SPONSOR: Rep. Ross Levin & Rep. Bush & Rep. Heffernan & Rep. Griffith & Sen. Pinkney & Sen. Townsend
Reps. Berry, Chukwuocha, Gorman, K. Johnson, Minor-Brown, Morrison, Neal, Romer, Kamela Smith, Michael Smith, Lambert, Burns, Snyder-Hall, Harris; Sens. Cruce, Hansen, Lockman, Sturgeon, Sokola, Hoffner, Poore, Brown, Buckson, Hocker, Huxtable, Lawson, Mantzavinos, Paradee, Pettyjohn, Richardson, Seigfried, Walsh, Wilson

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 327
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO STANDARDS FOR LEVELS OF NEONATAL CARE.

WHEREAS, neonatal intensive care units (NICUs) provide life-saving care to premature, critically ill, and medically complex newborns, and timely access to the appropriate level of neonatal care is essential to improving survival and long-term health outcomes; and

WHEREAS, the American Academy of Pediatrics (AAP) has established nationally recognized standards for levels of neonatal care that define the capabilities, staffing, equipment, and subspeciality services necessary to safely care for infants of varying medical complexity; and

WHEREAS, states that have formally adopted NICU designations aligned with AAP standards have demonstrated improved neonatal outcomes, including lower neonatal and infant mortality rates, reduced complications of prematurity, and more appropriate use of high-acuity services; and

WHEREAS, clearly defined NICU designations promote regionalized systems of neonatal care, ensuring that high-risk mothers and infants are directed to facilities with the appropriate clinical capabilities while supporting safe care closer to home for lower-risk births; and

WHEREAS, Delaware has the 17th highest infant mortality among 50 states and the District of Columbia. It is in the state's interest to close these gaps in an effort to improve not only infant mortality rates but improve outcomes for newborns in our state; and

WHEREAS, codifying NICU levels will ensure high-risk newborns are cared for in facilities with appropriate capabilities, reduce preventable complications and emergency transfers, improve survival and long-term development, and advance equity by standardizing care across all birthing settings.

NOW, THEREFORE:

HD : RW : DS : 3501530093
DLS : HVW : CBM : 5081530271
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter I, Chapter 10, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1016. Standards for levels of neonatal care.

(a) For the purposes of this section:

(1) "American Academy of Pediatrics" or "AAP" means the largest professional association of pediatricians in the United States.

(2) "American Academy of Pediatrics Standards for Levels of Neonatal Care" or "AAP Standards for Levels of Neonatal Care" means risk-appropriate care standards established by the American Academy for Pediatrics for newborns that ensure facilities provide the necessary personnel and resources based on the infant's condition.

(3) "American College of Surgeons" means the scientific and educational association of surgeons whose primary goal is to improve the quality of care for surgical patients.

(4) "Children's Surgical Verification" or "CSV" means the program by the American College of Surgeons that aims to improve surgical care for infants and children.

(5) "Health-care facility" or "facility" means a health-care facility as defined in § 1740 of Title 24.

(6) "Level IV Neonatal Intensive Care services" or "Level IV NICU services" means surgical and non-surgical subspecialty care provided to critically ill or medically complex neonates, who require continuous complex care beyond the scope and resources of lower level nurseries and NICUs.

(7) "Neonatal Intensive Care Unit" or "NICU" means a specialized hospital unit dedicated to providing critical care to newborns, particularly premature infants or those with severe medical conditions.

(8) "Neonatal nursery" means a unit dedicated to specialized care for newborns.

(b) A licensed facility under this title operating a NICU or neonatal nursery must demonstrate compliance with the American Academy of Pediatrics' standards for levels of neonatal care and subsequent revisions, including staffing, equipment, facility capabilities, and patient care protocols.

(c) Neonatal nurseries' and NICUs' levels of care must be designated by the Secretary of Health and Social Services or the Secretary's designee in accordance with subsections (b), (d), and (e) of this section.

(d) A facility providing Level IV NICU services must meet the following criteria:

(1) Have a Children's Surgical Verification from the American College of Surgeons.

(2) Be directed by a Delaware licensed, full-time, board certified or board eligible neonatologist.

(3) Have a Delaware licensed, board certified or board eligible neonatologist on-site at all times.

(e) A Level IV NICU must do all of the following:

(1) Have a Delaware licensed, board certified or board eligible pediatric anesthesiologist on-site at all times.

(2) Have the following pediatric medical subspecialties available on-site:

a.Anesthesiology.

b.Orthopedics.

c.Otolaryngology.

d.Palliative care.

e.Urology.

(3) Have the following pediatric surgical subspecialties available at all times:

a. Cardiothoracic.

b. Orthopedic.

c. General surgery.

d. Neurosurgery.

(4) Provide pediatric serices on-site, including the following:

a. Echocardiogram.

b. Electroencephalogram.

c. Extracorporeal membrane oxygenation.

d. Radiology.

(f) A facility designated under this section must submit an annual attestation of compliance with this section and any updates adopted by the Department.

(g) A facility designated under this section must provide written notice to the Secretary within 30 days of determining that it is unable to meet a provision of subsections (b) or (d) through (f) of this section and must be given the opportunity to demonstrate just cause for noncompliance or evidence that the facility is actively implementing a corrective action plan.

(h) A facility may request a voluntary downgrade in designation status.

(i) A facility has the right to appeal any decision of the Department regarding the initial or subsequent designation or change in the designation status. The appeal process must be consistent with the Administrative Procedures Act, Chapter 101 of Title 29.

(j) The Department shall adopt rules to implement this section by June 30, 2027, including procedures for verification of compliance with this section, and must seek input and review from the Delaware Perinatal Quality Collaborative and existing facilities operating neonatal intensive care units.

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