

CHAPTER 460
FORMERLY
SENATE BILL NO. 275
AS AMENDED BY
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO HEALTH CARE PRACTICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 24, Delaware Code by adding a new Section 1799F to read as follows:

“§1740. Health Care Facilities Reporting Requirements.

(a) Definitions.

(1) ‘Direct Access’ means the opportunity to have personal contact with persons receiving care during the course of one’s assigned or professional duties.

(2) ‘Health Care Facility’ means any custodial or residential facility or other facility where health, nutritional or personal care is provided for persons including nursing homes, assisted living facilities, long-term care facilities, hospitals, health care agencies, birth centers, emergency centers, surgical centers, and adult and child day care facilities. This term also includes any business, professional association, or other business entity where two or more physicians practice together.

(3) ‘Person seeking certification’ means any person seeking an initial certificate to practice medicine from the Board of Medical Practice.

(b) Service Letter –

(1) The Board of Medical Practice shall not issue a certificate to practice medicine without first obtaining 1 or more service letters regarding the applicant, provided that person has previously practiced medicine. The service letter obtained must include a service letter from all health care facilities where that person currently has direct access to patients, and where that person has admitting or staff privileges. In addition, if a person seeking certification had direct access to patients or staff or admitting privileges at a health care facility within the past five years, the Board of Medicine Practice shall also obtain a service letter from each such facility. If a person seeking certification has not previously had direct access to patients or was self-employed or one or more of the health care facilities where he or she had direct access to patients no longer exists, then the Board must require the person to provide letters of reference from 2 physicians who are familiar with the person, but who are not relatives of the person.

(2) For purposes of this subsection, the required “service letter” shall be in a form provided by the Board of Medical Practice. Notwithstanding any law or provision to the contrary, the form shall be signed by a responsible physician at the current or previous health care facility and shall contain information about the scope of that persons practice and relationship to the facility, the duration of that relationship, and any reasonably substantiated incidents involving violence, threat of violence, abuse, or neglect by the person seeking certification toward any other person, including any disciplinary action taken as a result of such conduct.

(3) Any health care facility that is required to provide a service letter for the purpose stated above shall obtain a statement signed by the person seeking certification wherein the person authorizes a full release permitting the Board of Medical Practice to obtain any and all information pertaining to the facts of the person’s current or previous relationship with the facility.

(4) In addition to the requirements of §1720 of this Title, the Board shall obtain a statement signed by the person seeking certification wherein the person attests that the information provided regarding current and past relationships to health care facilities represent a full and complete disclosure of the person’s current and previous contacts with health care facilities. Any person seeking certification who fails to make a full and complete disclosure of such information shall be subject to a civil penalty of \$5,000. Any person who willfully fails to make a full and complete disclosure shall not be issued a certificate to practice medicine.

(5) Any health care facility receiving the Board's written request for a service letter shall provide the service letter within 10 business days from the day the request is received. Any health care facility that fails to make a full and complete disclosure of information, pursuant to this section and §1730(b)(3) of this Title, as required, shall be subject to a civil penalty of \$10,000 for each such violation.

(6) Any health care facility providing information about a person seeking licensure as required by this section shall be immune from claims, suits, liability, damages, or any other recourse, civil or criminal, so long as the person acted in good faith and without gross or wanton negligence; good faith being presumed until proven otherwise, and gross or wanton negligence required to be shown by the complainant.

(7) The requirements of this Section shall be in addition to any requirements of 19 Del. C. §708.

(8) The Division of Professional Regulation shall investigate and seek civil penalties against persons seeking certification and health care facilities that violate the provision of this Act.”

(9) Notwithstanding the foregoing, the Board may issue a certificate to practice medicine to an applicant who was employed out of state or country within the past five years, where completed service letters have not been received from all health care facilities, provided all other requirements of this Chapter are met and provided requests were made to such facilities and the Board determines that all possible efforts were made to obtain the required service letter(s). Applicants to which this paragraph applies shall obtain letters of reference from two (2) qualified physicians who are familiar with the person, who are not relatives of the person.”

Section 2. Amend §1730(b), Title 24, Delaware Code by adding after the phrase “is issued”, the phrase “and health care facility as defined in §1740 of this Title”, and further by adding after the word “days”, the phrase “(1)”, and further by adding after the phrase “hospital and”, the phrase “(2)”, and further by adding after the phrase “that person”, the phrase “and (3) any reasonably substantiated incidents involving violence, threat of violence, abuse, or neglect by a person toward any other person”.

Section 3. The Board of Medical Practice shall promulgate rules and regulations necessary to fully implement this Act.

Section 4. Amend §1720, Title 24, Delaware Code by adding a subsection (g) to read as follows:

“(g) Notwithstanding any language to the contrary, the Board shall not issue a license to an applicant until first verifying that an applicant is not listed on either the Adult Abuse Registry or the Child Protection Registry as being substantiated for abuse or neglect.”

Section 5. Section 3 shall become effective immediately and Sections 1, 2 and 4 shall become effective six months after enactment.

Approved July 30, 2010