By Representative Bucher

A bill to be entitled

An act relating to managed care ombudsman committees; creating s. 641.64, F.S.; providing definitions; amending s. 641.65, F.S., relating to district managed care ombudsman committees; requiring the formation of a managed care ombudsman committee in each district of the Agency for Health Care Administration; modifying membership and manner of appointment of committee members; specifying that committee members serve in a voluntary capacity; specifying that committees are to assist in resolving complaints only at the request of an enrollee of a managed care program; eliminating authorization for committees to conduct site visits with the agency; authorizing committees to assist enrollees in appeals of unresolved grievances to the Subscriber Assistance Panel; specifying additional responsibilities for committees; requiring committee members to be screened; requiring training for committee members; prohibiting specified conflicts of interest; amending s. 641.70, F.S.; requiring the Agency for Health Care Administration to adopt rules relating to conflicts of interest for district managed care ombudsman committees; requiring the Agency for Health Care Administration to conduct a public awareness campaign, establish standardized training, and assist in recruiting and retaining managed care ombudsmen; amending s. 641.75, F.S., relating

to immunity from liability and limitation on testimony for managed care ombudsman committees; removing references to the statewide committee; conforming cross-references; repealing s. 641.60, F.S., relating to the Statewide Managed Care Ombudsman Committee; providing an appropriation; providing an effective date.

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

Section 1. Section 641.64, Florida Statutes, is created to read:

641.64 Definitions.--As used in ss. 641.64-641.75, the term:

(1) "Agency" means the Agency for Health Care Administration.

(2) "Covered medical service" means a service that has been contracted for under the managed care program agreement.

(3) "District" means one of the health service planning districts as defined in s. 408.032.

(4) "District committee" means a district managed care ombudsman committee.

(5) "Enrollee" means an individual who has contracted, or on whose behalf a contract has been entered into, with a managed care program for health care.

(6) "Managed care program" means a health care delivery system that emphasizes primary care and integrates the financing and delivery of services to enrolled individuals through arrangements with selected providers, formal quality assurance and utilization review, and financial incentives for

enrollees to use the program's providers. Such a health care delivery system may include arrangements in which providers receive prepaid set payments to coordinate and deliver all inpatient and outpatient services to enrollees or arrangements in which providers receive a case management fee to coordinate services and are reimbursed on a fee-for-service basis for the services they provide. A managed care program may include a state-licensed health maintenance organization, a Medicaid prepaid health plan, a Medicaid primary care case management program, or other similar program.

(7) "Physician" means a person licensed under chapter 458, chapter 459, chapter 460, or chapter 461.

Section 2. Section 641.65, Florida Statutes, is amended to read:

641.65 District managed care ombudsman committees.--

(1) A district managed care ombudsman committee is created in each district of the agency ~~that has staff assigned for the regulation of managed care programs. Each district committee is subject to direction from and the supervision of the statewide committee~~.

(2) Each district committee shall have no fewer than 9 members and no more than 20 ~~16~~ members, including, if possible ~~at least~~: one physician licensed under chapter 458, one physician licensed under chapter 459, one physician licensed under chapter 460, and one physician licensed under chapter 461, one psychologist, one registered nurse, one clinical social worker, one attorney, and at least one recipient of services from a managed care program ~~one consumer~~. For the members who are recipients of services from a managed care program ~~consumer member~~, preference shall be given to members of organized consumer or advocacy groups with national or

statewide membership. ~~No member may be employed by or affiliated with a managed care program.~~

(3) The agency shall require a Level I background screening of committee members under the provisions of s. 453.03. The agency will pay the fees associated with the required screening.

(4)~~(3)~~(a) The secretary of the agency ~~director~~ shall appoint the first three members of each district committee, and those three members shall select the remaining members~~, subject to approval of the agency director~~. The agency shall review all appointments for compliance with this section, and may disqualify an appointee for failure to meet the requirements of this section.~~If any of the first three members are not appointed within 60 days after the statewide committee is established and after a request is submitted to the agency director, those members shall be appointed by a majority vote of the statewide committee without further action by the agency director.~~

(b) Members shall be appointed to serve for a term of 3 years, except that at the time of initial appointment, terms shall be staggered so the first 40 percent of members appointed shall serve for a term of 2 years and the remaining members shall serve for a term of 3 years. Members may serve only two consecutive terms.

(c) Upon the expiration of the term of a member or upon the occurrence of a vacancy, the district committee shall appoint a successor~~, subject to the approval of the agency director~~. The agency shall review all appointments for compliance with this section, and may disqualify an appointee for failure to meet the requirements of this section.

~~(d) If the agency director fails to approve or disapprove a replacement member within 30 days after the district committee provides the agency director with a nomination, the nomination is automatically approved.~~

(5)~~(4)~~ Each district committee shall elect a chairperson for a term of 1 year. A person may not serve as chairperson for more than two consecutive terms.

(6)~~(5)~~ If a district committee member misses, without cause, two-thirds of the regular district committee meetings in a calendar year, the member is automatically removed, and the district committee shall select a replacement.

(7)~~(6)~~ Each district committee or member of the committee:

(a) Shall serve in a voluntary capacity to protect the health, safety, and rights of ~~all~~ enrollees participating in managed care programs in this state.

