SPONSOR: Rep. Kowalko & Sen. Sokola
Reps. Baumbach, Miro, Osienski

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO. 366

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO A PATIENT'S RIGHT TO KNOW ALL THEIR HEALTH CARE OPTIONS.

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

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

CHAPTER 12B. PATIENT'S RIGHT TO KNOW

§ 1201B. Title.

This chapter shall be known and may be cited as the "Patient's Right to Know Act".

§ 1202B. Definitions.

For purposes of this chapter:

(1) "Clinical privileges" includes privileges, membership on the medical staff, and the other circumstances pertaining to the furnishing of medical care under which a physician or other licensed health care practitioner is permitted to furnish such care by a health care entity.

(2) "Health care entity" means any of the following:

a. A hospital that is licensed to provide health care services in this state.

b. An entity that provides health care services and that follows a formal peer review process for the purpose of furthering quality health care.

c. A licensed health care practitioner such as a doctor, physician, nurse, nurse practitioner, or other practitioner licensed to provide health care services in this state.

(3) The term "health care services" means inpatient hospital services, inpatient critical access hospital services, or extended care services; outpatient nursing services, outpatient diagnostic or therapeutic items or services, outpatient surgical or medical services, with a physician who has clinical privileges; any services provided by a physician or licensed health care practitioner; or private-duty nursing or other private- duty attendant duties.

(4) The term "hospital" means an entity that is primarily engaged in providing, by or under the supervision of physicians, inpatient diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured,

disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons; maintains clinical records on all patients; and has bylaws in effect with respect to its staff of physicians.

(5) The terms "licensed health care practitioner" and "practitioner" mean an individual (other than a physician) who is licensed or otherwise authorized to provide health care services in this state.

(6) The term "physician" means a doctor of medicine or osteopathy or a doctor of dental surgery or medical dentistry legally authorized to practice medicine and surgery or dentistry in this state (or any individual who, without authority holds himself or herself out to be so authorized).

(7) The term "religious beliefs" means any set of philosophical or religious beliefs, guidelines, decrees, directives, or other instructions determining patient care that is not based on legal, peer-reviewed, or scientifically accepted standards of health care, and may be imposed on health care entities through employment or clinical privileges.

§ 1203B. Written notice regarding restrictions on health care services.

A health care entity which does not provide certain health care services based on the religious beliefs of the entity shall adopt a policy that provides a complete list of health care services that will not be provided to patients of the health care entity, based on the entity's religious beliefs. Prior to initiation of treatment or in the case of an emergency as soon as the patient is able or patient's representative is available, the health care entity which adopted such a policy shall provide a written notice to every patient that includes the list of services that will not be provided by the entity based on the entity's religious beliefs and requires the patient or patient's representative to acknowledge receipt of the notice and the list of services that will not be provided.

§ 1204B. Disclosures to insurers and health plan providers; public availability of restrictions.

(a) Health care entities shall provide a complete list of any health care services the health care entity will not provide based on religious beliefs to all group health plan providers and health insurance issuers offering group or individual health insurance coverage from whom the health care entity seeks and accepts payments.

(b) The health care entities shall prominently list on the entities' websites the health care services that will not be provided to patients based on the entities' religious beliefs and shall provide the list of health care services not provided based on the entities' religious beliefs upon request to any person.

§ 1205B. Disclosure of restrictions by insurers and health plan providers.

Not later than 6 months after the effective date of this chapter, group health plan providers and health insurance issuers offering group or individual health insurance coverage shall provide enrollees with a list of any health care entities within their network of health care providers that do not provide certain health care services based on religious beliefs and

provide a list of health care services that will not be provided by each health care entity listed. Such information shall also be available on the providers' and issuers' websites.

§ 1206B. Disclosure of policy to state and federal agencies; disclosure of policy by state and federal agencies.

(a) A health care entity that does not provide health care services based on religious beliefs shall inform any state or federal agency that licenses the health care entity of all health care services that are not provided.

(b) State agencies that enroll or otherwise oversee the application of health care entities into state or federal health care reimbursement programs shall amend the application process to include a requirement that health care entities disclose any health care services the entity does not provide based on the entity's religious beliefs.

§ 1207B. Disclosures in grant applications.

Health care entities shall provide information about health care services that are not provided by the health care entities based on religious beliefs when applying for any state or federal grant related to providing any kind of health care services.

Section 2. This Act shall take effect 1 year from its enactment.

SYNOPSIS

This bill endeavors to reconcile patients' rights to know all their health care options with the desire of some health care providers to not provide certain care based on religious or philosophical beliefs. This act balances the religious liberty of health care providers with the basic health care rights of their patients. This act requires that any health care provider who uses religious beliefs to determine patient care instead of standard medical guidelines and practices, subsequently resulting in any health care options being omitted or favored based on these religious beliefs, to inform patients in writing of health care services that are not available to the patients through this particular provider. Patients must provide signed consent acknowledging they have received this information. Additionally, this act requires health care providers who use religious beliefs to determine patient care to inform health insurance companies of specific health care options that are not provided; health insurance companies will share that information with their enrollees and insured participants. The bill also requires disclosure to state and federal agencies involved with health care administration, and a subsequent relay of that information by state agencies to affected clients.