

By the Committee on Health Regulation; and Senator Ring

588-04441-09

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1 A bill to be entitled
2 An act for the relief of Raul Otero by the South
3 Broward Hospital District; providing for an
4 appropriation to compensate him for injuries sustained
5 as a result of the negligence of Memorial Regional
6 Hospital; providing a limitation on the payment of
7 fees and costs; providing an effective date.
8

9 WHEREAS, on March 28, 2003, 18-year-old Raul Otero was
10 involved in a motorcycle accident, and was seriously injured and
11 taken to Memorial Regional Hospital in Hollywood, Florida.
12 Memorial Regional Hospital is a public hospital owned by the
13 South Broward Hospital District. His injuries resulted in an
14 above-the-knee amputation of his left leg and a splenectomy.
15 The insurer of the at-fault driver tendered \$1 million, which
16 was the driver's policy limit, and

17 WHEREAS, on April 16, 2003, while in the trauma intensive
18 care unit at Memorial Regional Hospital, Mr. Otero was taken
19 during the night shift to the MRI laboratory for a scan to rule
20 out a nonemergency shoulder injury. Mr. Otero was accompanied by
21 a nurse and a respiratory therapist to the MRI laboratory, but
22 was removed from his ventilator at the time he was transported
23 to the MRI during the night shift when the hospital operates
24 using significantly fewer staff. He was alert and oriented. Mr.
25 Otero became panicky during the scan and was given several doses
26 of a narcotic sedative, Versed, in addition to the narcotic
27 medication he was already receiving intravenously. Because of
28 his panicked thrashing, an order for a paralytic drug was also
29 given. Lawton Tang, M.D., a surgical resident employed by Mt.

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30 Sinai Medical Center and working under the supervision of
31 attending physicians of the South Broward Hospital District on a
32 rotation through Memorial Regional Hospital, was not present and
33 gave the medication orders by telephone, and

34 WHEREAS, the nurse administered the paralytic drug, which
35 was inappropriate under the circumstances. When the drug was
36 given to Mr. Otero, it caused his heart to stop beating
37 properly, and

38 WHEREAS, shortly thereafter Raul Otero went into cardiac
39 arrest, a code was called, and, after a relatively extended
40 process, Mr. Otero was successfully resuscitated. However, he
41 was found to be suffering from anoxic encephalopathy, and

42 WHEREAS, several physicians, including the trauma resident
43 on duty at the time, testified that Mr. Otero was not stable
44 enough to be taken from intensive care during the midnight shift
45 for an elective MRI. In fact, the very next day this practice
46 was expressly forbidden by then Chief of Trauma, Lawrence
47 Lottenberg, M.D., and

48 WHEREAS, Raul Otero is completely incontinent, is
49 quadriplegic, and cannot speak, and is unable to consistently
50 follow simple one-step commands. Mr. Otero's life-care plan was
51 drafted by Sharon Griffin, Ph.D., and was originally valued in
52 excess of \$20 million. Now that his feeding tube and ventilator
53 have been removed, the cost of his future care has been revised
54 to approximately \$12 million, and

55 WHEREAS, the surgical resident, Lawton Tang, M.D., the
56 resident who gave the telephonic medication orders, and Mt.
57 Sinai Medical Center, his employer, have settled for \$2 million,
58 and

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59 WHEREAS, the South Broward Hospital District has agreed to
60 pay \$100,000 to Raul Otero and \$100,000 to his mother and
61 primary caregiver, Ana Otero, pursuant to s. 728.28, Florida
62 Statutes. In addition, the district has agreed to the passage of
63 a claim bill in the amount of \$2 million, NOW, THEREFORE,
64

65 Be It Enacted by the Legislature of the State of Florida:
66

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

69 Section 2. The South Broward Hospital District is
70 authorized and directed to appropriate from funds of the
71 district not otherwise appropriated and to draw a warrant in the
72 sum of \$2 million payable to Raul Otero as compensation for
73 injuries and damages sustained.

74 Section 3. The amount awarded in this act is intended to
75 provide the sole compensation for all present and future claims
76 arising out of the factual situation described in this act which
77 resulted in injury to Raul Otero. The total amount paid for
78 attorney's fees, lobbying fees, costs, and other similar
79 expenses relating to the adoption of this act may not exceed 25
80 percent of the total amount awarded under this act.

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