DISTRICT OF COLUMBIA

OFFICIAL CODE

TITLE 44.
CHARITABLE AND CURATIVE INSTITUTIONS.

CHAPTER 5.
HEALTH-CARE AND COMMUNITY RESIDENCE FACILITY, HOSPICE AND HOME CARE LICENSURE.

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CHAPTER 5. HEALTH-CARE AND COMMUNITY RESIDENCE FACILITY, HOSPICE AND HOME CARE LICENSURE.

SUBCHAPTER I. LICENSURE.

§ 44-501. DEFINITIONS.

(a) For the purposes of this subchapter the term:

(1) "Hospital" means a facility that provides 24-hour inpatient care, including diagnostic, therapeutic, and other health-related services, for a variety of physical or mental conditions, and may in addition provide outpatient services, particularly emergency care.

(2) "Maternity center" means a facility or other place, other than a hospital or the mother's home, that provides antepartal, intrapartal, and postpartal care for both mother and child during and after normal, uncomplicated pregnancy.

(3) "Nursing home" means a 24-hour inpatient facility, or distinct part thereof, primarily engaged in providing professional nursing services, health-related services, and other supportive services needed by the patient/resident.

(4) "Community residence facility" means a facility that provides a sheltered living environment for individuals who desire or need such an environment because of their physical, mental, familial, social, or other circumstances, and who are not in the custody of the Department of Corrections. All residents of a community residence facility shall be 18 years of age or older, except that, in the case of group homes for persons with intellectual disabilities, no minimum age shall apply, unless this requirement is waived in accordance with § 44-505(e).

(5) "Group home for persons with intellectual disabilities" means a community residence facility that provides a home-like environment for at least 4 but no more than 8 related or unrelated individuals who on account of intellectual disabilities require specialized living arrangements, and maintains the necessary staff, programs, support services, and equipment for their care and habilitation.

(6) "Hospice" means an agency, organization, facility, or distinct part thereof, primarily engaged in providing a program of in-home, outpatient, or inpatient medical, nursing, counseling, bereavement, and other palliative and supportive services to terminally ill individuals and their families.

(7) "Home care agency" means an agency, organization, or distinct part thereof, other than a hospice, that provides, either directly or through a contractual arrangement, a program of health care, habilitative or rehabilitative therapy, personal care services, homemaker services, chore services, or other supportive services to sick individuals or individuals with disabilities living at home or in a community residence facility. The term "home care agency" shall not be construed to require the regulation and licensure of nonmedical services delivered by or through a religious organization on a small-scale, volunteer basis.

(8) "Ambulatory surgical facility" means any facility, other than a hospital or maternity center but including an office-based facility, at which there are performed outpatient surgical and related procedures that have been classified in accordance with § 44-504(h) due to their complexity or the degree of patient risk.

(9) "Renal dialysis facility" means any place, other than a hospital or the patient's home, that provides therapeutic care for persons with acute or chronic renal failure through the use of hemodialysis, peritoneal dialysis, or any other therapy that clears the blood of substances normally excreted by the kidneys.

(b) The Mayor shall have the authority to define variant types of facilities and agencies reasonably classified within the broader categories defined in subsection (a) of this section, and may issue rules

under § 44-504 with respect to these subtypes. The Mayor shall make the final determination of whether a particular facility or agency falls within a category defined in subsection (a) of this section or a subtype defined by the Mayor pursuant to this subsection.

(c) When used throughout this act, the terms "facility" and "agency" and their plural forms shall, unless contextually inappropriate or subject to specific exception, apply to all of the facilities and agencies defined in subsection (a) of this section as well as those subtypes defined by the Mayor. The Mayor shall make the final determination of whether a provision is contextually inappropriate for a particular agency or facility.

(Feb. 24, 1984, D.C. Law 5-48, § 2, 30 DCR 5778; Mar. 14, 1985, D.C. Law 5-154, § 2(a), 32 DCR 7; Sept. 5, 1985, D.C. Law 6-26, § 2(a), 32 DCR 3615; Feb. 28, 1987, D.C. Law 6-215, § 2(a), 34 DCR 893; July 8, 1988, D.C. Law 7-131, § 3, 35 DCR 4106; Mar. 16, 1989, D.C. Law 7-199, § 3, 36 DCR 3; Mar. 24, 2007, D.C. Law 16-305, § 69, 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 28, 59 DCR 5567.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1301.

