

By Senator Saunders

37-1042-04

1 A bill to be entitled
2 An act relating to health care providers;
3 amending s. 766.1115, F.S.; revising a
4 definition for purposes of the Access to Health
5 Care Act to provide that a contract with a
6 health care provider to serve low-income
7 patients requires the provider to either
8 deliver the services without compensation or be
9 a free clinic delivering specified services
10 without charge to low-income patients; defining
11 the term "free clinic"; authorizing a health
12 care provider to select patients if the
13 governmental contractor approves the selection
14 process; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Subsections (3) and (4) of section
19 766.1115, Florida Statutes, are amended to read:

20 766.1115 Health care providers; creation of agency
21 relationship with governmental contractors.--

22 (3) DEFINITIONS.--As used in this section, the term:

23 (a) "Contract" means an agreement executed in
24 compliance with this section between a health care provider
25 and a governmental contractor. This contract shall allow the
26 health care provider to deliver health care services to
27 low-income recipients as an agent of the governmental
28 contractor. The contract must be for either volunteer,
29 uncompensated services or, in the case of a free clinic,
30 services delivered free of charge to all low-income
31 recipients.

1 (b) "Department" means the Department of Health.

2 (c) "Free clinic" means a health care provider that is
3 an organization exempt from federal income taxation under s.
4 501(a) of the Internal Revenue Code and described in s. 501(c)
5 of the Internal Revenue Code which delivers medical diagnostic
6 services or nonsurgical medical treatment by licensed health
7 care providers listed in paragraph (e) free of charge to all
8 low-income recipients.

9 (d)~~(c)~~ "Governmental contractor" means the department,
10 county health departments, a special taxing district with
11 health care responsibilities, or a hospital owned and operated
12 by a governmental entity.

13 (e)~~(d)~~ "Health care provider" or "provider" means:

14 1. A birth center licensed under chapter 383.

15 2. An ambulatory surgical center licensed under
16 chapter 395.

17 3. A hospital licensed under chapter 395.

18 4. A physician or physician assistant licensed under
19 chapter 458.

20 5. An osteopathic physician or osteopathic physician
21 assistant licensed under chapter 459.

22 6. A chiropractic physician licensed under chapter
23 460.

24 7. A podiatric physician licensed under chapter 461.

25 8. A registered nurse, nurse midwife, licensed
26 practical nurse, or advanced registered nurse practitioner
27 licensed or registered under part I of chapter 464 or any
28 facility which employs nurses licensed or registered under
29 part I of chapter 464 to supply all or part of the care
30 delivered under this section.

31 9. A midwife licensed under chapter 467.

1 10. A health maintenance organization certificated
2 under part I of chapter 641.

3 11. A health care professional association and its
4 employees or a corporate medical group and its employees.

5 12. Any other medical facility the primary purpose of
6 which is to deliver human medical diagnostic services or which
7 delivers nonsurgical human medical treatment, and which
8 includes an office maintained by a provider.

9 13. A dentist or dental hygienist licensed under
10 chapter 466.

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

16
17 The term includes any nonprofit corporation qualified as
18 exempt from federal income taxation under s. 501(c) of the
19 Internal Revenue Code which delivers health care services
20 provided by licensed professionals listed in this paragraph,
21 any federally funded community health center, and any
22 volunteer corporation or volunteer health care provider that
23 delivers health care services.

24 (f)~~(e)~~ "Low-income" means:

25 1. A person who is Medicaid-eligible under Florida
26 law;

27 2. A person who is without health insurance and whose
28 family income does not exceed 150 percent of the federal
29 poverty level as defined annually by the federal Office of
30 Management and Budget; or

31

1 3. Any client of the department who voluntarily
2 chooses to participate in a program offered or approved by the
3 department and meets the program eligibility guidelines of the
4 department.

5 (4) CONTRACT REQUIREMENTS.--A health care provider
6 that executes a contract with a governmental contractor to
7 deliver health care services on or after April 17, 1992, as an
8 agent of the governmental contractor is an agent for purposes
9 of s. 768.28(9), while acting within the scope of duties under
10 ~~pursuant to~~ the contract, if the contract complies with the
11 requirements of this section and regardless of whether the
12 individual treated is later found to be ineligible. A health
13 care provider under contract with the state may not be named
14 as a defendant in any action arising out of ~~the~~ medical care
15 or treatment provided on or after April 17, 1992, under
16 ~~pursuant to~~ contracts entered into under this section. The
17 contract must provide that:

18 (a) The right of dismissal or termination of any
19 health care provider delivering services under ~~pursuant to~~ the
20 contract is retained by the governmental contractor.

21 (b) The governmental contractor has access to the
22 patient records of any health care provider delivering
23 services under ~~pursuant to~~ the contract.

24 (c) Adverse incidents and information on treatment
25 outcomes must be reported by any health care provider to the
26 governmental contractor if the ~~such~~ incidents and information
27 pertain to a patient treated under ~~pursuant to~~ the contract.
28 The health care provider shall submit the reports required by
29 s. 395.0197. If an incident involves a professional licensed
30 by the Department of Health or a facility licensed by the
31 Agency for Health Care Administration, the governmental

1 contractor shall submit such incident reports to the
2 appropriate department or agency, which shall review each
3 incident and determine whether it involves conduct by the
4 licensee that is subject to disciplinary action. All patient
5 medical records and any identifying information contained in
6 adverse incident reports and treatment outcomes which are
7 obtained by governmental entities under ~~pursuant to~~ this
8 paragraph are confidential and exempt from the provisions of
9 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

10 (d) Patient selection and initial referral must be
11 made only ~~solely~~ by the governmental contractor, or by the
12 provider if the governmental contractor approves the selection
13 and referral process used by the provider. ~~and~~ The provider
14 must accept all referred patients. However, the number of
15 patients that must be accepted may be limited by the contract,
16 and patients may not be transferred to the provider based on a
17 violation of the antidumping provisions of the Omnibus Budget
18 Reconciliation Act of 1989, the Omnibus Budget Reconciliation
19 Act of 1990, or chapter 395.

20 (e) If emergency care is required, the patient need
21 not be referred before receiving treatment, but must be
22 referred within 48 hours after treatment is commenced or
23 within 48 hours after the patient has the mental capacity to
24 consent to treatment, whichever occurs later.

25 (f) Patient care, including any followup or hospital
26 care, is subject to approval by the governmental contractor.

27 (g) The provider is subject to supervision and regular
28 inspection by the governmental contractor.

29
30 A governmental contractor that is also a health care provider
31 is not required to enter into a contract under this section

1 with respect to the health care services delivered by its
2 employees.

3 Section 2. This act shall take effect July 1, 2004.
4

5 *****

6 SENATE SUMMARY

7 Revises the definition of a contract to provide that a
8 contract with a health care provider to serve low-income
9 patients requires the provider to either deliver the
10 services without compensation or be a free clinic
11 delivering specified services without charge to
12 low-income patients. Authorizes a health care provider to
13 select patients if the governmental contractor approves
14 the selection process.
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31