

# STATE OF NEW YORK

2347

2019-2020 Regular Sessions

## IN ASSEMBLY

January 22, 2019

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Health

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:

1 Section 1. The public health law is amended by adding two new sections  
2 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 medical indemnity fund ombudsman to administer and  
10 supervise the office of the state medical indemnity fund ombudsman. The  
11 medical indemnity fund ombudsman shall be selected from among individ-  
12 uals with expertise and experience in the field of neurological injuries  
13 and advocacy, and with such other qualifications as shall be determined  
14 by the commissioner, in consultation with the superintendent of finan-  
15 cial services. Such ombudsman may, with approval of the commissioner, in  
16 consultation with the superintendent of financial services, appoint one  
17 or more authorized deputies to assist in his or her duties pursuant to  
18 this section; provided, however, that no such deputy shall have any  
19 conflict of interest, or be employed by the fund administrator or other  
20 party involved in the management of the fund. The medical indemnity fund  
21 ombudsman shall, 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.

LBD05225-01-9

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 medical indemnity fund ombudsman, nor any of his or her  
15 deputies 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 medical indemnity fund ombudsman shall submit to the  
21 commissioner, the superintendent of financial services, the speaker of  
22 the assembly and the temporary president of the senate, a report which  
23 shall include, but not be limited to, a detailed summary of the activ-  
24 ities of the office of the state medical indemnity fund ombudsman, data  
25 regarding the complaints and issues within the fund, the process used in  
26 resolving issues, and recommendations for legislative or regulatory  
27 amendments to 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, advoc-  
32 ates 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. Effective immediately, the addition, amendment and/or  
46 repeal of any rule or regulation necessary for the implementation of  
47 this act on its effective date are authorized to be made and completed  
48 on or before such effective date.