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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 04/23/2015 | . | |
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The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Between lines 232 and 233

insert:

Section 8. Section 296.42, Florida Statutes, is created to read:

296.42 Site selection process for state veterans' nursing homes.—

(1) The department shall contract for a study to determine the need for new state veterans' nursing homes and the most



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11 appropriate counties in which to locate the homes based on the
12 greatest level of need. The department shall submit the study to
13 the Governor, the President of the Senate, and the Speaker of
14 the House of Representatives by November 1, 2015.

15 (2) The study shall use the following criteria to rank each
16 county according to need:

17 (a) The distance from the geographic center of the county
18 to the nearest existing state veterans' nursing home.

19 (b) The number of veterans age 65 years or older residing
20 in the county.

21 (c) The presence of an existing federal Veterans' Health
22 Administration medical center or outpatient clinic in the
23 county.

24 (d) Elements of emergency health care in the county, as
25 determined by:

26 1. The number of general hospitals.

27 2. The number of emergency room holding beds per hospital.

28 The term "emergency room holding bed" means a bed located in the
29 emergency room of a hospital licensed under ch. 395 which is
30 used for a patient admitted to the hospital through the
31 emergency room, but is waiting for an available bed in an
32 inpatient unit of the hospital.

33 3. The number of employed physicians per hospital in the
34 emergency room 24 hours per day.

35 (e) The number of existing community nursing home beds per
36 1,000 males age 65 years or older residing in the county.

37 (f) The presence of an accredited educational institution
38 offering health care programs in the county.

39 (g) The county poverty rate.



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40 (3) For each new nursing home, the department shall select
41 the highest-ranked county in the applicable study under this
42 section which does not have a veterans' nursing home. If the
43 highest-ranked county cannot serve as the site, the department
44 shall select the next-highest ranked county. The selection is
45 subject to the approval of the Governor and Cabinet.

46 (4) The department shall use the 2014 site selection study
47 to select a county for any new state veterans' nursing home
48 authorized before November 1, 2015.

49 (5) The department shall use the November 2015 site
50 selection study ranking to select each new state veterans'
51 nursing home site authorized before July 1, 2020.

52 (6) The department shall contract for and submit a new site
53 selection study to the Governor, the President of the Senate,
54 and the Speaker of the House of Representatives using the county
55 ranking criteria in paragraph (3) by November 1, 2019 for site
56 selections on or after July 1, 2020. The department must conduct
57 new site selection studies every 4 years using the county
58 ranking criteria under paragraph (3) with each report due by
59 November 1st for the selection period that begins the following
60 July 1st.

61 Section 9. Section 624.27, Florida Statutes, is created to
62 read:

63 624.27 Application of code as to direct primary care
64 agreements.-

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

66 (a) "Direct primary care agreement" means a contract
67 between a primary care provider or primary care group practice
68 and a patient, the patient's legal representative, or an



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69 employer which must satisfy the criteria in subsection (4) and
70 does not indemnify for services provided by a third party.

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

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

79 (2) A direct primary care agreement does not constitute
80 insurance and is not subject to this code. The act of entering
81 into a direct primary care agreement does not constitute the
82 business of insurance and is not subject to this code.

83 (3) A primary care provider or an agent of a primary care
84 provider is not required to obtain a certificate of authority or
85 license under this code to market, sell, or offer to sell a
86 direct primary care agreement.

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

89 (a) Be in writing.

90 (b) Be signed by the primary care provider or an agent of
91 the primary care provider and the patient or the patient's legal
92 representative.

93 (c) Allow a party to terminate the agreement by written
94 notice to the other party after a period specified in the
95 agreement.

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



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

100 (f) Specify the duration of the agreement and any automatic
101 renewal provisions.

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

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

106 Section 10. Paragraphs (a) and (d) of subsection (3) and
107 subsections (4) and (5) of section 766.1115, Florida Statutes,
108 are amended to read:

109 766.1115 Health care providers; creation of agency
110 relationship with governmental contractors.—

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

112 (a) "Contract" means an agreement executed in compliance
113 with this section between a health care provider and a
114 governmental contractor which allows the health care provider,
115 or any employee or agent of the health care provider, to deliver
116 health care services to low-income recipients as an agent of the
117 governmental contractor. The contract must be for volunteer,
118 ~~uncompensated services, except as provided in paragraph (4)(g).~~
119 For services to qualify as volunteer, uncompensated services
120 under this section, the health care provider must receive no
121 compensation from the governmental contractor for any services
122 provided under the contract and must not bill or accept
123 compensation from the recipient, or a public or private third-
124 party payor, for the specific services provided to the low-
125 income recipients covered by the contract except as provided in
126 paragraph (4)(g). A free clinic as described in subparagraph



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127 (3) (d) 14. may receive a legislative appropriation, a grant
128 through a legislative appropriation, or a grant from a
129 governmental entity or nonprofit corporation to support the
130 delivery of such contracted services by volunteer health care
131 providers, including the employment of health care providers to
132 supplement, coordinate, or support the delivery of services by
133 volunteer health care providers. Such an appropriation or grant
134 does not constitute compensation under this paragraph from the
135 governmental contractor for services provided under the
136 contract, nor does receipt and use of the appropriation or grant
137 constitute the acceptance of compensation under this paragraph
138 for the specific services provided to the low-income recipients
139 covered by the contract.

