

By the Committee on Health, Aging, and Long-Term Care; and  
Senator Saunders

317-1973-04

1                                   A bill to be entitled

2           An act relating to health care providers;

3           amending s. 766.1115, F.S.; revising a

4           definition for purposes of the Access to Health

5           Care Act to provide that a contract with a

6           health care provider to serve low-income

7           patients requires the provider to deliver the

8           services without compensation and prohibits the

9           health care provider from billing any

10          third-party payor for any services rendered to

11          low-income patients; redefining the term

12          "health care provider" to include certain

13          free-clinics; requiring the Department of

14          Health to adopt rules to establish procedures

15          for patient referral and eligibility for use by

16          governmental contractors; defining the term

17          "health care practitioner"; providing for

18          waiver of biennial license renewal fees and

19          fulfillment of a portion of continuing

20          education hours for specified health care

21          practitioners who provide services, without

22          compensation, to low-income recipients as an

23          agent of governmental contractors; amending s.

24          381.00593, F.S.; providing that for purposes of

25          the public school volunteer health care

26          practitioner program, a licensed

27          dietitian/nutritionist is a health care

28          practitioner; providing an effective date.

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

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1           Section 1. Subsections (3), (4), and (10) of section  
2 766.1115, Florida Statutes, are amended to read:

3           766.1115 Health care providers; creation of agency  
4 relationship with governmental contractors.--

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

6           (a) "Contract" means an agreement executed in  
7 compliance with this section between a health care provider  
8 and a governmental contractor. This contract shall allow the  
9 health care provider to deliver health care services to  
10 low-income recipients as an agent of the governmental  
11 contractor. The contract must be for volunteer, uncompensated  
12 services. For a service to qualify as a volunteer,  
13 uncompensated service under this section, the health care  
14 provider may not receive any compensation from the  
15 governmental contractor for any service rendered under the  
16 contract and may not bill or accept any compensation from the  
17 recipient, or any public or private third-party payor, for the  
18 specific service rendered to the low-income recipient covered  
19 by the contract.

20           (b) "Department" means the Department of Health.

21           (c) "Governmental contractor" means the department,  
22 county health departments, a special taxing district with  
23 health care responsibilities, or a hospital owned and operated  
24 by a governmental entity.

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

- 26           1. A birth center licensed under chapter 383.  
27           2. An ambulatory surgical center licensed under  
28 chapter 395.  
29           3. A hospital licensed under chapter 395.  
30           4. A physician or physician assistant licensed under  
31 chapter 458.

- 1           5. An osteopathic physician or osteopathic physician  
2 assistant licensed under chapter 459.
- 3           6. A chiropractic physician licensed under chapter  
4 460.
- 5           7. A podiatric physician licensed under chapter 461.
- 6           8. A registered nurse, nurse midwife, licensed  
7 practical nurse, or advanced registered nurse practitioner  
8 licensed or registered under part I of chapter 464 or any  
9 facility which employs nurses licensed or registered under  
10 part I of chapter 464 to supply all or part of the care  
11 delivered under this section.
- 12          9. A midwife licensed under chapter 467.
- 13          10. A health maintenance organization certificated  
14 under part I of chapter 641.
- 15          11. A health care professional association and its  
16 employees or a corporate medical group and its employees.
- 17          12. Any other medical facility the primary purpose of  
18 which is to deliver human medical diagnostic services or which  
19 delivers nonsurgical human medical treatment, and which  
20 includes an office maintained by a provider.
- 21          13. A dentist or dental hygienist licensed under  
22 chapter 466.
- 23          14. A free clinic that delivers only medical  
24 diagnostic services or nonsurgical medical treatment free of  
25 charge to all low-income recipients.
- 26          ~~15.14.~~ Any other health care professional,  
27 practitioner, provider, or facility under contract with a  
28 governmental contractor, including a student enrolled in an  
29 accredited program that prepares the student for licensure as  
30 any one of the professionals listed in subparagraphs 4.-9.  
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1 The term includes any nonprofit corporation qualified as  
2 exempt from federal income taxation under s. 501(a) of the  
3 Internal Revenue Code and described in s. 501(c) of the  
4 Internal Revenue Code which delivers health care services  
5 provided by licensed professionals listed in this paragraph,  
6 any federally funded community health center, and any  
7 volunteer corporation or volunteer health care provider that  
8 delivers health care services.

