

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Abruzzo offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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

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

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

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

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

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43 WHEREAS, Mitzi Roden and Mark Edwards' only child, Aaron
44 Edwards, was born on September 5, 2007, at Lee Memorial
45 Hospital, and

46 WHEREAS, during Mitzi Roden's pregnancy, Mitzi Roden and
47 Mark Edwards attended childbirth classes through Lee Memorial
48 Health System and learned of the potentially devastating effect
49 that the administration of Pitocin to augment labor may have on
50 a mother and her unborn child when not carefully and competently
51 monitored, and

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

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

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

60 WHEREAS, when Mitzi Roden presented to the hospital on the
61 morning of September 5, she was placed on a fetal monitoring
62 machine that confirmed that Aaron Edwards was doing well and in
63 very good condition, and

64 WHEREAS, Mitzi Roden tolerated well a period of labor from
65 9 a.m. until 12:30 p.m., but failed to progress in her labor to
66 the point of being in active labor. At that time, Nurse Midwife
67 Patricia Hunsucker informed Mitzi Roden and Mark Edwards that
68 she would administer Pitocin to Mitzi in an attempt to speed up
69 the labor, but both Mitzi Roden and Mark Edwards strenuously
70 objected to the administration of Pitocin because of their

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71 knowledge about the potentially devastating effects it can have
72 on a mother and child, including fetal distress and even death.
73 Mitzi Roden and Mark Edwards informed Nurse Midwife Patricia
74 Hunsucker that they would rather undergo a cesarean section than
75 be administered Pitocin, but in spite of their objections, Nurse
76 Midwife Patricia Hunsucker ordered that a Pitocin drip be
77 administered to Mitzi Roden at an initial dose of 3 milliunits,
78 to be increased by 3 milliunits every 30 minutes, and

79 WHEREAS, there was universal agreement by the experts
80 called to testify at the trial in this matter that the
81 administration of Pitocin over the express objections of Mitzi
82 Roden and Mark Edwards was a violation of the standard of care,
83 and

84 WHEREAS, for several hours during the afternoon of
85 September 5, 2007, the dosage of Pitocin was consistently
86 increased and Mitzi Roden began to experience contractions
87 closer than every 2 minutes at 4:50 p.m., and began to
88 experience excessive uterine contractility shortly before 6
89 p.m., which should have been recognized by any reasonably
90 competent obstetric care provider, and

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

97 WHEREAS, reasonable obstetric care required that Dr.
98 Duvall, the obstetrician who was ultimately responsible for
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99 Mitzi Roden's labor and delivery, be notified of Mitzi Roden's
100 excessive uterine contractility and that she was not adequately
101 progressing in her labor, but the health care providers
102 overseeing Mitzi Roden's labor unreasonably failed to do so, and

103 WHEREAS, in spite of Mitzi Roden's excessive uterine
104 contractility, the administration of Pitocin was increased to 14
105 milliunits at 7:15 p.m., when reasonable obstetric practices
106 required that it be discontinued, and a knowledgeable obstetric
107 care provider should have known that the continued use of
108 Pitocin in the face of excessive uterine contractility posed an
109 unreasonable risk to both Mitzi Roden and Aaron Edwards, and

110 WHEREAS, Lee Memorial's own obstetrical expert, Jeffrey
111 Phelan, M.D., testified that Mitzi Roden experienced a tetanic
112 contraction lasting longer than 90 seconds at 8:30 p.m., and Lee
113 Memorial's own nurse midwife expert, Lynne Dollar, testified
114 that she herself would have discontinued Pitocin at 8:30 p.m.,
115 and

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

120 WHEREAS, at 9 p.m., Nurse Midwife Hunsucker visited Mitzi
121 Roden at bedside, but mistakenly believed that the level of
122 Pitocin remained at 9 milliunits, when, in fact, it had been
123 increased to 15 milliunits, and further, she failed to
124 appreciate and correct Mitzi Roden's excessive uterine
125 contractility, and

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126 WHEREAS, Lynne Dollar acknowledged that it is below the
127 standard of care for Nurse Midwife Patricia Hunsucker to not
128 know the correct level of Pitocin being administered to her
129 patient, Mitzi Roden, and

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

135 WHEREAS, at 9:40 p.m., Aaron Edwards could no longer
136 compensate for the increasingly intense periods of
137 hypercontractility and excessive intrauterine pressure brought
138 on by the overuse and poor management of Pitocin administration,
139 and suffered a reasonably foreseeable and predictable severe
140 episode of bradycardia, where his heart rate plummeted to life-
141 endangering levels, which necessitated an emergency cesarean
142 section. Not until Aaron Edwards' heart rate crashed at 9:40
143 p.m. did Nurse Midwife Patricia Hunsucker consult with her
144 supervising obstetrician, Diana Duvall, M.D., having not
145 discussed with Dr. Duvall her care and treatment of Mitzi
146 Roden's labor since 12:30 p.m. Because Dr. Duvall had not been
147 kept informed about the status of Mitzi Roden's labor, she was
148 not on the hospital grounds at the time Aaron Edwards' heart
149 rate crashed, and another obstetrician who was unfamiliar with
150 Mitzi Roden's labor performed the emergency cesarean section to
151 save Aaron Edwards' life, and

152 WHEREAS, there existed at the time of Mitzi Roden's labor
153 and delivery a compensation system whereby a nurse midwife such
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154 as Patricia Hunsucker had a financial disincentive to consult
155 with her supervising obstetrician during the period of labor,
156 and

157 WHEREAS, Lee Memorial Health System had in place at the
158 time of Mitzi Roden's labor and delivery rules regulating the
159 use of Pitocin for the augmentation of labor which required that
160 Pitocin be discontinued immediately upon the occurrence of
161 tetanic contractions, nonreassuring fetal heart-rate patterns,
162 or contractions closer than every 2 minutes, and

163 WHEREAS, in violation of rules regulating the use of
164 Pitocin for the augmentation of labor, Labor and Delivery Nurse
165 Beth Jencks and Nurse Midwife Patricia Hunsucker failed to
166 immediately discontinue the administration of Pitocin in the
167 face of hyperstimulated uterine contractions and excessive
168 intrauterine pressure and increased the amount of Pitocin being
169 administered to Mitzi Roden or remained completely unaware that
170 the levels of Pitocin were being repeatedly increased, and

171 WHEREAS, Aaron Edwards suffered permanent and catastrophic
172 injuries to his brain as a consequence of the acute hypoxic
173 ischemic episode at birth, and

174 WHEREAS, Aaron Edwards currently and for the remainder of
175 his life will suffer from spastic and dystonic cerebral palsy
176 and quadriparesis, rendering him totally and permanently
177 disabled, and

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

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

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

189 WHEREAS, after a 6-week trial, a jury in Lee County
190 returned a verdict in favor of Aaron Edwards, Mitzi Roden, and
191 Mark Edwards, finding Lee Memorial Health System 100 percent
192 responsible for Aaron Edwards' catastrophic and entirely
193 preventable injuries and awarded a total of \$28,477,966.48 to
194 the Guardianship of Aaron Edwards, \$1,340,000 to Mitzi Roden,
195 and \$1 million to Mark Edwards, and

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

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

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