expenses were paid by the deceased's employer, his medical insurer, or some other collateral source generally does not deprive the plaintiff of the right to recover them. See *Cates v. Wilson*, 321 N.C. 1, 5, 361 S.E.2d 734, 737 (1987); *Fisher v. Thompson*, 50 N.C. App. 724, 731, 275 S.E.2d 507, 513 (1981).

4. "The fact that a provider charged for services provided to the injured person establishes a permissive presumption that the services provided were reasonably necessary but no presumption is established that the services provided were necessary because of injuries caused by the acts or omissions of an alleged tortfeasor." N.C. Gen. Stat. § 8-58.1(c).

5. Do not give this sentence in intentional tort cases.