

CHAMBER ACTION

1 The Committee on Judiciary recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to health care providers; amending s.
7 766.1115, F.S.; revising definitions; providing
8 qualifications for volunteer, uncompensated services;
9 extending protection of sovereign immunity to free clinics
10 as health care providers; authorizing the Department of
11 Health to adopt certain rules to specify methods for
12 determination and approval of patient eligibility;
13 providing requirements for such rules; providing an
14 effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraphs (a) and (d) of subsection (3),
19 subsection (4), and subsection (10) of section 766.1115, Florida
20 Statutes, are amended to read:

21 766.1115 Health care providers; creation of agency
22 relationship with governmental contractors.--

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

24 (a) "Contract" means an agreement executed in compliance
 25 with this section between a health care provider and a
 26 governmental contractor. This contract shall allow the health
 27 care provider to deliver health care services to low-income
 28 recipients as an agent of the governmental contractor. The
 29 contract must be for volunteer, uncompensated services. For
 30 services to qualify as volunteer, uncompensated services under
 31 this section, the health care provider must receive no
 32 compensation from the governmental contractor for any services
 33 provided under the contract and must not bill or accept
 34 compensation from the recipient, or any public or private third-
 35 party payor, for the specific services provided to the low-
 36 income recipients covered by the contract.

- 37 (d) "Health care provider" or "provider" means:
- 38 1. A birth center licensed under chapter 383.
 - 39 2. An ambulatory surgical center licensed under chapter
 40 395.
 - 41 3. A hospital licensed under chapter 395.
 - 42 4. A physician or physician assistant licensed under
 43 chapter 458.
 - 44 5. An osteopathic physician or osteopathic physician
 45 assistant licensed under chapter 459.
 - 46 6. A chiropractic physician licensed under chapter 460.
 - 47 7. A podiatric physician licensed under chapter 461.
 - 48 8. A registered nurse, nurse midwife, licensed practical
 49 nurse, or advanced registered nurse practitioner licensed or
 50 registered under part I of chapter 464 or any facility which
 51 employs nurses licensed or registered under part I of chapter

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52 | 464 to supply all or part of the care delivered under this
53 | section.

54 | 9. A midwife licensed under chapter 467.

55 | 10. A health maintenance organization certificated under
56 | part I of chapter 641.

57 | 11. A health care professional association and its
58 | employees or a corporate medical group and its employees.

59 | 12. Any other medical facility the primary purpose of
60 | which is to deliver human medical diagnostic services or which
61 | delivers nonsurgical human medical treatment, and which includes
62 | an office maintained by a provider.

63 | 13. A dentist or dental hygienist licensed under chapter
64 | 466.

65 | 14. A free clinic that delivers only medical diagnostic
66 | services or nonsurgical medical treatment free of charge to all
67 | low-income recipients.

68 | ~~15.14.~~ Any other health care professional, practitioner,
69 | provider, or facility under contract with a governmental
70 | contractor, including a student enrolled in an accredited
71 | program that prepares the student for licensure as any one of
72 | the professionals listed in subparagraphs 4.-9.

73 |
74 | The term includes any nonprofit corporation qualified as exempt
75 | from federal income taxation under s. 501(a) of the Internal
76 | Revenue Code, and described in s. 501(c) of the Internal Revenue
77 | Code, which delivers health care services provided by licensed
78 | professionals listed in this paragraph, any federally funded
79 | community health center, and any volunteer corporation or

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80 volunteer health care provider that delivers health care
81 services.

82 (4) CONTRACT REQUIREMENTS.--A health care provider that
83 executes a contract with a governmental contractor to deliver
84 health care services on or after April 17, 1992, as an agent of
85 the governmental contractor is an agent for purposes of s.
86 768.28(9), while acting within the scope of duties under
87 ~~pursuant to~~ the contract, if the contract complies with the
88 requirements of this section and regardless of whether the
89 individual treated is later found to be ineligible. A health
90 care provider under contract with the state may not be named as
91 a defendant in any action arising out of ~~the~~ medical care or
92 treatment provided on or after April 17, 1992, under ~~pursuant to~~
93 contracts entered into under this section. The contract must
94 provide that:

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

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

101 (c) Adverse incidents and information on treatment
102 outcomes must be reported by any health care provider to the
103 governmental contractor if the ~~such~~ incidents and information
104 pertain to a patient treated under ~~pursuant to~~ the contract. The
105 health care provider shall submit the reports required by s.
106 395.0197. If an incident involves a professional licensed by the
107 Department of Health or a facility licensed by the Agency for

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108 Health Care Administration, the governmental contractor shall
109 submit such incident reports to the appropriate department or
110 agency, which shall review each incident and determine whether
111 it involves conduct by the licensee that is subject to
112 disciplinary action. All patient medical records and any
113 identifying information contained in adverse incident reports
114 and treatment outcomes which are obtained by governmental
115 entities under ~~pursuant to~~ this paragraph are confidential and
116 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
117 of the State Constitution.

118 (d) Patient selection and initial referral must be made
119 solely by the governmental contractor, and the provider must
120 accept all referred patients. However, the number of patients
121 that must be accepted may be limited by the contract, and
122 patients may not be transferred to the provider based on a
123 violation of the antidumping provisions of the Omnibus Budget
124 Reconciliation Act of 1989, the Omnibus Budget Reconciliation
125 Act of 1990, or chapter 395.

126 (e) If emergency care is required, the patient need not be
127 referred before receiving treatment, but must be referred within
128 48 hours after treatment is commenced or within 48 hours after
129 the patient has the mental capacity to consent to treatment,
130 whichever occurs later.

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

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

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

139 (10) RULES.--The department shall adopt rules to
140 administer this section in a manner consistent with its purpose
141 to provide and facilitate access to appropriate, safe, and cost-
142 effective health care services and to maintain health care
143 quality. The rules may include services to be provided and
144 authorized procedures. Notwithstanding the requirements of
145 paragraph (4)(d), the department shall adopt rules that specify
146 required methods for determination and approval of patient
147 eligibility and referral and the contractual conditions under
148 which a health care provider may perform the patient eligibility
149 and referral process on behalf of the department. These rules
150 shall include, but not be limited to, the following
151 requirements:

152 (a) The provider must accept all patients referred by the
153 department. However, the number of patients that must be
154 accepted may be limited by the contract, and patients may not be
155 transferred to the provider based on a violation of the
156 antidumping provisions of the Omnibus Budget Reconciliation Act
157 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
158 chapter 395.

159 (b) The provider shall comply with departmental rules
160 regarding the determination and approval of patient eligibility
161 and referral.

162 (c) The provider shall complete training conducted by the
163 department regarding compliance with the approved methods for

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164 | determination and approval of patient eligibility and referral.

165 | (d) The department shall retain review and oversight

166 | authority of the patient eligibility and referral determination.

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