

By Senator Flores

39-00216-20

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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 the payment of attorney  
8       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 Hendry County Hospital  
13       Authority, and was diagnosed with perforated diverticulitis, and

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

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

23       WHEREAS, after 2 days of antibiotic treatment, Dr. Charles  
24       sought a surgical consult with Dr. Carroll, advising him that  
25       the IV antibiotics were not working to treat the perforated  
26       diverticulum, and the doctors made the joint negligent decision  
27       to treat Mr. Rodriguez expectantly with nonsurgical care, and

28       WHEREAS, a second CT scan of Mr. Rodriguez's abdomen and  
29       pelvis revealed a 100 percent perforation with fistula formation

39-00216-20

202010\_\_

30 and no resolution of the infection, and Dr. Charles and Dr.  
31 Carroll agreed to continue to treat Mr. Rodriguez nonsurgically,  
32 even though Dr. Charles recommended immediate surgical  
33 intervention in his progress notes, and

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

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

46 WHEREAS, Dr. Barakoti transferred care back to Dr. Charles,  
47 who continued medical management and still did not recommend  
48 surgical intervention, and

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

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

57 WHEREAS, Mr. Rodriguez's blood cultures obtained while in  
58 the emergency room were found to be positive for *Klebsiella*

39-00216-20

202010\_\_

59 *pneumoniae*, but Dr. Charles failed to recommend draining the  
60 abscess and surgically repairing the ruptured diverticulum or to  
61 transfer Mr. Rodriguez to another hospital for drainage and  
62 surgical intervention, even with the overwhelming evidence that  
63 surgical intervention was necessary, and

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

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

74 WHEREAS, an MRI machine, which would have revealed the  
75 presence of the early stages of an epidural abscess, was  
76 unavailable, but Dr. Charles continued to treat Mr. Rodriguez  
77 medically rather than transfer him to another hospital with an  
78 available MRI and surgical staff who would have surgically  
79 intervened, and

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

85 WHEREAS, Mr. Rodriguez developed neck and low back pain  
86 despite receiving narcotic pain medications and was suffering  
87 from loose and bloody bowel movements, and Dr. Charles advised

39-00216-20

202010\_\_

88 Mr. Rodriguez that he would need to be transferred to another  
89 facility but failed to arrange the transfer, and instead  
90 dictated a discharge summary, planning to send Mr. Rodriguez  
91 home with white cells at 19,000, a temperature of 100.6 degrees,  
92 and being incapable of standing or walking, and

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

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

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

113 WHEREAS, Mr. Rodriguez underwent a decompressive  
114 laminectomy at C1-C6 with the evacuation of an epidural abscess,  
115 an exploratory laparoscopic drainage of multiple abscesses,  
116 sigmoid resection and colostomy, and small bowel resection, and

39-00216-20

202010\_\_

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

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

128 WHEREAS, the Hendry County Hospital Authority has paid the  
129 statutory limit of \$100,000 to Mr. Rodriguez, pursuant to s.  
130 768.28, Florida Statutes, and the authority has agreed to fully  
131 cooperate and promote the passage of this claim bill in the  
132 amount of \$7.5 million, NOW, THEREFORE,

133

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

135

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

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

145 Section 3. The amount paid by the Hendry County Hospital

39-00216-20

202010\_\_

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

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