

Appendix A

Chapter 110, Part IV, Volunteers

110.501 Definitions; as used in this act.

(1) "Volunteer" means any person who, of his or her own free will, provides goods or services, or conveys an interest in or otherwise consents to the use of real property pursuant to ss. 260.011-260.018, to any state department or agency, or nonprofit organization, with no monetary or material compensation. A person registered and serving in Older American Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended (Pub. L. No. 93-113), shall also be defined as a volunteer and shall incur no civil liability as provided by s. 768.1355. A volunteer shall be eligible for payment of volunteer benefits as specified in Pub. L. No. 93-113, this section, and s. 430.204.

(2) "Regular-service volunteer" means any person engaged in specific voluntary service activities on an ongoing or continuous basis.

(3) "Occasional-service volunteer" means any person who offers to provide a one-time or occasional voluntary service.

(4) "Material donor" means any person who provides funds, materials, employment, or opportunities for clients of state departments or agencies, without monetary or material compensation.

110.502 Scope of act; status of volunteers.

(1) Every state department or state agency, through the head of the department or agency, secretary of the department, or executive director of the department, is authorized to recruit, train, and accept, without regard to requirements of the State Career Service System as set forth in part II of this chapter, the services of volunteers, including regular-service volunteers, occasional-service volunteers, or material donors, to assist in programs administered by the department or agency.

(2) Volunteers recruited, trained, or accepted by any state department or agency shall not be subject to any provisions of law relating to state employment, to any collective bargaining agreement between the state and any employees' association or union, or to any laws relating to hours of work, rates of compensation, leave time, and employee benefits, except those consistent with s. 110.504. However, all volunteers shall comply with applicable department or agency rules.

(3) Every department or agency utilizing the services of volunteers is hereby authorized to provide such incidental reimbursement or benefit consistent with the provisions of s. 110.504, including transportation costs, lodging, and subsistence, recognition, and other accommodations as the department or agency deems necessary to assist, recognize, reward, or encourage volunteers in performing their functions. No department or agency shall expend or authorize an expenditure therefore in excess of the amount provided for to the department or agency by appropriation in any fiscal year.

(4) Persons working with state agencies pursuant to this part shall be considered as unpaid

independent volunteers and shall not be entitled to unemployment compensation.

110.503 Responsibilities of departments and agencies. Each department or agency utilizing the services of volunteers shall:

- (1) Take such actions as are necessary and appropriate to develop meaningful opportunities for volunteers involved in state-administered programs.
- (2) Comply with the uniform rules adopted by the Department of Management Services governing the recruitment, screening, training, responsibility, use, and supervision of volunteers.
- (3) Take such actions as are necessary to ensure that volunteers understand their duties and responsibilities.
- (4) Take such actions as are necessary and appropriate to ensure a receptive climate for citizen volunteers.
- (5) Provide for the recognition of volunteers who have offered continuous and outstanding service to state-administered programs. Each department or agency using the services of volunteers is authorized to incur expenditures not to exceed \$100 each plus applicable taxes for suitable framed certificates, plaques, or other tokens of recognition to honor, reward, or encourage volunteers for their service.
- (6) Recognize prior volunteer service as partial fulfillment of state employment requirements for training and experience pursuant to rules adopted by the Department of Management Services.

110.504 Volunteer benefits.

- (1) Meals may be furnished without charge to regular-service volunteers serving state departments, provided the scheduled assignment extends over an established meal period, and to occasional-service volunteers at the discretion of the department head. No department shall expend or authorize any expenditure in excess of the amount provided for by appropriation in any fiscal year.
- (2) Lodging, if available, may be furnished temporarily, in case of a department emergency, at no charge to regular-service volunteers.
- (3) Transportation reimbursement may be furnished those volunteers whose presence is determined to be necessary to the department. Volunteers may utilize state vehicles in the performance of department-related duties. No department shall expend or authorize an expenditure in excess of the amount appropriated in any fiscal year.
- (4) Volunteers shall be covered by state liability protection in accordance with the definition of a volunteer and the provisions of s. 768.28.
- (5) Volunteers shall be covered by workers' compensation in accordance with chapter 440.
- (6) Incidental recognition benefits or incidental nonmonetary awards may be furnished to volunteers serving in state departments to award, recognize, or encourage volunteers for their service. The awards may not cost in excess of \$100 each plus applicable taxes.

(7) Volunteers, including volunteers receiving a stipend as provided by the Domestic Service Volunteer Act of 1973, as amended (Pub. L. No. 93-113), shall be covered by s. 768.1355, the Florida Volunteer Protection Act.

History. s. 4, ch. 78-263; s. 24, ch. 79-190; s. 8, ch. 83-159; s. 49, ch. 96-399; s. 14, ch. 99-399. Note. Former s. 112.904.



Appendix B

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

(1) SHORT TITLE. This section may be cited as the "Access to Health Care Act."

