

CHAPTER 394  
FORMERLY  
HOUSE BILL NO. 326

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HEALTH PLANNING AND RESOURCES MANAGEMENT.

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

Section 1. Amend § 9303, Title 16 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 9303. Delaware Health Resources Board.

(a) There is hereby established a Delaware Health Resources Board to foster the cost-effective and efficient use of health care resources and the availability of and access to high quality and appropriate health care services.

(b) The Board shall consist of a Chair, a Vice Chair and ~~19~~ 13 other members, all of which shall be appointed by the Governor. Appointments shall be for 3-year terms, ~~except that of the initial appointments, 7 shall be for 3 year terms, 7 shall be for 2 year terms and 7 shall be for 1 year terms.~~ provided that the terms of newly appointed members will be staggered so that no more than 5 appointments shall expire annually. The Governor may appoint members for terms of less than 3 years to ensure that the Board members' terms expire on a staggered basis. The membership shall be representative of all counties in the State. In addition to the Chair and the Vice Chair, the membership shall consist of 1 representative ~~designated by~~ of the Delaware Health Care Commission; 1 representative ~~from the Department of Health and Social Services designated~~ recommended by the Secretary of the Department of Health and Social Services; 1 representative of ~~organized~~ labor; 1 representative of the health insurance industry; ~~1 representative designated by the Delaware Healthcare Association;~~ 1 representative with knowledge and professional experience in health care administration; ~~1 representative designated by the Medical Society of Delaware;~~ 1 representative licensed to practice medicine in Delaware; ~~1 representative designated by the Delaware Health Care Facilities Association;~~ 1 representative with knowledge and professional experience in long-term care administration; 1 representative of a provider group other than hospitals, nursing homes or physicians; ~~1 representative designated by the State Chamber of Commerce;~~ 1 representative involved in purchasing health care coverage on behalf of State employees; 1 other representative involved in purchasing health care coverage for employers with more than 200 employees; and ~~10~~ 4 representatives of the public-at-large, ~~and not involved in the delivery of health care, health care insurance or the purchasing of health care coverage for an employer with more than 200 employees.~~ Public members may include but not be limited to representative from business, educational and non-profit organizations. ~~The Chair and Vice Chair shall be appointed from among the 10 representatives of the public at large. The Chair shall be an at large position and shall be appointed by and serve at the pleasure of the Governor. The Governor shall designate a Vice Chair from among the members of the Board who shall serve in this capacity at the pleasure of the Governor. The Delaware Healthcare Association, the Medical Society of Delaware, the Delaware Health Care Facilities Association, the Delaware State Chamber of Commerce, and other interested organizations may submit nonbinding recommendations to aid the Governor in making appointments to the Board.~~ Any vacancy shall be filled by the Governor for the balance of the unexpired term. A quorum shall consist of at least 50 percent of the membership. Members of the Board shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties, to the extent that funds are available and the expenditures are in accordance with state laws.

(c) The Board is an independent public instrumentality. For administrative and budgetary purposes only, the Board shall be placed within the Department of Health and Social Services, ~~Office of the Secretary.~~ The Delaware Health Resources Board shall function in cooperation with the Delaware Health Care Commission, as well as other state health policy activities. Staff support for the Board shall be provided by the ~~Bureau of Health Planning and Resources Management.~~ Delaware Health Care Commission and the Office of the Secretary, Department of Health and Social Services. ~~The Bureau Director shall serve as Secretary to the Board and as its Chief Administrative Officer.~~

(d) The duties and responsibilities of the Board shall include, but not be limited to, the following:

(1) Develop a Health Resources Management Plan which shall assess the supply of health care resources, particularly facilities and medical technologies, and the need for such resources. A Essential aspects of the plan shall include a statement of principles to guide the allocation of resources, and specific criteria and other guidance as well as rules and regulations which shall be formulated for use in reviewing Certificate of Public Review applications, ~~shall be essential aspects of the plan. Prior to adoption of the plan or revision of the plan, the Board shall provide written notification of the proposed action and conduct a public hearing. Such notification shall be sent directly to all health care facilities in the State and to others who request direct notification. A notice shall also appear in a newspaper of general circulation which shall serve as written notification to the general public. The notification shall generally describe the plan or plan revisions under consideration and announce the time and place of the public hearing. The notification shall also provide a period of at least 21 days during which written comments may be submitted. The public hearing shall be held not less than 14 days after the notice appears in the newspaper. No fees shall be imposed for such hearings. An opportunity must be provided for any person to present testimony.~~ Any revision of the Health Resources Management Plan shall be done in accordance with the provisions of the Administrative Procedures Act (29 Del. C. § 101). The Board shall also be required to conduct a public hearing. Also, prior to adoption, the plan or revision of the plan shall be submitted to the Delaware Health Care Commission for review and ~~comment~~ approval. Upon receiving written approval from the Commission, the plan or revision shall be submitted ~~and~~ to the Secretary, Department of Health and Social Services. The plan or revision shall become effective upon the written approval of the Secretary;

(2) Review Certificate of Public Review applications filed pursuant to this chapter and make decisions on same. Decisions shall reflect the importance of assuring that health care developments do not negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent. Decisions can be conditional but the conditions must be related to the specific project in question;

(3) Gather and analyze data and information needed to carry out its responsibilities. Identify the kinds of data which are not available so that efforts can be made to assure that legitimate data needs can be met in the future;

(4) Address specific health care issues as requested by the Governor or the General Assembly;

(5) Adopt bylaws as necessary for conducting its affairs. Board members shall comply with the provisions of Chapter 58 of Title 29 (State Ethics Code) and the Board shall operate in accordance with Chapter 100 of Title 29 (Freedom of Information Act); and

(6) Coordinate activities with the Delaware Health Care Commission, the Department of Health and Social Services and other groups as appropriate.

(e) The Governor may at any time, after notice and hearing, remove any Board member for gross inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office. A member shall be deemed in neglect of duty if they are absent from 3 consecutive Board meetings without good cause or if they attend less than 50% of Board meetings in a calendar year.

Approved August 13, 2012