

By the Committee on Rules; and Senator Flores

595-04180-12

201210c1

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

9
10 WHEREAS, Mitzi Roden and Mark Edwards' only child, Aaron
11 Edwards, was born on September 5, 2007, at Lee Memorial
12 Hospital, and

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

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

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

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

27 WHEREAS, when Mitzi Roden presented to the hospital on the
28 morning of September 5, she was placed on a fetal monitoring
29 machine that confirmed that Aaron Edwards was doing well and in

595-04180-12

201210c1

30 very good condition, and

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

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

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

58 WHEREAS, in spite of Mitzi Roden's excessive uterine

595-04180-12

201210c1

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

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

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

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

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

87 WHEREAS, at 9 p.m., Nurse Midwife Hunsucker visited Mitzi

595-04180-12

201210c1

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

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

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

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

595-04180-12

201210c1

117 Mitzi Roden's labor performed the emergency cesarean section to
118 save Aaron Edwards' life, and

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

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

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

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

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

145 WHEREAS, Aaron Edwards currently and for the remainder of

595-04180-12

201210c1

146 his life will not be able to orally communicate other than to
147 his closest caregivers, and is entirely dependent on a computer
148 tablet communication board for speech, and

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

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

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

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

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

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

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

174 Section 2. Lee Memorial Health System, formerly known as

595-04180-12

201210c1

175 the Hospital Board of Directors of Lee County, is authorized and
176 directed to appropriate from funds not otherwise appropriated
177 and to draw a warrant as compensation for the injuries suffered
178 by Aaron Edwards in the sum of \$15 million payable to the
179 Guardianship of Aaron Edwards to be placed in a special needs
180 trust created for the exclusive use and benefit of Aaron
181 Edwards, a minor.

182 Section 3. The amount paid by Lee Memorial Health System
183 pursuant to s. 768.28, Florida Statutes, and the amount awarded
184 under this act are intended to provide the sole compensation for
185 all present and future claims arising out of the factual
186 situation described in this act which resulted in the injuries
187 suffered by Aaron Edwards. The total amount paid for attorney
188 fees, lobbying fees, costs, and other similar expenses relating
189 to this claim may not exceed 25 percent of the amount awarded
190 under this act.

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