

By the Committee on Health Policy; and Senators Bean and Gaetz

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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; amending s. 766.1115,
18 F.S.; redefining terms relating to agency
19 relationships with governmental health care
20 contractors; deleting an obsolete date; extending
21 sovereign immunity to include employees or agents of a
22 health care provider that executes a contract with a
23 governmental contractor; clarifying that a receipt of
24 specified notice must be acknowledged by a patient or
25 the patient's representative at the initial visit;
26 requiring the posting of notice that a specified
27 health care provider is an agent of a governmental
28 contractor; amending s. 768.28, F.S.; redefining the
29 term "officer, employee, or agent" to include

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30 employees or agents of a health care provider to
31 conform to changes made by the act; providing an
32 effective date.

33
34 Be It Enacted by the Legislature of the State of Florida:

35
36 Section 1. Paragraph (b) of subsection (2) of section
37 288.0001, Florida Statutes, is amended to read:

38 288.0001 Economic Development Programs Evaluation.—The
39 Office of Economic and Demographic Research and the Office of
40 Program Policy Analysis and Government Accountability (OPPAGA)
41 shall develop and present to the Governor, the President of the
42 Senate, the Speaker of the House of Representatives, and the
43 chairs of the legislative appropriations committees the Economic
44 Development Programs Evaluation.

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

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

50 1. The entertainment industry financial incentive program
51 established under s. 288.1254.

52 2. The entertainment industry sales tax exemption program
53 established under s. 288.1258.

54 3. VISIT Florida and its programs established or funded
55 under ss. 288.122, 288.1226, 288.12265, ~~and~~ 288.124, and
56 288.924.

57 4. The Florida Sports Foundation and related programs
58 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,

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59 288.1168, 288.1169, and 288.1171.

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

62 288.901 Enterprise Florida, Inc.—

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

67 (a) Increase private investment in Florida;

68 (b) Advance international and domestic trade opportunities;

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

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

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

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

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

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

81 Section 3. Paragraph (c) of subsection (4) of section
82 288.923, Florida Statutes, is amended to read:

83 288.923 Division of Tourism Marketing; definitions;
84 responsibilities.—

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

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

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88 1. At a minimum, the marketing plan shall discuss the
89 following:

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

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

92 c. Maintenance of traditional and loyal tourist markets.

93 d. Coordination of efforts with county destination
94 marketing organizations, other local government marketing
95 groups, privately owned attractions and destinations, and other
96 private sector partners to create a seamless, four-season
97 advertising campaign for the state and its regions.

98 e. Development of innovative techniques or promotions to
99 build repeat visitation by targeted segments of the tourist
100 population.

101 f. Consideration of innovative sources of state funding for
102 tourism marketing.

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

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

106 ~~i.h.~~ Development of a component to address emergency
107 response to natural and manmade disasters from a marketing
108 standpoint.

109 2. The plan shall be annual in construction and ongoing in
110 nature. Any annual revisions of the plan shall carry forward the
111 concepts of the remaining 3-year portion of the plan and
112 consider a continuum portion to preserve the 4-year timeframe of
113 the plan. The plan also shall include recommendations for
114 specific performance standards and measurable outcomes for the
115 division and direct-support organization. The department, in
116 consultation with the board of directors of Enterprise Florida,

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117 Inc., shall base the actual performance metrics on these
118 recommendations.

119 3. The 4-year marketing plan shall be developed in
120 collaboration with the Florida Tourism Industry Marketing
121 Corporation. The plan shall be annually reviewed and approved by
122 the board of directors of Enterprise Florida, Inc.

123 Section 4. Section 288.924, Florida Statutes, is created to
124 read:

125 288.924 Medical tourism for quality health care services;
126 medical tourism marketing plan.—The Division of Tourism
127 Marketing shall include within the 4-year marketing plan
128 required under s. 288.923(4) specific initiatives to advance
129 this state as a destination for quality bundled health care
130 services. The plan must:

131 (1) Promote national and international awareness of the
132 qualifications, scope of services, and specialized expertise of
133 health care providers throughout this state;

134 (2) Promote national and international awareness of
135 medical-related conferences, training, or business opportunities
136 to attract practitioners from the medical field to destinations
137 in this state; and

138 (3) Include an initiative that showcases selected,
139 qualified providers offering bundled packages of health care and
140 support services. The selection of providers to be showcased
141 must be conducted through a solicitation of proposals from
142 Florida hospitals and other licensed providers for plans that
143 describe available services, provider qualifications, and
144 special arrangements for food, lodging, transportation, or other
145 support services and amenities that may be provided to visiting

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146 patients and their families. A single health care provider may
147 submit a proposal describing the available health care services
148 offered through a network of multiple providers and explaining
149 support services and other amenities associated with the care.
150 The Florida Tourism Industry Marketing Corporation shall assess
151 the qualifications and credentials of providers submitting
152 proposals. To be qualified for selection, a health care provider
153 must:

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

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

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

164 (d) Meet other criteria as determined by the Florida
165 Tourism Industry Marketing Corporation in collaboration with the
166 Agency for Health Care Administration and the Department of
167 Health.

