SPONSOR: Sen. Henry & Rep. Barbieri
Sens. Bushweller, Ennis

DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO. 114

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING PROFESSIONS AND OCCUPATIONS ESTABLISHING CHAPERONE REQUIREMENTS FOR THE TREATMENT AND EXAMINATION OF MINORS.

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

Section 1. Amend Chapter 5, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underlining as follows:

§ 522 Treatment or examination of minors.

(a) A parent, guardian or other caretaker, or an adult staff member, shall be present when a person licensed under this chapter provides outpatient treatment to a minor patient who is disrobed or partially disrobed during an outpatient physical examination regardless of sex of the licensed person and patient, except when rendering care during an emergency. When using an adult staff member to observe the treatment or examination, the adult staff member shall be of the same gender as the patient when practicable. The minor patient may decline the presence of a third person only with consent of a parent, guardian or other caretaker. The minor patient may request private consultation with the licensee without the presence of a third person after the physical examination.

(b) When a minor patient is to be disrobed, or partially disrobed during a physical examination, a person licensed under this chapter shall provide notice to the person providing consent to treatment of the rights under this section. The notice shall be provided in written form or be conspicuously posted in a manner in which minor patients and their parent, guardian or other caretaker are made aware of the notice. In circumstances in which the posting or the provision to the patient of the written notice would not convey the right to have a chaperone present, the person licensed shall use another means to ensure that the patient or person understands the right under this section.

(c) For the purposes of this section, "minor" is defined as a person 15 years of age or younger, and "adult staff member" is defined as a person 18 years of age or older who acting under the direction of the licensed person or the employer of the licensed person or who is otherwise licensed under this chapter.

(d) The person licensed under this chapter that provides outpatient treatment to a minor pursuant to this section shall, contemporaneously with such treatment, note in the child's medical record the name of each person present when such treatment is being provided.

Section 2. Amend Chapter 7, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underlining as follows:

§ 720 Treatment or examination of minors.

(a) A parent, guardian or other caretaker, or an adult staff member, shall be present when a person licensed under this chapter provides outpatient treatment to a minor patient who is disrobed or partially disrobed or during an outpatient physical examination involving the breasts, genitalia or rectum, regardless of sex of the licensed person and patient, except when rendering care during an emergency. When using an adult staff member to observe the treatment or examination, the

adult staff member shall be of the same gender as the patient when practicable. The minor patient may decline the presence of a third person only with consent of a parent, guardian or other caretaker. The minor patient may request private consultation with the licensee without the presence of a third person after the physical examination.

(b) When a minor patient is to be disrobed, partially disrobed or will undergo a physical examination involving the breasts, genitalia or rectum, a person licensed under this chapter shall provide notice to the person providing consent to treatment of the rights under this section. The notice shall be provided in written form or be conspicuously posted in a manner in which minor patients and their parent, guardian or other caretaker are made aware of the notice. In circumstances in which the posting or the provision to the patient of the written notice would not convey the right to have a chaperone present, the person licensed shall use another means to ensure that the patient or person understands the right under this section.

(c) For the purposes of this section, "minor" is defined as a person 15 years of age or younger, and "adult staff member" is defined as a person 18 years of age or older who acting under the direction of the licensed person or the employer of the licensed person or who is otherwise licensed under this chapter.

(d) The person licensed under this chapter that provides outpatient treatment to a minor pursuant to this section shall, contemporaneously with such treatment, note in the child's medical record the name of each person present when such treatment is being provided.

Section 3. Amend Chapter 7, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underlining as follows:

§ 710 Reciprocity.

(c) Notwithstanding the provisions of paragraph (b)(1), (2), or (3) of this section, if the applicant has successfully passed those examinations that were available at the time of the applicant's graduation from a Board-approved school of chiropractic and application for original licensure, the Board shall accept proof of successful completion of those examinations in lieu of the provisions of paragraph (b)(1), (2), or (3) of this section. If no examinations were available at the time of the applicant's graduation from a Board approved school of chiropractic, the Board shall accept proof of active practice in another jurisdiction for the past five years in lieu of the provisions of paragraph (b)(1), (2), or (3) of this section.

