



213236

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/23/2015	.	
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The Committee on Appropriations (Grimsley) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 232 and 233

insert:

Section 8. Section 296.42, Florida Statutes, is created to read:

296.42 Site selection process for state veterans' nursing homes.-

(1) The department shall contract for a study to determine the need for new state veterans' nursing homes and the most



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11 appropriate counties in which to locate the homes based on the  
12 greatest level of need. The department shall submit the study to  
13 the Governor, the President of the Senate, and the Speaker of  
14 the House of Representatives by November 1, 2015.

15 (2) The study shall use the following criteria to rank each  
16 county according to need:

17 (a) The distance from the geographic center of the county  
18 to the nearest existing state veterans' nursing home.

19 (b) The number of veterans age 65 years or older residing  
20 in the county.

21 (c) The presence of an existing federal Veterans' Health  
22 Administration medical center or outpatient clinic in the  
23 county.

24 (d) Elements of emergency health care in the county, as  
25 determined by:

26 1. The number of general hospitals.

27 2. The number of emergency room holding beds per hospital.

28 The term "emergency room holding bed" means a bed located in the  
29 emergency room of a hospital licensed under ch. 395 which is  
30 used for a patient admitted to the hospital through the  
31 emergency room, but is waiting for an available bed in an  
32 inpatient unit of the hospital.

33 3. The number of employed physicians per hospital in the  
34 emergency room 24 hours per day.

35 (e) The number of existing community nursing home beds per  
36 1,000 males age 65 years or older residing in the county.

37 (f) The presence of an accredited educational institution  
38 offering health care programs in the county.

39 (g) The county poverty rate.



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40 (3) For each new nursing home, the department shall select  
41 the highest-ranked county in the applicable study under this  
42 section which does not have a veterans' nursing home. If the  
43 highest-ranked county cannot serve as the site, the department  
44 shall select the next-highest ranked county. The selection is  
45 subject to the approval of the Governor and Cabinet.

46 (4) The department shall use the 2014 site selection study  
47 to select a county for any new state veterans' nursing home  
48 authorized before November 1, 2015.

49 (5) The department shall use the November 2015 site  
50 selection study ranking to select each new state veterans'  
51 nursing home site authorized before July 1, 2020.

52 (6) The department shall contract for and submit a new site  
53 selection study to the Governor, the President of the Senate,  
54 and the Speaker of the House of Representatives using the county  
55 ranking criteria in paragraph (3) by November 1, 2019 for site  
56 selections on or after July 1, 2020. The department must conduct  
57 new site selection studies every 4 years using the county  
58 ranking criteria under paragraph (3) with each report due by  
59 November 1st for the selection period that begins the following  
60 July 1st.

61 Section 9. Section 624.27, Florida Statutes, is created to  
62 read:

63 624.27 Application of code as to direct primary care  
64 agreements.-

65 (1) As used in this section, the term:

66 (a) "Direct primary care agreement" means a contract  
67 between a primary care provider or primary care group practice  
68 and a patient, the patient's legal representative, or an



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69 employer which must satisfy the criteria in subsection (4) and  
70 does not indemnify for services provided by a third party.

71 (b) "Primary care provider" means a health care provider  
72 licensed under chapter 458, chapter 459, or chapter 464 who  
73 provides medical services to patients which are commonly  
74 provided without referral from another health care provider.

75 (c) "Primary care service" means the screening, assessment,  
76 diagnosis, and treatment of a patient for the purpose of  
77 promoting health or detecting and managing disease or injury  
78 within the competency and training of the primary care provider.

79 (2) A direct primary care agreement does not constitute  
80 insurance and is not subject to this code. The act of entering  
81 into a direct primary care agreement does not constitute the  
82 business of insurance and is not subject to this code.

83 (3) A primary care provider or an agent of a primary care  
84 provider is not required to obtain a certificate of authority or  
85 license under this code to market, sell, or offer to sell a  
86 direct primary care agreement.

87 (4) For purposes of this section, a direct primary care  
88 agreement must:

89 (a) Be in writing.

90 (b) Be signed by the primary care provider or an agent of  
91 the primary care provider and the patient or the patient's legal  
92 representative.