(b) Shall receive enrollee complaints regarding quality of care from the agency when the ombudsman's assistance is requested by the enrollee, and may assist the agency and enrollees with the resolution of complaints. At the complainant's request,

~~(c) May conduct site visits with the agency, as the agency determines is appropriate.~~a complaint must ~~may~~ be referred by the agency to the committee if the complaint relates~~, as~~ to whether an enrollee's managed care program may have inappropriately denied the enrollee a covered medical service, may be inappropriately delaying the provision of a covered medical service to the enrollee, or is providing substandard covered medical services. The committee shall establish and follow uniform criteria in reviewing information and receiving complaints. If a district managed care ombudsman

committee or committee member receives such a complaint directly from an enrollee, the committee shall assist the enrollee with resolution of the complaint and report the complaint to the agency.

(c) At the request of an enrollee, a district managed care ombudsman committee shall assist the enrollee in any appeal of an unresolved grievance to the Subscriber Assistance Panel under s. 408.7056.

(d) Shall educate enrollees about their rights and responsibilities in managed care programs.

(e) Shall train consumers to understand and use the annual consumer guide on plan performance and the marketing information prepared by managed care programs and may assist consumers in selecting health care plans appropriate for their needs.

(f) Shall assist enrollees with filing formal appeals of managed care program determinations, including preservice denials and the termination of services.

(g)~~(d)~~ Shall submit an annual report to the agency ~~statewide committee~~ concerning activities, recommendations, and complaints reviewed ~~or developed~~ by the district committee during the year.

(h)~~(e)~~ Shall conduct meetings as required at the call of its chairperson~~, the call of the agency director, the call of the statewide committee,~~or by written request of a majority of the district committee members.

(8) A member or employee of a district committee may not:

(a) Have a direct involvement in the licensing, certification, or accreditation of, or an ownership or investment interest in, a managed care program.

(b) Be employed by or participate in the management of a managed care program.

(c) Receive, or have a right to receive, directly or indirectly, remuneration, in cash or in kind, under a compensation agreement with a managed care program.

(d) Gain, or stand to gain, financially through an action or potential action brought on behalf of individuals the ombudsman serves.

Section 3. Section 641.70, Florida Statutes, is amended to read:

641.70 Agency duties relating to the ~~Statewide Managed Care Ombudsman Committee and the~~ district managed care ombudsman committees.--

(1) The agency shall adopt rules that specify:

(a) Procedures by which the ~~statewide committee and~~ district committees receive reports of enrollee complaints from the agency.

(b) Procedures by which enrollee information shall be made available to members of the ~~statewide committee and to the~~ district committees by managed care programs.

(c) Procedures by which recommendations made by the committees may ~~shall~~ be considered for incorporation into policies and procedures of the agency.

(d) In consultation with the district committees, procedures to identify and eliminate conflicts of interest as described in s. 641.65.

(e)~~(d)~~ Procedures by which ~~statewide~~ committee members shall be reimbursed for authorized expenditures.

(f)~~(e)~~ Any other procedures that are necessary to administer ss. 641.64-641.75 ~~this section and ss. 641.60 and 641.65~~.

(2) The agency ~~for Health Care Administration~~ shall provide a meeting place for district committees in agency offices and shall provide the necessary administrative support to assist the ~~statewide committee and~~ district committees, within available resources.

(3) The agency shall, in cooperation with the district committees, conduct a public awareness campaign to increase the public's knowledge of the services provided by the district committees.

(4) The agency, in cooperation with the district committees, shall establish standardized training of committee members.

(5) All volunteers serving on district committees must be given a minimum of 8 hours of training upon appointment and 8 hours of continuing education annually thereafter. The agency must provide standardized training for all committee members.

(6) The agency may assist the district committees in recruiting and retaining managed care ombudsmen.

(7)~~(3)~~ The secretary of the agency shall ensure the full cooperation and assistance of agency employees with members of the ~~statewide committee and~~ district committees.

Section 4. Section 641.75, Florida Statutes, is amended to read:

641.75 Immunity from liability; limitation on testimony.--

(1) Any member of ~~the statewide committee or~~ a district committee who receives or investigates a complaint of an enrollee of a managed care program in accordance with the procedures and guidelines of the agency shall be immune from liability for good faith action on behalf of such an enrollee.

(2) Except as otherwise provided by law, all other matters before the ~~statewide committee or~~ district committees shall be open to the public and subject to chapter 119 and s. 286.011.

(3) Members of any ~~state or~~ district ombudsman committee shall not be required to testify in any court with respect to matters held to be confidential except as may be necessary to enforce ss. 641.64-641.75 ~~ss. 641.60-641.75~~.

Section 5. Section 641.60, Florida Statutes, is repealed.

Section 6. The sum of $300,000 is appropriated from the General Revenue Fund to the Agency for Health Care Administration and one position is authorized for the purposes of implementing this act during the 2002-2003 fiscal year.

Section 7. This act shall take effect July 1, 2002.

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SENATE SUMMARY

Requires the creation of a managed care ombudsman committee in each district of the Agency for Health Care Administration. Modifies the membership and manner of appointment of committee members. Eliminates authorization for committees to conduct site visits with the agency. Authorizes committees to assist enrollees in appeals of unresolved grievances. Prohibits specified conflicts of interest of members or employees of a district committee. Provides for rulemaking authority. Requires the agency to conduct a public information campaign, establish standardized training, and assist in recruiting and retaining managed care ombudsmen. Abolishes the Statewide Managed Care Ombudsman Committee. Provides an appropriation.