

Committee Substitute for Senate Bill No. 46

An act for the relief of Raul Otero by the South Broward Hospital District; providing for an appropriation to compensate him for injuries sustained as a result of the negligence of Memorial Regional Hospital; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, on March 28, 2003, 18-year-old Raul Otero was involved in a motorcycle accident, and was seriously injured and taken to Memorial Regional Hospital in Hollywood, Florida. Memorial Regional Hospital is a public hospital owned by the South Broward Hospital District. His injuries resulted in an above-the-knee amputation of his left leg and a splenectomy. The insurer of the at-fault driver tendered \$1 million, which was the driver's policy limit, and

WHEREAS, on April 16, 2003, while in the trauma intensive care unit at Memorial Regional Hospital, Mr. Otero was taken during the night shift to the MRI laboratory for a scan to rule out a nonemergency shoulder injury. Mr. Otero was accompanied by a nurse and a respiratory therapist to the MRI laboratory, but was removed from his ventilator at the time he was transported to the MRI during the night shift when the hospital operates using significantly fewer staff. He was alert and oriented. Mr. Otero became panicky during the scan and was given several doses of a narcotic sedative, Versed, in addition to the narcotic medication he was already receiving intravenously. Because of his panicked thrashing, an order for a paralytic drug was also given. Lawton Tang, M.D., a surgical resident employed by Mt. Sinai Medical Center and working under the supervision of attending physicians of the South Broward Hospital District on a rotation through Memorial Regional Hospital, was not present and gave the medication orders by telephone, and

WHEREAS, the nurse administered the paralytic drug, which was inappropriate under the circumstances. When the drug was given to Mr. Otero, it caused his heart to stop beating properly, and

WHEREAS, shortly thereafter Raul Otero went into cardiac arrest, a code was called, and, after a relatively extended process, Mr. Otero was successfully resuscitated. However, he was found to be suffering from anoxic encephalopathy, and

WHEREAS, several physicians, including the trauma resident on duty at the time, testified that Mr. Otero was not stable enough to be taken from intensive care during the midnight shift for an elective MRI. In fact, the very next day this practice was expressly forbidden by then Chief of Trauma, Lawrence Lottenberg, M.D., and

WHEREAS, Raul Otero is completely incontinent, is quadriplegic, and cannot speak, and is unable to consistently follow simple one-step commands. Mr. Otero's life-care plan was drafted by Sharon Griffin, Ph.D., and was originally valued in excess of \$20 million. Now that his feeding tube and

ventilator have been removed, the cost of his future care has been revised to approximately \$12 million, and

WHEREAS, the surgical resident, Lawton Tang, M.D., the resident who gave the telephonic medication orders, and Mt. Sinai Medical Center, his employer, have settled for \$2 million, and

WHEREAS, the South Broward Hospital District has agreed to pay \$100,000 to Raul Otero and \$100,000 to his mother and primary caregiver, Ana Otero, pursuant to s. 728.28, Florida Statutes. In addition, the district has agreed to the passage of a claim bill in the amount of \$2 million, NOW, THEREFORE,

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

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

Section 2. The South Broward Hospital District is authorized and directed to appropriate from funds of the district not otherwise appropriated and to draw a warrant in the sum of \$2 million payable to Raul Otero as compensation for injuries and damages sustained.

Section 3. The amount awarded in this act is intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in injury to Raul Otero. The total amount paid for attorney's fees, lobbying fees, costs, and other similar expenses relating to the adoption of this act may not exceed 25 percent of the total amount awarded under this act.

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

Approved by the Governor June 1, 2009.

Filed in Office Secretary of State June 1, 2009.