

1                                   A bill to be entitled  
2           An act relating to teaching hospitals; creating  
3           s. 766.1116, F.S.; providing legislative  
4           findings and intent with respect to protection  
5           through sovereign immunity of teaching  
6           hospitals; providing definitions; providing for  
7           a "governmental contractor," defined as the  
8           Department of Health or the Agency for Health  
9           Care Administration, to contract for delivery  
10          by a teaching hospital of charity health  
11          services and medical education services;  
12          providing that a teaching hospital, while  
13          acting within the scope of duties pursuant to  
14          such contract, is an agent for purposes of  
15          specified provisions relating to sovereign  
16          immunity or waiver thereof; providing for  
17          nonliability of the teaching hospital or its  
18          officers, employees, or agents with respect to  
19          certain actions; requiring inclusion of  
20          specified provisions and guidelines in such  
21          contract; requiring the governmental contractor  
22          to enter into nonexclusive contracts for  
23          provision of the charity health services or  
24          medical education health care services and to  
25          establish certain quality assurance programs;  
26          requiring certain notice to patients by the  
27          contracting teaching hospital with respect to  
28          its agent status and applicable limitations  
29          upon remedies for injury or damage; providing  
30          for applicability; providing an effective date.  
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Section 766.1116, Florida Statutes, is  
4 created to read:

5 766.1116 Teaching hospitals; provision of charity  
6 health care services and medical education health care  
7 services.--

8 (1) The Legislature finds that teaching hospitals  
9 provide access to health care to a significant number of  
10 indigent, uninsured residents of this state, that teaching  
11 hospitals provide benefits to the people of this state through  
12 their medical education programs, that these benefits are at  
13 significant risk because teaching hospitals fear the increased  
14 risk of medical malpractice liability, and that the continued  
15 viability of teaching hospitals must be protected for the  
16 purposes of providing charity health care services and medical  
17 education health care services. It is, therefore, the intent  
18 of the Legislature to provide requirements for teaching  
19 hospitals to become agents of the state and to ensure that  
20 teaching hospitals satisfying these requirements are protected  
21 by sovereign immunity, pursuant to this section.

22 (2) As used in this section, the term:

23 (a) "Contract" means an agreement executed in  
24 compliance with this section between a teaching hospital and a  
25 governmental contractor. This contract shall allow a teaching  
26 hospital to deliver charity health care services and medical  
27 education health care services to patients as an agent of the  
28 governmental contractor.

29 (b) "Governmental contractor" means the Department of  
30 Health or the Agency for Health Care Administration.

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1           (c) "Charity health care services" means health care  
2 services provided to low-income persons.

3           (d) "Low-income" has the same meaning as in s.  
4 766.1115(3)(e).

5           (e) "Medical education health care services" means all  
6 health care services provided at a teaching hospital to a  
7 patient who is under the care of a physician if such services  
8 are paid, in whole or in part, by federal or state government  
9 programs, and a physician performs or demonstrates a medical  
10 procedure, makes a diagnosis, or prescribes or provides  
11 treatment on or for a patient to whom the provisions of this  
12 section is applicable. Incidental contact by a physician with  
13 a patient at a teaching hospital shall not be considered the  
14 provision of medical education health care services.

15           (f) "Physician" means a physician who is:

16           1. Employed by the teaching hospital, or by a medical  
17 school affiliated with the teaching hospital, as a medical  
18 intern, resident, or fellow;

19           2. A full-time member of the medical education staff  
20 of the teaching hospital; or

21           3. Employed by or under contract with, or is a member  
22 of the faculty of a medical school affiliated with, the  
23 teaching hospital when the physician is supervising or  
24 instructing a medical resident or demonstrating a medical  
25 procedure to a medical resident, at the teaching hospital.

26           (g) "Teaching hospital" has the same meaning as in s.  
27 408.07(49).

28           (3)(a) A teaching hospital that executes a contract  
29 with a governmental contractor to deliver charity health care  
30 services and medical education services as an agent of the  
31 governmental contractor is an agent for purposes of s.

1 768.28(9), while acting within the scope of duties pursuant to  
2 the contract, if the contract complies with the requirements  
3 of this section. Neither a teaching hospital under contract  
4 with a governmental contractor nor the officers, employees, or  
5 agents of the teaching hospital may be named as a defendant in  
6 any action arising out of charity health care services or  
7 medical education health care services which are provided on  
8 or after the effective date of this section, pursuant to  
9 contracts entered under this section.

10 (b) The contract shall:

11 1. Contain provisions that satisfy the requirements of  
12 s. 766.1115(4)(a), (b), (c), (e), and (g);

13 2. Require that the teaching hospital shall defend  
14 against, on behalf of the governmental contractor, and shall  
15 be responsible for its own litigation costs and attorney's  
16 fees for, any malpractice litigation arising out of health  
17 care services delivered pursuant to this section;

18 3. Provide for the indemnification of the state by the  
19 teaching hospital for any liabilities incurred up to the  
20 limits established in s. 768.28; and

21 4. Specify the level of charity care the teaching  
22 hospital must provide.

23 (4) A governmental contractor shall enter into  
24 nonexclusive contracts with teaching hospitals for the  
25 provision of charity health care services and medical  
26 education health care service under which a teaching hospital  
27 shall be an agent of the state. Any such contract shall  
28 prescribe the scope of and guidelines for the charity health  
29 care services and medical education health care services to be  
30 provided pursuant to the contract. The governmental contractor  
31 shall establish a quality assurance program to monitor

1 services delivered under any contract between the governmental  
2 contractor and the teaching hospital pursuant to this section.

3 (5) For this section to apply, a patient shall be  
4 provided separate written conspicuous notice by the teaching  
5 hospital, and shall acknowledge receipt of this notice in  
6 writing, unless impractical by reason of an emergency, either  
7 personally or through another person authorized to give  
8 consent for him or her, that he or she will receive care  
9 provided by the teaching hospital as an agent of the state for  
10 the provision of charity health care services and medical  
11 education health care services and that the exclusive remedy  
12 for any liability, if any, that may arise from that care is  
13 limited as provided by s. 768.28, Florida Statutes, to not  
14 more than \$100,000 per person, or \$200,000 for all claims  
15 arising out of the same incident, unless the Legislature  
16 enacts a claim bill pertaining to the patient.

17 (6) This section applies to incidents occurring on or  
18 after the effective date of this section.

19 Section 2. This act shall take effect upon becoming a  
20 law.