



SPONSOR: Sen. Hansen & Rep. Minor-Brown & Rep. K. Williams
Sens. Hoffner, Pinkney, Sokola, Townsend, Walsh; Reps.
Baumbach, Chukwuocha, Harris, Heffernan, K. Johnson,
Lambert, Longhurst

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 74

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO HEALTH RECORDS.

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

1 Section 1. Amend Chapter 19, Title 24 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1937. Treatment records; discontinuation of a practice; termination of a patient relationship; death of an
4 advanced practice registered nurse.

5 (a)(1) An APRN licensed under this chapter shall provide notice under this section to all affected patients no less
6 than 30 days before doing any of the following:

7 a. Discontinuing a medical practice in this State when the APRN is not transferring patient records to
8 another health-care provider in this State.

9 b. Terminating a patient relationship.

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

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

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

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

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

17 b. A letter sent by first class mail.

18 (b)(1) If an APRN dies and has not transferred patient records to another health-care provider and has not made
19 provisions for a transfer of patient records to occur upon the APRN's death, a personal representative of the APRN's estate
20 shall provide notice to the deceased APRN's patients of record by doing all of the following:

21 a. Publishing a notice to that effect in a newspaper of general circulation in the area where the deceased
22 APRN practiced. The notice must be published at least 1 time per month in the 3-month period after the APRN's
23 death.

24 b. Providing notice to all patients of record who have not requested records 30 days after publication of
25 the first notice under paragraph (b)(1)a. of this section by all of the following:

26 1. If the patient is enrolled to receive messages through an electronic medical record system, an
27 electronic message through that system.

28 2. A letter sent by first class mail.

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

30 a. That the APRN has died.

31 b. How the patient can obtain the patient's records.

32 (c)(1) If a patient changes from the care of an APRN to another health-care provider, the APRN shall transfer the
33 patient's records to the new health-care provider upon the request of the new health-care provider or the patient.

34 (2) If the patient and APRN agree, the APRN may forward a summary of the patient's record to the new
35 health-care provider in lieu of transferring the entire record, at no charge to the patient.

36 (d)(1) Patients have the right to obtain a copy of their records from an APRN.

37 (2) Unless a patient is requesting a copy of their records under subsections (a) or (b) of this section or to make
38 or complete an application for a disability benefits program, a patient who requests a copy of their records is subject to
39 any of the following charges:

40 a. The reasonable expenses of copying the patient's records, according to the payment schedule under
41 paragraph (d)(3) of this section.

42 b. The actual cost of postage or shipping, if the records are mailed or shipped.

43 c. Charges for copies of records not susceptible to photostatic reproduction, such as radiology films,
44 models, photographs, or fetal monitoring strips, may be the full cost of the reproduction.

45 (3) The Delaware Board of Nursing shall establish a payment schedule for copies of patient records under this
46 section and must review this payment schedule annually.

47 (4) The APRN or their third-party release-of-information service may require payment of all costs under
48 paragraph (d)(2) of this section before providing the copies of the records.

49 (e) This section does not apply to an APRN who has seen or treated a patient on referral from another health-care
50 provider and who has provided a copy of the record of the diagnosis or treatment to at least 1 of the following:

51 (1) The referring health-care provider.

52 (2) A hospital or an agency that has provided treatment for the patient.

53 (f) An APRN has 45 days from the closure of the record or the assembly of a complete record to fulfill a request
54 for records, unless a faster response is medically necessary.

55 (g)(1) An APRN may permanently dispose of a patient's record in a manner that ensures confidentiality of the
56 records 7 years after the following:

57 a. Discontinuing business in this State.

58 b. The last entry date in the patient's record after terminating the patient relationship or the patient
59 changes from the care of the APRN to another health-care provider.

60 (2) Seven years after the death of an APRN, the APRN's personal representative may permanently dispose of
61 patient records that have not been procured, in a manner that ensures confidentiality of the records.

62 (3) An APRN or the personal representative of the APRN who disposes of patient records in accordance with
63 this section is not liable for any direct or indirect loss suffered as a result of the disposal of a patient's records.