Section 4. Amend Chapter 11, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underlining as follows:

§ 1131B. Treatment or Examination of Minors.

(a) A parent, legal guardian or other caretaker, or adult staff member, shall be present when a person licensed or certified to practice dentistry or dental hygiene under this chapter provides services to a minor, regardless of the sex of the licensed or certified person and minor or whenever a door to the treatment room is required to be closed or any time the minor is sedated.

(b) When a minor is to receive services, the person licensed or certified to practice dentistry or dental hygiene under this chapter shall provide notice to the parent, legal guardian or other caretaker of the rights under section (a). The notice shall be provided in written form and shall be posted conspicuously in the location where services will be provided.

(c) For the purposes of this section, "minor" is defined as a person 15 years of age or younger, "adult staff member" is defined as a person 18 years of age or older who acting under the direction of the licensed person or the employer of the licensed person or who is otherwise licensed under this chapter.

(d) The person licensed under this chapter that provides treatment to a minor pursuant to this section shall, contemporaneously with such treatment, note in the patient's record the name of each person present when such treatment is being provided.

Section 5. Amend Chapter 19, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underlining as follows:

§ 1931 Treatment or examination of minors.

(a) A parent, guardian or other caretaker, or an adult staff member, shall be present when a person licensed under this chapter provides outpatient treatment to a minor patient who is disrobed or partially disrobed or during an outpatient physical examination involving the breasts, genitalia or rectum, regardless of sex of the licensed person and patient, except when rendering care during an emergency. When using an adult staff member to observe the treatment or examination, the adult staff member shall be of the same gender as the patient when practicable. The minor patient may decline the presence of a third person only with consent of a parent, guardian or other caretaker. The minor patient may request private consultation with the licensee without the presence of a third person after the physical examination.

(b) When a minor patient is to be disrobed, partially disrobed or will undergo a physical examination involving the breasts, genitalia or rectum, a person licensed under this chapter shall provide notice to the person providing consent to treatment of the rights under this section. The notice shall be provided in written form or be conspicuously posted in a manner in which minor patients and their parent, guardian or other caretaker are made aware of the notice. In circumstances in which the posting or the provision to the patient of the written notice would not convey the right to have a chaperone present, the person licensed shall use another means to ensure that the patient or person understands the right under this section.

(c) For the purposes of this section, "minor" is defined as a person 15 years of age or younger, and "adult staff member" is defined as a person 18 years of age or older who acting under the direction of the licensed person or the employer of the licensed person or who is otherwise licensed under this chapter.

(d) The person licensed under this chapter that provides outpatient treatment to a minor pursuant to this section shall, contemporaneously with such treatment, note in the child's medical record the name of each person present when such treatment is being provided.

Section 6. Amend Chapter 20, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underlining as follows:

§ 2021 Treatment or examination of minors.

(a) A parent, guardian or other caretaker, or an adult staff member, shall be present when a person licensed to practice occupational therapy under this chapter provides services, including inpatient, outpatient, home or school treatment, to a minor patient who is disrobed or partially disrobed during evaluation or treatment involving, but not limited to, dressing, bathing, or toileting, that exposes the breasts, genitalia or rectum. When using an adult staff member to observe the evaluation or treatment, the adult staff member shall be of the same gender as the patient when practicable. The minor patient may decline the presence of a third person only with consent of a parent, guardian or other caretaker. The minor patient may request private consultation with the person licensed to practice occupational therapy without the presence of a third person after the initial evaluation.

(b) When a minor patient's evaluation or treatment involves the female breasts, or female or male genitalia or rectum, a person licensed to practice occupational therapy under this chapter shall provide notice to the person providing consent to treatment of the rights under this section. The notice shall be provided in written form or be conspicuously

posted in a manner in which minor patients and their parent, guardian or other caretaker are made aware of the notice. In circumstances in which the posting or the provision to the patient of the written notice would not convey the right to have a chaperone present, the person licensed to practice occupational therapy shall use another means to ensure that the patient or person understands the right under this section.

