

CHAPTER 207
FORMERLY
HOUSE BILL NO. 196

AN ACT TO AMEND TITLE 2, TITLE 11, TITLE 16, TITLE 18, TITLE 19, TITLE 24, AND TITLE 30 OF THE DELAWARE CODE RELATING TO LONG TERM CARE FACILITIES.

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

Section 1. Amend § 1822, Title 2 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 1822. Medical transportation by health-care facilities.

Vehicles that are operated by: ~~nursing facilities or similar~~ long term care facilities, as defined in § 1102 of Title 16; hospitals as defined in § 1001 of Title 16; treatment facilities as defined in § 2203 of Title 16; providers who are qualified to provide treatment by the Department of Health and Social Services, including for day and residential services; and facilities where physical therapy is provided; may provide transportation services for their patients, clients or residents in accordance with a contract between the facility and a nonemergency medical transportation broker, without certification as a public carrier.

Section 2. Amend § 8564, Title 11 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline and redesignating accordingly as follows:

§ 8564. Adult Abuse Registry check.

(a) *Definitions.* — As used in this section:

(7) "Long term care facility" means any facility required to be licensed under Chapter 11 of Title 16; the Delaware Psychiatric Center; and hospitals certified by the Department of Health and Social Services under § 5001 of Title 16.

~~(9) "Nursing facility" and "similar facility" means any facility required to be licensed under Chapter 11 of Title 16. This includes, but is not limited to, facilities commonly called nursing homes, assisted living facilities, intermediate care facilities for persons with intellectual disabilities, neighborhood group homes, family care homes and rest residential care facilities. Also included are the Stockley Center, the Delaware Psychiatric Center and hospitals certified by the Department of Health and Social Services pursuant to § 5001 or § 5136 [repealed] of Title 16.~~

Section 3. Amend § 2511, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 2511. Safeguards.

(b) The Department of Health and Social Services and the Public Guardian shall have oversight over any advance health-care directive executed by a resident of a ~~sanatorium, rest home, nursing home, boarding home or related institution~~ long term care facility, as ~~the same~~ is defined in § 1102 of this title. Such advance health-care directive shall have no force nor effect if the declarant is a resident of a ~~sanatorium, rest home, nursing home, boarding home or related institution~~ long term care facility, as defined in § 1102 of this title, at the time the advance

health-care directive is executed unless 1 of the witnesses is a person designated as a patient advocate or ombudsperson by the Department of Health and Social Services. The patient advocate or ombudsperson must have the qualifications required of other witnesses under this chapter except as provided in § 2508 of this title.

Section 4. Amend § 5138, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 5138. Criminal background checks.

(h) All grandfathered employees must be fingerprinted by the SBI within 120 days from the date of BCC (see § 7972(a) of Title 29) implementation. SBI:

(1) Shall use the fingerprints to establish the grandfathered employee's identity and to assign an SBI identification number for the sole purpose of enabling the person's criminal record to be monitored for new arrests while the grandfathered employee continues to work at a ~~nursing facility or similar facility.~~ long term care facility, as defined in § 1102 of this title.

(2) Shall not run a state or federal background check of the grandfathered employee, unless the grandfathered employee is also an applicant as defined in § 5137(b) of this title above;

(3) Shall comply with § 1911 of Title 11.

Section 5. Amend § 333, Title 18 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 333. Arbitration of disputes between insurance carriers and health-care providers.

(a) *Definitions.* — The following definitions shall apply with respect to this section:

(1) "Health-care provider" means a person, corporation, facility or institution licensed by this State pursuant to Title 24 or Title 16 to provide health-care or professional services or any officers, employees or agents thereof acting within the scope of their employment; provided, however, that the term "health-care provider" shall not mean or include the following:

a. Any nursing service or nursing facility conducted by or for those who rely upon treatment solely by spiritual means in accordance with the creed or tenets of any generally recognized church or religious denomination;

b. Any ~~nursing facility~~ long term care facility, as defined at ~~§ 1102(4)~~ § 1102 of Title 16 or its successor; and

Section 6. Amend § 708, Title 19 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 708. Special employment practices relating to health care and child care facilities.

(a) *Definitions.* —

(3) "Health care facility" means any custodial or residential facility where health, nutritional or personal care is provided for persons, including ~~nursing homes,~~ long term care facilities as defined in § 1102 of Title 16, hospitals, home health care agencies, and adult day care facilities.

Section 7. Amend § 1769B, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 1769B. Treatment or examination of minors.

(a) A parent, guardian or other caretaker, or an adult staff member, shall be present when a person licensed to practice medicine under this chapter provides outpatient treatment to a minor patient who is disrobed or partially disrobed or during an outpatient physical examination involving the breasts, genitalia or rectum, regardless of sex of the licensed person and patient, except when rendering care during an emergency. When using an adult staff member to observe the treatment or examination, the adult staff member shall be of the same gender as the patient when practicable. The minor patient may decline the presence of a third person only with consent of a parent, guardian or other caretaker. The minor patient may request private consultation with the person licensed to practice medicine without the presence of a third person after the physical examination. Every hospital and ~~nursing facility and similar~~ long term care facility that provides treatment to minors shall develop and implement policies regarding the treatment of minor patients that are consistent with the purposes of this section and will submit those policies for approval by the Department of Health and Social Services. Violations of approved policies will be treated as a violation of this section.

(c) For the purposes of this section, "minor" is defined as a person 15 years of age or younger, "adult staff member" is defined as a person 18 years of age or older who acting under the direction of the licensed person or the employer of the licensed person or who is otherwise licensed under this chapter, "hospital" has the meaning prescribed by Chapter 10 of Title 16, and ~~"nursing facility and similar facility"~~ "long term care facility" has the meaning prescribed by Chapter 11 of Title 16.

Section 8. Amend § 6502, Title 30 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 6502. Quality assessment.

(e) The Department of Finance shall, within 30 days after the return due date for each quarter, deposit the quality assessments collected as follows:

(1) 90% of the quality assessments shall be deposited to the Nursing Facility Quality Assessment Fund established pursuant to ~~§ 1180 of Title 16;~~ § 1181 of Title 16; and

(2) 10% of the quality assessments collected shall be deposited to the State's General Fund.

Section 9. This Act takes effect upon the enactment of House Bill No. 195 of the 149th General Assembly.
Approved February 14, 2018