

PCS for HB 965

ORIGINAL

2012

1                   A bill to be entitled  
2           An act for the relief of Aaron Edwards, a minor, and  
3           his parents, Mitzi Roden and Mark Edwards, by Lee  
4           Memorial Health System of Lee County; providing for an  
5           appropriation to compensate Aaron Edwards and his  
6           parents for damages sustained as a result of medical  
7           negligence by employees of Lee Memorial Health System  
8           of Lee County; providing a limitation on the payment  
9           of fees and costs; providing an effective date.

10

11           WHEREAS, Mitzi Roden and Mark Edwards' only child, Aaron  
12           Edwards, was born on September 5, 2007, at Lee Memorial  
13           Hospital, and

14           WHEREAS, during Mitzi Roden's pregnancy, Mitzi Roden and  
15           Mark Edwards attended childbirth classes through Lee Memorial  
16           Health System and learned of the potentially devastating effect  
17           that the administration of Pitocin to augment labor may have on  
18           a mother and her unborn child when not carefully and competently  
19           monitored, and

20           WHEREAS, Mitzi Roden and Mark Edwards communicated directly  
21           to Nurse Midwife Patricia Hunsucker of Lee Memorial Health  
22           System of their desire to have a natural childbirth, and

23           WHEREAS, Mitzi Roden enjoyed an uneventful full-term  
24           pregnancy with Aaron Edwards, free from any complications, and

25           WHEREAS, on September 5, 2007, at 5:29 a.m., Mitzi Roden,  
26           at 41 and 5/7 weeks' gestation awoke to find that her membranes  
27           had ruptured, and

28           WHEREAS, when Mitzi Roden presented to the hospital on the

29 morning of September 5, she was placed on a fetal monitoring  
 30 machine that confirmed that Aaron Edwards was doing well and in  
 31 very good condition, and

32 WHEREAS, Mitzi Roden tolerated well a period of labor from  
 33 9 a.m. until 12:30 p.m., but failed to progress in her labor to  
 34 the point of being in active labor. At that time, Nurse Midwife  
 35 Patricia Hunsucker informed Mitzi Roden and Mark Edwards that  
 36 she would administer Pitocin to Mitzi in an attempt to speed up  
 37 the labor, but both Mitzi Roden and Mark Edwards strenuously  
 38 objected to the administration of Pitocin because of their  
 39 knowledge about the potentially devastating effects it can have  
 40 on a mother and child, including fetal distress and even death.  
 41 Mitzi Roden and Mark Edwards informed Nurse Midwife Patricia  
 42 Hunsucker that they would rather undergo a cesarean section than  
 43 be administered Pitocin, but in spite of their objections, Nurse  
 44 Midwife Patricia Hunsucker ordered that a Pitocin drip be  
 45 administered to Mitzi Roden at an initial dose of 3 milliunits,  
 46 to be increased by 3 milliunits every 30 minutes, and

47 WHEREAS, there was universal agreement by the experts  
 48 called to testify at the trial in this matter that the  
 49 administration of Pitocin over the express objections of Mitzi  
 50 Roden and Mark Edwards was a violation of the standard of care,  
 51 and

52 WHEREAS, for several hours during the afternoon of  
 53 September 5, 2007, the dosage of Pitocin was consistently  
 54 increased and Mitzi Roden began to experience contractions  
 55 closer than every 2 minutes at 4:50 p.m., and began to  
 56 experience excessive uterine contractility shortly before 6

57 | p.m., which should have been recognized by any reasonably  
 58 | competent obstetric care provider, and

59 |       WHEREAS, in spite of Mitzi Roden's excessive uterine  
 60 | contractility, the administration of Pitocin was inappropriately  
 61 | increased to 13 milliunits at 6:20 p.m. by Labor and Delivery  
 62 | Nurse Beth Jencks, which was a deviation from the acceptable  
 63 | standard of care for obstetric health care providers because, in  
 64 | fact, it should have been discontinued, and

