

CHAPTER 30  
FORMERLY  
HOUSE BILL NO. 63

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO SEXUAL ABUSE OF PATIENTS IN FACILITIES.

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

SECTION 1. Amend § 1131(1), Title 16 of the Delaware Code by striking said Section in its entirety, and by substituting in lieu thereof the following:

“(1) Abuse shall mean:

(a) Physical abuse by unnecessarily inflicting pain or injury to a patient or resident. This includes but is not limited to, hitting, kicking, punching, slapping or pulling hair. When any act constituting physical abuse has been proved, the infliction of pain is assumed.

(b) Sexual abuse which includes, but is not limited to, any sexual contact, sexual penetration, or sexual intercourse, as those terms are defined in 11 Del. C. §761, with a patient or resident by an employee or volunteer working at a facility. It shall be no defense that the sexual contact, sexual penetration, or sexual intercourse was consensual.

(c) Emotional abuse which includes, but is not limited to, ridiculing, demeaning, humiliating, or cursing at a patient or resident, or threatening a patient or resident with physical harm.”.

SECTION 2. Amend §1136, Title 16 of the Delaware Code by striking subsection (a) in its entirety and by substituting in lieu thereof the following:

“(a) Any person, who knowingly abuses, mistreats or neglects a patient or resident of a facility shall be guilty of a class A misdemeanor. Where abuse results in sexual contact such person shall be guilty of a class G felony. Where the abuse, mistreatment or neglect results in serious physical injury, sexual penetration or sexual intercourse, such person shall be guilty of a class C felony.”.

SECTION 3. Amend §1136, Title 16 of the Delaware Code by adding a new subsection (d) as follows:

“(d) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.”.

Approved May 19,2011