(c) For the purposes of this section, "minor" is defined as a person 15 years of age or younger, "adult staff member" is defined as a person 18 years of age or older who acting under the direction of the licensed person or the employer of the licensed person or who is otherwise licensed under this chapter.

(d) The person licensed under this chapter that provides treatment to a minor pursuant to this section shall, contemporaneously with such treatment, note in the child's record the name of each person present when such treatment is being provided.

Section 7. Amend Chapter 26, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underlining as follows:

§ 2619 Treatment or examination of minors.

(a) A parent, guardian or other caretaker, or an adult staff member, shall be present when a person licensed to practice physical therapy or athletic training under this chapter provides treatment to a minor patient involving the inspection, palpation, or treatment of the female breasts, or female or male genitalia or rectum, regardless of sex of the licensed person and patient, except when rendering care during an emergency. When using an adult staff member to observe the treatment or examination, the adult staff member shall be of the same gender as the patient when practicable. The minor patient may decline the presence of a third person only with consent of a parent, guardian or other caretaker. The minor patient may request private consultation with the person licensed to practice physical therapy or athletic training without the presence of a third person after the physical examination.

(b) When a minor patient's evaluation or treatment requires inspection or palpation involving the female breasts, or female or male genitalia or rectum, a person licensed to practice physical therapy or athletic training under this chapter shall provide notice to the person providing consent to treatment of the rights under this section. The notice shall be provided in written form or be conspicuously posted in a manner in which minor patients and their parent, guardian or other caretaker are made aware of the notice. In circumstances in which the posting or the provision to the patient of the written notice would not convey the right to have a chaperone present, the person licensed to practice physical therapy or athletic training shall use and document another means to ensure that the patient or person understands the right under this section.

(c) For the purposes of this section, "minor" is defined as a person 15 years of age or younger, "adult staff member" is defined as a person 18 years of age or older who acting under the direction of the licensed person or the employer of the licensed person or who is otherwise licensed under this chapter.

(d) The person licensed under this chapter that provides treatment to a minor pursuant to this section shall, contemporaneously with such treatment, note in the child's medical record the name of each person present when such treatment is being provided.

Section 8. Amend Chapter 39, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underlining as follows:

§ 3920 Treatment of minors.

(a) A parent or legal guardian has the right to be present when a person licensed to practice clinical social work under this chapter provides treatment to a minor patient. Prior to the first treatment session with the minor, the licensed clinical social worker shall provide the parent or legal guardian with written notice of the right to be present during

treatment sessions. If the parent or legal guardian declines to be present during treatment, and authorizes one on one sessions, such authorization shall be in writing. The written authorization shall be maintained in the minor patient's file.

(b) For the purposes of this section, "minor" is defined as a person 18 years of age or younger.

Section 9. Amend Chapter 53, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underlining as follows:

§ 5318 Practice of massage and bodywork on minors.

(a) A parent or legal guardian shall be present when a person licensed or certified to practice massage and bodywork under this chapter provides services to a minor, regardless of the sex of the licensed or certified person and minor. The minor may decline the presence of a parent or legal guardian only with the written consent of the parent or legal guardian. The licensed or certified person shall confirm the identity of the parent or legal guardian, as provided in the Board's rules and regulations.

(b) When a minor is to receive services, the person licensed or certified to practice massage and bodywork under this chapter shall provide notice to the parent or legal guardian of the rights under section (a). The notice shall be provided in written form and shall be posted conspicuously in the location where services will be provided. The specific requirements for notice shall be set forth in the Board's rules and regulations.

(c) For the purposes of this section, "minor" is defined as a person less than 18 years of age.

SYNOPSIS

Sections 1, 2, and 4 through 9 add chaperone requirements for the designated healthcare professionals of podiatry, chiropractic, dentistry and dental hygiene, nursing, occupational therapy, physical therapy/athletic training, social work and massage and bodywork, who treat minors consistent with the provisions added to the Medical Practice Act with practice specific modifications where appropriate.

Section 3 of the bill enables licensure by reciprocity for chiropractors who were licensed prior to an examination requirement upon demonstrating active practice for 5 years in another jurisdiction.

Author: Senator Henry