

By Senator Pizzo

38-00166-22

202266\_\_

1                                   A bill to be entitled  
2       An act for the relief of Rafael Rodriguez by the  
3       Hendry County Hospital Authority; providing for an  
4       appropriation to compensate Rafael Rodriguez for  
5       injuries sustained as a result of the negligence of  
6       employees of the Hendry County Hospital Authority;  
7       providing a limitation on compensation and the payment  
8       of attorney fees; providing an effective date.

9  
10       WHEREAS, on September 30, 2007, Rafael Rodriguez was  
11       admitted to the emergency room at Hendry Regional Medical Center  
12       (HRMC), a hospital owned and operated by the Hendry County  
13       Hospital Authority, and was diagnosed with perforated  
14       diverticulitis, and

15       WHEREAS, general surgeon Dr. Ramon Leonard Carroll, Jr., an  
16       HRMC employee, ordered treatment with intravenous (IV)  
17       antibiotics in lieu of a colostomy, and hospitalist Dr. Hans  
18       Louis Charles, an HRMC employee, acceded to Dr. Carroll's  
19       nonsurgical care plan, and

20       WHEREAS, a computerized tomography (CT) scan of Mr.  
21       Rodriguez's pelvis and abdomen showed evidence of a perforated  
22       sigmoid diverticulum, and Dr. Carroll concluded that Mr.  
23       Rodriguez's symptoms and radiological findings showed free  
24       intraperitoneal air around the colon, evidencing a perforated  
25       diverticulum, and

26       WHEREAS, after 2 days of antibiotic treatment, Dr. Charles  
27       sought a surgical consult with Dr. Carroll, advising him that  
28       the IV antibiotics were not working to treat the perforated  
29       diverticulum, and the doctors made the joint negligent decision

38-00166-22

202266\_\_

30 to treat Mr. Rodriguez expectantly with nonsurgical care, and

31 WHEREAS, a second CT scan of Mr. Rodriguez's abdomen and  
32 pelvis revealed a 100 percent perforation with fistula formation  
33 and no resolution of the infection, and Dr. Charles and Dr.  
34 Carroll agreed to continue to treat Mr. Rodriguez nonsurgically,  
35 even though Dr. Charles recommended immediate surgical  
36 intervention in his progress notes, and

37 WHEREAS, Dr. Charles transferred Mr. Rodriguez's care to  
38 hospitalist Dr. Prashant Barakoti, an HRMC employee, while  
39 noting in his progress reports that a CT scan was done on  
40 October 7, 2007, which showed a pelvic abscess 4.6 by 5.8  
41 centimeters with a prominent air fluid level in the pelvis, and

42 WHEREAS, despite Mr. Rodriguez having a continuing  
43 infection that required ongoing medical treatment, Dr. Carroll  
44 discharged Mr. Rodriguez from HRMC to his home without operating  
45 on or draining the pelvic abscess, and after only 3 days, Mr.  
46 Rodriguez was readmitted to the emergency room at HRMC with  
47 complaints of severe middle back pain, abdominal pain, and a  
48 fever, and

49 WHEREAS, Dr. Barakoti transferred care back to Dr. Charles,  
50 who continued medical management and still did not recommend  
51 surgical intervention, and

52 WHEREAS, Dr. Carroll performed a surgical consult, noting  
53 Mr. Rodriguez's complaints of lower back pain and fever, and  
54 determined that Mr. Rodriguez had a ruptured diverticulum with  
55 small abscess formation in the pelvis, and

56 WHEREAS, Dr. Carroll decided to go along with Dr.  
57 Barakoti's plan of care to merely monitor Mr. Rodriguez, failing  
58 to recommend draining the abscess and surgically repairing the

38-00166-22

202266\_\_

59 ruptured diverticulum, and

60 WHEREAS, Mr. Rodriguez's blood cultures obtained while in  
61 the emergency room were found to be positive for *Klebsiella*  
62 *pneumoniae*, but Dr. Charles failed to recommend draining the  
63 abscess and surgically repairing the ruptured diverticulum or to  
64 transfer Mr. Rodriguez to another hospital for drainage and  
65 surgical intervention, even with the overwhelming evidence that  
66 surgical intervention was necessary, and

67 WHEREAS, Dr. Charles ordered Mr. Rodriguez to be started on  
68 IV Rocephin, a broad-spectrum antibiotic, and Dilaudid every 4  
69 to 6 hours for severe back pain and ordered additional blood  
70 cultures, which came back positive for *K. pneumoniae*, and, at  
71 the time, Mr. Rodriguez's white blood cell count was elevated at  
72 16,400 with increased polys, and

73 WHEREAS, on October 20, 2007, Mr. Rodriguez started to  
74 complain of bilateral inner thigh pain, difficulty walking, and  
75 incontinence, and showed signs of a worsening neurological  
76 condition, and

