

# STATE OF NEW YORK

5958

2023-2024 Regular Sessions

## IN SENATE

March 23, 2023

Introduced by Sens. RIVERA, KRUEGER -- read twice and ordered printed,  
and when printed to be committed 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 Assem-  
bly, do enact as follows:

1 Section 1. The public health law is amended by adding two new sections  
2 2999-1 and 2999-1-1 to read as follows:

3 § 2999-1. 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  
8 shall appoint a full-time medical indemnity fund ombudsman to administer  
9 and supervise the office of the state medical indemnity fund ombudsman.  
10 The medical indemnity fund ombudsman shall be selected from among indi-  
11 viduals with expertise and experience in the field of neurological inju-  
12 ries and advocacy, and with such other qualifications as shall be deter-  
13 mined by the commissioner. Such ombudsman may, with approval of the  
14 commissioner, appoint one or more authorized deputies to assist in his  
15 or her duties pursuant to this section; provided, however, that no such  
16 deputy shall have any conflict of interest, or be employed by the fund  
17 administrator or other party involved in the management of the fund. The  
18 medical indemnity fund ombudsman shall, personally or through authorized  
19 deputies:

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

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

LBD08066-01-3

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

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

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

9 (e) carry out other such activities as the commissioner shall deter-  
10 mine appropriate.

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

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

24 § 2999-1-1. Medical indemnity fund advisory panel. There is hereby  
25 established an advisory panel to be comprised of the commissioner, qual-  
26 ified plaintiffs or representatives of qualified plaintiffs, physicians,  
27 medical suppliers, advocates and other interested parties. The advisory  
28 panel shall be chaired by the commissioner and shall be composed of not  
29 less than nine additional members appointed by the governor, of which  
30 two shall be appointed upon recommendation of the temporary president of  
31 the senate and two shall be appointed upon the recommendation of the  
32 speaker of the assembly. The advisory panel shall meet biannually, with  
33 the first meeting occurring within one hundred eighty days of the effec-  
34 tive date of this section, to discuss the functioning of the fund and  
35 any relevant issues. The commissioner shall consider the input and  
36 comments of the advisory panel in drafting and amending regulations,  
37 guidelines or policies pertaining to the fund administration.

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