9 (e) "Low-income" means:

10 1. A person who is Medicaid-eligible under Florida  
11 law;

12 2. A person who is without health insurance and whose  
13 family income does not exceed 150 percent of the federal  
14 poverty level as defined annually by the federal Office of  
15 Management and Budget; or

16 3. Any client of the department who voluntarily  
17 chooses to participate in a program offered or approved by the  
18 department and meets the program eligibility guidelines of the  
19 department.

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

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1 ~~pursuant to~~ contracts entered into under this section. The  
2 contract must provide that:  
3 (a) The right of dismissal or termination of any  
4 health care provider delivering services under ~~pursuant to~~ the  
5 contract is retained by the governmental contractor.  
6 (b) The governmental contractor has access to the  
7 patient records of any health care provider delivering  
8 services under ~~pursuant to~~ the contract.  
9 (c) Adverse incidents and information on treatment  
10 outcomes must be reported by any health care provider to the  
11 governmental contractor if the ~~such~~ incidents and information  
12 pertain to a patient treated under ~~pursuant to~~ the contract.  
13 The health care provider shall submit the reports required by  
14 s. 395.0197. If an incident involves a professional licensed  
15 by the Department of Health or a facility licensed by the  
16 Agency for Health Care Administration, the governmental  
17 contractor shall submit such incident reports to the  
18 appropriate department or agency, which shall review each  
19 incident and determine whether it involves conduct by the  
20 licensee that is subject to disciplinary action. All patient  
21 medical records and any identifying information contained in  
22 adverse incident reports and treatment outcomes which are  
23 obtained by governmental entities under ~~pursuant to~~ this  
24 paragraph are confidential and exempt from the provisions of  
25 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.  
26 (d) Patient selection and initial referral must be  
27 made solely by the governmental contractor, and the provider  
28 must accept all referred patients. However, the number of  
29 patients that must be accepted may be limited by the contract,  
30 and patients may not be transferred to the provider based on a  
31 violation of the antidumping provisions of the Omnibus Budget

1 Reconciliation Act of 1989, the Omnibus Budget Reconciliation  
2 Act of 1990, or chapter 395.

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

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

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

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

17 (10) RULES.--The department shall adopt rules to  
18 administer this section in a manner consistent with its  
19 purpose to provide and facilitate access to appropriate, safe,  
20 and cost-effective health care services and to maintain health  
21 care quality. The rules may include services to be provided  
22 and authorized procedures. The department shall adopt rules to  
23 administer procedures to be used by a governmental contractor  
24 for patient referral and eligibility, including the  
25 designation of allowable methods for determination and  
26 approval of eligibility performed by the governmental  
27 contractor.

28 Section 2. (1) As used in this section, the term  
29 "health care practitioner" means a physician or physician  
30 assistant licensed under chapter 458, Florida Statutes; an  
31 osteopathic physician or physician assistant licensed under

1 chapter 459, Florida Statutes; a chiropractic physician  
2 licensed under chapter 460, a podiatric physician licensed  
3 under chapter 461, Florida Statutes; an advanced registered  
4 nurse practitioner, registered nurse, or licensed practical  
5 nurse licensed under part I of chapter 464, Florida Statutes;  
6 a dentist or dental hygienist licensed under chapter 466,  
7 Florida Statutes; or a midwife licensed under chapter 467,  
8 Florida Statutes, who participates as a health care provider  
9 under section 766.1115, Florida Statutes.

