

Signed on: 6/18/2009



SPONSOR: Rep. Keeley & Rep. Kowalko, & Sen. Bunting  
Sens. Connor, Cloutier, Sorenson

HOUSE OF REPRESENTATIVES

145th GENERAL ASSEMBLY

HOUSE BILL NO. 112  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HOSPITALS AND OTHER FACILITIES

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

Section 1. Amend Chapter 10, Title 16 of the Delaware Code by adding thereto a new section to read:

“§ 1020. Hospital Visitation Policy.

(a) Each Hospital shall include in its visitation policy a provision allowing each competent adult patient to receive visits from any individual from whom a patient desires to receive visits, subject to restrictions contained in the visitation policy related to a patient’s medical condition, the number of visitors simultaneously permitted in a patient’s room, and the Hospital’s visitation hours, as well as protective orders issued by a Court.

(b) Each Hospital shall honor each adult patient’s desires set forth in the adult patient’s power of attorney documents, advance health-care directives, and any similar documents, in accordance with and subject to provisions related to same that appear in this chapter, Chapter 25, Title 16, and Chapter 49, Title 12 of the Delaware Code.

(c) The duties and rights conferred by this section are in addition to, and not in derogation of, duties and rights otherwise conferred by law, including §§ 2508 and 5161 of Title 16 of the Delaware Code.

(d) Nothing in this Act shall preclude a Hospital from restricting visitations due to attempts to interfere with patient care, the presentation of a threat to staff, patients or hospital personnel, or other actions disruptive to hospital operations.

(e) Except as provided in (d) above, nothing in this section shall be read to overrule any decision of the Delaware Department of Correction.”.

Section 2. Amend the definition of "Nursing Facility and Similar Facility" at § 1102(4)(b) by striking the word "and" immediately before the phrase "rest residential facilities" and inserting immediately after such phrase the following: "; retirement homes; rehabilitation homes; and hospices, with such terms to have such meaning as set forth in Title 16 or, if not defined therein, as such terms are commonly used."

Section 3. Amend § 1121(11), Title 16 of the Delaware Code by inserting ", including visits and visitation," immediately following "patient and resident may associate and communicate" and immediately prior to the words "privately and".

Section 4. Amend § 1121, Title 16 of the Delaware Code by re-designating existing subsection (33) as new subsection (34) and inserting a new subsection (33) which shall read as follows:

"(33) Every patient and resident shall have the right to compliance with the patient's or resident's advance health care directive, power of attorney, or similar document in accordance with and subject to Chapter 49, Title 12 and Chapter 25, Title 16 of the Delaware Code."

Section 5. Amend § 1121(11), Title 16 of the Delaware Code by inserting the following sentence immediately following the sentence currently existing therein:

"Nothing in this Act shall preclude a Nursing Facility or similar facility, as defined in § 1102(4), from restricting visitations due to attempts to interfere with patient care, the presentation of a threat to staff, patients and residents, or personnel, or other actions disruptive to the facility's operations."



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4 visits from any individual from whom a patient desires to receive visits, subject to restrictions contained in the visitation  
5 policy related to a patient's medical condition, the number of visitors simultaneously permitted in a patient's room, and the  
6 Hospital's visitation hours, as well as protective orders issued by a Court.

7 (b) Each Hospital shall honor each adult patient's desires set forth in the adult patient's power of attorney  
8 documents, advance health-care directives, and any similar documents, in accordance with and subject to provisions related  
9 to same that appear in this chapter, Chapter 25, Title 16, and Chapter 49, Title 12 of the Delaware Code.

10 (c) The duties and rights conferred by this section are in addition to, and not in derogation of, duties and rights  
11 otherwise conferred by law, including §§ 2508 and 5161 of Title 16 of the Delaware Code.

12 (d) Nothing in this Act shall preclude a Hospital from restricting visitations due to attempts to interfere with  
13 patient care, the presentation of a threat to staff, patients or hospital personnel, or other actions disruptive to hospital  
14 operations.

15 (e) Nothing in this statute shall be read to overrule any decision of the Delaware Department of Correction."

16 Section 2. Amend the definition of "Nursing Facility and Similar Facility" at § 1102(4)(b) by striking the word  
17 "and" immediately before the phrase "rest residential facilities" and inserting immediately after such phrase the following:  
18 "; retirement homes; rehabilitation homes; and hospices, with such terms to have such meaning as set forth in Title 16 or, if  
19 not defined therein, as such terms are commonly used."

20 Section 3. Amend § 1121(11), Title 16 of the Delaware Code by inserting ", including visits and visitation,"  
21 immediately following "patient and resident may associate and communicate" and immediately prior to the words  
22 "privately and".

23           Section 4. Amend § 1121, Title 16 of the Delaware Code by re-designating existing subsection (33) as new  
24 subsection (34) and inserting a new subsection (33) which shall read as follows:

25           “(33) Every patient and resident shall have the right to compliance with the patient’s or resident’s advance health  
26 care directive, power of attorney, or similar document in accordance with and subject to Chapter 49, Title 12 and Chapter  
27 25, Title 16 of the Delaware Code.”.

#### SYNOPSIS

This Bill allows each competent adult patient to receive visits in a Hospital or Nursing Facility from whomever the patient or resident desires, subject to restrictions set forth in the Bill. In addition, this Bill ensures that hospitals and other healthcare facilities defined in the Bill can maintain a safe environment by restricting visitations by those who pose a threat to patients and/or staff, or could interfere with patient care or the right of other patients to enjoy a non-disruptive environment.

In addition, this Bill requires the Hospital or Nursing Facility to honor advance health-care directives and any similar documents, subject to limitations set forth in the Bill. Furthermore, the Bill clarifies that hospital visitation rights created by this section do not supplant rights otherwise conferred by law. It also eliminates any inconsistency with existing visitation rights in licensed long-term care facilities while explicitly requiring adherence to advance health care directives and powers of attorney



SPONSOR: Rep. Keeley

HOUSE OF REPRESENTATIVES  
145th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1

TO

HOUSE BILL NO. 112

1 AMEND House Bill No. 112 at line 15 by striking the language currently existing therein in its entirety and  
2 substituting in its place the following:

3 “(e) Except as provided in (d) above, nothing in this section shall be read to overrule any decision of the Delaware  
4 Department of Correction.”.

5 FURTHER AMEND House Bill No. 112 by adding a new Section 5 thereto as follows:

6 Section 5. Amend § 1121(11), Title 16 of the Delaware Code by inserting the following sentence immediately  
7 following the sentence currently existing therein:

8 “Nothing in this Act shall preclude a Nursing Facility or similar facility, as defined in § 1102(4), from restricting  
9 visitations due to attempts to interfere with patient care, the presentation of a threat to staff, patients and residents, or  
10 personnel, or other actions disruptive to the facility’s operations.”.

SYNOPSIS

The amendment clarifies the application of subsection (e). In addition, the amendment makes clear that any individual who presents a threat to staff of a nursing facility or similar facility shall be denied visitation.