

By the Committee on Health Policy

588-03635-15

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1 A bill to be entitled
2 An act relating to quality health care services;
3 creating s. 624.27, F.S.; providing definitions;
4 specifying that a direct primary care agreement does
5 not constitute insurance and is not subject to the
6 Florida Insurance Code; specifying that entering into
7 a direct primary care agreement does not constitute
8 the business of insurance and is not subject to the
9 code; providing that a health care provider is not
10 required to obtain a certificate of authority to
11 market, sell, or offer to sell a direct primary care
12 agreement; specifying criteria for a direct primary
13 care agreement; amending s. 288.0001, F.S.; requiring
14 an analysis of medical tourism for quality health care
15 services in the Economic Development Programs
16 Evaluation; amending s. 288.901, F.S.; requiring
17 Enterprise Florida, Inc., to collaborate with the
18 Department of Economic Opportunity to market this
19 state as a health care destination; amending s.
20 288.923, F.S.; requiring the Division of Tourism
21 Marketing to include in its 4-year plan a discussion
22 of the promotion of medical tourism for quality health
23 care services; creating s. 288.924, F.S.; creating a
24 marketing plan to promote national and international
25 awareness of the qualifications, scope of services,
26 and specialized expertise of health care providers in
27 this state, to promote national and international
28 awareness of certain business opportunities to attract
29 practitioners to destinations in this state, and to

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30 include an initiative to showcase qualified health
31 care providers; specifying qualifications for
32 participating providers; amending s. 766.1115, F.S.;
33 redefining terms relating to agency relationships with
34 governmental health care contractors; deleting an
35 obsolete date; extending sovereign immunity to
36 employees or agents of a health care provider that
37 executes a contract with a governmental contractor;
38 clarifying that a receipt of specified notice must be
39 acknowledged by a patient or the patient's
40 representative at the initial visit; requiring the
41 posting of notice that a specified health care
42 provider is an agent of a governmental contractor;
43 amending s. 768.28, F.S.; redefining the term
44 "officer, employee, or agent" to include employees or
45 agents of a health care provider; providing an
46 effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Section 624.27, Florida Statutes, is created to
51 read:

52 624.27 Application of code as to direct primary care
53 agreements.-

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

55 (a) "Direct primary care agreement" means a contract
56 between a primary care provider or primary care group practice
57 and a patient, the patient's legal representative, or an
58 employer which must satisfy the criteria in subsection (4) and

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59 does not indemnify for services provided by a third party.

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

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

68 (2) A direct primary care agreement does not constitute
69 insurance and is not subject to this code. The act of entering
70 into a direct primary care agreement does not constitute the
71 business of insurance and is not subject to this code.

72 (3) A primary care provider or an agent of a primary care
73 provider is not required to obtain a certificate of authority or
74 license under this code to market, sell, or offer to sell a
75 direct primary care agreement.

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

78 (a) Be in writing.

79 (b) Be signed by the primary care provider or an agent of
80 the primary care provider and the patient or the patient's legal
81 representative.

82 (c) Allow a party to terminate the agreement by written
83 notice to the other party after a period specified in the
84 agreement.

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

87 (e) Specify the monthly fee and any fees for primary care

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88 services not covered by the monthly fee.

89 (f) Specify the duration of the agreement and any automatic
90 renewal provisions.

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

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

95 Section 2. Paragraph (b) of subsection (2) of section
96 288.0001, Florida Statutes, is amended to read:

97 288.0001 Economic Development Programs Evaluation.—The
98 Office of Economic and Demographic Research and the Office of
99 Program Policy Analysis and Government Accountability (OPPAGA)
100 shall develop and present to the Governor, the President of the
101 Senate, the Speaker of the House of Representatives, and the
102 chairs of the legislative appropriations committees the Economic
103 Development Programs Evaluation.

104 (2) The Office of Economic and Demographic Research and
105 OPPAGA shall provide a detailed analysis of economic development
106 programs as provided in the following schedule:

107 (b) By January 1, 2015, and every 3 years thereafter, an
108 analysis of the following:

109 1. The entertainment industry financial incentive program
110 established under s. 288.1254.

111 2. The entertainment industry sales tax exemption program
112 established under s. 288.1258.

113 3. VISIT Florida and its programs established or funded
114 under ss. 288.122, 288.1226, 288.12265, ~~and~~ 288.124, and
115 288.924.

116 4. The Florida Sports Foundation and related programs

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117 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,
118 288.1168, 288.1169, and 288.1171.

