

LAWS OF DELAWARE
VOLUME 84
CHAPTER 92
152nd GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 243
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 16, 24, AND 29 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

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

Section 1. Amend Chapter 5, Title 16 of the Delaware Code by making deleting as shown by strike through and insertions as shown by underline as follows:

§ 505. Communicable diseases; regulations; quarantine.

(a) From the list of notifiable diseases referred to in § 504 of this title, the Director of the Division of Public Health ~~or the Director's designee~~ or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, may at any time declare certain diseases to be communicable and may by regulation lay down the procedure which is to be followed by the patient or person suffering therefrom, the parents of the patient, the householder, by the physician attending on the patient or any individual brought into contact with or responsible for the care or maintenance of the patient in order that the transference of the disease to other individual or individuals may be prevented.

§ 524. Public health power to examine and order treatment.

(a) Subject to the provisions of § 526 of this title, a person with tuberculosis or a person reasonably suspected of being diseased with or exposed to tuberculosis shall report for a complete examination or treatment, as appropriate, to a physician licensed under Title 24, or shall submit to an examination or treatment, as appropriate, at a public health facility. When a person has been diagnosed as having tuberculosis or has been determined to have been exposed to tuberculosis, said person shall continue to be prescribed treatment until such time as that treatment is no longer required as determined by the ~~Director~~ Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division.

(b) Subject to the provisions of § 526 of this title, the Division shall examine or cause to be examined, or treat or cause to be treated, any person who will not respond to voluntary treatment for tuberculosis. The County Public Health Administrator shall go before the Director ~~or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division,~~ for a Director's an order for involuntary examination and/or treatment of said person.

§ 525. Types of involuntary treatment: Outpatient examination and treatment, directly observed therapy, hospitalization and residential isolation.

(a) Subject to the provisions of § 526 of this title, the Director ~~or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division,~~ shall order, as medically appropriate, a person with tuberculosis to undergo outpatient examination and treatment, directly observed therapy, hospitalization or isolation from the general public in the home, as a result of the threat of harm to the person and the probable spread of tuberculosis, until such time as the disease is cured or the risk of infection to the general public is eliminated or reduced in such a manner that a substantial threat to the public's health and welfare no longer exists.

(b) Subject to the provisions of § 526 of this title, a person who is infected with tuberculosis but is not infectious to others, and is a danger to himself or herself by resistance to treatment, and who refuses to adhere to a treatment regimen or to complete treatment, may be ordered by the Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, to undergo outpatient examination and treatment, directly observed therapy, hospitalization or isolation from the general public in the home, as a result of the increased risk that said persons will develop drug-resistant tuberculosis, which may pose a serious threat to the person and the general public.

§ 526. Conditions under which orders can be issued by Director.

(a) No person may be ordered to undergo outpatient examination and treatment, directly observed therapy, hospitalization or isolation from the general public in the home, except upon the order of the Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, following a hearing where it is proven by clear and convincing evidence:

(c) The Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, shall order isolation in an alternative facility, if in ~~the Director's~~ their judgment isolation in the person's usual residence is inappropriate because of the possible infection of other persons living in or around that residence.

(e) An order requiring outpatient examination and treatment, directly observed therapy, hospitalization or isolation from the public in the home shall be maintained until, in the opinion of the attending physician or the County Public Health Administrator, the person is cured or said person is no longer a substantial threat to himself or herself or to the public health. Once the County Public Health Administrator finds the person no longer needs treatment, the County Public Health Administrator will petition the Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, to dismiss the order. Once the matter is dismissed, said order cannot be reinstated unless the person is afforded all of the rights conferred in subsection (a) of this section.

(f) Any person who undergoes outpatient examination and treatment, directly observed therapy, hospitalization or isolation from the public in the home, or confinement, as a result of an order entered under this subchapter, may at any time petition the Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, for immediate release and termination of the order.

(g) Any person petitioning the Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, for immediate release and termination of the order entered under the authority of this subchapter shall show that the person is entitled to relief from the original order, or that:

(h) When considering a petition for imminent and substantial threat and prior to making any said release, the Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, shall consult the County Public Health Administrator and the patient's physician, if any, concerning the patient's medical condition and other related factors that may affect the present and future danger to the patient or the public that may be caused by the release of the patient.

(i) Upon granting a petition for immediate release, the Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, shall advise the County Public Health Administrator and other persons as may be appropriate about those conditions ~~the Director believes~~ they believe reasonably necessary to protect the patient or public from tuberculosis infection and disease.

(j) The Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, shall, for a period not exceeding 3 months, review the patient's medical status provided ~~to the Director~~ by written report of the health care provider and determine whether a further hearing should be held for additional involuntary treatment within 14 working days of receipt of a written report of the medical status, and all rights pursuant to § 526(b) of this title will apply.

§ 527. Order for emergency treatment.

(a) The County Public Health Administrator shall file a petition before the ~~Director~~ Division requesting that emergency treatment be ordered for a person infected with, or reasonably suspected of having, tuberculosis when the County Public Health Administrator has clear and convincing evidence, documented as facts in the petition, that:

(b) No emergency treatment order shall be issued unless the Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, finds that:

(c) When issuing an emergency treatment order, the ~~Director~~ Division shall direct a peace officer or other designated transport personnel to immediately transport the person with tuberculosis as so ordered by the ~~Director~~. Director, or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division. The peace officer shall take into custody and isolate the person in such a manner as required by the Director. The Division will notify the peace officer or other designated transport personnel concerning any necessary infection control procedures to be taken.

