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
AS AMENDED BY
HOUSE AMENDMENT NO. 1

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

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

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

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

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

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

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

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

c. The date the physician will discontinue services.

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

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

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b. A letter sent by first class mail.

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

(5) When a physician is closing a medical practice and patient medical records will no longer be available at the physician's place of business, the physician shall provide to the Board of Medical Licensure and Discipline notice of how former patients may obtain medical records.

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

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

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

b. A letter sent by first class mail.

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

(4) The personal representative of the person's estate shall provide the Board of Medical Licensure and Discipline notice of how former patients may obtain medical records.

Section 2. This Act takes effect 6 months after its enactment into law.