119 Section 3. Subsection (2) of section 288.901, Florida
120 Statutes, is amended to read:

121 288.901 Enterprise Florida, Inc.—

122 (2) PURPOSES.—Enterprise Florida, Inc., shall act as the
123 economic development organization for the state, using ~~utilizing~~
124 private sector and public sector expertise in collaboration with
125 the department to:

126 (a) Increase private investment in Florida;

127 (b) Advance international and domestic trade opportunities;

128 (c) Market the state both as a probusiness location for new
129 investment and as an unparalleled tourist destination;

130 (d) Revitalize Florida's space and aerospace industries,
131 and promote emerging complementary industries;

132 (e) Promote opportunities for minority-owned businesses;

133 (f) Assist and market professional and amateur sport teams
134 and sporting events in Florida; ~~and~~

135 (g) Assist, promote, and enhance economic opportunities in
136 this state's rural and urban communities; ~~and~~—

137 (h) Market the state as a health care destination by using
138 the medical tourism initiatives as described in s. 288.924 to
139 promote quality health care services in this state.

140 Section 4. Paragraph (c) of subsection (4) of section
141 288.923, Florida Statutes, is amended to read:

142 288.923 Division of Tourism Marketing; definitions;
143 responsibilities.—

144 (4) The division's responsibilities and duties include, but
145 are not limited to:

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- 146 (c) Developing a 4-year marketing plan.
- 147 1. At a minimum, the marketing plan shall discuss the
- 148 following:
- 149 a. Continuation of overall tourism growth in this state.
- 150 b. Expansion to new or under-represented tourist markets.
- 151 c. Maintenance of traditional and loyal tourist markets.
- 152 d. Coordination of efforts with county destination
- 153 marketing organizations, other local government marketing
- 154 groups, privately owned attractions and destinations, and other
- 155 private sector partners to create a seamless, four-season
- 156 advertising campaign for the state and its regions.
- 157 e. Development of innovative techniques or promotions to
- 158 build repeat visitation by targeted segments of the tourist
- 159 population.
- 160 f. Consideration of innovative sources of state funding for
- 161 tourism marketing.
- 162 g. Promotion of nature-based tourism and heritage tourism.
- 163 h. Promotion of medical tourism for quality health care
- 164 services, as provided under s. 288.924.
- 165 ~~i.h.~~ Development of a component to address emergency
- 166 response to natural and manmade disasters from a marketing
- 167 standpoint.
- 168 2. The plan shall be annual in construction and ongoing in
- 169 nature. Any annual revisions of the plan shall carry forward the
- 170 concepts of the remaining 3-year portion of the plan and
- 171 consider a continuum portion to preserve the 4-year timeframe of
- 172 the plan. The plan also shall include recommendations for
- 173 specific performance standards and measurable outcomes for the
- 174 division and direct-support organization. The department, in

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175 consultation with the board of directors of Enterprise Florida,
176 Inc., shall base the actual performance metrics on these
177 recommendations.

178 3. The 4-year marketing plan shall be developed in
179 collaboration with the Florida Tourism Industry Marketing
180 Corporation. The plan shall be annually reviewed and approved by
181 the board of directors of Enterprise Florida, Inc.

182 Section 5. Section 288.924, Florida Statutes, is created to
183 read:

184 288.924 Medical tourism for quality health care services;
185 medical tourism marketing plan.—The Division of Tourism
186 Marketing shall include within the 4-year marketing plan
187 required under s. 288.923(4) specific initiatives to advance
188 this state as a destination for quality bundled health care
189 services. The plan must:

190 (1) Promote national and international awareness of the
191 qualifications, scope of services, and specialized expertise of
192 health care providers throughout this state;

193 (2) Promote national and international awareness of
194 medical-related conferences, training, or business opportunities
195 to attract practitioners from the medical field to destinations
196 in this state; and

197 (3) Include an initiative that showcases selected,
198 qualified providers offering bundled packages of health care and
199 support services. The selection of providers to be showcased
200 must be conducted through a solicitation of proposals from
201 Florida hospitals and other licensed providers for plans that
202 describe available services, provider qualifications, and
203 special arrangements for food, lodging, transportation, or other

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204 support services and amenities that may be provided to visiting
205 patients and their families. A single health care provider may
206 submit a proposal describing the available health care services
207 offered through a network of multiple providers and explaining
208 support services and other amenities associated with the care.
209 The Florida Tourism Industry Marketing Corporation shall assess
210 the qualifications and credentials of providers submitting
211 proposals. To be qualified for selection, a health care provider
212 must:

213 (a) Have a full, active, and unencumbered Florida license
214 and ensure that all health care providers participating in the
215 proposal have full, active, and unencumbered Florida licenses;

216 (b) Have a current accreditation that is not conditional or
217 provisional from a nationally recognized accrediting body;

218 (c) Be a recipient of the Cancer Center of Excellence
219 Award, as described in s. 381.925, within the recognized 3-year
220 period of the award, or have a current national or international
221 recognition given through a specific qualifying process in
222 another specialty area; and

223 (d) Meet other criteria as determined by the Florida
224 Tourism Industry Marketing Corporation in collaboration with the
225 Agency for Health Care Administration and the Department of
226 Health.

