

CHAPTER 322  
FORMERLY  
HOUSE BILL NO. 456  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 3 & 4

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE TREATMENT OF MINORS BY PHYSICIANS UNDER THE MEDICAL PRACTICE ACT.

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

Section 1. Amend § 1731(b), Title 24 of the Delaware Code by striking the period at the end of the last subsection, substituting in lieu thereof "; and", and adding a new subsection (22) or otherwise as the next numbered subsection as follows:

"(22) Wilful failure to comply with § 1769B of this chapter."

Section 2. Amend Chapter 17 of Title 24 of the Delaware Code by inserting the following new subsection § 1769B.

“§ 1769B. Treatment or Examination of Minors.

(a) A parent, guardian or other caretaker, or an adult staff member, shall be present when a person licensed to practice medicine under this chapter provides outpatient treatment to a minor patient who is disrobed or partially disrobed or during an outpatient physical examination involving the breasts, genitalia or rectum, regardless of sex of the licensed person and patient, except when rendering care during an emergency. When using an adult staff member to observe the treatment or examination, the adult staff member shall be of the same gender as the patient when practicable. The minor patient may decline the presence of a third person only with consent of a parent, guardian or other caretaker. The minor patient may request private consultation with the person licensed to practice medicine without the presence of a third person after the physical examination. Every hospital and nursing facility and similar facility that provides treatment to minors shall develop and implement policies regarding the treatment of minor patients that are consistent with the purposes of this section and will submit those policies for approval by the Department of Health and Social Services. Violations of approved policies will be treated as a violation of this section.

(b) When a minor patient is to be disrobed, partially disrobed or will undergo a physical examination involving the breasts, genitalia or rectum, a person licensed to practice medicine under this chapter shall provide notice to the person providing consent to treatment of the rights under this section. The notice shall be provided in written form or be conspicuously posted in a manner in which minor patients and their parent, guardian or other caretaker are made aware of the notice. In circumstances in which the posting or the provision to the patient of the written notice would not convey the right to have a chaperone present, the person licensed to practice medicine shall use another means to ensure that the patient or person understands the right under this section.

(c) For the purposes of this section, "minor" is defined as a person fifteen years of age or younger, "adult staff member" is defined as a person eighteen years of age or older who acting under the direction of the licensed person or the employer of the licensed person or who is otherwise licensed under this chapter, "hospital" has the meaning prescribed by Chapter 10 of Title 16, and "nursing facility and similar facility" has the meaning prescribed by Chapter 11 of Title 16.

(d) The person licensed under this chapter that provides outpatient treatment to a minor pursuant to this section shall, contemporaneously with such treatment, note in the child's medical record the name of each person present when such treatment is being provided.”

Section 3. This act shall be effective on July 1, 2011.

Approved June 30, 2010