Effect of Amendments

D.C. Law 16-305, in subsec. (a), pars. (4) and (5), substituted "persons with mental retardation" for "mentally retarded persons", and in par. (7), substituted "individuals or individuals with disabilities" for "or disabled individuals".

D.C. Law 19-169, in subsec. (a), substituted "intellectual disabilities" for "mental retardation".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2 of Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Temporary Act of 1999 (D.C. Law 13-104, May 9, 2000, law notification 47 DCR 4341).

For temporary (225 day) amendment of section, see § 2 of Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Temporary Act of 2000 (D.C. Law 13-244, April 3, 2001, law notification 48 DCR 3486).

Section 7(b) of D.C. Law 13-244 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90-day) authorization of autopsies, see § 3 of the Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Congressional Review Emergency Act of 2000 (D.C. Act 13-309, April 7, 2000, 47 DCR 2730).

For temporary (90-day) amendment of section, see § 2 to 4 of the Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Emergency Act of 2000 (D.C. Act 13-493, December 18, 2000, 48 DCR 65).

Legislative History of Laws

Law 5-48, "Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983," was introduced in Council and assigned Bill No. 5-166, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on September 20, 1983, and October 4, 1983, respectively. Signed by the Mayor on October 28, 1983, it was assigned Act No. 5-74 and transmitted to both Houses of Congress for its review.

Law 5-154 was introduced in Council and assigned Bill No. 5-555, and was retained by the CouncIL. The Bill was adopted on first and second readings on November 20, 1984, and December 4, 1984, respectively. Signed by the Mayor on December 7, 1984, it was assigned Act No. 5-219 and transmitted to both Houses of Congress for its review.

Law 6-26 was introduced in Council and assigned Bill No. 6-142, which was referred to the Committee on Consumer and Regulatory Affairs and reassigned to the Committee on Human Services. The Bill was adopted on first and second readings on May 28, 1985, and June 11, 1985, respectively. Signed by the Mayor on June 13, 1985, it was assigned Act No. 6-41 and transmitted to both Houses of Congress for its review.

Law 6-215 was introduced in Council and assigned Bill No. 6-538, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 25, 1986, and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-275 and transmitted to both Houses of Congress for its review.

Law 7-131 was introduced in Council and assigned Bill No. 7-469. The Bill was adopted on first and second readings on April 19, 1988 and May 3, 1988, respectively. Signed by the Mayor on May 19, 1988, it was assigned Act No. 7- 181 and transmitted to both Houses of Congress for its review.

Law 7-199 was introduced in Council and assigned Bill No. 7-473, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on December 21, 1988, it was assigned Act No. 7-264 and transmitted to both Houses of Congress for its review.

Law 13-244, the "Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Temporary Act of 2000", was introduced in Council and assigned Bill No. 13-910. The Bill was adopted on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on December 21, 2000, it was assigned Act No. 13-522 and transmitted to both Houses of Congress for its review. D.C. Law 13-244 became effective on April 3, 2001.

For Law 16-305, see notes following § 44-102.01.

For history of Law 19-169, see notes under § 44-102.01.

References in Text

"This act," referred to in the first sentence of subsection (c), is D.C. Law 5- 48.

Editor's Notes

Because of the enactment of subchapter II of this chapter by D.C. Law 12-238 and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "act" in the introductory language of (a).

Delegation of Authority

Delegation of Authority Pursuant to D.C. Law 5-48, the Health-Care and Community Residence Licensure Act of 1983, see Mayor's Order 2009-120, June 29, 2009 (56 DCR 6871).

§ 44-502. LICENSE REQUIREMENTS.

(a) Except as provided in subsections (b), (c), and (d) of this section, it shall be unlawful to operate a facility or agency in the District of Columbia, whether public or private, for profit or not for profit, without being licensed by the Mayor.

(b) This subchapter shall not apply to a facility or agency operated by the federal government or, except in the case of community residence facilities, by and for the adherents of a church or religious denomination that, in accordance with established tenets, recognizes spiritual healing as the sole means of treating illness.

