

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

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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
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

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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*
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
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

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
 137 are 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
 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

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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.