

By Senator Hays

11-00184C-13

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1                                   A bill to be entitled  
2       An act relating to sovereign immunity for dentists and  
3       dental hygienists; amending s. 766.1115, F.S.;  
4       revising a definition; defining the term  
5       "uncompensated services" as it relates to the  
6       liability of health care providers licensed under ch.  
7       466, F.S., who are agents of governmental contractors;  
8       providing that the contribution to the dental  
9       laboratory expenses associated with the care of a  
10      patient is not considered compensation for the  
11      services; requiring a contract with a governmental  
12      contractor for health care services to include a  
13      provision for a health care provider licensed under  
14      ch. 466, F.S., as an agent of the governmental  
15      contractor, to allow a patient or a parent or guardian  
16      of the patient to voluntarily contribute a fee to  
17      cover costs of dental laboratory work related to the  
18      services provided to the patient without forfeiting  
19      sovereign immunity; prohibiting the contribution from  
20      exceeding the actual amount of the dental laboratory  
21      charges; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25       Section 1. Paragraph (a) of subsection (3) of section  
26       766.1115, Florida Statutes, is amended, paragraph (f) is added  
27       to that subsection, and paragraph (h) is added to subsection (4)  
28       of that section, to read:

29       766.1115 Health care providers; creation of agency

11-00184C-13

20131016

30 relationship with governmental contractors.-

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

32 (a) "Contract" means an agreement executed in compliance  
33 with this section between a health care provider and a  
34 governmental contractor which allows. ~~This contract shall allow~~  
35 the health care provider to deliver health care services to low-  
36 income recipients as an agent of the governmental contractor.  
37 The contract must be for volunteer, uncompensated services. For  
38 services to qualify as volunteer, uncompensated services under  
39 this section, the health care provider must receive no  
40 compensation from the governmental contractor for ~~any~~ services  
41 provided under the contract and must not bill or accept  
42 compensation from the recipient, or a ~~any~~ public or private  
43 third-party payor, for the specific services provided to the  
44 low-income recipients covered by the contract.

45 (f) "Uncompensated services" means services voluntarily  
46 provided under a contract in which a health care provider  
47 licensed under chapter 466 does not receive compensation from  
48 the governmental contractor and may not bill or accept  
49 compensation from the recipient or any public or private third-  
50 party payor for the specific services provided to a low-income  
51 recipient covered by the contract. If a patient or a parent or  
52 guardian of the patient chooses to contribute to the dental  
53 laboratory expenses associated with the care of the patient,  
54 this contribution is not considered compensation for the  
55 services.

56 (4) CONTRACT REQUIREMENTS.-A health care provider that  
57 executes a contract with a governmental contractor to deliver  
58 health care services on or after April 17, 1992, as an agent of

11-00184C-13

20131016\_\_

59 the governmental contractor is an agent for purposes of s.  
60 768.28(9), while acting within the scope of duties under the  
61 contract, if the contract complies with the requirements of this  
62 section and regardless of whether the individual treated is  
63 later found to be ineligible. A health care provider under  
64 contract with the state may not be named as a defendant in any  
65 action arising out of medical care or treatment provided on or  
66 after April 17, 1992, under contracts entered into under this  
67 section. The contract must provide that:

68 (h) As an agent of the governmental contractor for purposes  
69 of s. 768.28(9), while acting within the scope of duties under  
70 the contract, a health care provider licensed under chapter 466  
71 may allow a patient or a parent or guardian of the patient to  
72 voluntarily contribute a fee to cover costs of dental laboratory  
73 work related to the services provided to the patient. This  
74 contribution may not exceed the actual cost of the dental  
75 laboratory charges.

76  
77 A governmental contractor that is also a health care provider is  
78 not required to enter into a contract under this section with  
79 respect to the health care services delivered by its employees.

80 Section 2. This act shall take effect July 1, 2013.