

195TH GENERAL ASSEMBLY LEGISLATIVE REVISIONS

The legislation recently signed into law was contained in four (4) separate bills: HB 195, HB 196, HB 208 and HB 225. To find these bills, go to the Delaware General Assembly website, <https://legis.delaware.gov/>. Type the bill number in the search box, in the top right corner.

Majority of these revisions included the Division name change, Divisional authority, definitions, replacing of outdated terms, and style/grammar related revisions. Located here is a recap of these revisions.

TITLE 29, CHAPTER 79 REVISIONS

- § 7971 (1) "Adult Abuse Registry". Adult Abuse Registry (AAR) Checks now required for all of the following: Long term care facility, home care agency, adult day care facility, **and prescribed pediatric extended care center.**
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- (3)(b) The Division has the authority to obtain all of the following: **An individual's emergency medical system and paramedic records** in cases where the Division is engaged in an investigation or survey involving the care or treatment of the individual at a facility or agency licensed by the Division, and the individual has been transported to a hospital from a facility or agency or from a hospital to a facility or agency.
- (17) **The Interagency Transfer Form is now statutorily mandated.**
- (18) **The Director, or the Director's designee, may issue subpoenas for named respondents or witnesses or documents, financial records, physical evidence, or any other source of evidence needed during the course of an investigation of a complaint or for a public hearing on a complaint. If a person subpoenaed fails to comply, the Division may compel compliance with the subpoena by filing a motion to compel in the Superior Court, which has jurisdiction to compel compliance.**
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- § 7972 Background Check Center (a)Purpose 1(c) As an employee of a prescribed pediatric extended care center licensed under § 122(3)q. of Title 16. (c)(3) Utilization of the Background Check Center by an employer is mandatory to ensure that all individuals working in a long term care facility, a home care agency, **or a prescribed pediatric extended care center are subject to comprehensive screening and updating of their criminal records.**

TITLE 16, CHAPTER 11 REVISIONS

- § 1104: Establishes three (3) levels of licensure – initial (up to 365 days), provisional, and annual.
- § 1104 (h): Facilities issued a provisional license must submit an application fee for an annual license.

- § 1106(e): Adds an additional fee for a change in license during the annual licensure period (i.e. change in number of beds or change of name).
- § 1107 (g): Formerly a previous employee of a facility was disqualified from surveying/investigating that facility for 5 years. This has been reduced to 2 years.
- § 1107 (h): **Any person who has a relative residing or working in a long term care facility is disqualified from participating in any manner in any inspection of that facility.**
- § 1110: No more waiver of penalties for 1st time violations.
- § 1121 (24): The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility, **except as provided in § 1127 of this title.**
(Discharge rules are now self-contained in their own Section, §1127 below)
- § 1121 (40): Outlines what is used in CODE to determine a resident's authorized representative.
- § 1127. Resident Transfer or Discharge.
 - (d) Timing of the notice of transfer or discharge —
 - (1) Except as permitted under paragraph (d)(3) of this subsection, a notice of discharge must be issued by the long term facility at least 30 days before the resident is transferred or discharged.
 - (2) A long term care facility may not discharge a resident during the pendency of administrative proceedings implementing a resident's appeal of a discharge.
 - (3) Notice must be issued as soon as practicable before transfer or discharge when one of the following standards is met:
 - a. An immediate transfer or discharge is required by the resident's urgent medical needs supported by the certification required under paragraph (b) of this section.
 - b. There is a significant and immediate threat to the health or safety of other individuals in the long term care facility as documented under paragraphs (b)(1)c. or (b)(1)d. of this section.
 - c. The resident was admitted solely on a respite basis not to exceed 14 days or as an emergency placement by the Department not to exceed 21 days.**
- § 1131: Slight changes to the definitions of abuse, neglect, mistreatment and financial exploitation (i.e. social media postings are included in the definition of emotional abuse).
- § 1132 (c): Expands the description of individuals required to report abuse (includes hospitals).
- § 1133. Contents of Reports

Facilities are now required to report financial exploitation