STATE OF NEW YORK

9018--A

IN ASSEMBLY

January 12, 2018

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing an office of the state medical indemnity fund ombudsman and a medical indemnity fund advisory panel

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Title 4 of article 29-D of the public health law is amended by adding two new sections 2999-k and 2999-l to read as follows:

§ 2999-k. Medical indemnity fund ombudsman. 1. There is hereby established an office of the state medical indemnity fund ombudsman for the purpose of receiving and resolving complaints affecting qualified plaintiffs, where appropriate, referring such complaints to the appropriate agencies and acting in concert with such agencies. The commissioner, in consultation with the superintendent of financial services, shall appoint a full-time medical indemnity fund ombudsman to administer and supervise the office of the state medical indemnity fund ombudsman. The medical indemnity fund ombudsman shall be selected from among individuals with expertise and experience in the field of neurological injuries and advocacy, and with such other qualifications as shall be determined by the commissioner, in consultation with the superintendent of financial services. Such ombudsman may, with approval of the commissioner, in consultation with the superintendent of financial services, appoint one or more authorized deputies to assist in his or her duties pursuant to this section; provided, however, that no such deputy shall have any conflict of interest, or be employed by the fund administrator or other party involved in the management of the fund. The medical indemnity fund ombudsman shall, personally or through authorized deputies:

(a) identify, investigate and resolve complaints that are made by or on behalf of qualified plaintiffs, and that relate to actions, inactions or decisions that may adversely affect the health, safety, welfare or rights of qualified plaintiffs;

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(b) provide services to assist qualified plaintiffs, or their representatives, in navigating the fund and understanding the fund's regulations, guidelines and procedures;

(c) inform qualified plaintiffs, or their representatives, of their rights and means of obtaining the services, supplies and modifications to which they are entitled;

(d) analyze and monitor implementation of the laws and regulations relating to the fund; and

(e) carry out other such activities as the commissioner, in consultation with the superintendent of financial services, shall determine appropriate.

2. Neither the medical indemnity fund ombudsman, nor any of his or her deputies shall disclose to any person outside the office of the state medical indemnity fund ombudsman any information obtained from a qualified plaintiff's records without the consent of the qualified plaintiff or his or her representative.

3. Within one year of the effective date of this section, and annually thereafter, the medical indemnity fund ombudsman shall submit to the commissioner, the superintendent of financial services, the speaker of the assembly and the temporary president of the senate, a report which shall include, but not be limited to, a detailed summary of the activities of the office of the state medical indemnity fund ombudsman, data regarding the complaints and issues within the fund, the process used in resolving issues, and recommendations for legislative or regulatory amendments to improve the fund.

§ 2999-l. Medical indemnity fund advisory panel. There is hereby established an advisory panel to be comprised of the commissioner, the superintendent of financial services, qualified plaintiffs or representatives of qualified plaintiffs, physicians, medical suppliers, advocates and other interested parties. The advisory panel shall be co-chaired by the commissioner and the superintendent of financial services, and shall be composed of not less than nine additional members appointed by the governor, of which two shall be appointed upon recommendation of the temporary president of the senate and two shall be appointed upon the recommendation of the speaker of the assembly. The advisory panel shall meet biannually, with the first meeting occurring within one hundred eighty days of the effective date of this section, to discuss the functioning of the fund and any relevant issues. The commissioner and the superintendent of financial services shall consider the input and comments of the advisory panel in drafting and amending regulations, guidelines or policies pertaining to the fund administration.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.