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

141 1. A birth center licensed under chapter 383.

142 2. An ambulatory surgical center licensed under chapter
143 395.

144 3. A hospital licensed under chapter 395.

145 4. A physician or physician assistant licensed under
146 chapter 458.

147 5. An osteopathic physician or osteopathic physician
148 assistant licensed under chapter 459.

149 6. A chiropractic physician licensed under chapter 460.

150 7. A podiatric physician licensed under chapter 461.

151 8. A registered nurse, nurse midwife, licensed practical
152 nurse, or advanced registered nurse practitioner licensed or
153 registered under part I of chapter 464 or any facility which
154 employs nurses licensed or registered under part I of chapter
155 464 to supply all or part of the care delivered under this



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156 section.

157 9. A midwife licensed under chapter 467.

158 10. A health maintenance organization certificated under
159 part I of chapter 641.

160 11. A health care professional association ~~and its~~
161 ~~employees~~ or a corporate medical group ~~and its employees~~.

162 12. Any other medical facility the primary purpose of which
163 is to deliver human medical diagnostic services or which
164 delivers nonsurgical human medical treatment, and which includes
165 an office maintained by a provider.

166 13. A dentist or dental hygienist licensed under chapter
167 466.

168 14. A free clinic that delivers only medical diagnostic
169 services or nonsurgical medical treatment free of charge to all
170 low-income recipients.

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

176
177 The term includes any nonprofit corporation qualified as exempt
178 from federal income taxation under s. 501(a) of the Internal
179 Revenue Code, and described in s. 501(c) of the Internal Revenue
180 Code, which delivers health care services provided by licensed
181 professionals listed in this paragraph, any federally funded
182 community health center, and any volunteer corporation or
183 volunteer health care provider that delivers health care
184 services.



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185 (4) CONTRACT REQUIREMENTS.—A health care provider that
186 executes a contract with a governmental contractor to deliver
187 health care services ~~on or after April 17, 1992,~~ as an agent of
188 the governmental contractor, or any employee or agent of such
189 health care provider, is an agent for purposes of s. 768.28(9),
190 while acting within the scope of duties under the contract, if
191 the contract complies with the requirements of this section and
192 regardless of whether the individual treated is later found to
193 be ineligible. A health care provider, or any employee or agent
194 of such health care provider, shall continue to be an agent for
195 purposes of s. 768.28(9) for 30 days after a determination of
196 ineligibility to allow for treatment until the individual
197 transitions to treatment by another health care provider. A
198 health care provider under contract with the state, or any
199 employee or agent of such health care provider, may not be named
200 as a defendant in any action arising out of medical care or
201 treatment ~~provided on or after April 17, 1992,~~ under contracts
202 entered into under this section. The contract must provide that:

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

206 (b) The governmental contractor has access to the patient
207 records of any health care provider delivering services under
208 the contract.

209 (c) Adverse incidents and information on treatment outcomes
210 must be reported by any health care provider to the governmental
211 contractor if the incidents and information pertain to a patient
212 treated under the contract. The health care provider shall
213 submit the reports required by s. 395.0197. If an incident



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214 involves a professional licensed by the Department of Health or
215 a facility licensed by the Agency for Health Care
216 Administration, the governmental contractor shall submit such
217 incident reports to the appropriate department or agency, which
218 shall review each incident and determine whether it involves
219 conduct by the licensee that is subject to disciplinary action.
220 All patient medical records and any identifying information
221 contained in adverse incident reports and treatment outcomes
222 which are obtained by governmental entities under this paragraph
223 are confidential and exempt from the provisions of s. 119.07(1)
224 and s. 24(a), Art. I of the State Constitution.

225 (d) Patient selection and initial referral must be made by
226 the governmental contractor or the provider. Patients may not be
227 transferred to the provider based on a violation of the
228 antidumping provisions of the Omnibus Budget Reconciliation Act
229 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
230 chapter 395.

231 (e) If emergency care is required, the patient need not be
232 referred before receiving treatment, but must be referred within
233 48 hours after treatment is commenced or within 48 hours after
234 the patient has the mental capacity to consent to treatment,
235 whichever occurs later.

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

238 ~~(g) As an agent of the governmental contractor for purposes~~
239 ~~of s. 768.28(9), while acting within the scope of duties under~~
240 ~~the contract,~~ A health care provider licensed under chapter 466,
241 as an agent of the governmental contractor for purposes of
242 s.768.28(9), may allow a patient, or a parent or guardian of the



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243 patient, to voluntarily contribute a monetary amount to cover
244 costs of dental laboratory work related to the services provided
245 to the patient within the scope of duties under the contract.
246 This contribution may not exceed the actual cost of the dental
247 laboratory charges.

