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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 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

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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

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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

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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

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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,

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169 NOW, THEREFORE,

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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;

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

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

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

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