(2) FINDINGS AND INTENT. The Legislature finds that a significant proportion of the residents of this state who are uninsured or Medicaid recipients are unable to access needed health care because health care providers fear the increased risk of medical negligence liability. It is the intent of the Legislature that access to medical care for indigent residents be improved by providing governmental protection to health care providers who offer free quality medical services to underserved populations of the state. Therefore, it is the intent of the Legislature to ensure that health care professionals who contract to provide such services as agents of the state are provided sovereign immunity.

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

(a) "Contract" means an agreement executed in compliance with this section between a health care provider and a governmental contractor. This contract shall allow the health care provider to deliver health care services to low-income recipients as an agent of the governmental contractor. The contract must be for volunteer, uncompensated services. For services to qualify as volunteer, uncompensated services under this section, the health care provider must receive no compensation from the governmental contractor for any services provided under the contract and must not bill or accept compensation from the recipient, or any public or private third-party payor, for the specific services provided to the low-income recipients covered by the contract.

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

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

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

1. A birth center licensed under chapter 383.
2. An ambulatory surgical center licensed under chapter 395.
3. A hospital licensed under chapter 395.
4. A physician or physician assistant licensed under chapter 458.
5. An osteopathic physician or osteopathic physician assistant licensed under chapter 459.
6. A chiropractic physician licensed under chapter 460.
7. A podiatric physician licensed under chapter 461.
8. A registered nurse, nurse midwife, licensed practical nurse, or advanced registered nurse practitioner licensed or registered under part I of chapter 464 or any facility which employs nurses licensed or registered under part I of chapter 464 to supply all or part of the care delivered under this section.
9. A midwife licensed under chapter 467.
10. A health maintenance organization certificated under part I of chapter 641.
11. A health care professional association and its employees or a corporate medical group and its employees.

12. Any other medical facility the primary purpose of which is to deliver human medical diagnostic services or which delivers nonsurgical human medical treatment, and which includes an office maintained by a provider.
13. A dentist or dental hygienist licensed under chapter 466.
14. A free clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income recipients.
15. Any other health care professional, practitioner, provider, or facility under contract with a governmental contractor, including a student enrolled in an accredited program that prepares the student for licensure as any one of the professionals listed in subparagraphs 4.-9.

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

(e) "Low-income" means:

1. A person who is Medicaid-eligible under Florida law;
2. A person who is without health insurance and whose family income does not exceed 200 percent of the federal poverty level as defined annually by the federal Office of Management and Budget; or
3. Any client of the department who voluntarily chooses to participate in a program offered or approved by the department and meets the program eligibility guidelines of the department.

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

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

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

(c) Adverse incidents and information on treatment outcomes must be reported by any health care provider to the governmental contractor if the incidents and information pertain to a patient treated under the contract. The health care provider shall submit the reports required by s. 395.0197. If an incident involves a professional licensed by the Department of Health or a facility licensed by the Agency for Health Care Administration, the governmental contractor shall submit such incident reports to the appropriate department or agency, which shall review each incident and determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and

treatment outcomes which are obtained by governmental entities under this paragraph are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d) Patient selection and initial referral must be made solely by the governmental contractor, and the provider must accept all referred patients. However, the number of patients that must be accepted may be limited by the contract, and patients may not be transferred to the provider based on a violation of the antidumping provisions of the Omnibus Budget Reconciliation Act of 1989, the Omnibus Budget Reconciliation Act of 1990, or chapter 395.

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

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

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

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

(5) NOTICE OF AGENCY RELATIONSHIP. The governmental contractor must provide written notice to each patient, or the patient's legal representative, receipt of which must be acknowledged in writing, that the provider is an agent of the governmental contractor and that the exclusive remedy for injury or damage suffered as the result of any act or omission of the provider or of any employee or agent thereof acting within the scope of duties pursuant to the contract is by commencement of an action pursuant to the provisions of s. 768.28. With respect to any federally funded community health center, the notice requirements may be met by posting in a place conspicuous to all persons a notice that the federally funded community health center is an agent of the governmental contractor and that the exclusive remedy for injury or damage suffered as the result of any act or omission of the provider or of any employee or agent thereof acting within the scope of duties pursuant to the contract is by commencement of an action pursuant to the provisions of s. 768.28.

(6) QUALITY ASSURANCE PROGRAM REQUIRED. The governmental contractor shall establish a quality assurance program to monitor services delivered under any contract between an agency and a health care provider pursuant to this section.

(7) RISK MANAGEMENT REPORT. The Division of Risk Management of the Department of Financial Services shall annually compile a report of all claims statistics for all entities participating in the risk management program administered by the division, which shall include the number and total of all claims pending and paid, and defense and handling costs associated with all claims brought against contract providers under this section. This report shall be forwarded to the department and included in the annual report submitted to the Legislature pursuant to this section.

(8) REPORT TO THE LEGISLATURE. Annually, the department shall report to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders and relevant substantive committee chairpersons of both houses, summarizing the efficacy of access and

treatment outcomes with respect to providing health care services for low-income persons pursuant to this section.

(9) MALPRACTICE LITIGATION COSTS. Governmental contractors other than the department are responsible for their own costs and attorney's fees for malpractice litigation arising out of health care services delivered pursuant to this section.