77 WHEREAS, a magnetic resonance imaging (MRI) machine, which  
78 would have revealed the presence of the early stages of an  
79 epidural abscess, was unavailable, but Dr. Charles continued to  
80 treat Mr. Rodriguez medically rather than transfer him to  
81 another hospital with an available MRI and surgical staff who  
82 could have surgically intervened, and

83 WHEREAS, Dr. Charles failed to perform any motor or sensory  
84 testing and, despite suspecting spinal stenosis, failed to  
85 recommend an immediate surgical intervention or transfer Mr.  
86 Rodriguez to a medical center with an orthopedic spine surgeon  
87 or neurosurgeon, and

38-00166-22

202266\_\_

88 WHEREAS, Mr. Rodriguez developed neck and lower back pain  
89 despite receiving narcotic pain medications and was suffering  
90 from loose and bloody bowel movements, and Dr. Charles advised  
91 Mr. Rodriguez that he would need to be transferred to another  
92 facility but failed to arrange the transfer, and instead  
93 dictated a discharge summary, planning to send Mr. Rodriguez  
94 home with white blood cells at 19,000, a temperature of 100.6  
95 degrees, and an inability to stand or walk, and

96 WHEREAS, hospitalist Dr. Lopez-Cespedes, another HRMC  
97 employee, was present when Mr. Rodriguez felt no sensation from  
98 the umbilical area down, was unable to move his lower  
99 extremities, and had weak upper arm movements, and Dr. Lopez-  
100 Cespedes noted that Mr. Rodriguez had decreased muscle strength  
101 and sensory perception and noted a positive blood culture and  
102 yeast in the blood, but did not immediately arrange for Mr.  
103 Rodriguez to be transferred to another facility, and

104 WHEREAS, on October 23, 2007, Mr. Rodriguez began  
105 complaining of a tingling sensation in both hands, and Dr.  
106 Lopez-Cespedes noted that Mr. Rodriguez was unable to move his  
107 legs and continued to have significant decreased sensation to  
108 the level T10-T11, and

109 WHEREAS, an MRI of Mr. Rodriguez's lumbar spine was finally  
110 performed, showing an epidural collection anteriorly to the  
111 thecal sac in the thoracic spine and lumbar spine, and Mr.  
112 Rodriguez was finally transferred and admitted to Jupiter  
113 Medical Center under the care of orthopedic surgeon Dr. Katzman,  
114 who diagnosed Mr. Rodriguez with an epidural abscess and an  
115 unoperated perforated sigmoid colon, and

116 WHEREAS, Mr. Rodriguez underwent a decompressive

38-00166-22

202266\_\_

117 laminectomy at C1-C6 with the evacuation of an epidural abscess,  
118 an exploratory laparoscopic drainage of multiple abscesses,  
119 sigmoid resection and colostomy, and small bowel resection, and

120 WHEREAS, today, Mr. Rodriguez is a quadriplegic due to the  
121 failure of and delay in emergent treatment by HRMC employees,  
122 and he does not have an attendant care assistant for his daily  
123 activities, instead relying on a friend with an intellectual  
124 disability who lives in his trailer with him and who has no  
125 medical training, and

126 WHEREAS, a tort claim was filed on behalf of Mr. Rodriguez  
127 in the Circuit Court for the 20th Judicial Circuit in and for  
128 Hendry County, and the Hendry County Hospital Authority agreed  
129 to amicably settle this matter with the entry of a consent  
130 judgment in the amount of \$7.6 million, and

131 WHEREAS, the Hendry County Hospital Authority has paid the  
132 statutory limit of \$100,000 to Mr. Rodriguez, pursuant to s.  
133 768.28, Florida Statutes, and the authority has agreed to fully  
134 cooperate and promote the passage of this claim bill in the  
135 amount of \$7.5 million, NOW, THEREFORE,

136

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

138

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

141 Section 2. The Hendry County Hospital Authority is  
142 authorized and directed to appropriate from funds of the  
143 authority not otherwise encumbered and to draw a warrant in the  
144 amount of \$7.5 million payable to Rafael Rodriguez as  
145 compensation for injuries and damages sustained as a result of

38-00166-22

202266\_\_

146 the negligence of employees of the Hendry County Hospital  
147 Authority.

148 Section 3. The amount paid by the Hendry County Hospital  
149 Authority pursuant to s. 768.28, Florida Statutes, and the  
150 amount awarded under this act are intended to provide the sole  
151 compensation for all present and future claims arising out of  
152 the factual situation described in this act which resulted in  
153 injuries and damages to Rafael Rodriguez. The total amount paid  
154 for attorney fees relating to this claim may not exceed 25  
155 percent of the amount awarded under this act.

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