10 (2) Notwithstanding chapter 458, chapter 459, chapter  
11 460, chapter 461, part I of chapter 464, chapter 466, or  
12 chapter 467, Florida Statutes, to the contrary, any health  
13 care practitioner who participates as a health care provider  
14 under section 766.1115, Florida Statutes, and thereby agrees  
15 with a governmental contractor to provide his or her services  
16 without compensation and as an agent of the governmental  
17 contractor to low-income recipients in accordance with section  
18 766.1115, Florida Statutes, for at least 80 hours a year for  
19 each year during the biennial licensure period, or, if the  
20 health care practitioner is retired, for at least 400 hours a  
21 year for each year during the licensure period, upon providing  
22 sufficient proof from the applicable governmental contractor  
23 that the health care practitioner has completed the hours at  
24 the time of license renewal under procedures specified by the  
25 Department of Health, shall be eligible for:

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

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

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1           Section 3. Subsections (3) and (4) of section  
2 381.00593, Florida Statutes, are amended to read:

3           381.00593 Public school volunteer health care  
4 practitioner program.--

5           (3) For purposes of this section, the term "health  
6 care practitioner" means a physician licensed under chapter  
7 458; an osteopathic physician licensed under chapter 459; a  
8 chiropractic physician licensed under chapter 460; a podiatric  
9 physician licensed under chapter 461; an optometrist licensed  
10 under chapter 463; an advanced registered nurse practitioner,  
11 registered nurse, or licensed practical nurse licensed under  
12 part I of chapter 464; a pharmacist licensed under chapter  
13 465; a dentist or dental hygienist licensed under chapter 466;  
14 a midwife licensed under chapter 467; a speech-language  
15 pathologist or audiologist licensed under part I of chapter  
16 468; a dietitian/nutritionist licensed under part X of chapter  
17 468; or a physical therapist licensed under chapter 486.

18           (4)(a) Notwithstanding any provision of chapter 458,  
19 chapter 459, chapter 460, chapter 461, chapter 463, part I of  
20 chapter 464, chapter 465, chapter 466, chapter 467, parts part  
21 I and X of chapter 468, or chapter 486 to the contrary, any  
22 health care practitioner who participates in the program  
23 established in this section and thereby agrees to provide his  
24 or her services, without compensation, in a public school for  
25 at least 80 hours a year for each school year during the  
26 biennial licensure period, or, if the health care practitioner  
27 is retired, for at least 400 hours a year for each school year  
28 during the licensure period, upon providing sufficient proof  
29 from the applicable school district that the health care  
30 practitioner has completed such hours at the time of license  
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1 renewal under procedures specified by the Department of  
2 Health, shall be eligible for the following:

3 1. Waiver of the biennial license renewal fee for an  
4 active license; and

5 2. Fulfillment of a maximum of 25 percent of the  
6 continuing education hours required for license renewal,  
7 pursuant to s. 456.013(9).

8  
9 The school district may establish a schedule for health care  
10 practitioners who participate in the program.

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

14 Section 4. This act shall take effect July 1, 2004.

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16 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
17 COMMITTEE SUBSTITUTE FOR  
18 Senate Bill 1374

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20 The committee substitute revises the definition of "contract"  
21 under the Access to Health Care Act to provide that for a  
22 service to qualify as a volunteer, uncompensated service, the  
23 health care provider may not receive any compensation from the  
24 governmental contractor for any service rendered to low-income  
25 persons and the provider may not bill or accept any  
26 compensation from the recipient or any third-party payor for  
27 services rendered under the contract. The definition of  
28 "health care provider" is revised to include a "free clinic"  
29 that delivers only medical diagnostic services or nonsurgical  
30 medical treatment free of charge to all low-income recipients.  
31 The bill requires the Department of Health to adopt rules to  
administer procedures to be used by a governmental contractor  
for patient referral and eligibility.

27 The committee substitute amends the "Public School Volunteer  
28 Health Care Practitioner Act," to add Florida-licensed  
29 dietitians/nutritionists to the list of health care  
30 practitioners who may participate in the volunteer program.