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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,

170

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.