227 Section 6. Paragraphs (a) and (d) of subsection (3) and
228 subsections (4) and (5) of section 766.1115, Florida Statutes,
229 are amended to read:

230 766.1115 Health care providers; creation of agency
231 relationship with governmental contractors.—

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

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233 (a) "Contract" means an agreement executed in compliance
234 with this section between a health care provider and a
235 governmental contractor which allows the health care provider,
236 or any employee or agent of the health care provider, to deliver
237 health care services to low-income recipients as an agent of the
238 governmental contractor. The contract must be for volunteer,
239 ~~uncompensated services, except as provided in paragraph (4) (g).~~
240 For services to qualify as volunteer, uncompensated services
241 under this section, the health care provider must receive no
242 compensation from the governmental contractor for any services
243 provided under the contract and must not bill or accept
244 compensation from the recipient, or a public or private third-
245 party payor, for the specific services provided to the low-
246 income recipients covered by the contract, except as provided in
247 paragraph (4) (g). A free clinic as described in subparagraph
248 (3) (d)14. may receive a legislative appropriation, a grant
249 through a legislative appropriation, or a grant from a
250 governmental entity or nonprofit corporation to support the
251 delivery of such contracted services by volunteer health care
252 providers, including the employment of health care providers to
253 supplement, coordinate, or support the delivery of services by
254 volunteer health care providers. Such an appropriation or grant
255 does not constitute compensation under this paragraph from the
256 governmental contractor for services provided under the
257 contract, nor does receipt and use of the appropriation or grant
258 constitute the acceptance of compensation under this paragraph
259 for the specific services provided to the low-income recipients
260 covered by the contract.

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

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- 262 1. A birth center licensed under chapter 383.
- 263 2. An ambulatory surgical center licensed under chapter
264 395.
- 265 3. A hospital licensed under chapter 395.
- 266 4. A physician or physician assistant licensed under
267 chapter 458.
- 268 5. An osteopathic physician or osteopathic physician
269 assistant licensed under chapter 459.
- 270 6. A chiropractic physician licensed under chapter 460.
- 271 7. A podiatric physician licensed under chapter 461.
- 272 8. A registered nurse, nurse midwife, licensed practical
273 nurse, or advanced registered nurse practitioner licensed or
274 registered under part I of chapter 464 or any facility which
275 employs nurses licensed or registered under part I of chapter
276 464 to supply all or part of the care delivered under this
277 section.
- 278 9. A midwife licensed under chapter 467.
- 279 10. A health maintenance organization certificated under
280 part I of chapter 641.
- 281 11. A health care professional association ~~and its~~
282 ~~employees~~ or a corporate medical group ~~and its employees~~.
- 283 12. Any other medical facility the primary purpose of which
284 is to deliver human medical diagnostic services or which
285 delivers nonsurgical human medical treatment, and which includes
286 an office maintained by a provider.
- 287 13. A dentist or dental hygienist licensed under chapter
288 466.
- 289 14. A free clinic that delivers only medical diagnostic
290 services or nonsurgical medical treatment free of charge to all

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291 low-income recipients.

292 15. Any other health care professional, practitioner,
293 provider, or facility under contract with a governmental
294 contractor, including a student enrolled in an accredited
295 program that prepares the student for licensure as any one of
296 the professionals listed in subparagraphs 4.-9.

297
298 The term includes any nonprofit corporation qualified as exempt
299 from federal income taxation under s. 501(a) of the Internal
300 Revenue Code, and described in s. 501(c) of the Internal Revenue
301 Code, which delivers health care services provided by licensed
302 professionals listed in this paragraph, any federally funded
303 community health center, and any volunteer corporation or
304 volunteer health care provider that delivers health care
305 services.