(c) Facilities and agencies that, prior to February 24, 1984, were not or would not have been subject to licensure in the District of Columbia may operate without a license until 6 months after the adoption of applicable rules under § 44-504.

(d) The continued operation of a facility or agency pending action by the Mayor on an application for licensure renewal or initial licensure under subsection (c) of this section shall not be deemed unlawful if a completed application was timely filed but, through no fault of the facility or agency or its governing body, staff, or employees, the Mayor has failed to act on the application before the expiration of the facility's or agency's current license or, under subsection (c) of this section, its authorized period of operation. A facility or agency operating under this subsection shall comply with all other provisions of this subchapter and rules adopted pursuant to this subchapter.

(e) Application forms shall list all certificates of approval, authority, occupancy, or need that are required as a precondition to lawful operation in the District of Columbia.

(f) A license shall be valid only for the premises stated on the license.

(g) Any change in the ownership of a facility or agency owned by an individual, partnership, or association, or in the legal or beneficial ownership of 10% or more of the stock of a corporation that owns or operates a facility or agency, shall be subject to written notice of the change being given to the governmental licensing authority at least 30 days prior to the change in ownership. Upon notification, the governmental licensing authority may, at its discretion, require reinspection and relicensure to ensure that the facility or agency will remain in compliance with the provisions of this subchapter, rules adopted pursuant to this subchapter, and all other applicable provisions of law.

(h) Unless sooner terminated or renewed, a license required by this subchapter shall expire one year from the date of issue or the last renewal.

(i) Each facility licensed under this subchapter shall post its license in a conspicuous place on the premises, and each agency licensed under this subchapter shall have its license readily available for inspection by the public.

(j) Any license issued pursuant to this section shall be issued as a Public Health: Health Care Facility endorsement or a Public Health: Human Services Facility endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(Feb. 24, 1984, D.C. Law 5-48, § 3, 30 DCR 5778; Apr. 20, 1999, D.C. Law 12-261, § 2003(aa)(1), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(ee)(1), 50 DCR 6913; Apr. 13, 2005, D.C. Law 15-354, § 83(c)(1), 52 DCR 2638.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1302.

Effect of Amendments

D.C. Law 15-38, in subsec. (j), substituted "Public Health: Health Care Facility endorsement or Public Health: Human Services facility endorsement to a basic business license under the basic" for "Class A Public Health: Health Care Facility endorsement or Class A Public Health: Human Services facility endorsement to a master business license under the master".

D.C. Law 15-354, in subsec. (j), validated a previously made technical correction.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(ee)(1) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

Legislative History of Laws

For legislative history of D.C. Law 5-48, see Historical and Statutory Notes following § 44-501.

Law 12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-615, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

For Law 15-38, see notes following § 44-202.

For Law 15-354, see notes following § 44-212.

Editor's Notes

Because of the enactment of subchapter II of this chapter by D.C. Law 12-238 and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" near the beginning of (b), twice in the last sentence of (d) and (g), and in (h).

§ 44-503. AUTHORITY OF MAYOR.

(a) The Mayor shall:

(1) Ensure that licensing rules are consistent with certificate of need rules and that both are designed to facilitate the goals and objectives of the District of Columbia's state health plan and certificate of need program; and

(2) Conduct an initial inventory of facilities to determine actual physical bed capacity and operating bed capacity.

(b) The Mayor shall have the authority to license bed capacity by specific, well-defined services. For hospitals, licensure by type of service shall be limited to the following categories: Medical/surgical; ICU/coronary care; OB/GYN; nursery; intermediate neonatal and neonatal intensive care; pediatrics; alcoholism/chemical dependency; rehabilitation; and psychiatric.

(Feb. 24, 1984, D.C. Law 5-48, § 4, 30 DCR 5778.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1303.

Legislative History of Laws

For legislative history of D.C. Law 5-48, see Historical and Statutory Notes following § 44-501.

Delegation of Authority

Delegation of authority under Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, see Mayor's Order 84-105, June 19, 1984.

Delegation of authority pursuant to D.C. Law 5-48, the "Health Care and Community Residence License Act of 1983", see Mayor's Order 98-137, August 20, 1998 (45 DCR 6587).