64 (h) The Delaware Board of Nursing may find that an APRN who violates this section has committed
65 unprofessional conduct, and any aggrieved patient or the patient's personal representative may bring a civil action for
66 damages or injunctive relief, or both, against the violator.

67 § 1938. Appointment of a custodian of patient records.

68 (a) If the Delaware Board of Nursing receives a formal or informal complaint concerning access to patient records
69 as a result of an APRN's physical or mental incapacity, death, or abandonment or involuntary discontinuation of a medical
70 practice in this State, the Delaware Board of Nursing may temporarily or permanently appoint an individual or entity as
71 custodian of the APRN's patient records after an investigation in accordance with the procedures under § 8735(h) of Title
72 29.

73 (b)(1) The custodian of patient records appointed under this section shall notify the APRN's patients of record of
74 the custodian's appointment by doing all of the following:

75 a. Publishing a notice to that effect in a newspaper of general circulation in the area where the APRN
76 practiced. The notice must be published at least 1 time per month in the 3-month period after the custodian's
77 appointment and must explain how a patient can procure the patient's records.

78 b. Notifying, by first class mail, all patients of record who have not requested their records 30 days after
79 publication of the first notice under paragraph (b)(1)a. of this section that the custodian has been appointed and
80 explaining how the patient can procure the patient's records.

81 (2) Seven years after being appointed, the custodian may permanently dispose of patient records that have not
82 been procured, in a manner that ensures confidentiality of the records.

83 (c) A custodian of patient records appointed under this section who disposes of patient records in accordance with
84 the provisions of this section is not liable for any direct or indirect loss suffered as a result of the disposal of a patient's
85 records.

86 Section 2. Amend Subchapter I, Chapter 30, Title 24 of the Delaware Code by making deletions as shown by
87 strike through and insertions as shown by underline as follows:

88 § 3019. Treatment records; discontinuation of a practice; termination of a client relationship; death of a licensee.

89 (a)(1) An individual licensed under this chapter shall provide notice under this section to all affected clients no less
90 than 30 days before doing any of the following:

91 a. Discontinuing the licensee's practice in this State when the licensee is not transferring client records to
92 another provider in this State.

93 b. Terminating a client relationship.

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

95 a. How the client can obtain the client's records.

96 b. The name, phone number, and address of other providers in the area who may be available to accept
97 new clients who require that care.

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

99 a. If the client is enrolled to receive messages through an electronic medical record system, an electronic
100 message through that system.

101 b. A letter sent by first class mail.

102 (b)(1) If a licensee dies and has not transferred client records to another provider and has not made provisions for a
103 transfer of client records to occur upon the licensee's death, a personal representative of the licensee's estate shall provide
104 notice to the deceased licensee's clients of record by doing all of the following:

105 a. Publishing a notice to that effect in a newspaper of general circulation in the area where the deceased
106 licensee practiced. The notice must be published at least 1 time per month in the 3-month period after the
107 licensee's death.

108 b. Providing notice to all clients of record who have not requested their records 30 days after publication
109 of the first notice under paragraph (b)(1)a. of this section by doing all of the following:

110 1. If the client is enrolled to receive messages through an electronic medical record system, an
111 electronic message through that system.

112 2. A letter sent by first class mail.

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

114 a. That the licensee has died.

115 b. How the client can obtain the client's records.

116 (c)(1) If a client changes from the care of a licensee to another provider, the licensee shall transfer the client's
117 records to the new provider upon the request of either the new provider or the client.

118 (2) If the client and licensee agree, the licensee may forward a summary of the client's treatment record to the
119 new provider in lieu of transferring the entire record, at no charge to the client.

120 (d)(1) Clients have the right to obtain a copy of their records from a licensee.

121 (2) Unless a client is requesting a copy of their records under subsections (a) or (b) of this section or to make
122 or complete an application for a disability benefits program, a client who requests a copy of their records is subject to
123 any of the following charges:

124 a. The reasonable expenses of copying the client's records, according to the payment schedule under
125 paragraph (d)(3) of this section.

126 b. The actual cost of postage or shipping, if the records are mailed or shipped.