93 (c) Allow a party to terminate the agreement by written  
94 notice to the other party after a period specified in the  
95 agreement.

96 (d) Describe the scope of the primary care services that  
97 are covered by the monthly fee.



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98           (e) Specify the monthly fee and any fees for primary care  
99 services not covered by the monthly fee.

100           (f) Specify the duration of the agreement and any automatic  
101 renewal provisions.

102           (g) Offer a refund to the patient of monthly fees paid in  
103 advance if the primary care provider ceases to offer primary  
104 care services for any reason.

105           (h) State that the agreement is not health insurance.

106           Section 10. Paragraphs (a) and (d) of subsection (3) and  
107 subsections (4) and (5) of section 766.1115, Florida Statutes,  
108 are amended to read:

109           766.1115 Health care providers; creation of agency  
110 relationship with governmental contractors.—

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

112           (a) "Contract" means an agreement executed in compliance  
113 with this section between a health care provider and a  
114 governmental contractor which allows the health care provider,  
115 or any employee or agent of the health care provider, to deliver  
116 health care services to low-income recipients as an agent of the  
117 governmental contractor. The contract must be for volunteer,  
118 uncompensated services, ~~except as provided in paragraph (4)(g).~~  
119 For services to qualify as volunteer, uncompensated services  
120 under this section, the health care provider must receive no  
121 compensation from the governmental contractor for any services  
122 provided under the contract and must not bill or accept  
123 compensation from the recipient, or a public or private third-  
124 party payor, for the specific services provided to the low-  
125 income recipients covered by the contract except as provided in  
126 paragraph (4)(g). A free clinic as described in subparagraph



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127 (3) (d) 14. may receive a legislative appropriation, a grant  
128 through a legislative appropriation, or a grant from a  
129 governmental entity or nonprofit corporation to support the  
130 delivery of such contracted services by volunteer health care  
131 providers, including the employment of health care providers to  
132 supplement, coordinate, or support the delivery of services by  
133 volunteer health care providers. Such an appropriation or grant  
134 does not constitute compensation under this paragraph from the  
135 governmental contractor for services provided under the  
136 contract, nor does receipt and use of the appropriation or grant  
137 constitute the acceptance of compensation under this paragraph  
138 for the specific services provided to the low-income recipients  
139 covered by the contract.

- 140 (d) "Health care provider" or "provider" means:
- 141 1. A birth center licensed under chapter 383.
  - 142 2. An ambulatory surgical center licensed under chapter  
143 395.
  - 144 3. A hospital licensed under chapter 395.
  - 145 4. A physician or physician assistant licensed under  
146 chapter 458.
  - 147 5. An osteopathic physician or osteopathic physician  
148 assistant licensed under chapter 459.
  - 149 6. A chiropractic physician licensed under chapter 460.
  - 150 7. A podiatric physician licensed under chapter 461.
  - 151 8. A registered nurse, nurse midwife, licensed practical  
152 nurse, or advanced registered nurse practitioner licensed or  
153 registered under part I of chapter 464 or any facility which  
154 employs nurses licensed or registered under part I of chapter  
155 464 to supply all or part of the care delivered under this



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156 section.  
157       9. A midwife licensed under chapter 467.  
158       10. A health maintenance organization certificated under  
159 part I of chapter 641.  
160       11. A health care professional association ~~and its~~  
161 ~~employees~~ or a corporate medical group ~~and its employees~~.  
162       12. Any other medical facility the primary purpose of which  
163 is to deliver human medical diagnostic services or which  
164 delivers nonsurgical human medical treatment, and which includes  
165 an office maintained by a provider.  
166       13. A dentist or dental hygienist licensed under chapter  
167 466.  
168       14. A free clinic that delivers only medical diagnostic  
169 services or nonsurgical medical treatment free of charge to all  
170 low-income recipients.  
171       15. Any other health care professional, practitioner,  
172 provider, or facility under contract with a governmental  
173 contractor, including a student enrolled in an accredited  
174 program that prepares the student for licensure as any one of  
175 the professionals listed in subparagraphs 4.-9.  
176  
177 The term includes any nonprofit corporation qualified as exempt  
178 from federal income taxation under s. 501(a) of the Internal  
179 Revenue Code, and described in s. 501(c) of the Internal Revenue  
180 Code, which delivers health care services provided by licensed  
181 professionals listed in this paragraph, any federally funded  
182 community health center, and any volunteer corporation or  
183 volunteer health care provider that delivers health care  
184 services.



