

By Senator Bean

4-00255-16

2016178\_\_

1                                   A bill to be entitled  
2           An act relating to quality health care services;  
3           amending s. 288.0001, F.S.; requiring the Office of  
4           Economic and Demographic Research and the Office of  
5           Program Policy Analysis and Government Accountability  
6           to complete a periodic analysis of the medical tourism  
7           marketing plan; amending s. 288.901, F.S.; requiring  
8           Enterprise Florida, Inc., to market this state as a  
9           health care destination in collaboration with the  
10          Department of Economic Opportunity; amending s.  
11          288.923, F.S.; requiring the Division of Tourism  
12          Marketing of Enterprise Florida, Inc., to include a  
13          discussion of the promotion of medical tourism for  
14          quality health care services in its 4-year marketing  
15          plan; creating s. 288.924, F.S.; providing criteria  
16          for the medical tourism initiatives to be included in  
17          the division's marketing plan; creating s. 624.27,  
18          F.S.; defining terms; specifying that a direct primary  
19          care agreement does not constitute insurance and is  
20          not subject to the Florida Insurance Code; specifying  
21          that entering into a direct primary care agreement  
22          does not constitute the business of insurance and is  
23          not subject to the code; providing that a health care  
24          provider is not required to obtain a certificate of  
25          authority or license to market, sell, or offer to sell  
26          a direct primary care agreement; specifying criteria  
27          for a direct primary care agreement; amending s.  
28          766.1115, F.S.; redefining terms relating to agency  
29          relationships with governmental health care

4-00255-16

2016178\_\_

30 contractors; deleting an obsolete date; extending  
31 sovereign immunity to include employees or agents of a  
32 health care provider that executes a contract with a  
33 governmental contractor; clarifying that a receipt of  
34 specified notice must be acknowledged by a patient or  
35 the patient's representative at the initial visit;  
36 requiring the posting of notice that a specified  
37 health care provider is an agent of a governmental  
38 contractor; amending s. 768.28, F.S.; redefining the  
39 term "officer, employee, or agent" to include  
40 employees or agents of a health care provider to  
41 conform to changes made by the act; providing an  
42 effective date.

43  
44 Be It Enacted by the Legislature of the State of Florida:

45  
46 Section 1. Paragraph (b) of subsection (2) of section  
47 288.0001, Florida Statutes, is amended to read:

48 288.0001 Economic Development Programs Evaluation.—The  
49 Office of Economic and Demographic Research and the Office of  
50 Program Policy Analysis and Government Accountability (OPPAGA)  
51 shall develop and present to the Governor, the President of the  
52 Senate, the Speaker of the House of Representatives, and the  
53 chairs of the legislative appropriations committees the Economic  
54 Development Programs Evaluation.

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

58 (b) By January 1, 2015, and every 3 years thereafter, an

4-00255-16

2016178\_\_

59 analysis of the following:

60 1. The entertainment industry financial incentive program  
61 established under s. 288.1254.

62 2. The entertainment industry sales tax exemption program  
63 established under s. 288.1258.

64 3. VISIT Florida and its programs established or funded  
65 under ss. 288.122, 288.1226, 288.12265, ~~and 288.124,~~ and  
66 288.924.

67 4. The Florida Sports Foundation and related programs  
68 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,  
69 288.1168, 288.1169, and 288.1171.

70 Section 2. Subsection (2) of section 288.901, Florida  
71 Statutes, is amended to read:

72 288.901 Enterprise Florida, Inc.—

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

77 (a) Increase private investment in Florida;

78 (b) Advance international and domestic trade opportunities;

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

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

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

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

86 (g) Assist, promote, and enhance economic opportunities in  
87 this state's rural and urban communities; and

4-00255-16

2016178\_\_

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

91 Section 3. Paragraph (c) of subsection (4) of section  
92 288.923, Florida Statutes, is amended to read:

93 288.923 Division of Tourism Marketing; definitions;  
94 responsibilities.—

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

97 (c) Developing a 4-year marketing plan.

98 1. At a minimum, the marketing plan shall discuss the  
99 following:

100 a. Continuation of overall tourism growth in this state.

101 b. Expansion to new or under-represented tourist markets.

102 c. Maintenance of traditional and loyal tourist markets.

103 d. Coordination of efforts with county destination  
104 marketing organizations, other local government marketing  
105 groups, privately owned attractions and destinations, and other  
106 private sector partners to create a seamless, four-season  
107 advertising campaign for the state and its regions.