127 c. Charges for copies of records not susceptible to photostatic reproduction, such as radiology films,
128 models, photographs, or fetal monitoring strips, may be the full cost of the reproduction.

129 (3) The Board shall establish a payment schedule for copies of client records under this section and must
130 review this payment schedule annually.

131 (4) The licensee or their third-party release-of-information service may require payment of all costs under
132 paragraph (d)(2) of this section before providing the copies of the records.

133 (e) This section does not apply to a licensee who has seen or treated a client on referral from another provider and
134 who has provided a copy of the record of the diagnosis or treatment to at least 1 of the following:

135 (1) The referring provider.

136 (2) A hospital or an agency that has provided treatment for the client.

137 (f) A licensee has 45 days from the closure of the record or the assembly of a complete record to fulfill a request
138 for client records, unless a faster response is medically necessary.

139 (g)(1) A licensee may permanently dispose of a client's record in a manner that ensures confidentiality of the
140 records 7 years after the following:

141 a. Discontinuing business in this State.

142 b. The last entry date in the client's record after terminating the client relationship or the client changes
143 from the care of the licensee to another provider.

144 (2) Seven years after the death of a licensee, the licensee's personal representative may permanently dispose
145 of client records that have not been procured, in a manner that ensures confidentiality of the records.

146 (3) A licensee or the personal representative of the estate of a licensee who disposes of client records in
147 accordance with this section is not liable for any direct or indirect loss suffered as a result of the disposal of a client's
148 records.

149 (h) The Board may find that an individual licensed under this chapter who violates this section has committed
150 unprofessional conduct, and any aggrieved client or the client's personal representative may bring a civil action for
151 damages or injunctive relief, or both, against the violator.

152 § 3020. Appointment of a custodian of client records.

153 (a) If the Board receives a formal or informal complaint concerning access to client records as a result of a
154 licensee's physical or mental incapacity, death, or abandonment or involuntary discontinuation of a licensee's practice in
155 this State, the Board may temporarily or permanently appoint an individual or entity as custodian of the licensee's client
156 records after an investigation in accordance with the procedures under § 8735(h) of Title 29.

157 (b)(1) The custodian of client records appointed under this section shall notify the licensee's clients of record of
158 the custodian's appointment by doing all of the following:

159 a. Publishing a notice to that effect in a newspaper of general circulation in the area where the licensee
160 practiced. The notice must be published at least 1 time per month in the 3-month period after the custodian's
161 appointment and must explain how a client can procure the client's records.

162 b. Notifying, by first class mail, all clients of record who have not requested their records 30 days after
163 publication of the first notice under paragraph (b)(1)a. of this section that the custodian has been appointed and
164 explaining how the client can procure the client's records.

165 (2) Seven years after being appointed, the custodian may permanently dispose of client records that have
166 not been procured, in a manner that ensures confidentiality of the records.

167 (c) A custodian of client records appointed under this section who disposes of patient records in accordance with
168 the provisions of this section is not liable for any direct or indirect loss suffered as a result of the disposal of a client's
169 records.

170 Section 3. Amend Chapter 35, Title 24 of the Delaware Code by making deletions as shown by strike through and
171 insertions as shown by underline as follows:

172 § 3521. Treatment records; discontinuation of a practice; termination of a patient relationship; death of a
173 psychologist.

174 (a)(1) A psychologist licensed under this chapter shall provide notice under this section to all affected patients no
175 less than 30 days before doing any of the following:

176 a. Discontinuing a psychology practice in this State when the psychologist is not transferring patient
177 records to another provider in this State.

178 b. Terminating a patient relationship.

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

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

181 b. The name, phone number, and address of providers in the area who may be available to accept new
182 patients who require that medical care.

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

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

186 b. A letter sent by first class mail.

187 (b)(1) If a psychologist dies and has not transferred patient records to another provider and has not made
188 provisions for a transfer of patient records to occur upon the psychologist's death, a personal representative of the
189 psychologist's estate shall provide notice to the deceased psychologist's patients of record by doing all of the following:

190 a. Publishing a notice to that effect in a newspaper of general circulation in the area where the deceased
191 psychologist practiced. The notice must be published at least 1 time per month in the 3-month period after the
192 psychologist's death.