§ 528. Service of notice and processes; duties of the peace officer.

(b) The ~~Director~~, Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, in ordering directly observed therapy, hospitalization or isolation pursuant to this subchapter, shall when necessary direct the peace officer to take the person into their custody and immediately deliver them to the director of the facility named on the order. The Division shall consult with the peace officer concerning any necessary infection control procedures to be taken.

Section 2. Amend § 703, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 703. Examination, investigation and treatment of suspected persons.

The Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, shall, when in ~~the Director's~~ their own judgment it is necessary to protect the public health, make examinations of persons reasonably suspected of being infected with an STD of a communicable nature; examine medical records of suspect or diagnosed cases which may be maintained by a health facility or health-care professional; require persons infected with an STD of a communicable nature to report for treatment to a health-care professional, public or private, qualified to provide treatment and continue treatment until cured, if possible, and also, when in the Director's own ~~judgment~~ judgment or, if the Director is not a licensed physician or advanced practice registered nurse, the judgment of a licensed physician or advanced practice registered nurse designated by the Director and employed by the

Division, it is necessary to protect the public health, may issue an order seeking to examine, isolate or quarantine persons infected with an STD of a communicable nature or persons suspected of being infected with an STD.

Section 3. Amend § 804C, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 804C. Newborn Screening Program.

(d) The Director of the Division of Public ~~Health~~, Health or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, with advice from the Committee, will determine which disorders shall be on the screening panel.

Section 4. Amend § 3003G, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(d) Each treatment protocol and standing order for the administration of an opioid antagonist under this section must be approved and signed by 1 of the following:

(1) The State EMS Medical Director.

(2) The Medical Director, Division of Public Health.

(3) Director of the Division of Public ~~Health~~. Health or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division.

Section 5. Amend Chapter 98, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9802. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(22) “Statewide ALS treatment protocol” shall mean written and uniform treatment and care plans for emergency and critical patients statewide that constitute the standing orders of paramedics. The treatment protocol for advanced life support must be approved and signed by the State EMS Medical Director and the Director of the Division of Public ~~Health~~, Department of Health and Social Services. Health or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division. The treatment protocol shall be prepared by the Board of Medical Licensure and Discipline. In preparing and, from time to time, amending the statewide ALS treatment protocol, the Board shall consult with the State EMS Medical Director and the ALS Standards Committee of the Board of Medical Licensure and Discipline.

(23) “Statewide BLS treatment protocol” shall mean written and uniform treatment and care plans for emergency and critical patients statewide that constitute the standing orders of basic life support providers. The treatment protocol shall be prepared by the Board of Medical Licensure and Discipline. The treatment protocol for basic life support must be approved and signed by the State EMS Medical Director, the BLS Medical Director and the Director of the Division of Public ~~Health~~, Department of Health and Social Services. Health or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division. The treatment protocol for basic life support shall be adopted and enacted by the State Fire Prevention Commission. In preparing and, from time to time, amending statewide BLS treatment protocol, the Board shall consult with

the EMS Medical Director, the ALS Standards Commission and the State Fire Prevention Commission. The Statewide BLS treatment protocol shall be adopted by June 30, 2000, and in use by all EMS providers by January 1, 2002.

§ 9806. EMS medical directors.

(d) The EMS medical directors shall be appointed by the Director of the Division of Public Health or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, who shall consult with the Board of Medical Licensure and Discipline as part of the selection process.

Section 6. Amend § 9906, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9906. Creation of a Board.

(b) The Board shall consist of 17 members, 1 of whom shall be a member of the Delaware Health Care Commission, to be appointed by the Delaware Health Care Commission; 3 of whom shall be appointed by the Christiana Care Health Services; 6 of whom shall be appointed by the Governor, consisting of 1 public member from each county and 1 public member from the City of Wilmington and 2 members representing medical residency programs in the State, other than those operated by the Christiana Care Health Services; 1 of whom shall be appointed by the Association of Delaware Hospitals to represent hospitals in Kent and Sussex Counties; 1 of whom shall be appointed by the Delaware Higher Education Office, subject to the approval of the Secretary of Education; 3 of whom shall be appointed by the University of Delaware, including representation from the College of Nursing; and 1 of whom shall be appointed by Delaware State University. The Director of the Division of Public Health or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, shall serve as an ex officio member.

Section 7. Amend § 1710, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1710. Composition.

(b) The Board consists of 16 voting members appointed by the Governor, which shall be composed of the following members:

(4) The Director of the Division of Public Health ~~Health~~ or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division.

Section 8. Amend § 7903, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7903. Powers, duties and functions of the Secretary.

The Secretary may:

(2) Appoint and fix the salary, with the written approval of the Governor, of the Deputy Secretary and the following division directors and office heads, who may be removed from office by the Secretary with the written approval of the Governor, and who shall have such powers, duties and functions in the administration and operation of the Department as may be assigned by the Secretary:

a. A Director of the Division of Public Health, who shall be known as the Director of Public Health, and who shall be ~~a licensed physician who shall have had at least 1 year of postgraduate training in public health, or in lieu~~

~~thereof at least 5 years of experience as a full-time health official;~~ someone qualified by training, education, experience, or ability to perform the duties of Director;

Section 9. This Act expires 5 years after its enactment into law, unless otherwise provided by a subsequent act of the General Assembly.

Approved July 17, 2023