168 Section 5. Paragraphs (a) and (d) of subsection (3) and
169 subsections (4) and (5) of section 766.1115, Florida Statutes,
170 are amended to read:

171 766.1115 Health care providers; creation of agency
172 relationship with governmental contractors.—

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

174 (a) "Contract" means an agreement executed in compliance

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175 with this section between a health care provider and a
176 governmental contractor which allows the health care provider,
177 or any employee or agent of the health care provider, to deliver
178 health care services to low-income recipients as an agent of the
179 governmental contractor. The contract must be for volunteer,
180 uncompensated services, ~~except as provided in paragraph (4)(g).~~
181 For services to qualify as volunteer, uncompensated services
182 under this section, the health care provider must receive no
183 compensation from the governmental contractor for any services
184 provided under the contract and must not bill or accept
185 compensation from the recipient, or a public or private third-
186 party payor, for the specific services provided to the low-
187 income recipients covered by the contract, except as provided in
188 paragraph (4)(g). A free clinic as described in subparagraph
189 (3)(d)14. may receive a legislative appropriation, a grant
190 through a legislative appropriation, or a grant from a
191 governmental entity or nonprofit corporation to support the
192 delivery of such contracted services by volunteer health care
193 providers, including the employment of health care providers to
194 supplement, coordinate, or support the delivery of services by
195 volunteer health care providers. Such an appropriation or grant
196 does not constitute compensation under this paragraph from the
197 governmental contractor for services provided under the
198 contract, nor does receipt and use of the appropriation or grant
199 constitute the acceptance of compensation under this paragraph
200 for the specific services provided to the low-income recipients
201 covered by the contract.

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

203 1. A birth center licensed under chapter 383.

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- 204 2. An ambulatory surgical center licensed under chapter
205 395.
- 206 3. A hospital licensed under chapter 395.
- 207 4. A physician or physician assistant licensed under
208 chapter 458.
- 209 5. An osteopathic physician or osteopathic physician
210 assistant licensed under chapter 459.
- 211 6. A chiropractic physician licensed under chapter 460.
- 212 7. A podiatric physician licensed under chapter 461.
- 213 8. A registered nurse, nurse midwife, licensed practical
214 nurse, or advanced registered nurse practitioner licensed or
215 registered under part I of chapter 464 or any facility which
216 employs nurses licensed or registered under part I of chapter
217 464 to supply all or part of the care delivered under this
218 section.
- 219 9. A midwife licensed under chapter 467.
- 220 10. A health maintenance organization certificated under
221 part I of chapter 641.
- 222 11. A health care professional association ~~and its~~
223 ~~employees~~ or a corporate medical group ~~and its employees~~.
- 224 12. Any other medical facility the primary purpose of which
225 is to deliver human medical diagnostic services or which
226 delivers nonsurgical human medical treatment, and which includes
227 an office maintained by a provider.
- 228 13. A dentist or dental hygienist licensed under chapter
229 466.
- 230 14. A free clinic that delivers only medical diagnostic
231 services or nonsurgical medical treatment free of charge to all
232 low-income recipients.

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

238
239 The term includes any nonprofit corporation qualified as exempt
240 from federal income taxation under s. 501(a) of the Internal
241 Revenue Code, and described in s. 501(c) of the Internal Revenue
242 Code, which delivers health care services provided by licensed
243 professionals listed in this paragraph, any federally funded
244 community health center, and any volunteer corporation or
245 volunteer health care provider that delivers health care
246 services.