193 b. Providing notice to all patients of record who have not requested their records 30 days after publication
194 of the first notice under paragraph (b)(1)a. of this section by all of the following:

195 1. If the patient is enrolled to receive messages through an electronic medical record system, an
196 electronic message through that system.

197 2. A letter sent by first class mail.

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

199 a. That the psychologist has died.

200 b. How the patient can obtain the patient's records.

201 (c)(1) If a patient changes from the care of a psychologist to another provider, the psychologist shall transfer the
202 patient's records to the new provider upon the request of either the new provider or the patient.

203 (2) If the patient and psychologist agree, the psychologist may forward a summary of the patient's record to
204 the new provider in lieu of transferring the entire record, at no charge to the patient.

205 (d)(1) Patients have the right to obtain a copy of their records from a psychologist.

206 (2) Unless a patient is requesting a copy of their records under subsections (a) or (b) of this section or to make
207 or complete an application for a disability benefits program, a patient who requests a copy of their records is subject to
208 any of the following charges:

209 a. The reasonable expenses of copying the patient's records, according to the payment schedule under
210 paragraph (d)(3) of this section.

211 b. The actual cost of postage or shipping, if the records are mailed or shipped.

212 c. Charges for copies of records not susceptible to photostatic reproduction, such as radiology films,
213 models, photographs, or fetal monitoring strips, may be the full cost of the reproduction.

214 (3) The Board shall establish a payment schedule for copies of patient records under this section and must
215 review this payment schedule annually.

216 (4) The psychologist or their third-party release-of-information service may require payment of all costs under
217 paragraph (d)(2) of this section before providing the copies of the records.

218 (e) This section does not apply to a psychologist who has seen or treated a patient on referral from another
219 provider and who has provided a copy of the record of the diagnosis or treatment to at least 1 of the following:

220 (1) The referring provider.

221 (2) A hospital or an agency that has provided treatment for the patient.

222 (f) A psychologist has 45 days from the closure of the record or the assembly of a complete record to fulfill a
223 request for patient records, unless a faster response is medically necessary.

224 (g)(1) A psychologist may permanently dispose of a patient's record in a manner that ensures confidentiality of the
225 records 7 years after the following:

226 a. Discontinuing business in this State.

227 b. The last entry date in the patient's record after terminating the patient relationship or the patient
228 changes from the care of the psychologist to another provider.

229 (2) Seven years after the death of the psychologist, the psychologist's personal representative may
230 permanently dispose of patient records that have not been procured, in a manner that ensures confidentiality of the
231 records.

232 (3) A psychologist or the personal representative of the psychologist who disposes of patient records in
233 accordance with this section is not liable for any direct or indirect loss suffered as a result of the disposal of a patient's
234 records.

235 (h) The Board may find that a psychologist who violates this section has committed unprofessional conduct, and
236 any aggrieved patient or the patient's personal representative may bring a civil action for damages or injunctive relief, or
237 both, against the violator.

238 § 3522. Appointment of a custodian of patient records.

239 (a) If the Board receives a formal or informal complaint concerning access to patient records as a result of a
240 psychologist's physical or mental incapacity, death, or abandonment or involuntary discontinuation of a psychology
241 practice in this State, the Board may temporarily or permanently appoint an individual or entity as custodian of the
242 psychologist's patient records after an investigation in accordance with the procedures under § 8735(h) of Title 29.

243 (b)(1) The custodian of patient records appointed under this section shall notify the psychologist's patients of
244 record of the custodian's appointment by doing all of the following:

245 a. Publishing a notice to that effect in a newspaper of general circulation in the area where the
246 psychologist practiced. The notice must be published at least 1 time per month in the 3-month period after the
247 custodian's appointment and must explain how a patient can procure the patient's records.

248 b. Notifying, by first class mail, all patients of record who have not requested their records 30 days after
249 publication of the first notice under paragraph (b)(1)a. of this section that the custodian has been appointed and
250 explaining how the patient can procure the patient's records.