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185           (4) CONTRACT REQUIREMENTS.—A health care provider that  
186 executes a contract with a governmental contractor to deliver  
187 health care services ~~on or after April 17, 1992,~~ as an agent of  
188 the governmental contractor, or any employee or agent of such  
189 health care provider, is an agent for purposes of s. 768.28(9),  
190 while acting within the scope of duties under the contract, if  
191 the contract complies with the requirements of this section and  
192 regardless of whether the individual treated is later found to  
193 be ineligible. A health care provider, or any employee or agent  
194 of such health care provider, shall continue to be an agent for  
195 purposes of s. 768.28(9) for 30 days after a determination of  
196 ineligibility to allow for treatment until the individual  
197 transitions to treatment by another health care provider. A  
198 health care provider under contract with the state, or any  
199 employee or agent of such health care provider, may not be named  
200 as a defendant in any action arising out of medical care or  
201 treatment ~~provided on or after April 17, 1992,~~ under contracts  
202 entered into under this section. The contract must provide that:

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

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

209           (c) Adverse incidents and information on treatment outcomes  
210 must be reported by any health care provider to the governmental  
211 contractor if the incidents and information pertain to a patient  
212 treated under the contract. The health care provider shall  
213 submit the reports required by s. 395.0197. If an incident





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214 involves a professional licensed by the Department of Health or  
215 a facility licensed by the Agency for Health Care  
216 Administration, the governmental contractor shall submit such  
217 incident reports to the appropriate department or agency, which  
218 shall review each incident and determine whether it involves  
219 conduct by the licensee that is subject to disciplinary action.  
220 All patient medical records and any identifying information  
221 contained in adverse incident reports and treatment outcomes  
222 which are obtained by governmental entities under this paragraph  
223 are confidential and exempt from the provisions of s. 119.07(1)  
224 and s. 24(a), Art. I of the State Constitution.

225 (d) Patient selection and initial referral must be made by  
226 the governmental contractor or the provider. Patients may not be  
227 transferred to the provider based on a violation of the  
228 antidumping provisions of the Omnibus Budget Reconciliation Act  
229 of 1989, the Omnibus Budget Reconciliation Act of 1990, or  
230 chapter 395.

231 (e) If emergency care is required, the patient need not be  
232 referred before receiving treatment, but must be referred within  
233 48 hours after treatment is commenced or within 48 hours after  
234 the patient has the mental capacity to consent to treatment,  
235 whichever occurs later.

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

238 ~~(g) As an agent of the governmental contractor for purposes~~  
239 ~~of s. 768.28(9), while acting within the scope of duties under~~  
240 ~~the contract,~~ A health care provider licensed under chapter 466,  
241 as an agent of the governmental contractor for purposes of  
242 s.768.28(9), may allow a patient, or a parent or guardian of the



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243 patient, to voluntarily contribute a monetary amount to cover  
244 costs of dental laboratory work related to the services provided  
245 to the patient within the scope of duties under the contract.  
246 This contribution may not exceed the actual cost of the dental  
247 laboratory charges.

248  
249 A governmental contractor that is also a health care provider is  
250 not required to enter into a contract under this section with  
251 respect to the health care services delivered by its employees.

252 (5) NOTICE OF AGENCY RELATIONSHIP.—The governmental  
253 contractor must provide written notice to each patient, or the  
254 patient's legal representative, receipt of which must be  
255 acknowledged in writing at the initial visit, that the provider  
256 is an agent of the governmental contractor and that the  
257 exclusive remedy for injury or damage suffered as the result of  
258 any act or omission of the provider or of any employee or agent  
259 thereof acting within the scope of duties pursuant to the  
260 contract is by commencement of an action pursuant to the  
261 ~~provisions of s. 768.28. Thereafter, and with respect to any~~  
262 ~~federally funded community health center, the notice~~  
263 ~~requirements may be met by posting in a place conspicuous to all~~  
264 ~~persons a notice that the health care provider ~~federally funded~~~~  
265 ~~community health center~~ is an agent of the governmental  
266 contractor and that the exclusive remedy for injury or damage  
267 suffered as the result of any act or omission of the provider or  
268 of any employee or agent thereof acting within the scope of  
269 duties pursuant to the contract is by commencement of an action  
270 pursuant to ~~the provisions of s. 768.28.~~