108 e. Development of innovative techniques or promotions to  
109 build repeat visitation by targeted segments of the tourist  
110 population.

111 f. Consideration of innovative sources of state funding for  
112 tourism marketing.

113 g. Promotion of nature-based tourism and heritage tourism.

114 h. Promotion of medical tourism for quality health care  
115 services, as provided under s. 288.924.

116 i.~~h.~~ Development of a component to address emergency

4-00255-16

2016178\_\_

117 response to natural and manmade disasters from a marketing  
118 standpoint.

119 2. The plan shall be annual in construction and ongoing in  
120 nature. Any annual revisions of the plan shall carry forward the  
121 concepts of the remaining 3-year portion of the plan and  
122 consider a continuum portion to preserve the 4-year timeframe of  
123 the plan. The plan also shall include recommendations for  
124 specific performance standards and measurable outcomes for the  
125 division and direct-support organization. The department, in  
126 consultation with the board of directors of Enterprise Florida,  
127 Inc., shall base the actual performance metrics on these  
128 recommendations.

129 3. The 4-year marketing plan shall be developed in  
130 collaboration with the Florida Tourism Industry Marketing  
131 Corporation. The plan shall be annually reviewed and approved by  
132 the board of directors of Enterprise Florida, Inc.

133 Section 4. Section 288.924, Florida Statutes, is created to  
134 read:

135 288.924 Medical tourism for quality health care services;  
136 medical tourism marketing plan.—The Division of Tourism  
137 Marketing shall include within the 4-year marketing plan  
138 required under s. 288.923(4) specific initiatives to advance  
139 this state as a destination for quality bundled health care  
140 services. The plan must:

141 (1) Promote national and international awareness of the  
142 qualifications, scope of services, and specialized expertise of  
143 health care providers throughout this state;

144 (2) Promote national and international awareness of  
145 medical-related conferences, training, or business opportunities

4-00255-16

2016178\_\_

146 to attract practitioners from the medical field to destinations  
147 in this state; and

148 (3) Include an initiative that showcases selected,  
149 qualified providers offering bundled packages of health care and  
150 support services. The selection of providers to be showcased  
151 must be conducted through a solicitation of proposals from  
152 Florida hospitals and other licensed providers for plans that  
153 describe available services, provider qualifications, and  
154 special arrangements for food, lodging, transportation, or other  
155 support services and amenities that may be provided to visiting  
156 patients and their families. A single health care provider may  
157 submit a proposal describing the available health care services  
158 offered through a network of multiple providers and explaining  
159 support services and other amenities associated with the care.  
160 The Florida Tourism Industry Marketing Corporation shall assess  
161 the qualifications and credentials of providers submitting  
162 proposals. To be qualified for selection, a health care provider  
163 must:

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

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

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

174 (d) Meet other criteria as determined by the Florida

4-00255-16

2016178\_\_

175 Tourism Industry Marketing Corporation in collaboration with the  
176 Agency for Health Care Administration and the Department of  
177 Health.

178 Section 5. Section 624.27, Florida Statutes, is created to  
179 read:

180 624.27 Application of code as to direct primary care  
181 agreements.-

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

183 (a) "Direct primary care agreement" means a contract  
184 between a primary care provider or primary care group practice  
185 and a patient, the patient's legal representative, or an  
186 employer which meets the requirements specified under subsection  
187 (4) and does not indemnify for services provided by a third  
188 party.

189 (b) "Primary care provider" means a health care provider  
190 licensed under chapter 458, chapter 459, or chapter 464 that  
191 provides medical services to patients which are commonly  
192 provided without referral from another health care provider.

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

197 (2) A direct primary care agreement does not constitute  
198 insurance and is not subject to this code. The act of entering  
199 into a direct primary care agreement does not constitute the  
200 business of insurance and is not subject to this code.

201 (3) A primary care provider or an agent of a primary care  
202 provider is not required to obtain a certificate of authority or  
203 license under this code to market, sell, or offer to sell a

4-00255-16

2016178\_\_

204 direct primary care agreement.

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

207 (a) Be in writing.

208 (b) Be signed by the primary care provider or an agent of  
209 the primary care provider and the patient or the patient's legal  
210 representative.

211 (c) Allow a party to terminate the agreement by written  
212 notice to the other party after a period specified in the  
213 agreement.

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

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

218 (f) Specify the duration of the agreement and any automatic  
219 renewal provisions.