251 (2) Seven years after being appointed, the custodian may permanently dispose of patient records that have not
252 been procured, in a manner that ensures confidentiality of the records.

253 (c) A custodian of patient records appointed under this section who disposes of patient records in accordance with
254 the provisions of this section is not liable for any direct or indirect loss suffered as a result of the disposal of a patient's
255 records.

256 Section 4. Amend Chapter 39, Title 24 of the Delaware Code by making deletions as shown by strike through and
257 insertions as shown by underline as follows:

258 § 3921. Treatment records; discontinuation of a practice; termination of a client relationship; death of a licensed
259 clinical social worker.

260 (a)(1) A licensed clinical social worker licensed under this chapter shall provide notice under this section to all
261 affected clients no less than 30 days before doing any of the following:

262 a. Discontinuing a social work practice in this State when the licensee is not transferring client records to
263 another provider in this State.

264 b. Terminating a client relationship.

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

266 a. How the client can obtain the client's records.

267 b. The name, phone number, and address of other providers in the area who may be available to accept
268 new clients who require that care.

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

270 a. If the client is enrolled to receive messages through an electronic medical record system, an electronic
271 message through that system.

272 b. A letter sent by first class mail.

273 (b)(1) If a licensed clinical social worker dies and has not transferred client records to another provider and has not
274 made provisions for a transfer of client records to occur upon the licensee's death, a personal representative of the
275 licensee's estate shall provide notice to the deceased licensee's clients of record by doing all of the following:

276 a. Publishing a notice to that effect in a newspaper of general circulation in the area where the deceased
277 licensee practiced. The notice must be published at least 1 time per month in the 3-month period after the
278 licensee's death.

279 b. Providing notice to all clients of record who have not requested their records 30 days after publication
280 of the first notice under paragraph (b)(1)a. of this section by all of the following:

281 1. If the client is enrolled to receive messages through an electronic medical record system, an
282 electronic message through that system.

283 2. A letter sent by first class mail.

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

285 a. That the licensee has died.

286 b. How the client can obtain the client's records.

287 (c)(1) If a client changes from the care of a licensed clinical social worker to another provider, the licensee shall
288 transfer the client's records to the new provider upon the request of either the new provider or the client.

289 (2) If the client and licensee agree, the licensee may forward a summary of the client's treatment record to the
290 new provider in lieu of transferring the entire record, at no charge to the client.

291 (d)(1) Clients have the right to obtain a copy of their records from a licensed clinical social worker.

292 (2) Unless a client is requesting a copy of their records under subsections (a) or (b) of this section or to make
293 or complete an application for a disability benefits program, a client who requests a copy of their records is subject to
294 any of the following charges:

295 a. The reasonable expenses of copying the client's records, according to the payment schedule under
296 paragraph (d)(3) of this section.

297 b. The actual cost of postage or shipping, if the records are mailed or shipped.

298 c. Charges for copies of records not susceptible to photostatic reproduction, such as radiology films,
299 models, photographs, or fetal monitoring strips, may be the full cost of the reproduction.

300 (3) The Board of Social Work Examiners shall establish a payment schedule for copies of client records under
301 this section and must review this payment schedule annually.

302 (4) The licensed clinical social worker or their third-party release-of-information service may require payment
303 of all costs under paragraph (d)(2) of this section before providing the copies of the records.

304 (e) This section does not apply to a licensed clinical social worker who has seen or treated a client on referral from
305 another provider and who has provided a copy of the record of the diagnosis or treatment to at least 1 of the following:

306 (1) The referring provider.

307 (2) A hospital or an agency that has provided treatment for the client.

308 (f) A licensed clinical social worker has 45 days from the closure of the record or the assembly of a complete
309 record to fulfill a request for client records, unless a faster response is medically necessary.

310 (g)(1) A licensee may permanently dispose of a client's record in a manner that ensures confidentiality of the
311 records 7 years after the following:

312 a. Discontinuing business in this State.

313 b. The last entry date in the client's record after terminating the client relationship or the client changes
314 from the care of the licensee to another provider.