271 Section 11. Paragraph (b) of subsection (9) of section



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272 768.28, Florida Statutes, is amended to read:

273 768.28 Waiver of sovereign immunity in tort actions;  
274 recovery limits; limitation on attorney fees; statute of  
275 limitations; exclusions; indemnification; risk management  
276 programs.-

277 (9)

278 (b) As used in this subsection, the term:

279 1. "Employee" includes any volunteer firefighter.

280 2. "Officer, employee, or agent" includes, but is not  
281 limited to, any health care provider, and its employees or  
282 agents, when providing services pursuant to s. 766.1115; any  
283 nonprofit independent college or university located and  
284 chartered in this state which owns or operates an accredited  
285 medical school, and its employees or agents, when providing  
286 patient services pursuant to paragraph (10)(f); and any public  
287 defender or her or his employee or agent, including, among  
288 others, an assistant public defender and an investigator.

289  
290 ===== T I T L E A M E N D M E N T =====

291 And the title is amended as follows:

292 Delete lines 2 - 24

293 and insert:

294 An act relating to the access to health care services;  
295 amending ss. 458.347 and 459.022, F.S.; revising the  
296 authority of a licensed physician assistant to order  
297 medication under the direction of a supervisory  
298 physician for a specified patient; amending s.  
299 464.012, F.S.; authorizing an advanced registered  
300 nurse practitioner to order medication for



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301 administration to a specified patient; amending s.  
302 465.003, F.S.; revising the term "prescription" to  
303 exclude an order for drugs or medicinal supplies by a  
304 licensed practitioner that is dispensed for certain  
305 administration; amending s. 893.02, F.S.; revising the  
306 term "administer" to include the term  
307 "administration"; revising the term "prescription" to  
308 exclude an order for drugs or medicinal supplies by a  
309 licensed practitioner that is dispensed for certain  
310 administration; amending s. 893.04, F.S.; conforming  
311 provisions to changes made by act; amending s. 893.05,  
312 F.S.; authorizing a licensed practitioner to authorize  
313 a licensed physician assistant or advanced registered  
314 nurse practitioner to order controlled substances for  
315 a specified patient under certain circumstances;  
316 creating s. 296.42, F.S.; directing the Department of  
317 Veterans' Affairs to contract for a study to determine  
318 the need and location for additional state veterans'  
319 nursing homes; directing the department to submit the  
320 study to the Governor and Legislature; providing study  
321 criteria for ranking each county according to need;  
322 providing site selection criteria; requiring approval  
323 of the Governor and Cabinet for site selection;  
324 requiring the department to use specified studies to  
325 select new nursing home sites; directing the  
326 department to contract for subsequent studies and  
327 submit the studies to the Governor and Legislature;  
328 creating s. 624.27, F.S.; providing definitions;  
329 specifying that a direct primary care agreement does



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330 not constitute insurance and is not subject to the  
331 Florida Insurance Code; specifying that entering into  
332 a direct primary care agreement does not constitute  
333 the business of insurance and is not subject to the  
334 code; providing that a health care provider is not  
335 required to obtain a certificate of authority to  
336 market, sell, or offer to sell a direct primary care  
337 agreement; specifying criteria for a direct primary  
338 care agreement; amending s. 766.1115, F.S.; redefining  
339 terms relating to agency relationships with  
340 governmental health care contractors; deleting an  
341 obsolete date; extending sovereign immunity to  
342 employees or agents of a health care provider that  
343 executes a contract with a governmental contractor;  
344 clarifying that a receipt of specified notice must be  
345 acknowledged by a patient or the patient's  
346 representative at the initial visit; requiring the  
347 posting of notice that a specified health care  
348 provider is an agent of a governmental contractor;  
349 amending s. 768.28, F.S.; redefining the term  
350 "officer, employee, or agent" to include employees or  
351 agents of a health care provider;