(10) RULES. The department shall adopt rules to administer this section in a manner consistent with its purpose to provide and facilitate access to appropriate, safe, and cost-effective health care services and to maintain health care quality. The rules may include services to be provided and authorized procedures. Notwithstanding the requirements of paragraph (4)(d), the department shall adopt rules that specify required methods for determination and approval of patient eligibility and referral and the contractual conditions under which a health care provider may perform the patient eligibility and referral process on behalf of the department. These rules shall include, but not be limited to, the following requirements:

(a) The provider must accept all patients referred by the department. However, the number of patients that must be accepted may be limited by the contract.

(b) The provider shall comply with departmental rules regarding the determination and approval of patient eligibility and referral.

(c) The provider shall complete training conducted by the department regarding compliance with the approved methods for determination and approval of patient eligibility and referral.

(d) The department shall retain review and oversight authority of the patient eligibility and referral determination.

(11) APPLICABILITY. This section applies to incidents occurring on or after April 17, 1992. This section does not apply to any health care contract entered into by the Department of Corrections which is subject to s. 768.28(10)(a). Nothing in this section in any way reduces or limits the rights of the state or any of its agencies or subdivisions to any benefit currently provided under s. 768.28.

History. s. 1, ch. 92-278; s. 22, ch. 93-129; s. 1, ch. 94-75; s. 246, ch. 94-218; s. 425, ch. 96-406; s. 126, ch. 97-237; s. 9, ch. 97-263; s. 11, ch. 98-49; s. 41, ch. 98-89; s. 233, ch. 98-166; s. 88, ch. 99-3; s. 286, ch. 99-8; s. 49, ch. 2000-242; s. 145, ch. 2000-318; s. 88, ch. 2001-277; s. 114, ch. 2002-1; s. 1900, ch. 2003-261; s. 51, ch. 2003-416; s. 1, ch. 2004-54.

Appendix C

Volunteer Health Services Program Staff Directory

HEADQUARTERS

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REGION 1 – Bay, Calhoun, Escambia, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington

REGION 2 – Franklin, Gadsden, Gulf, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla

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REGION 3 – Alachua, Baker, Bradford, Clay, Columbia, Duval, Flagler, Nassau, Putnam, Saint Johns, Union, Volusia

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REGION 4 – Citrus, Dixie, Gilchrist, Lake, Levy, Marion, Sumter

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Region 6 continued next column

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Appendix D



ALEX SINK
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

January 19, 2007

Mark Lundberg
State Director
Volunteer Health Services Program
Department of Health
4052 Bald Cypress Way, BIN # C23
Tallahassee, FL 32399-1743

Re: Volunteer Healthcare Provider Program

Dear Mr. Lundberg:

Pursuant to s.766.1115(7), F.S., this is to report that 9 claims have been filed against the Volunteer Healthcare Provider Program with the Division of Risk Management. Information on these claims is shown below:

1. George Leonard, our file G12-01-521, reported 12/11/01, current status "Closed", \$100,000 paid for settlement, \$53,657.75 paid for defense costs, Hernando County Health Department.
2. Shari Ann Mills, our file G02-00-060, reported 02/15/00, current status "Open", we have paid \$35,235.40 in defense costs at this time, Martin County Health Department.
3. Ana Maria Pinto, our file G08-01-048, reported 08/17/01, current status "Closed", \$75,000 paid for settlement, \$164,792.58 paid for defense costs, Dade County Health Department.
4. Rosa Mercado, our file G07-03-001, reported 06/23/03, current status "Closed", \$43,000 paid for settlement, \$82,283.32 paid for defense costs, Dade County Health Department.



ALEX SINK
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

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January 19, 2007

5. Cleveland Payne, our file G04-05-046, reported 03/16/05, current status "Open", \$2,747 paid in defense costs at this time, Orange County Health Department.
6. The following two claim files involve the same claimant/plaintiff.

Karl Wester, our file G02-04-065, reported 08/12/03, current status "Open", we have paid \$75,363.51 in defense costs at this time for Dr. Janet M. Miles and Dr. Philip Lopez, Indian River County Health Department.

Karl Wester, our file G08-03-066, reported 08/12/03, current status "Closed", \$75,000 paid for settlement for DOH, Indian River County Health Department, and Doctors Richard J. Morgan and Fred Ackroyd, and \$104,057.14 paid in defense costs, Indian River County Health Department.

7. Robert Reardon, our file G04-04-024, reported 04/06/04, current status "Open", we have paid \$32,209.25 in defense costs at this time, CMS15 West Palm Beach.
8. Bennie Bryant, our file G11-06-014, reported 11/02/06, current status "Open", we have not made any payments on this claim as yet, Broward County Health Department.
9. William Marshall, our file G12-06-510, reported 12/05/06, current status "Open", we have not made any payments on this claim as yet, Santa Rosa County Health Department.

Please call me if you need additional information.

Sincerely,

LEWIS R. WILLIAMS
Bureau Chief

RW/mc

cc: Mike Andrews, Division of Risk Management
Marc Stemle, Division of Risk Management
Trilly Lester, Division of Risk Management

Submitted by:

**Volunteer Health Services
Florida Department of Health**

