

CHAPTER 123
FORMERLY
SENATE BILL NO. 107
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

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

Section 1. Amend § 122, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 122. Powers and duties of the Department of Health and Social Services.

The Department shall have the following general powers and duties:

(3) Adopt, promulgate, amend, and repeal regulations consistent with law, which regulations shall not extend, modify or conflict with any law of this State or the reasonable implications thereof, and which shall be enforced by all state and local public health officials, to:

o. Establish standards for public health quality assurance in the operation of home health agency programs and regulate the public health practice of such programs.

2. For purposes of ~~this definition paragraph (3)~~ o. of this section, the following shall also apply:

B. Home health agency services are provided to individuals primarily in their home or private residence ~~(excluding residents of hospitals and nursing facilities)~~.

x. Establish standards for regulation of the operation of personal assistance services agencies, and grant licenses for the operation of such Agencies to persons, associations or organizations that have been approved in accordance with this title and that pay the appropriate licensure fee.

1. A “personal assistance services agency” is any business entity or subdivision thereof, whether public or private, proprietary or not-for-profit, which refers direct care workers to provide personal assistance services to individuals primarily in their home or private residence ~~(excluding residents of hospitals and nursing facilities)~~.

6. The Department shall not issue a license to any applicant, nor shall it renew any previously issued license, unless, together with the proper licensure fee, application, and evidence of compliance with Department regulations, the personal assistance services agency/applicant has included:

A. Evidence that the personal assistance services agency ~~has obtained the following information for each of the direct care workers who may enter the home or private residence of any resident of this State for the purpose of providing them with any of the services herein provided:~~ is complying with the State’s criminal background check policy as set forth in §1145 of this title. ~~i. In accordance with a criminal history report from the State Bureau of Identification. The State shall cover all costs associated with obtaining the criminal history reports. ii. Certification from the Department of Health and Social Services that the direct care worker has not been named in the Central Register as a perpetrator of adult abuse. iii. Certification from the Department of Services for Children, Youth, and Their Families that the direct care worker has not been named in the Central Register as the perpetrator of child abuse.~~

Approved July 27, 2015