

By the Committee on State Administration and  
Representative Brummer

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

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30 Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Notwithstanding the October 2, 2002, repeal  
2 of said section scheduled pursuant to the Open Government  
3 Sunset Review Act of 1995, section 641.67, Florida Statutes,  
4 is reenacted and amended to read:

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

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

11           (1)(a) Patient records held by ~~the statewide or~~ a  
12 district managed care ombudsman committee created under ~~s.~~  
13 ~~641.60 or~~ s. 641.65.

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

22           (3) Any problem identified by a district managed care  
23 ombudsman committee as a result of an investigation.

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

30           ~~(2) The Legislature finds that it is a public~~  
31 ~~necessity that patient records and any other identifying~~

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

19       Section 2. Notwithstanding the October 2, 2002, repeal  
20 of said section scheduled pursuant to the Open Government  
21 Sunset Review Act of 1995, section 641.68, Florida Statutes,  
22 is reenacted and amended to read:

23       641.68 ~~Statewide or~~ District managed care ombudsman  
24 committee; exemption from public meeting requirements.--

25       (1) That portion of a committee meeting conducted by  
26 ~~the statewide or~~ a district managed care ombudsman committee  
27 created under ~~s. 641.60 or~~ s. 641.65, where patient records  
28 and information identifying a complainant are discussed, is  
29 exempt from the provisions of s. 286.011 and s. 24(b), Art. I  
30 of the State Constitution. ~~The exemption created under this~~  
31 ~~subsection is subject to the Open Government Sunset Review Act~~

1 ~~of 1995, in accordance with s. 119.15, and shall stand~~  
2 ~~repealed on October 2, 2002, unless reviewed and saved from~~  
3 ~~repeal by reenactment of the Legislature.~~

4 ~~(2) The exemption created under subsection (1)~~  
5 ~~overrides the important public policy of public access to~~  
6 ~~portions of certain public discussions of governmental~~  
7 ~~agencies because of the need to maintain consistency in the~~  
8 ~~law relating to the management and handling of information of~~  
9 ~~a personal and sensitive nature involving private individuals.~~

10 ~~It is important that the statewide or a district managed care~~  
11 ~~ombudsman committee be able to discuss such personal and~~  
12 ~~sensitive information in detail so that an accurate evaluation~~  
13 ~~can be made of the facts contained in a complaint.~~

14 ~~Dissemination to the public of information about a health~~  
15 ~~maintenance organization or other managed care organization~~  
16 ~~that is obtained through a complaint would have a chilling~~  
17 ~~effect on the willingness of persons with knowledge of any~~  
18 ~~substandard quality-of-care activities of such organizations~~  
19 ~~to provide such information to the statewide or a district~~  
20 ~~managed care ombudsman committee. Based on the evaluation of~~  
21 ~~such committees, certain remedial actions may be required of~~  
22 ~~health maintenance organizations or other managed care~~  
23 ~~organizations which will serve to enhance overall quality of~~  
24 ~~care rendered by any specific company involved and potentially~~  
25 ~~the entire managed care industry. Furthermore, such~~  
26 ~~information may provide grounds for investigation by the~~  
27 ~~Agency for Health Care Administration or may assist the agency~~  
28 ~~in carrying out its responsibilities of protecting the public.~~

29 Section 3. This act shall take effect October 1, 2002.  
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HOUSE SUMMARY

Reenacts the public records and public meeting exemptions for patient records and certain identifying information held by district managed care ombudsman committees, and for portions of meetings of such committees where such records or information is discussed, and removes the October 2, 2002, repeal thereof scheduled under the Open Government Sunset Review Act of 1995. Removes those exemptions for the statewide managed care ombudsman committee.