65 |       WHEREAS, reasonable obstetric care required that Dr.  
 66 | Duvall, the obstetrician who was ultimately responsible for  
 67 | Mitzi Roden's labor and delivery, be notified of Mitzi Roden's  
 68 | excessive uterine contractility and that she was not adequately  
 69 | progressing in her labor, but the health care providers  
 70 | overseeing Mitzi Roden's labor unreasonably failed to do so, and

71 |       WHEREAS, in spite of Mitzi Roden's excessive uterine  
 72 | contractility, the administration of Pitocin was increased to 14  
 73 | milliunits at 7:15 p.m., when reasonable obstetric practices  
 74 | required that it be discontinued, and a knowledgeable obstetric  
 75 | care provider should have known that the continued use of  
 76 | Pitocin in the face of excessive uterine contractility posed an  
 77 | unreasonable risk to both Mitzi Roden and Aaron Edwards, and

78 |       WHEREAS, Lee Memorial's own obstetrical expert, Jeffrey  
 79 | Phelan, M.D., testified that Mitzi Roden experienced a tetanic  
 80 | contraction lasting longer than 90 seconds at 8:30 p.m., and Lee  
 81 | Memorial's own nurse midwife expert, Lynne Dollar, testified  
 82 | that she herself would have discontinued Pitocin at 8:30 p.m.,  
 83 | and

84 |       WHEREAS, at 8:30 p.m., the administration of Pitocin was

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85 | unreasonably and inappropriately increased to 15 milliunits when  
86 | reasonable obstetric practices required that it be discontinued,  
87 | and

88 |       WHEREAS, at 9 p.m., Nurse Midwife Hunsucker visited Mitzi  
89 | Roden at bedside, but mistakenly believed that the level of  
90 | Pitocin remained at 9 milliunits, when, in fact, it had been  
91 | increased to 15 milliunits, and further, she failed to  
92 | appreciate and correct Mitzi Roden's excessive uterine  
93 | contractility, and

94 |       WHEREAS, Lynne Dollar acknowledged that it is below the  
95 | standard of care for Nurse Midwife Patricia Hunsucker to not  
96 | know the correct level of Pitocin being administered to her  
97 | patient, Mitzi Roden, and

98 |       WHEREAS, at 9:30 p.m., the administration of Pitocin was  
99 | again unreasonably and inappropriately increased to 16  
100 | milliunits, when reasonable obstetric practice required that it  
101 | be discontinued in light of Mitzi Roden's excessive uterine  
102 | contractility and intrauterine pressure, and

103 |       WHEREAS, at 9:40 p.m., Aaron Edwards could no longer  
104 | compensate for the increasingly intense periods of  
105 | hypercontractility and excessive intrauterine pressure brought  
106 | on by the overuse and poor management of Pitocin administration,  
107 | and suffered a reasonably foreseeable and predictable severe  
108 | episode of bradycardia, where his heart rate plummeted to life-  
109 | endangering levels, which necessitated an emergency cesarean  
110 | section. Not until Aaron Edwards' heart rate crashed at 9:40  
111 | p.m. did Nurse Midwife Patricia Hunsucker consult with her  
112 | supervising obstetrician, Diana Duvall, M.D., having not

113 | discussed with Dr. Duvall her care and treatment of Mitzi  
 114 | Roden's labor since 12:30 p.m. Because Dr. Duvall had not been  
 115 | kept informed about the status of Mitzi Roden's labor, she was  
 116 | not on the hospital grounds at the time Aaron Edwards' heart  
 117 | rate crashed, and another obstetrician who was unfamiliar with  
 118 | Mitzi Roden's labor performed the emergency cesarean section to  
 119 | save Aaron Edwards' life, and

120 |         WHEREAS, there existed at the time of Mitzi Roden's labor  
 121 | and delivery a compensation system whereby a nurse midwife such  
 122 | as Patricia Hunsucker had a financial disincentive to consult  
 123 | with her supervising obstetrician during the period of labor,  
 124 | and

125 |         WHEREAS, Lee Memorial Health System had in place at the  
 126 | time of Mitzi Roden's labor and delivery rules regulating the  
 127 | use of Pitocin for the augmentation of labor which required that  
 128 | Pitocin be discontinued immediately upon the occurrence of  
 129 | tetanic contractions, nonreassuring fetal heart-rate patterns,  
 130 | or contractions closer than every 2 minutes, and