315 (2) Seven years after the death of the licensee, the licensee’s personal representative may permanently dispose of
316 client records that have not been procured, in a manner that ensures confidentiality of the records.

317 (3) A licensed clinical social worker or the personal representative of the estate of a licensed clinical social
318 worker who disposes of client records in accordance with this section is not liable for any direct or indirect loss
319 suffered as a result of the disposal of a client’s records.

320 (h) The Board of Social Work Examiners may find that a licensed clinical social worker who violates this section
321 has committed unprofessional conduct, and any aggrieved client or the client’s personal representative may bring a civil
322 action for damages or injunctive relief, or both, against the violator.

323 § 3922. Appointment of a custodian of client records.

324 (a) If the Board of Social Work Examiners receives a formal or informal complaint concerning access to client
325 records as a result of a licensed clinical social worker’s physical or mental incapacity, death, or abandonment or involuntary
326 discontinuation of a social work practice in this State, the Board of Social Work Examiners may temporarily or
327 permanently appoint an individual or entity as custodian of the licensed clinical social worker’s client records after an
328 investigation in accordance with the procedure under § 8735(h) of Title 29.

329 (b)(1) The custodian of client records appointed under this section shall notify the licensed clinical social worker’s
330 clients of record of the custodian’s appointment by doing all of the following:

331 a. Publishing a notice to that effect in a newspaper of general circulation in the area where the licensed
332 clinical social worker practiced. The notice must be published at least 1 time per month in the 3-month period after
333 the custodian’s appointment and must explain how a client can procure the client’s records.

334 b. Notifying, by first class mail, all clients of record who have not requested their records 30 days after
335 publication of the first notice under paragraph (b)(1)a. of this section that the custodian has been appointed and
336 explaining how the client can procure the client’s records.

337 (2) Seven years after being appointed, the custodian may permanently dispose of client records that have
338 not been procured, in a manner that ensures confidentiality of the records.

339 (c) A custodian of client records appointed under this section who disposes of client records in accordance with the
340 provisions of this section is not liable for any direct or indirect loss suffered as a result of the disposal of a client’s records.

341 Section 5. Amend § 1930, Title 24 of the Delaware Code by making deletions as shown by strike through and
342 insertions as shown by underline as follows:

343 § 1930. Duty to report conduct that constitutes grounds for discipline or inability to practice.

344 (a) Every person to whom a license to practice has been issued under this chapter has a duty to report to the
345 Division of Professional Regulation in writing information that the licensee reasonably believes indicates that any other
346 practitioner licensed under this ~~chapter~~ chapter, or any other ~~healthcare provider~~ health-care provider, has engaged in or is
347 engaging in conduct that would constitute grounds for disciplinary action under this chapter or the other ~~healthcare~~ health-
348 care provider's licensing statute.

349 (b) Every person to whom a license to practice has been issued under this chapter has a duty to report to the
350 Division of Professional Regulation in writing information that the licensee reasonably believes indicates that any other
351 practitioner licensed under this ~~chapter~~ chapter, or any other ~~healthcare provider~~ health-care provider, may be unable to
352 practice with reasonable skill and safety to the public ~~by reason of: mental~~ for any of the following reasons:

353 (1) Mental illness or mental ~~incompetence;~~ physical incompetence.

354 (2) Physical illness, including deterioration through the aging process or loss of motor ~~skill;~~ or excessive skill.

355 (3) Excessive abuse of drugs, including alcohol.

356 Section 6. Amend § 3018, Title 24 of the Delaware Code by making deletions as shown by strike through and
357 insertions as shown by underline as follows:

358 § 3018. Duty to report conduct that constitutes grounds for discipline or inability to practice.

359 (a) Every person to whom a license to practice has been issued under this chapter has a duty to report to the
360 Division of Professional Regulation in writing information that the licensee reasonably believes indicates that any other
361 practitioner licensed under ~~chapter~~ chapter, or any other ~~healthcare provider~~ health-care provider, has engaged in or is
362 engaging in conduct that would constitute grounds for disciplinary action under this chapter or the other ~~healthcare~~ health-
363 care provider's licensing statute.

