

HB 1121

2004

1 A bill to be entitled
 2 An act relating to health care providers; amending s.
 3 766.1115, F.S.; revising definitions; providing
 4 qualifications for volunteer, uncompensated services;
 5 extending protection of sovereign immunity to free clinics
 6 as health care providers; authorizing the Department of
 7 Health to adopt certain rules to standardize the referral
 8 and eligibility process; providing an effective date.

9

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

11

12 Section 1. Paragraphs (a) and (d) of subsection (3),
 13 subsection (4), and subsection (10) of section 766.1115, Florida
 14 Statutes, are amended to read:

15 766.1115 Health care providers; creation of agency
 16 relationship with governmental contractors.--

17 (3) DEFINITIONS.--As used in this section, the term:

18 (a) "Contract" means an agreement executed in compliance
 19 with this section between a health care provider and a
 20 governmental contractor. This contract shall allow the health
 21 care provider to deliver health care services to low-income
 22 recipients as an agent of the governmental contractor. The
 23 contract must be for volunteer, uncompensated services. For
 24 services to qualify as volunteer, uncompensated services under
 25 this section, the health care provider must receive no
 26 compensation from the governmental contractor for any services
 27 provided under the contract and must not bill or accept
 28 compensation from the recipient, or any public or private third-

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29 party payor, for the specific services provided to the low-
 30 income recipients covered by the contract.

31 (d) "Health care provider" or "provider" means:

- 32 1. A birth center licensed under chapter 383.
- 33 2. An ambulatory surgical center licensed under chapter
 34 395.
- 35 3. A hospital licensed under chapter 395.
- 36 4. A physician or physician assistant licensed under
 37 chapter 458.
- 38 5. An osteopathic physician or osteopathic physician
 39 assistant licensed under chapter 459.
- 40 6. A chiropractic physician licensed under chapter 460.
- 41 7. A podiatric physician licensed under chapter 461.
- 42 8. A registered nurse, nurse midwife, licensed practical
 43 nurse, or advanced registered nurse practitioner licensed or
 44 registered under part I of chapter 464 or any facility which
 45 employs nurses licensed or registered under part I of chapter
 46 464 to supply all or part of the care delivered under this
 47 section.
- 48 9. A midwife licensed under chapter 467.
- 49 10. A health maintenance organization certificated under
 50 part I of chapter 641.
- 51 11. A health care professional association and its
 52 employees or a corporate medical group and its employees.
- 53 12. Any other medical facility the primary purpose of
 54 which is to deliver human medical diagnostic services or which
 55 delivers nonsurgical human medical treatment, and which includes
 56 an office maintained by a provider.

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57 13. A dentist or dental hygienist licensed under chapter
58 466.

59 14. A free clinic that delivers only medical diagnostic
60 services or nonsurgical medical treatment free of charge to all
61 low-income recipients.

62 15.14. Any other health care professional, practitioner,
63 provider, or facility under contract with a governmental
64 contractor, including a student enrolled in an accredited
65 program that prepares the student for licensure as any one of
66 the professionals listed in subparagraphs 4.-9.

67
68 The term includes any nonprofit corporation qualified as exempt
69 from federal income taxation under s. 501(a) of the Internal
70 Revenue Code, and described in s. 501(c) of the Internal Revenue
71 Code, which delivers health care services provided by licensed
72 professionals listed in this paragraph, any federally funded
73 community health center, and any volunteer corporation or
74 volunteer health care provider that delivers health care
75 services.

76 (4) CONTRACT REQUIREMENTS.--A health care provider that
77 executes a contract with a governmental contractor to deliver
78 health care services on or after April 17, 1992, as an agent of
79 the governmental contractor is an agent for purposes of s.
80 768.28(9), while acting within the scope of duties under
81 ~~pursuant to~~ the contract, if the contract complies with the
82 requirements of this section and regardless of whether the
83 individual treated is later found to be ineligible. A health
84 care provider under contract with the state may not be named as
85 a defendant in any action arising out of ~~the~~ medical care or

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86 treatment provided on or after April 17, 1992, under ~~pursuant to~~
 87 contracts entered into under this section. The contract must
 88 provide that:

89 (a) The right of dismissal or termination of any health
 90 care provider delivering services under ~~pursuant to~~ the contract
 91 is retained by the governmental contractor.

92 (b) The governmental contractor has access to the patient
 93 records of any health care provider delivering services under
 94 ~~pursuant to~~ the contract.

95 (c) Adverse incidents and information on treatment
 96 outcomes must be reported by any health care provider to the
 97 governmental contractor if the ~~such~~ incidents and information
 98 pertain to a patient treated under ~~pursuant to~~ the contract. The
 99 health care provider shall submit the reports required by s.
 100 395.0197. If an incident involves a professional licensed by the
 101 Department of Health or a facility licensed by the Agency for
 102 Health Care Administration, the governmental contractor shall
 103 submit such incident reports to the appropriate department or
 104 agency, which shall review each incident and determine whether
 105 it involves conduct by the licensee that is subject to
 106 disciplinary action. All patient medical records and any
 107 identifying information contained in adverse incident reports
 108 and treatment outcomes which are obtained by governmental
 109 entities under ~~pursuant to~~ this paragraph are confidential and
 110 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
 111 of the State Constitution.

112 (d) Patient selection and initial referral must be made
 113 solely by the governmental contractor, and the provider must
 114 accept all referred patients. However, the number of patients

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115 that must be accepted may be limited by the contract, and
 116 patients may not be transferred to the provider based on a
 117 violation of the antidumping provisions of the Omnibus Budget
 118 Reconciliation Act of 1989, the Omnibus Budget Reconciliation
 119 Act of 1990, or chapter 395.

120 (e) If emergency care is required, the patient need not be
 121 referred before receiving treatment, but must be referred within
 122 48 hours after treatment is commenced or within 48 hours after
 123 the patient has the mental capacity to consent to treatment,
 124 whichever occurs later.

125 (f) Patient care, including any followup or hospital care,
 126 is subject to approval by the governmental contractor.

127 (g) The provider is subject to supervision and regular
 128 inspection by the governmental contractor.

129
 130 A governmental contractor that is also a health care provider is
 131 not required to enter into a contract under this section with
 132 respect to the health care services delivered by its employees.

133 (10) RULES.--The department shall adopt rules to
 134 administer this section in a manner consistent with its purpose
 135 to provide and facilitate access to appropriate, safe, and cost-
 136 effective health care services and to maintain health care
 137 quality. The rules may include services to be provided and
 138 authorized procedures. The department may adopt rules pursuant
 139 to ss. 120.536(1) and 120.54 to standardize the referral and
 140 eligibility process, including the designation of allowable
 141 methods for determination and approval of eligibility by the
 142 governmental contractor.

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