306 (4) CONTRACT REQUIREMENTS.—A health care provider that
307 executes a contract with a governmental contractor to deliver
308 health care services ~~on or after April 17, 1992,~~ as an agent of
309 the governmental contractor, or any employee or agent of such
310 health care provider, is an agent for purposes of s. 768.28(9),
311 while acting within the scope of duties under the contract, if
312 the contract complies with the requirements of this section and
313 regardless of whether the individual treated is later found to
314 be ineligible. A health care provider, or any employee or agent
315 of the health care provider, shall continue to be an agent for
316 purposes of s. 768.28(9) for 30 days after a determination of
317 ineligibility to allow for treatment until the individual
318 transitions to treatment by another health care provider. A
319 health care provider under contract with the state, or any

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320 employee or agent of such health care provider, may not be named
321 as a defendant in any action arising out of medical care or
322 treatment ~~provided on or after April 17, 1992,~~ under contracts
323 entered into under this section. The contract must provide that:

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

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

330 (c) Adverse incidents and information on treatment outcomes
331 must be reported by any health care provider to the governmental
332 contractor if the incidents and information pertain to a patient
333 treated under the contract. The health care provider shall
334 submit the reports required by s. 395.0197. If an incident
335 involves a professional licensed by the Department of Health or
336 a facility licensed by the Agency for Health Care
337 Administration, the governmental contractor shall submit such
338 incident reports to the appropriate department or agency, which
339 shall review each incident and determine whether it involves
340 conduct by the licensee that is subject to disciplinary action.
341 All patient medical records and any identifying information
342 contained in adverse incident reports and treatment outcomes
343 which are obtained by governmental entities under this paragraph
344 are confidential and exempt from the provisions of s. 119.07(1)
345 and s. 24(a), Art. I of the State Constitution.

346 (d) Patient selection and initial referral must be made by
347 the governmental contractor or the provider. Patients may not be
348 transferred to the provider based on a violation of the

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349 antidumping provisions of the Omnibus Budget Reconciliation Act
350 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
351 chapter 395.

352 (e) If emergency care is required, the patient need not be
353 referred before receiving treatment, but must be referred within
354 48 hours after treatment is commenced or within 48 hours after
355 the patient has the mental capacity to consent to treatment,
356 whichever occurs later.

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

359 (g) ~~As an agent of the governmental contractor for purposes~~
360 ~~of s. 768.28(9), while acting within the scope of duties under~~
361 ~~the contract,~~ A health care provider licensed under chapter 466,
362 as an agent of the governmental contractor for purposes of s.
363 768.28(9), may allow a patient, or a parent or guardian of the
364 patient, to voluntarily contribute a monetary amount to cover
365 costs of dental laboratory work related to the services provided
366 to the patient within the scope of duties under the contract.
367 This contribution may not exceed the actual cost of the dental
368 laboratory charges.

369
370 A governmental contractor that is also a health care provider is
371 not required to enter into a contract under this section with
372 respect to the health care services delivered by its employees.

373 (5) NOTICE OF AGENCY RELATIONSHIP.—The governmental
374 contractor must provide written notice to each patient, or the
375 patient's legal representative, receipt of which must be
376 acknowledged in writing at the initial visit, that the provider
377 is an agent of the governmental contractor and that the

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378 exclusive remedy for injury or damage suffered as the result of
379 any act or omission of the provider or of any employee or agent
380 thereof acting within the scope of duties pursuant to the
381 contract is by commencement of an action pursuant to ~~the~~
382 ~~provisions of s. 768.28. Thereafter, and~~ with respect to any
383 federally funded community health center, the notice
384 requirements may be met by posting in a place conspicuous to all
385 persons a notice that the health care provider ~~federally funded~~
386 ~~community health center~~ is an agent of the governmental
387 contractor and that the exclusive remedy for injury or damage
388 suffered as the result of any act or omission of the provider or
389 of any employee or agent thereof acting within the scope of
390 duties pursuant to the contract is by commencement of an action
391 pursuant to ~~the provisions of s. 768.28.~~

392 Section 7. Paragraph (b) of subsection (9) of section
393 768.28, Florida Statutes, is amended to read:

394 768.28 Waiver of sovereign immunity in tort actions;
395 recovery limits; limitation on attorney fees; statute of
396 limitations; exclusions; indemnification; risk management
397 programs.—

398 (9)

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

400 1. "Employee" includes any volunteer firefighter.

401 2. "Officer, employee, or agent" includes, but is not
402 limited to, any health care provider, and its employees or
403 agents, when providing services pursuant to s. 766.1115; any
404 nonprofit independent college or university located and
405 chartered in this state which owns or operates an accredited
406 medical school, and its employees or agents, when providing

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407 patient services pursuant to paragraph (10)(f); and any public
408 defender or her or his employee or agent, including, among
409 others, an assistant public defender and an investigator.

410 Section 8. This act shall take effect July 1, 2015.