

SPONSOR: Sen. Paradee & Sen. Hoffner & Rep. Bush & Rep. Carson
Sens. Huxtable, Pinkney, Seigfried, Sokola, Wilson;
Reps. Hilovsky, K. Johnson

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 281
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 31 AND TITLE 29 OF THE DELAWARE CODE RELATING TO TECHNICAL UPDATES FOR THE DELAWARE HOSPITAL FOR THE CHRONICALLY ILL.

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

Section 1. Amend Chapter 28, Title 31 of the Delaware by making deletions as shown by strike through and insertions as shown by underline as follows:

Part II

Welfare Agencies

Chapter 28

~~Delaware Hospital for the Chronically Ill~~ Eleanor Cain Center

Subchapter I

~~General Provisions~~

~~§ 2801. Burial ground.~~

~~The Secretary of the Department of Health and Social Services shall set aside and maintain a suitable area upon the premises of the Hospital for the burial of bodies in any case where it is incumbent on Kent County to bury a person found dead within the meaning of § 4714 of Title 29. (31 Del. C. 1953, § 2806; 50 Del. Laws, c. 85, § 1; 57 Del. Laws, c. 591, § 19; 60 Del. Laws, c. 207, § 3.)~~

~~§ 2802. Rights of patients.~~

~~Each patient of the Hospital shall be entitled to all the patient rights set forth in subchapter II of Chapter 11 of Title 16, and all sections in said subchapter II shall apply to the patients of the Delaware Hospital for the Chronically Ill. (61 Del. Laws, c. 373, § 5.)~~

~~Subchapter II~~

~~Operation of Hospital and Admission~~

~~§ 2820. Jurisdiction over Hospital; rules and regulations; power to contract.~~

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~~The Department of Health and Social Services shall have full jurisdiction and control over the Hospital and its patients. It may adopt and enforce rules and regulations for the exercise of its powers and the performance of its duties, and may adopt such rules and regulations to permit participation in federal and other programs for the benefit of patients and the State. The Department of Health and Social Services shall also have the power to enter into contracts in the name of the State for the erection of additional buildings and facilities and for their appointment and equipment. (31 Del. C. 1953, § 2820; 49 Del. Laws, c. 144, § 2; 57 Del. Laws, c. 591, § 20; 58 Del. Laws, c. 499, § 7; 60 Del. Laws, c. 207, § 3; 70 Del. Laws, c. 149, § 221.)~~

~~§ 2821. Organization and operation of Hospital.~~

~~(a) The Department of Health and Social Services shall maintain the Hospital and provide for the care and support of the inmates with due regard for their comfort and well-being.~~

~~(b) Facilities shall be afforded to the patients for their educational improvement, including edifying and inspirational entertainment and healthful recreation.~~

~~(c) Such methods in general shall be employed by the Department of Health and Social Services as will provide good order, fraternal relations and self-respect among the inmates, under humane and helpful regulations, with special reward for meritorious service and gentle reproof or reasonable restraint for misbehavior, as each particular case may warrant. No member of the Department of Health and Social Services and no person holding a position under the Department of Health and Social Services shall have any pecuniary interest, directly or indirectly, in the purchase of supplies of any kind for said Hospital and its inmates or in expenditures authorized by the Department of Health and Social Services for any purpose in connection with said Hospital and its inmates. (31 Del. C. 1953, § 2821; 49 Del. Laws, c. 144, § 2; 57 Del. Laws, c. 591, § 20; 58 Del. Laws, c. 499, § 1; 60 Del. Laws, c. 207, § 3; 70 Del. Laws, c. 149, § 222.)~~

~~§ 2822. Requirements for admittance to the Hospital.~~

~~There shall be 2 different sets of admission requirements to the Hospital, 1 for persons applying under Title XIX of the Social Security Act [42 U.S.C. § 1396 et seq.] and another for those not applying under Title XIX:~~

~~(1) An applicant under Title XIX may be temporarily admitted to the Hospital, on the written order of any member of the Board, in the interim between meetings, of the Board or by order of the Board, when in session, upon presentation to the member of the Board or to the Board as a whole of a statement in writing setting forth the facts describing such person's case, which shall be attested by 2 credible witnesses and verified under oath. In every such case the Board shall cause diligent inquiry to be made into all the facts and circumstances in the applicant's case and, upon ascertainment that the statement submitted is just and true, may make such further order respecting such person as the facts and circumstances may warrant.~~