Delegation of authority under Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, see Mayor's Order 84-105, June 19, 1984.

§ 44-504. RULES.

(a) The Mayor shall issue rules, consistent with other provisions of this chapter and pursuant to subchapter I of Chapter 5 of Title 2, establishing:

(1) License fees for private facilities and agencies reasonably calculated to reflect a facility's or agency's respective share of the cost of administering the provisions of this subchapter and rules adopted pursuant to this subchapter;

(2) Procedures deemed necessary to effectuate the purposes of this subchapter, including, but not limited to, procedures for:

(A) Issuing and renewing licenses;

(B) Obtaining variances;

(C) Ensuring that 6 months after the adoption of applicable rules under this subsection, licensure of all affected facilities and agencies shall be under the new rules;

(D) Waiving the inspection requirements of § 44-505(a) and (b) for those agencies that deliver services within the District of Columbia but are headquartered and licensed outside the District of Columbia, when, in the opinion of the Mayor, licensure by another jurisdiction constitutes sufficient evidence that the agency is in substantial compliance with District of Columbia law;

(E) Processing and following up on complaints by facility and agency staff, consumers, and advocates that are filed with the governmental licensing authority;

(F) Suspending or revoking the license of a facility or agency that is in violation of any provision of this subchapter, rule adopted pursuant to this subchapter, or other provision of District of Columbia or federal law, or whose governing body, chief executive officer, administrator, or director has made a material misrepresentation of fact to a government official with respect to the facility's or agency's compliance with any provision of this subchapter, rule adopted pursuant to this chapter, or other provision of District of Columbia or federal law; and

(G) Appealing from adverse licensure decisions;

(3) Standards for the construction and operation of each type of facility and agency, including standards governing: safety and sanitation of facilities; organizational governance and administration; employee and volunteer training, staff membership and delineation of clinical privileges (in addition to the standards set forth in § 44-507), and other personnel matters; diagnostic, therapeutic, emergency, anesthesia, laboratory, pharmaceutical, dietary, nursing, rehabilitation, social, emergency and non-emergency transportation, and other services; infection control; patient/client/resident care and quality assurance; recordkeeping; utilization review; and internal complaint and appeal procedures; and

(4) A statement of patients,' clients,' and residents' rights and responsibilities for each type of facility and agency, including the right to non-discrimination in treatment or access to services based on reasons prohibited by Unit A of Chapter 14 of Title 2.

(b) Repealed.

(c) In formulating the standards and statements of rights and responsibilities required by subsection (a)(3) and (4) of this section, the Mayor shall, within 30 days after February 24, 1984, appoint an advisory task force for each type of facility and agency except ambulatory surgical facilities and renal dialysis facilities. Each task force shall be composed of consumers, providers, advocates, and government agency representatives, and shall be charged with the responsibility of making formal written recommendations within a time frame established by the Mayor. The Mayor shall give substantial consideration to each task force's recommendations and shall, on a continuing basis before adoption of proposed rules, maintain a dialogue with each task force while reviewing and acting on its recommendations.

(d) Where appropriate, standards adopted under subsection (a)(3) of this section may incorporate, in whole or in part, the standards of private accrediting bodies and standard-setting organizations, as well as the federal conditions of participation and standards for health-insurance and medical-assistance programs. Whenever the standards of a private accrediting body or standard-setting organization are revised and a copy is submitted to the Mayor, the Mayor shall evaluate the revised standards and determine whether any or all of them should be incorporated into new rules.

(e) Community residence facilities shall distribute a copy of the statement required by subsection (a)(4) of this section to each resident's parents, guardian, or other responsible person acting on his or her behalf. All other facilities shall conspicuously post copies of this statement near the main entrance and on every floor. Agencies shall distribute a copy of this statement to each patient/client upon the initial delivery of services. Each copy shall specifically state, in boldface, the address and telephone number of the appropriate in-house or intra-agency personnel and governmental authority to which complaints should be

addressed.