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

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

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

227 766.1115 Health care providers; creation of agency  
228 relationship with governmental contractors.—

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

230 (a) "Contract" means an agreement executed in compliance  
231 with this section between a health care provider and a  
232 governmental contractor which allows the health care provider,



4-00255-16

2016178\_\_

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

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

- 259 1. A birth center licensed under chapter 383.
- 260 2. An ambulatory surgical center licensed under chapter
- 261 395.

4-00255-16

2016178\_\_

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

4-00255-16

2016178\_\_

291 contractor, including a student enrolled in an accredited  
292 program that prepares the student for licensure as any one of  
293 the professionals listed in subparagraphs 4.-9.

294  
295 The term includes any nonprofit corporation qualified as exempt  
296 from federal income taxation under s. 501(a) of the Internal  
297 Revenue Code, and described in s. 501(c) of the Internal Revenue  
298 Code, which delivers health care services provided by licensed  
299 professionals listed in this paragraph, any federally funded  
300 community health center, and any volunteer corporation or  
301 volunteer health care provider that delivers health care  
302 services.

303 (4) CONTRACT REQUIREMENTS.—A health care provider that  
304 executes a contract with a governmental contractor to deliver  
305 health care services ~~on or after April 17, 1992,~~ as an agent of  
306 the governmental contractor, or any employee or agent of such  
307 health care provider, is an agent for purposes of s. 768.28(9),  
308 while acting within the scope of duties under the contract, if  
309 the contract complies with the requirements of this section and  
310 regardless of whether the individual treated is later found to  
311 be ineligible. A health care provider, or any employee or agent  
312 of the health care provider, shall continue to be an agent for  
313 purposes of s. 768.28(9) for 30 days after a determination of  
314 ineligibility to allow for treatment until the individual  
315 transitions to treatment by another health care provider. A  
316 health care provider under contract with the state, or any  
317 employee or agent of such health care provider, may not be named  
318 as a defendant in any action arising out of medical care or  
319 treatment ~~provided on or after April 17, 1992,~~ under contracts

4-00255-16

2016178\_\_

320 entered into under this section. The contract must provide that:

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

324 (b) The governmental contractor has access to the patient  
325 records of any health care provider delivering services under  
326 the contract.

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

343 (d) Patient selection and initial referral must be made by  
344 the governmental contractor or the provider. Patients may not be  
345 transferred to the provider based on a violation of the  
346 antidumping provisions of the Omnibus Budget Reconciliation Act  
347 of 1989, the Omnibus Budget Reconciliation Act of 1990, or  
348 chapter 395.

4-00255-16

2016178\_\_

349 (e) If emergency care is required, the patient need not be  
350 referred before receiving treatment, but must be referred within  
351 48 hours after treatment is commenced or within 48 hours after  
352 the patient has the mental capacity to consent to treatment,  
353 whichever occurs later.

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

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

366  
367 A governmental contractor that is also a health care provider is  
368 not required to enter into a contract under this section with  
369 respect to the health care services delivered by its employees.

370 (5) NOTICE OF AGENCY RELATIONSHIP.—The governmental  
371 contractor must provide written notice to each patient, or the  
372 patient's legal representative, receipt of which must be  
373 acknowledged in writing at the initial visit, that the provider  
374 is an agent of the governmental contractor and that the  
375 exclusive remedy for injury or damage suffered as the result of  
376 any act or omission of the provider or of any employee or agent  
377 thereof acting within the scope of duties pursuant to the

4-00255-16

2016178\_\_

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

389 Section 7. Paragraph (b) of subsection (9) of section  
390 768.28, Florida Statutes, is amended to read:

391 768.28 Waiver of sovereign immunity in tort actions;  
392 recovery limits; limitation on attorney fees; statute of  
393 limitations; exclusions; indemnification; risk management  
394 programs.—

395 (9)

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

397 1. "Employee" includes any volunteer firefighter.

398 2. "Officer, employee, or agent" includes, but is not  
399 limited to, any health care provider, and its employees or  
400 agents, when providing services pursuant to s. 766.1115; any  
401 nonprofit independent college or university located and  
402 chartered in this state which owns or operates an accredited  
403 medical school, and its employees or agents, when providing  
404 patient services pursuant to paragraph (10) (f); and any public  
405 defender or her or his employee or agent, including, among  
406 others, an assistant public defender and an investigator.

4-00255-16

2016178\_\_

407

Section 8. This act shall take effect July 1, 2016.