364 (b) Every person to whom a license to practice has been issued under this chapter has a duty to report to the
365 Division of Professional Regulation in writing information that the licensee reasonably believes indicates that any other
366 practitioner licensed under this ~~chapter~~ chapter, or any other ~~healthcare provider~~ health-care provider, may be unable to
367 practice with reasonable skill and safety to the public ~~by reason of: mental~~ for any of the following reasons:

368 (1) Mental illness or mental ~~incompetence;~~ physical incompetence.

369 (2) Physical illness, including deterioration through the aging process or loss of motor ~~skill;~~ or excessive skill.

370 (3) Excessive abuse of drugs, including alcohol.

371 Section 7. Amend § 3518A, Title 24 of the Delaware Code by making deletions as shown by strike through and
372 insertions as shown by underline as follows:

373 § 3518A. Duty to report conduct that constitutes grounds for discipline or inability to practice.

374 (a) Every person to whom a license to practice has been issued under this chapter has a duty to report to the
375 Division of Professional Regulation in writing information that the licensee reasonably believes indicates that any other
376 practitioner licensed under this ~~chapter~~ chapter, or any other ~~healthcare provider~~ health-care provider, has engaged in or is
377 engaging in conduct that would constitute grounds for disciplinary action under this chapter or the other ~~healthcare~~ health-
378 care provider's licensing statute.

379 (b) Every person to whom a license to practice has been issued under this chapter has a duty to report to the
380 Division of Professional Regulation in writing information that the licensee reasonably believes indicates that any other
381 practitioner licensed under this ~~chapter~~ chapter, or any other ~~healthcare provider~~ health-care provider, may be unable to
382 practice with reasonable skill and safety to the public ~~by reason of: mental~~ for any of the following reasons:

383 (1) Mental illness or mental ~~incompetence; physical~~ incompetence.

384 (2) Physical illness, including deterioration through the aging process or loss of motor ~~skill; or excessive~~ skill.

385 (3) Excessive abuse of drugs, including alcohol.

386 Section 8. Amend § 3919, Title 24 of the Delaware Code by making deletions as shown by strike through and
387 insertions as shown by underline as follows:

388 § 3919. Duty to report conduct that constitutes grounds for discipline or inability to practice.

389 (a) A licensee to whom a license to practice has been issued under this chapter has a duty to report to the Division
390 in writing information that the licensee reasonably believes indicates any of the following:

391 (1) That any other ~~licensee~~ licensee, or any other ~~healthcare provider~~ health-care provider, has engaged in or
392 is engaging in conduct that would constitute grounds for disciplinary action under this chapter or the other ~~healthcare~~
393 health-care provider's licensing statute.

394 (2) That any other ~~licensee~~ licensee, or any other ~~healthcare provider~~ health-care provider, may be unable to
395 practice with reasonable skill and safety to the public for any of the following reasons:

SYNOPSIS

This Act establishes requirements for the handling of treatment records for all of the following health-care providers under Title 24:

1. Advanced Practice Registered Nurses (certified nurse practitioners), Chapter 19.
2. Licensees under the Board of Mental Health and Chemical Dependency Professionals, Chapter 30: mental health professional counselors and associate counselors, chemical dependency professionals, marriage and family therapists, professional art therapists.
3. Psychologists, Chapter 35.
4. Licensed Clinical Social Workers, Chapter 39.

Under current law, a patient or client does not have a right or clear procedure by which to obtain a copy of their record when one of these practitioners closes a practice, dies, terminates a patient relationship, or is incapacitated. The requirements established under this Act are modeled on the patient record requirements and procedures for physicians and correspond with the changes that would be enacted under House Bill No. 105 (152nd). These requirements and procedures also apply when a patient or client requests copies of their records.

Under existing law, the governing boards established under these chapters have authority to promulgate regulations, if necessary, to address intersections between the requirements under this Act and professional codes of ethics.

Sections 5 through 8 of this Act make technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual and corrects the spelling of the word "health-care" to be consistent throughout these chapters.

Author: Senator Hansen