247 (4) CONTRACT REQUIREMENTS.—A health care provider that
248 executes a contract with a governmental contractor to deliver
249 health care services ~~on or after April 17, 1992,~~ as an agent of
250 the governmental contractor, or any employee or agent of such
251 health care provider, is an agent for purposes of s. 768.28(9),
252 while acting within the scope of duties under the contract, if
253 the contract complies with the requirements of this section and
254 regardless of whether the individual treated is later found to
255 be ineligible. A health care provider, or any employee or agent
256 of the health care provider, shall continue to be an agent for
257 purposes of s. 768.28(9) for 30 days after a determination of
258 ineligibility to allow for treatment until the individual
259 transitions to treatment by another health care provider. A
260 health care provider under contract with the state, or any
261 employee or agent of such health care provider, may not be named

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262 as a defendant in any action arising out of medical care or
263 treatment ~~provided on or after April 17, 1992,~~ under contracts
264 entered into under this section. The contract must provide that:

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

268 (b) The governmental contractor has access to the patient
269 records of any health care provider delivering services under
270 the contract.

271 (c) Adverse incidents and information on treatment outcomes
272 must be reported by any health care provider to the governmental
273 contractor if the incidents and information pertain to a patient
274 treated under the contract. The health care provider shall
275 submit the reports required by s. 395.0197. If an incident
276 involves a professional licensed by the Department of Health or
277 a facility licensed by the Agency for Health Care
278 Administration, the governmental contractor shall submit such
279 incident reports to the appropriate department or agency, which
280 shall review each incident and determine whether it involves
281 conduct by the licensee that is subject to disciplinary action.
282 All patient medical records and any identifying information
283 contained in adverse incident reports and treatment outcomes
284 which are obtained by governmental entities under this paragraph
285 are confidential and exempt from the provisions of s. 119.07(1)
286 and s. 24(a), Art. I of the State Constitution.

287 (d) Patient selection and initial referral must be made by
288 the governmental contractor or the provider. Patients may not be
289 transferred to the provider based on a violation of the
290 antidumping provisions of the Omnibus Budget Reconciliation Act

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291 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
292 chapter 395.

293 (e) If emergency care is required, the patient need not be
294 referred before receiving treatment, but must be referred within
295 48 hours after treatment is commenced or within 48 hours after
296 the patient has the mental capacity to consent to treatment,
297 whichever occurs later.

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

300 (g) ~~As an agent of the governmental contractor for purposes~~
301 ~~of s. 768.28(9), while acting within the scope of duties under~~
302 ~~the contract,~~ A health care provider licensed under chapter 466,
303 as an agent of the governmental contractor for purposes of s.
304 768.28(9), may allow a patient, or a parent or guardian of the
305 patient, to voluntarily contribute a monetary amount to cover
306 costs of dental laboratory work related to the services provided
307 to the patient within the scope of duties under the contract.
308 This contribution may not exceed the actual cost of the dental
309 laboratory charges.

310

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

314 (5) NOTICE OF AGENCY RELATIONSHIP.—The governmental
315 contractor must provide written notice to each patient, or the
316 patient's legal representative, receipt of which must be
317 acknowledged in writing at the initial visit, that the provider
318 is an agent of the governmental contractor and that the
319 exclusive remedy for injury or damage suffered as the result of

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320 any act or omission of the provider or of any employee or agent
321 thereof acting within the scope of duties pursuant to the
322 contract is by commencement of an action pursuant to ~~the~~
323 ~~provisions of~~ s. 768.28. Thereafter, and with respect to any
324 federally funded community health center, the notice
325 requirements may be met by posting in a place conspicuous to all
326 persons a notice that the health care provider ~~federally funded~~
327 ~~community health center~~ is an agent of the governmental
328 contractor and that the exclusive remedy for injury or damage
329 suffered as the result of any act or omission of the provider or
330 of any employee or agent thereof acting within the scope of
331 duties pursuant to the contract is by commencement of an action
332 pursuant to ~~the provisions of~~ s. 768.28.

333 Section 6. Paragraph (b) of subsection (9) of section
334 768.28, Florida Statutes, is amended to read:

335 768.28 Waiver of sovereign immunity in tort actions;
336 recovery limits; limitation on attorney fees; statute of
337 limitations; exclusions; indemnification; risk management
338 programs.—

339 (9)

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

341 1. "Employee" includes any volunteer firefighter.

342 2. "Officer, employee, or agent" includes, but is not
343 limited to, any health care provider, and its employees or
344 agents, when providing services pursuant to s. 766.1115; any
345 nonprofit independent college or university located and
346 chartered in this state which owns or operates an accredited
347 medical school, and its employees or agents, when providing
348 patient services pursuant to paragraph (10) (f); and any public

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349 defender or her or his employee or agent, including, among
350 others, an assistant public defender and an investigator.

351 Section 7. This act shall take effect July 1, 2016.