

**FOR CONSIDERATION By** the Committee on Health Policy

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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.