

By the Committee on Health, Aging and Long-Term Care

317-330-02

1 A bill to be entitled
2 An act relating to public records and meetings
3 of statewide or district managed care ombudsman
4 committees; amending s. 641.67, F.S., which
5 provides that patient records and certain
6 identifying information held by statewide or
7 district managed care ombudsman committees are
8 confidential and exempt from public-records
9 requirements; reenacting such exemption for the
10 district managed care ombudsman committees and
11 removing the October 2, 2002, repeal thereof
12 scheduled under the Open Government Sunset
13 Review Act of 1995; repealing such exemption
14 for the statewide managed care ombudsman
15 committee; amending s. 641.68, F.S., which
16 provides that any portion of a committee
17 meeting conducted by statewide or district
18 managed care ombudsman committees where patient
19 records and certain identifying information are
20 discussed is exempt from public-meetings
21 requirements; reenacting such exemption for the
22 district managed care ombudsman committees and
23 removing the October 2, 2002, repeal thereof
24 scheduled under the Open Government Sunset
25 Review Act of 1995; repealing such exemption
26 for the statewide managed care ombudsman
27 committee; eliminating the public-necessity
28 statements; clarifying provisions; providing an
29 effective date.

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31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 641.67, Florida Statutes, is
2 amended to read:

3 641.67 ~~Statewide or~~ District managed care ombudsman
4 committee; exemption from public records requirements;
5 exceptions.--

6 (1) The following information is confidential and
7 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
8 I of the State Constitution:

9 (a) Patient records held by ~~the statewide or a~~
10 district managed care ombudsman committee created under ~~s.~~
11 ~~641.60 or~~ s. 641.65.

12 (b) The name or identity of a complainant who files a
13 complaint with ~~the statewide or~~ a district managed care
14 ombudsman committee, ~~including any problem identified by the~~
15 ~~ombudsman committee as a result of an investigation,~~ unless
16 the complainant provides written consent that authorizes the
17 release of his or her name or unless a court of competent
18 jurisdiction orders that the name or identity of a complainant
19 be disclosed.

20 (c) Any problem identified by a district managed care
21 ombudsman committee as a result of an investigation.

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23 ~~Exemptions created under this subsection are subject to the~~
24 ~~Open Government Sunset Review Act of 1995, in accordance with~~
25 ~~s. 119.15, and shall stand repealed on October 2, 2002, unless~~
26 ~~reviewed and saved from repeal by reenactment of the~~
27 ~~Legislature.~~

28 ~~(2) The Legislature finds that it is a public~~
29 ~~necessity that patient records and any other identifying~~
30 ~~information concerning a complainant held by the statewide or~~
31 ~~a district managed care ombudsman committee be held~~

1 ~~confidential and exempt from the public records law. The~~
2 ~~Legislature finds that the citizens of Florida benefit from~~
3 ~~the thorough investigation and prompt resolution of complaints~~
4 ~~regarding the quality of care provided by managed care~~
5 ~~programs. Investigation of complaints regarding quality of~~
6 ~~care often requires careful review of a patient's medical~~
7 ~~record. Such records, as well as other information contained~~
8 ~~in the complaint, often concern matters of a personal and~~
9 ~~private nature. Disclosure to the public of a patient's~~
10 ~~medical record, a complainant's identity, or other personal~~
11 ~~information would significantly discourage the filing of~~
12 ~~complaints. Consequently, the quality of care provided to the~~
13 ~~public would suffer. Therefore, the Legislature finds that the~~
14 ~~harm to the individual and the public in disclosing patient~~
15 ~~records and identifying information substantially outweighs~~
16 ~~the public benefit in allowing such disclosure.~~

17 Section 2. Section 641.68, Florida Statutes, is
18 amended to read:

19 641.68 ~~Statewide or~~ District managed care ombudsman
20 committee; exemption from public meeting requirements.--

21 (1) That portion of a committee meeting conducted by
22 ~~the statewide or~~ a district managed care ombudsman committee
23 created under ~~s. 641.60 or~~ s. 641.65, where patient records
24 and information identifying a complainant are discussed, is
25 exempt from the provisions of s. 286.011 and s. 24(b), Art. I
26 of the State Constitution. ~~The exemption created under this~~
27 ~~subsection is subject to the Open Government Sunset Review Act~~
28 ~~of 1995, in accordance with s. 119.15, and shall stand~~
29 ~~repealed on October 2, 2002, unless reviewed and saved from~~
30 ~~repeal by reenactment of the Legislature.~~

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1 ~~(2) The exemption created under subsection (1)~~
2 ~~overrides the important public policy of public access to~~
3 ~~portions of certain public discussions of governmental~~
4 ~~agencies because of the need to maintain consistency in the~~
5 ~~law relating to the management and handling of information of~~
6 ~~a personal and sensitive nature involving private individuals.~~
7 ~~It is important that the statewide or a district managed care~~
8 ~~ombudsman committee be able to discuss such personal and~~
9 ~~sensitive information in detail so that an accurate evaluation~~
10 ~~can be made of the facts contained in a complaint.~~
11 ~~Dissemination to the public of information about a health~~
12 ~~maintenance organization or other managed care organization~~
13 ~~that is obtained through a complaint would have a chilling~~
14 ~~effect on the willingness of persons with knowledge of any~~
15 ~~substandard quality-of-care activities of such organizations~~
16 ~~to provide such information to the statewide or a district~~
17 ~~managed care ombudsman committee. Based on the evaluation of~~
18 ~~such committees, certain remedial actions may be required of~~
19 ~~health maintenance organizations or other managed care~~
20 ~~organizations which will serve to enhance overall quality of~~
21 ~~care rendered by any specific company involved and potentially~~
22 ~~the entire managed care industry. Furthermore, such~~
23 ~~information may provide grounds for investigation by the~~
24 ~~Agency for Health Care Administration or may assist the agency~~
25 ~~in carrying out its responsibilities of protecting the public.~~

26 Section 3. This act shall take effect October 1, 2002.

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SENATE SUMMARY

Abrogates the repeal scheduled under the Open Government Sunset Review Act of 1995 for exemptions from public-records and public-meetings requirements for district managed care ombudsman committees and repeals the exemptions provided for the statewide managed care ombudsman committee.