248
249 A governmental contractor that is also a health care provider is
250 not required to enter into a contract under this section with
251 respect to the health care services delivered by its employees.

252 (5) NOTICE OF AGENCY RELATIONSHIP.—The governmental
253 contractor must provide written notice to each patient, or the
254 patient's legal representative, receipt of which must be
255 acknowledged in writing at the initial visit, that the provider
256 is an agent of the governmental contractor and that the
257 exclusive remedy for injury or damage suffered as the result of
258 any act or omission of the provider or of any employee or agent
259 thereof acting within the scope of duties pursuant to the
260 contract is by commencement of an action pursuant to the
261 ~~provisions of s. 768.28. Thereafter, and with respect to any~~
262 ~~federally funded community health center, the notice~~
263 ~~requirements may be met by posting in a place conspicuous to all~~
264 ~~persons a notice that the health care provider ~~federally funded~~~~
265 ~~community health center~~ is an agent of the governmental
266 contractor and that the exclusive remedy for injury or damage
267 suffered as the result of any act or omission of the provider or
268 of any employee or agent thereof acting within the scope of
269 duties pursuant to the contract is by commencement of an action
270 pursuant to ~~the provisions of s. 768.28.~~

271 Section 11. Paragraph (b) of subsection (9) of section



272 768.28, Florida Statutes, is amended to read:

273 768.28 Waiver of sovereign immunity in tort actions;
274 recovery limits; limitation on attorney fees; statute of
275 limitations; exclusions; indemnification; risk management
276 programs.—

277 (9)

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

279 1. "Employee" includes any volunteer firefighter.

280 2. "Officer, employee, or agent" includes, but is not
281 limited to, any health care provider, and its employees or
282 agents, when providing services pursuant to s. 766.1115; any
283 nonprofit independent college or university located and
284 chartered in this state which owns or operates an accredited
285 medical school, and its employees or agents, when providing
286 patient services pursuant to paragraph (10)(f); and any public
287 defender or her or his employee or agent, including, among
288 others, an assistant public defender and an investigator.

289
290 ===== T I T L E A M E N D M E N T =====

291 And the title is amended as follows:

292 Delete lines 2 - 24

293 and insert:

294 An act relating to the access to health care services;
295 amending ss. 458.347 and 459.022, F.S.; revising the
296 authority of a licensed physician assistant to order
297 medication under the direction of a supervisory
298 physician for a specified patient; amending s.
299 464.012, F.S.; authorizing an advanced registered
300 nurse practitioner to order medication for



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301 administration to a specified patient; amending s.
302 465.003, F.S.; revising the term "prescription" to
303 exclude an order for drugs or medicinal supplies by a
304 licensed practitioner that is dispensed for certain
305 administration; amending s. 893.02, F.S.; revising the
306 term "administer" to include the term
307 "administration"; revising the term "prescription" to
308 exclude an order for drugs or medicinal supplies by a
309 licensed practitioner that is dispensed for certain
310 administration; amending s. 893.04, F.S.; conforming
311 provisions to changes made by act; amending s. 893.05,
312 F.S.; authorizing a licensed practitioner to authorize
313 a licensed physician assistant or advanced registered
314 nurse practitioner to order controlled substances for
315 a specified patient under certain circumstances;
316 creating s. 296.42, F.S.; directing the Department of
317 Veterans' Affairs to contract for a study to determine
318 the need and location for additional state veterans'
319 nursing homes; directing the department to submit the
320 study to the Governor and Legislature; providing study
321 criteria for ranking each county according to need;
322 providing site selection criteria; requiring approval
323 of the Governor and Cabinet for site selection;
324 requiring the department to use specified studies to
325 select new nursing home sites; directing the
326 department to contract for subsequent studies and
327 submit the studies to the Governor and Legislature;
328 creating s. 624.27, F.S.; providing definitions;
329 specifying that a direct primary care agreement does



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330 not constitute insurance and is not subject to the
331 Florida Insurance Code; specifying that entering into
332 a direct primary care agreement does not constitute
333 the business of insurance and is not subject to the
334 code; providing that a health care provider is not
335 required to obtain a certificate of authority to
336 market, sell, or offer to sell a direct primary care
337 agreement; specifying criteria for a direct primary
338 care agreement; amending s. 766.1115, F.S.; redefining
339 terms relating to agency relationships with
340 governmental health care contractors; deleting an
341 obsolete date; extending sovereign immunity to
342 employees or agents of a health care provider that
343 executes a contract with a governmental contractor;
344 clarifying that a receipt of specified notice must be
345 acknowledged by a patient or the patient's
346 representative at the initial visit; requiring the
347 posting of notice that a specified health care
348 provider is an agent of a governmental contractor;
349 amending s. 768.28, F.S.; redefining the term
350 "officer, employee, or agent" to include employees or
351 agents of a health care provider;