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~~(2) Any other person having been a resident in this State for a continuous period of 1 year, who has been unable to obtain employment or is unable to work, who has no property and income sufficient to provide the necessities of life, who has no permanent place of abode and no relatives or friends to care for such person, may be admitted for the time being to the Hospital, on the written order of any member of the Board in the interim between meetings of the Board or by order of the Board when in session, upon presentation, to the member of the Board or to the Board as a whole, of a statement in writing setting forth the facts in such person's case, attested by 2 credible witnesses and verified under oath. In every such case, the Board shall cause diligent inquiry to be made into all the facts and circumstances of such person's case and, upon ascertainment that the statement submitted is just and true, may make such further order respecting such person as the facts and circumstances may warrant. (31 Del. C. 1953, § 2822; 49 Del. Laws, c. 144, § 2; 55 Del. Laws, c. 418; 57 Del. Laws, c. 591, § 20; 58 Del. Laws, c. 499, § 2; 60 Del. Laws, c. 207, § 3; 70 Del. Laws, c. 186, § 1.)~~

~~§ 2823. Exclusion of persons with mental conditions; grounds for dismissal.~~

~~(a) No person with a mental condition shall be admitted to the Hospital.~~

~~(b) Any patient of the Hospital who is guilty of the violation of any law of the State shall be dismissed and placed in the custody of the proper authorities. Any patient of the Hospital who becomes incorrigible shall be dismissed. (31 Del. C. 1953, § 2823; 49 Del. Laws, c. 57, § 1; 49 Del. Laws, c. 144, § 2; 57 Del. Laws, c. 99; 58 Del. Laws, c. 499, § 3; 60 Del. Laws, c. 207, § 3; 78 Del. Laws, c. 179, §§ 364, 365.)~~

~~§ 2824. Recording anatomical gift data.~~

~~(a) The Delaware Hospital for the Chronically Ill shall, if possible, ascertain from a patient upon admission whether or not the patient has donated all or part of that patient's own body as an anatomical gift either by will or in a manner permitted by § 2713 of Title 16 and the person, institution or organization to which such gift has been made.~~

~~(b) The Delaware Hospital for the Chronically Ill shall maintain as part of a patient's permanent record the information required under this section and such other pertinent information about said anatomical gift which will facilitate the carrying out of the patient's wishes in the event of that patient's death. Upon the death of a patient who has made an anatomical gift, the Delaware Hospital for the Chronically Ill shall make every reasonable effort to contact without delay the person, institution or organization to which such gift has been made. (63 Del. Laws, c. 238, § 3; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 182, § 1; 81 Del. Laws, c. 79, § 47.)~~

~~Subchapter III~~

~~Expenses and Financing of Hospital~~

~~§ 2830. Property liable for expenses.~~

~~(a) Patients at the Hospital admitted under Title XIX of the Social Security Act [42 U.S.C. § 1396 et seq.], if found to own property, shall not be liable for expenses incurred by the Hospital for their care and support.~~

~~(b) If a husband, without sufficient cause, separates from his wife, or if a father or mother deserts his or her children so that such wife or children are admitted to the Hospital, the property of such husband, father or mother shall be liable for the expense incurred in the care and support of such wife or children.~~

~~(c) In the case of patients, other than those admitted under Title XIX, the Division shall take legal proceedings to seize the property of patients to pay for expenses incurred in their care and support. (31 Del. C. 1953, § 2830; 49 Del. Laws, c. 144, § 2; 57 Del. Laws, c. 591, § 20; 58 Del. Laws, c. 499, §§ 4, 5; 60 Del. Laws, c. 207, § 3; 70 Del. Laws, c. 186, § 1.)~~

~~§ 2831. Liability of relatives for expenses of care and support of patients.~~

~~(a) The liability of relatives for expenses incurred in the care and support of a patient admitted under Title XIX of the Social Security Act [42 U.S.C. § 1396 et seq.] shall be as follows: The spouse of a Title XIX patient shall be responsible for the expenses of the patient; parents shall be financially responsible for the expenses incurred by their children who are patients at the Hospital if such children are under the age of 18, are blind or are permanently or totally disabled.~~

