

By Senator Flores

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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 the
7 medical negligence by employees of Lee Memorial Health
8 System of Lee County; providing a limitation on the
9 payment of fees and costs; providing an effective
10 date.

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

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

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

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

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

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

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

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

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

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

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59 competent obstetric care provider, and

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

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

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

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

85 WHEREAS, at 8:30 p.m., the administration of Pitocin was
86 unreasonably and inappropriately increased to 15 milliunits when
87 reasonable obstetric practices required that it be discontinued,

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88 and

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

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

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

104 WHEREAS, as 9:40 p.m., Aaron Edwards could no longer
105 compensate for the increasingly intense periods of
106 hypercontractility and excessive intrauterine pressure brought
107 on by the overuse and poor management of Pitocin administration,
108 and suffered a reasonably foreseeable and predictable severe
109 episode of bradycardia, where his heart rate plummeted to life-
110 endangering levels, which necessitated an emergency cesarean
111 section. Not until Aaron Edwards' heart rate crashed at 9:40
112 p.m. did Nurse Midwife Patricia Hunsucker consult with her
113 supervising obstetrician, Diana Duvall, M.D., having not
114 discussed with Dr. Duvall her care and treatment of Mitzi
115 Roden's labor since 12:30 p.m. Because Dr. Duvall had not been
116 kept informed about the status of Mitzi Roden's labor, she was

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117 not on the hospital grounds at the time Aaron Edwards' heart
118 rated crashed, and another obstetrician who was unfamiliar with
119 Mitzi Roden's labor performed the emergency cesarean section to
120 save Aaron Edwards' life, and

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

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

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

140 WHEREAS, Aaron Edwards suffered permanent and catastrophic
141 injuries to his brain as a consequence of the acute hypoxic
142 ischemic episode at birth, and

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

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146 disabled, and

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

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

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

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

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

167 WHEREAS, Lee Memorial Health System tendered \$200,000
168 toward payment of this claim, in accordance with the statutory
169 limits of liability set forth in s. 768.28, Florida Statutes,
170 NOW, THEREFORE,

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

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174 Section 1. The facts stated in the preamble to this act are

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175 found and declared to be true.

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

182 (1) The sum of \$28,454,838.43, payable to the Guardianship
183 of Aaron Edwards;

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 25 percent of the total amount
194 awarded under this act.

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