



LEGISLATIVE ACTION

Senate	.	House
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Senator Richter moved the following:

**Senate Amendment (with title amendment)**

Between lines 3831 and 3832  
insert:

Section 86. Subsection (4) of section 766.1115, Florida Statutes, is amended to read:

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

(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 the



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14 contract, if the contract complies with the requirements of this  
15 section and regardless of whether the individual treated is  
16 later found to be ineligible. A health care provider continues  
17 to be an agent for purposes of s. 768.28(9) for up to 30 days  
18 after an individual is determined to be ineligible for health  
19 care services to allow for the uninterrupted completion of the  
20 individual's course of treatment by the health care provider  
21 while the individual transitions to the care of another. A  
22 health care provider under contract with the state may not be  
23 named as a defendant in any action arising out of medical care  
24 or treatment provided on or after April 17, 1992, under  
25 contracts entered into under this section. The contract must  
26 provide that:

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

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

33 (c) Adverse incidents and information on treatment outcomes  
34 must be reported by any health care provider to the governmental  
35 contractor if the incidents and information pertain to a patient  
36 treated under the contract. The health care provider shall  
37 submit the reports required by s. 395.0197. If an incident  
38 involves a professional licensed by the Department of Health or  
39 a facility licensed by the Agency for Health Care  
40 Administration, the governmental contractor shall submit such  
41 incident reports to the appropriate department or agency, which  
42 shall review each incident and determine whether it involves



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43 conduct by the licensee that is subject to disciplinary action.  
44 All patient medical records and any identifying information  
45 contained in adverse incident reports and treatment outcomes  
46 which are obtained by governmental entities under this paragraph  
47 are confidential and exempt from the provisions of s. 119.07(1)  
48 and s. 24(a), Art. I of the State Constitution.

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

57 (e) If emergency care is required, the patient need not be  
58 referred before receiving treatment, but must be referred within  
59 48 hours after treatment is commenced or within 48 hours after  
60 the patient has the mental capacity to consent to treatment,  
61 whichever occurs later.

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

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

66  
67 A governmental contractor that is also a health care provider is  
68 not required to enter into a contract under this section with  
69 respect to the health care services delivered by its employees.

70  
71 ===== T I T L E A M E N D M E N T =====



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72 And the title is amended as follows:  
73       Delete line 354  
74 and insert:  
75       conform to changes made by the act; amending s.  
76       766.1115, F.S.; providing that certain health care  
77       providers are an agent of the state for sovereign  
78       immunity purposes during a specified period after a  
79       patient is deemed ineligible for indigent care to  
80       allow for the uninterrupted completion of a course of  
81       treatment; creating s.