

CHAPTER 319
FORMERLY
SENATE BILL NO. 296
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND THE DELAWARE CODE RELATING TO THE BOARD OF MEDICAL PRACTICE.

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

Section 1. The name of the Board of Medical Practice is changed to the "Board of Medical Licensure and Discipline" and, after the effective date of this proposed Act, all references throughout the Delaware Code, including references in § 2102 of Title 13, §§ 123, 2701, 4904 and 6801 of Title 16, Chapters 19, 97 and 98 of Title 16, § 6820 of Title 18, Chapter 17 of Title 24, Chapter 25 of Title 24, § 105 of Title 28, Chapter 87 of Title 29, and § 10161 of Title 29, to this administrative board shall be to the "Board of Medical Licensure and Discipline".

Section 2. Amend § 1710(b), Title 24 of the Delaware Code by deleting the number "11" and substituting in lieu thereof the number "8", deleting the number "6" and substituting in lieu thereof the number "4", and deleting the number "5" and substituting in lieu thereof the number "7".

Section 3. Amend § 1710(b), Title 24 of the Delaware Code by inserting after the sentence ending "whom are public members." and before the sentence beginning "A public member may not" the following sentence: "The Director of the Division of Public Health shall serve as a voting member of the Board."

Section 4. Amend § 1710(d), Title 24 of the Delaware Code by striking sub-section (d) in its entirety and substituting in lieu thereof the following: "(d) An appointment to the Board to succeed a member whose term has expired shall be for a 3 year term. Vacancies occurring for any cause other than expiration of term shall be filled by the Governor for the unexpired term as provided in this subsection."

Section 5. Amend § 1738, Title 24 of the Delaware Code by striking subsection (a) and substituting in lieu thereof the following:

"(a) In the event of a formal or informal complaint concerning the activity of a person certified to practice medicine that presents a clear and immediate danger to the public health, the Board may temporarily suspend the person's certificate to practice medicine, pending a hearing, upon the written order of the Secretary of State or his or her designee, with the concurrence of the Board President or his or her designee. An order temporarily suspending a certificate to practice medicine may not be issued unless the person or the person's attorney received at least 24 hours' written or oral notice before the temporary suspension so that the person or the person's attorney can file a written response to the proposed suspension. The decision as to whether to issue the temporary order of suspension will be decided on the written submissions. An order of temporary suspension pending a hearing may remain in effect for no longer than 60 days from the date of the issuance of the order unless the temporarily suspended person requests a continuance of the hearing date. If the temporarily suspended person requests a continuance, the order of temporary suspension remains in effect until the hearing panel convenes and a decision is rendered."

Section 6. Amend § 1738(c), Title 24 of the Delaware Code by striking the words "of the Board" in the second sentence.

Section 7. Amend §1731A, Title 24 of the Delaware Code by striking in the first sentence of subsection (d) the words "that has resulted in any adverse action", by striking in the second sentence of subsection (d) the following words and punctuation "If adverse action resulted, the" and by substituting in lieu thereof "The", by inserting in the fourth sentence of subsection (d) the word "relevant" between the words "the" and "medical", and by striking in the fourth sentence of subsection (d) the words "relevant to the adverse action".

Section 8. Amend § 1731A(h), Title 24 of the Delaware Code by striking the final sentence of that subsection.

Section 9. Amend § 8735(d), Title 29 of the Delaware Code by striking the word "and" at the end of subsection (5), striking the period at the end of subsection (6) and substituting a semicolon in lieu thereof; and adding new subsections (7) and (8) as follows:

"(7) To contract for a treatment provider for licensed persons, provided however that such treatment provider shall not be employed by or under contract with any professional organization representing licensees regulated by the Division of Professional Regulation or any board in Title 24 of the Delaware Code.

(8) Permit potential complainants access to an Investigator with the Division of Professional Regulation to discuss issues or concerns regarding their reports or complaints."

Section 10. Amend § 1733(f), Title 24 of the Delaware Code by striking "the unauthorized practice of medicine" where it appears in the second sentence of that sub-section, and substituting in lieu thereof "a violation of this Chapter".

Section 11. The Board of Medical Practice may continue to conduct business with the membership in existence on the date this bill becomes effective, and the actions taken by the Board of Medical Practice shall not be invalid due solely to the fact that the composition of the Board is in conflict with sections 2 or 3 of this bill, provided however that, after the date this bill shall take effect, every vacancy created by the resignation or term expiration of any person certified and registered to practice medicine and having their primary place to practice medicine in New Castle County shall be filled, whether by initial appointment, reappointment or appointment to fill an unexpired term, with first, the Director of the Division of Public Health, and second, with a public member, until such time as the composition of the Board is in compliance with § 1710(b), as herein amended.

Section 12. Amend § 1710(b), Title 24 of the Delaware Code by striking the phrase "in any health-related field" each time it occurs in the final sentence of that subsection and substituting in lieu thereof "pursuant to this Chapter".

Section 13. Amend § 1710(b), Title 24 of the Delaware Code by striking the phrase "; may not be employed by a company engaged in a directly health-related business; and may not have a material financial interest in providing goods or services to persons engaged in the practice of medicine." and substituting in lieu thereof a period in the final sentence of that subsection.

Section 14. After January 1, 2013, the Joint Sunset Committee shall review the Board of Medical Licensure and Discipline to determine if the changes made by this act are having an effect on the operations of the Board.

Section 15. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and, to that end, the provisions of this Act are declared to be severable.

Approved June 30, 2010