

CHAPTER 97-106

Senate Bill No. 1634

An act relating to public records; providing an exemption from public records requirements for patient records and other identifying information concerning a complainant involved in a complaint to the statewide or a district managed care ombudsman committee; providing for future review and repeal; providing a finding of public necessity; making confidential and providing an exemption from public meetings requirements for portions of meetings of the statewide or a district managed care ombudsman committee during which certain information relating to complaints filed with such committees is discussed; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. (1) The following information is confidential and exempt from the provisions of section 119.07(1), Florida Statutes, and section 24(a) of Article I of the State Constitution:

(a) Patient records held by the statewide or a district managed care ombudsman committee created under sections 641.60 or 641.65, Florida Statutes, 1996 Supplement.

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

Exemptions created under this subsection are subject to the Open Government Sunset Review Act of 1995, in accordance with section 119.15, Florida Statutes, and shall stand repealed on October 2, 2002, unless reviewed and saved from repeal by reenactment of the Legislature.

(2) The Legislature finds that it is a public necessity that patient records and any other identifying information concerning a complainant held by the statewide or a district managed care ombudsman committee be held confidential and exempt from the Public Records Law. The Legislature finds that the citizens of Florida benefit from the thorough investigation and prompt resolution of complaints regarding the quality of care provided by managed care programs. Investigation of complaints regarding quality of care often requires careful review of a patient's medical record. Such records, as well as other information contained in the complaint, often concern matters of a personal and private nature. Disclosure to the public of a patient's medical record, a complainant's identity, or other personal information would significantly discourage the filing of complaints. Consequently, the quality of care provided to the public would suffer. Therefore, the Legislature finds that the

harm to the individual and the public in disclosing patient records and identifying information substantially outweighs the public benefit in allowing such disclosure.

Section 2. (1) That portion of a committee meeting conducted by the statewide or a district managed care ombudsman committee created under sections 641.60 or 641.65, Florida Statutes, 1996 Supplement, where patient records and information identifying a complainant are discussed is exempt from the provisions of section 286.011, Florida Statutes, and section 24(b) of Article I of the State Constitution. The exemption created under this subsection is subject to the Open Government Sunset Review Act of 1995, in accordance with section 119.15, Florida Statutes, and shall stand repealed on October 2, 2002, unless reviewed and saved from repeal by reenactment of the Legislature.

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

Section 3. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 24, 1997.

Filed in Office Secretary of State May 23, 1997.