



SPONSOR: Rep. K. Williams & Rep. Dorsey Walker & Sen. Hansen
Reps. Harris, Lambert, Morrison, Osienski; Sens.
Hoffner, Poore, Richardson, Walsh

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 105

AN ACT TO AMEND TITLE 24 RELATING TO THE MEDICAL PRACTICES ACT.

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

1 Section 1. Amend § 1761, Title 24 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1761. Physician discontinuing ~~business or~~ business, leaving the ~~State;~~ State, or ~~terminating a patient-physician~~
4 relationship; death of a physician; change of physician and transfer of patient records; patient access to records.

5 (a) (1) A person certified to practice medicine under this chapter who is discontinuing a medical-practice
6 business in this ~~State or~~ State, who is leaving this ~~State~~ State, or ~~terminating a patient-physician relationship for any~~
7 reason and who is not transferring patient records to another person certified to practice medicine shall notify that
8 person's affected patients of record by ~~publishing a notice to that effect in a newspaper of daily circulation in the area~~
9 ~~where the person practices. The notice must be published at least 1 time per month over a 3-month period in advance of~~
10 ~~discontinuing the business or leaving the State and must explain how a patient can procure that patient's patient~~
11 ~~records. All patients of record who have not requested their records 30 days before the person discontinues the~~
12 ~~medical-practice business or leaves the State must be notified by first class mail by the person to permit that person's~~
13 ~~patients to procure their records. no less than 30 days prior to the discontinuation of physician services.~~

14 (2) The notice required under paragraph (a)(1) of this section must include all of the following:

15 a. How the patient can obtain the patient's records.

16 b. The name, phone number, and address of other health-care providers in the area who may be available
17 to accept new patients who require that medical care.

18 (3) The notice required under paragraph (a)(1) of this section must be provided by all of the following:

19 a. If the patient is enrolled to receive messages through an electronic medical record system, an electronic
20 message through that system.

21 b. A letter sent by first class mail.

22 (4) Any patient records that have not been procured within 7 years after the person discontinues ~~business or~~
23 ~~business,~~ leaves the ~~State~~ State, or terminates a patient-physician relationship for any other reason may be permanently
24 disposed of in a manner that ensures confidentiality of the records.

25 (b) (1) If a person certified to practice medicine under this chapter dies and has not transferred patient records to
26 another person certified to practice medicine and has not made provisions for a transfer of patient records to occur upon the
27 person's death, a personal representative of the person's estate shall notify the person's patients of record by publishing a
28 notice to that effect in a newspaper of ~~daily~~ general circulation in the area where the person practiced. The notice must be
29 published at least 1 time per month over a 3-month period after the person's death and must explain how a former patient
30 can procure the patient's patient records. ~~All~~

31 (2) A personal representative of the person's estate shall notify all former patients who have not requested
32 their records 30 days after such publication must be notified by first class mail by the personal representative of the
33 estate to permit the patients to procure their records. in a newspaper by all of the following:

34 a. If the patient is enrolled to receive messages through an electronic medical record system, an electronic
35 message through that system.

36 b. A letter sent by first class mail.

37 (3) Any patient records that have not been procured within 7 years after the death of the person may be
38 permanently disposed of in a manner that ensures confidentiality of the records.

SYNOPSIS

This Act requires physicians who are discontinuing business, leaving the State, or terminating a patient-physician relationship for any other reason to notify affected patients at least thirty days prior to the discontinuation of services via first class mail and an electronic message if electronic communication is available. It removes the requirement that physicians ending a patient-physician relationship publish a notice in a newspaper of daily circulation.

Notice sent to patients must include information about how the patient may obtain their medical records and information about other physician services in the area that are available to patients who will require continued medical care.

This Act further adds that a patient receive notice by electronic message, if available, when a physician dies and has not transferred patient records to another health-care provider.

Finally, this Act makes technical changes to create consistency with those sections being amended by SB 74 of the 152nd General Assembly, relating to the transfer of medical records in other health-care professions.