

STATE OF NEW YORK

6948

2017-2018 Regular Sessions

IN SENATE

November 17, 2017

Introduced by Sens. HANNON, SEWARD -- read twice and ordered printed,
and when printed to be committed to the Committee on Rules

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 Assem-
bly, do enact as follows:

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

3 § 2999-k. Medical indemnity fund ombudsman. 1. There is hereby estab-
4 lished an office of the state medical indemnity fund ombudsman for the
5 purpose of receiving and resolving complaints affecting qualified plain-
6 tiffs, where appropriate, referring such complaints to the appropriate
7 agencies and acting in concert with such agencies. The commissioner, in
8 consultation with the superintendent of financial services, shall
9 appoint a full-time long-term care ombudsman to administer and supervise
10 the office of the state medical indemnity fund ombudsman. The long-term
11 care ombudsman shall be selected from among individuals with expertise
12 and experience in the field of neurological injuries and advocacy, and
13 with such other qualifications as shall be determined by the commission-
14 er, in consultation with the superintendent of financial services. Such
15 ombudsman may, with approval of the commissioner, in consultation with
16 the superintendent of financial services, appoint one or more authorized
17 deputies to assist in his or her duties pursuant to this section;
18 provided, however, that no such deputy shall have any conflict of inter-
19 est, or be employed by the fund administrator or other party involved in
20 the management of the fund. The long-term care ombudsman shall,
21 personally or through authorized deputies:

22 (a) identify, investigate and resolve complaints that are made by or
23 on behalf of qualified plaintiffs, and that relate to actions, inactions

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

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1 or decisions that may adversely affect the health, safety, welfare or
2 rights of qualified plaintiffs;

3 (b) provide services to assist qualified plaintiffs, or their repre-
4 sentatives, in navigating the fund and understanding the fund's regu-
5 lations, guidelines and procedures;

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

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

11 (e) carry out other such activities as the commissioner, in consulta-
12 tion with the superintendent of financial services, shall determine
13 appropriate.

14 2. Neither the long-term care ombudsman, nor any of his or her depu-
15 ties shall disclose to any person outside the office of the state
16 medical indemnity fund ombudsman any information obtained from a quali-
17 fied plaintiff's records without the consent of the qualified plaintiff
18 or his or her representative.

19 3. Within one year of the effective date of this section, and annually
20 thereafter, the long-term care ombudsman shall submit to the commis-
21 sioner, the superintendent of financial services, the speaker of the assem-
22 bly and the temporary president of the senate, a report which shall
23 include, but not be limited to, a detailed summary of the activities of
24 the office of the state medical indemnity fund ombudsman, data regarding
25 the complaints and issues within the fund, the process used in resolving
26 issues, and recommendations for legislative or regulatory amendments to
27 improve the fund.

28 § 2999-1. Medical indemnity fund advisory panel. There is hereby
29 established an advisory panel to be comprised of the commissioner, the
30 superintendent of financial services, qualified plaintiffs or represen-
31 tatives of qualified plaintiffs, physicians, medical suppliers, advoca-
32 tes and other interested parties. The advisory panel shall be
33 co-chaired by the commissioner and the superintendent of financial
34 services, and shall be composed of not less than nine additional members
35 appointed by the governor, of which two shall be appointed upon recom-
36 mendation of the temporary president of the senate and two shall be
37 appointed upon the recommendation of the speaker of the assembly. The
38 advisory panel shall meet biannually, with the first meeting occurring
39 within one hundred eighty days of the effective date of this section, to
40 discuss the functioning of the fund and any relevant issues. The commis-
41 sioner and the superintendent of financial services shall consider the
42 input and comments of the advisory panel in drafting and amending regu-
43 lations, guidelines or policies pertaining to the fund administration.

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