

CHAPTER 150
FORMERLY
SENATE BILL NO. 121

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE OPERATION OF UNLICENSED HEALTHCARE AGENCIES AND FACILITIES.

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

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

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

“(9) No person shall operate any healthcare agency or facility without a license from the Department of Health and Social Services if such healthcare agency or facility is required to obtain a license under Title 16 of the Delaware Code. The Department may make and enforce such orders as it deems necessary to protect the health and safety of the public hereunder. Without limitation of the foregoing, if the Department determines that a healthcare agency or facility is operating without a required license, the Department may order that such agency or facility be closed.

a. Whoever refuses, fails or neglects to close after notification from the Department regarding the requirement for licensure shall be subject to an administrative penalty of \$5,000.00 per day,

together with costs, for every day that they remain open from and after the effective date of notification from the Department.

b. In the event of nonpayment of the administrative penalty after all legal appeals have been exhausted, a civil action may be brought by the Secretary in any court of competent jurisdiction, including any Justice of the Peace Court, for collection of the administrative penalty, including interest, attorneys’ fees and costs, and the validity, amount and appropriateness of such administrative penalty shall not be subject to review.

~~(9)~~(10) The powers and duties of the Department are subject to the powers and duties granted other entities in Title 20. Provisions of Title 20 which conflict with provisions of this section shall take precedence over this section.

Approved July 31, 2013