~~(b) The spouse, parents or children of a person not admitted under Title XIX shall be liable, in the order above named, for the expenses incurred in the care and support of such person; provided, that they are found able to pay such expenses. The Board shall take legal proceedings to enforce this liability, if warranted by the facts and circumstances. (31 Del. C. 1953, § 2831; 49 Del. Laws, c. 144, § 2; 57 Del. Laws, c. 591, § 20; 58 Del. Laws, c. 499, § 6; 60 Del. Laws, c. 207, § 3; 70 Del. Laws, c. 186, § 1.)~~

~~§ 2832. Financing of Hospital maintenance; other expenses.~~

~~The cost of the operation and maintenance of the Hospital and the care and support of its inmates shall be paid by the State Treasurer. (31 Del. C. 1953, § 2832; 56 Del. Laws, c. 291; 60 Del. Laws, c. 207, § 3.)~~

~~Subchapter IV~~

~~Penalties~~

~~§ 2840. Fraud in connection with admission; penalty.~~

~~Whoever by wilful false statements, misrepresentation or other fraudulent device, obtains or attempts to obtain or aids or abets any other person to obtain admission to the Hospital, when such person is not entitled to admission under this chapter, or disposes of any property or aids or abets in the buying or in any other way disposing of the property of a person applying for admission or who has already been admitted to the Hospital, without the knowledge or consent of the Board,~~

~~which property is liable for the expense incurred in the care and support of such person in the Hospital, shall be fined not more than $500, or imprisoned not more than 3 years, or both. (31 Del. C. 1953, § 2840; 49 Del. Laws, c. 144, § 2; 60 Del. Laws, c. 207, § 3.)~~

~~§ 2841. Other penalties.~~

~~Whoever violates this chapter, for which no penalty is specifically prescribed, shall be fined not more than $500, or imprisoned not more than 3 years, or both. (31 Del. C. 1953, § 2841; 49 Del. Laws, c. 144, § 2.)~~

§2801. Definitions.

As used in this chapter:

(1) "Center" means the Eleanor Cain Center, a skilled nursing care facility operated by the Department of Health & Social Services and located on the premises of the Eleanor Cain Campus, a 62-acre campus located in Smyrna Delaware.

(2) "CMS" means Centers for Medicaid and Medicare Services.

(3) "Department" means Department of Health and Social Services.

§2802. Organization and Operation of the Eleanor Cain Center.

(a) The Center shall:

(1) Operate in accordance with federal and state laws and regulations, including CMS regulations, 42 C.F.R. 483.

(2) Care for all residents in a manner and in an environment that promotes maintenance or enhancement of each resident's dignity, respect, and quality of life.

(3) Provide an ongoing program to support residents in their choice of activities, designed to meet the interests of and support the physical, mental, and psychosocial wellbeing of each resident.

(b) Each resident of the Center shall be entitled to the rights of residents set forth in subchapter II of Chapter 11 of Title 16, and all sections in said subchapter II shall apply to the residents of the Center.

(c) The cost of the operation and maintenance of the Center and the care and support of residents shall be paid by the State Treasurer.

§2803. Department Duties.

(a) The Department shall:

(1) Maintain operation and have full jurisdiction over the Center.

(2) Enter contracts for the erection of additional buildings and facilities for their appointment and equipment.

(3) Establish policies and procedures regarding the referral, review, and admission of applicants to the Center that include the following requirements for admission:

a. The applicant has been determined to have a skilled nursing facility level of care.

b. The applicant chooses to receive services in a long-term care facility after being informed of available community options.

c. The applicant has completed a Medicaid financial interview within the Division of Medicaid & Medical Assistance and eligibility has been determined.

(4) Set aside and maintain a suitable area upon the premises of Eleanor Cain Campus for the burial of bodies in any case where it is incumbent to bury a person found dead within the meaning of § 4711 of Title 29.

§2804. Financial Liability of Residents.

(a) The Department shall determine the financial liability of residents in payment for services under §7940 of Title 29.