

1 A bill to be entitled
 2 An act relating to health care providers; amending s. 766.1115,
 3 F.S.; revising definitions; providing qualifications for
 4 volunteer, uncompensated services; extending protection of
 5 sovereign immunity to free clinics as health care providers;
 6 requiring the Department of Health to adopt certain rules to
 7 specify methods for determination and approval of patient
 8 eligibility; providing requirements for such rules; defining the
 9 term "health care practitioner"; providing for waiver of
 10 biennial license renewal fees and fulfillment of a portion of
 11 continuing education hours for specified health care
 12 practitioners who provide services, without compensation, to
 13 low-income recipients as agents of governmental contractors;
 14 amending s. 381.00593, F.S.; providing that for purposes of the
 15 public school volunteer health care practitioner program, a
 16 licensed dietitian/nutritionist is a health care practitioner;
 17 providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

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

24 766.1115 Health care providers; creation of agency
 25 relationship with governmental contractors.--

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

27 (a) "Contract" means an agreement executed in compliance
 28 with this section between a health care provider and a

29 governmental contractor. This contract shall allow the health
 30 care provider to deliver health care services to low-income
 31 recipients as an agent of the governmental contractor. The
 32 contract must be for volunteer, uncompensated services. For
 33 services to qualify as volunteer, uncompensated services under
 34 this section, the health care provider must receive no
 35 compensation from the governmental contractor for any services
 36 provided under the contract and must not bill or accept
 37 compensation from the recipient, or any public or private third-
 38 party payor, for the specific services provided to the low-
 39 income recipients covered by the contract.

- 40 (d) "Health care provider" or "provider" means:
- 41 1. A birth center licensed under chapter 383.
 - 42 2. An ambulatory surgical center licensed under chapter
 43 395.
 - 44 3. A hospital licensed under chapter 395.
 - 45 4. A physician or physician assistant licensed under
 46 chapter 458.
 - 47 5. An osteopathic physician or osteopathic physician
 48 assistant licensed under chapter 459.
 - 49 6. A chiropractic physician licensed under chapter 460.
 - 50 7. A podiatric physician licensed under chapter 461.
 - 51 8. A registered nurse, nurse midwife, licensed practical
 52 nurse, or advanced registered nurse practitioner licensed or
 53 registered under part I of chapter 464 or any facility which
 54 employs nurses licensed or registered under part I of chapter
 55 464 to supply all or part of the care delivered under this
 56 section.

- 57 | 9. A midwife licensed under chapter 467.
- 58 | 10. A health maintenance organization certificated under
- 59 | part I of chapter 641.
- 60 | 11. A health care professional association and its
- 61 | employees or a corporate medical group and its employees.
- 62 | 12. Any other medical facility the primary purpose of
- 63 | which is to deliver human medical diagnostic services or which
- 64 | delivers nonsurgical human medical treatment, and which includes
- 65 | an office maintained by a provider.
- 66 | 13. A dentist or dental hygienist licensed under chapter
- 67 | 466.
- 68 | 14. A free clinic that delivers only medical diagnostic
- 69 | services or nonsurgical medical treatment free of charge to all
- 70 | low-income recipients.
- 71 | ~~15.14.~~ Any other health care professional, practitioner,
- 72 | provider, or facility under contract with a governmental
- 73 | contractor, including a student enrolled in an accredited
- 74 | program that prepares the student for licensure as any one of
- 75 | the professionals listed in subparagraphs 4.-9.
- 76 |
- 77 | The term includes any nonprofit corporation qualified as exempt
- 78 | from federal income taxation under s. 501(a) of the Internal
- 79 | Revenue Code, and described in s. 501(c) of the Internal Revenue
- 80 | Code, which delivers health care services provided by licensed
- 81 | professionals listed in this paragraph, any federally funded
- 82 | community health center, and any volunteer corporation or
- 83 | volunteer health care provider that delivers health care
- 84 | services.

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

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

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

104 (c) Adverse incidents and information on treatment
 105 outcomes must be reported by any health care provider to the
 106 governmental contractor if the ~~such~~ incidents and information
 107 pertain to a patient treated under ~~pursuant to~~ the contract. The
 108 health care provider shall submit the reports required by s.
 109 395.0197. If an incident involves a professional licensed by the
 110 Department of Health or a facility licensed by the Agency for
 111 Health Care Administration, the governmental contractor shall
 112 submit such incident reports to the appropriate department or

113 | agency, which shall review each incident and determine whether
114 | it involves conduct by the licensee that is subject to
115 | disciplinary action. All patient medical records and any
116 | identifying information contained in adverse incident reports
117 | and treatment outcomes which are obtained by governmental
118 | entities under ~~pursuant to~~ this paragraph are confidential and
119 | exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
120 | of the State Constitution.

