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HB 1121, Engrossed 1

2004 Legislature

A bill to be entitled

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

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

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

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

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

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

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

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

1. A birth center licensed under chapter 383.
2. An ambulatory surgical center licensed under chapter 395.
3. A hospital licensed under chapter 395.
4. A physician or physician assistant licensed under chapter 458.
5. An osteopathic physician or osteopathic physician assistant licensed under chapter 459.
6. A chiropractic physician licensed under chapter 460.
7. A podiatric physician licensed under chapter 461.
8. A registered nurse, nurse midwife, licensed practical nurse, or advanced registered nurse practitioner licensed or registered under part I of chapter 464 or any facility which employs nurses licensed or registered under part I of chapter 464 to supply all or part of the care delivered under this section.

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9. A midwife licensed under chapter 467.
10. A health maintenance organization certificated under part I of chapter 641.
11. A health care professional association and its employees or a corporate medical group and its employees.
12. Any other medical facility the primary purpose of which is to deliver human medical diagnostic services or which delivers nonsurgical human medical treatment, and which includes an office maintained by a provider.
13. A dentist or dental hygienist licensed under chapter 466.
14. A free clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income recipients.
- ~~15.~~<sup>14.</sup> Any other health care professional, practitioner, provider, or facility under contract with a governmental contractor, including a student enrolled in an accredited program that prepares the student for licensure as any one of the professionals listed in subparagraphs 4.-9.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

381.00593 Public school volunteer health care practitioner program.--

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

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



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

1. Waiver of the biennial license renewal fee for an active license; and
2. Fulfillment of a maximum of 25 percent of the continuing education hours required for license renewal under ~~pursuant to~~ s. 456.013(9).

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

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

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