131 |         WHEREAS, in violation of rules regulating the use of  
 132 | Pitocin for the augmentation of labor, Labor and Delivery Nurse  
 133 | Beth Jencks and Nurse Midwife Patricia Hunsucker failed to  
 134 | immediately discontinue the administration of Pitocin in the  
 135 | face of hyperstimulated uterine contractions and excessive  
 136 | intrauterine pressure and increased the amount of Pitocin being  
 137 | administered to Mitzi Roden or remained completely unaware that  
 138 | the levels of Pitocin were being repeatedly increased, and

139 |         WHEREAS, Aaron Edwards suffered permanent and catastrophic  
 140 | injuries to his brain as a consequence of the acute hypoxic

141 ischemic episode at birth, and

142 WHEREAS, Aaron Edwards currently and for the remainder of  
 143 his life will suffer from spastic and dystonic cerebral palsy  
 144 and quadriparesis, rendering him totally and permanently  
 145 disabled, and

146 WHEREAS, Aaron Edwards currently and for the remainder of  
 147 his life will not be able to orally communicate other than to  
 148 his closest caregivers, and is entirely dependent on a computer  
 149 tablet communication board for speech, and

150 WHEREAS, Aaron Edwards suffers from profound physical  
 151 limitations affecting all four of his limbs such that he  
 152 requires supervision 24 hours a day and cannot feed, bathe,  
 153 dress, or protect himself, and

154 WHEREAS, Aaron Edwards will never be able to enter the  
 155 competitive job market and will require a lifetime of medical,  
 156 therapeutic, rehabilitation, and nursing care, and

157 WHEREAS, after a 6-week trial, a jury in Lee County  
 158 returned a verdict in favor of Aaron Edwards, Mitzi Roden, and  
 159 Mark Edwards, finding Lee Memorial Health System 100 percent  
 160 responsible for Aaron Edwards' catastrophic and entirely  
 161 preventable injuries and awarded a total of \$28,477,966.48 to  
 162 the Guardianship of Aaron Edwards, \$1,340,000 to Mitzi Roden,  
 163 and \$1 million to Mark Edwards, and

164 WHEREAS, the court also awarded Aaron Edwards, Mitzi Roden,  
 165 and Mark Edwards \$174,969.65 in taxable costs, and

166 WHEREAS, Lee Memorial Health System tendered \$200,000  
 167 toward payment of this claim, in accordance with the statutory

168 limits of liability set forth in s. 768.28, Florida Statutes,  
 169 NOW, THEREFORE,

170

171 Be It Enacted by the Legislature of the State of Florida:

172

173 Section 1. The facts stated in the preamble to this act  
 174 are found and declared to be true.

175 Section 2. Lee Memorial Health System, formerly known as  
 176 the Hospital Board of Directors of Lee County, is authorized and  
 177 directed to appropriate from funds of the county not otherwise  
 178 appropriated and to draw the following warrants as compensation  
 179 for the medical malpractice committed against Aaron Edwards and  
 180 Mitzi Roden:

181 (1) The sum of \$28,454,838.43, payable to the Guardianship  
 182 of Aaron Edwards to be placed in a special needs trust created  
 183 for the exclusive use and benefit of Aaron Edwards, a minor;

184 (2) The sum of \$1,338,989.67, payable to Mitzi Roden; and

185 (3) The sum of \$999,199.03, payable to Mark Edwards.

186 Section 3. The amount paid by Lee Memorial Health System  
 187 pursuant to s. 768.28, Florida Statutes, and the amount awarded  
 188 under this act are intended to provide the sole compensation for  
 189 all present and future claims arising out of the factual  
 190 situation described in this act which resulted in the injuries  
 191 suffered by Aaron Edwards. The total amount paid for attorney's  
 192 fees, lobbying fees, costs, and other similar expenses relating  
 193 to this claim may not exceed \$100,000.

194 Section 4. This act shall take effect upon becoming a law.