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

129 | (e) If emergency care is required, the patient need not be
130 | referred before receiving treatment, but must be referred within
131 | 48 hours after treatment is commenced or within 48 hours after
132 | the patient has the mental capacity to consent to treatment,
133 | whichever occurs later.

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

136 | (g) The provider is subject to supervision and regular
137 | inspection by the governmental contractor.

138 |

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

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

155 | (a) The provider must accept all patients referred by the
 156 | department. However, the number of patients that must be
 157 | accepted may be limited by the contract.

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

161 | (c) The provider shall complete training conducted by the
 162 | department regarding compliance with the approved methods for
 163 | determination and approval of patient eligibility and referral.

164 | (d) The department shall retain review and oversight
 165 | authority of the patient eligibility and referral determination.

166 Section 2. (1) As used in this section, the term "health
 167 care practitioner" means a physician or physician assistant
 168 licensed under chapter 458, Florida Statutes; an osteopathic
 169 physician or physician assistant licensed under chapter 459,
 170 Florida Statutes; a chiropractic physician licensed under
 171 chapter 460, Florida Statutes; a podiatric physician licensed
 172 under chapter 461, Florida Statutes; an advanced registered
 173 nurse practitioner, registered nurse, or licensed practical
 174 nurse licensed under part I of chapter 464, Florida Statutes; a
 175 dentist or dental hygienist licensed under chapter 466, Florida
 176 Statutes; or a midwife licensed under chapter 467, Florida
 177 Statutes, who participates as a health care provider under s.
 178 766.1115, Florida Statutes.

179 (2) Notwithstanding any provision of chapter 458, chapter
 180 459, chapter 460, chapter 461, part I of chapter 464, chapter
 181 466, or chapter 467, Florida Statutes, to the contrary, any
 182 health care practitioner who participates as a health care
 183 provider under s. 766.1115, Florida Statutes, and thereby agrees
 184 with a governmental contractor to provide his or her services
 185 without compensation and as an agent of the governmental
 186 contractor to low-income recipients in accordance with s.
 187 766.1115, Florida Statutes, for at least 80 hours a year for
 188 each year during the biennial licensure period, or, if the
 189 health care practitioner is retired, for at least 400 hours a
 190 year for each year during the licensure period, upon providing
 191 sufficient proof from the applicable governmental contractor
 192 that the health care practitioner has completed the hours at the

193 time of license renewal under procedures specified by the
 194 Department of Health, shall be eligible for:

195 (a) Waiver of the biennial license renewal fee for an
 196 active license; and

197 (b) Fulfillment of a maximum of 25 percent of the
 198 continuing education hours required for license renewal under s.
 199 456.013(9), Florida Statutes.

200 Section 3. Subsections (3) and (4) of section 381.00593,
 201 Florida Statutes, are amended to read:

202 381.00593 Public school volunteer health care practitioner
 203 program.--

204 (3) For purposes of this section, the term "health care
 205 practitioner" means a physician licensed under chapter 458; an
 206 osteopathic physician licensed under chapter 459; a chiropractic
 207 physician licensed under chapter 460; a podiatric physician
 208 licensed under chapter 461; an optometrist licensed under
 209 chapter 463; an advanced registered nurse practitioner,
 210 registered nurse, or licensed practical nurse licensed under
 211 part I of chapter 464; a pharmacist licensed under chapter 465;
 212 a dentist or dental hygienist licensed under chapter 466; a
 213 midwife licensed under chapter 467; a speech-language
 214 pathologist or audiologist licensed under part I of chapter 468;
 215 a dietitian/nutritionist licensed under part X of chapter 468;
 216 or a physical therapist licensed under chapter 486.

217 (4)(a) Notwithstanding any provision of chapter 458,
 218 chapter 459, chapter 460, chapter 461, chapter 463, part I of
 219 chapter 464, chapter 465, chapter 466, chapter 467, parts ~~part~~ I
 220 and X of chapter 468, or chapter 486 to the contrary, any health

221 care practitioner who participates in the program established in
 222 this section and thereby agrees to provide his or her services,
 223 without compensation, in a public school for at least 80 hours a
 224 year for each school year during the biennial licensure period,
 225 or, if the health care practitioner is retired, for at least 400
 226 hours a year for each school year during the licensure period,
 227 upon providing sufficient proof from the applicable school
 228 district that the health care practitioner has completed such
 229 hours at the time of license renewal under procedures specified
 230 by the Department of Health, shall be eligible for the
 231 following:

232 1. Waiver of the biennial license renewal fee for an
 233 active license; and

234 2. Fulfillment of a maximum of 25 percent of the
 235 continuing education hours required for license renewal under
 236 ~~pursuant to~~ s. 456.013(9).

237
 238 The school district may establish a schedule for health care
 239 practitioners who participate in the program.

240 (b) A health care practitioner must complete all forms and
 241 procedures for participation in the program prior to the
 242 applicable license renewal date.

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