(e-1) For nursing facility residents, the statement required by subsection (a)(4) of this section shall include, at a minimum, the right to:

(1) Be fully informed by the nursing facility of all resident rights and all facility rules governing resident conduct and responsibilities upon admission and annually thereafter;

(2) Either manage one's own personal finances, or be given a quarterly report of the resident's finances if this responsibility has been delegated in writing to the nursing facility;

(3) Be treated with respect and dignity and assured privacy during treatment and when receiving personal care;

(4) Not be required to perform services for the nursing facility that are not for therapeutic purposes, as identified in the plan of care for the resident;

(5) Associate and communicate privately with persons of the resident's choice, unless medically contraindicated;

(6) Send and receive personal mail, unopened by personnel at the nursing facility;

(7) Participate in activities of social, religious, and community groups at the discretion of the resident, unless medically contraindicated;

(8) Keep and use personal clothing and possessions, as space permits, unless to do so would infringe on other residents' rights or is medically contraindicated;

(9) Maintain, at the nursing facility, a private locker, chest, or chest drawer that is large enough to accommodate jewelry and small personal property and that can be locked by the resident;

(10) Be provided with privacy for visits by the resident's spouse or domestic partner, or, if spouses or domestic partners are both residents in the nursing facility, be permitted to share a room;

(11) Be free from mental or physical abuse;

(12) Be free from chemical and physical restraints except as authorized pursuant to federal or District law and regulation;

(13) Be transferred or discharged only for the grounds set forth in § 44- 1003.01; and

(14) Be discharged from the nursing facility after:

(A) Receiving a consultation from a physician of the medical consequences of discharge; and

(B) Providing the administrator, physician, or a nurse of the nursing facility written notice of the desire to be discharged; provided, that if the resident is a minor or a guardian has been appointed for a resident, the written request for discharge shall be signed by the resident's guardian, unless there is a court order to the contrary.

(f) In setting standards under subsection (a)(3) of this section, the Mayor shall require that hospice and home care agency programs be centrally administered and organized to ensure effective coordination of all patient/client care services.

(g) Nothing in this section shall be construed to prohibit a facility or agency from supplementing the standards adopted under subsection (a)(3) of this section by establishing internal standards, policies, and procedures that promote safety and quality care, so long as they are reasonable and not inconsistent with this subchapter, rules adopted pursuant to this subchapter, or other District of Columbia law.

(h) For ambulatory surgical facilities, the rules required by subsection (a) of this section shall include a list of those outpatient surgical procedures that, if not performed in a hospital or, when appropriate, a maternity center, may be performed only in a facility licensed as an ambulatory surgical facility. In formulating this list of procedures before its publication as a proposed rule, the Mayor shall solicit input from a broad range of health professionals, relevant institutional providers, and other members of the public who are knowledgeable about ambulatory surgery or ambulatory surgical facilities. This list shall be periodically reviewed and updated by rulemaking pursuant to subchapter I of Chapter 5 of Title 2.

(h-1)(1) As part of the standards for nursing facilities required by subsection (a)(3) of this section, the Mayor shall require nursing facilities to:

(A) Maintain an organizational and staffing structure that promotes assignment of the same caregivers to care for the same residents as often as practicable;

(B) Except as provided in paragraph (2) of this subsection:

(i) Beginning January 1, 2011, have either a physician, physician assistant, or an advanced practice registered nurse, excluding the medical director, available on-site for a minimum of 0.2 hours per week for each resident at the facility; and

(ii) Beginning January 1, 2012, provide a minimum daily average of 4.1 hours of direct nursing care per resident per day, of which at least 0.6 hours shall be provided by an advanced practice registered nurse or registered nurse, which shall be in addition to any coverage

required by sub-subparagraph (i) of this subparagraph;

(C) Provide annual training to all nursing home employees on the appropriate use of emergency transport and 911 services;

(D) Make each resident's attending physician's contact information readily available to facility staff as well as to each resident and his or her family or legal representative upon request;

(E) Provide employee training that addresses the special health care needs of the elderly and that addresses the needs of specific populations, including those characterized by:

(i) Race;

(ii) Ethnicity;

(iii) Religious affiliation;

(iv) Sexual orientation;

(v) Gender; and

(vi) Gender identity;

(F) Ensure that appropriate health care services are available on-site, as determined by the Department of Health, for the purpose of reducing the need to transport residents off-site for routine health services, including:

(i) Podiatry;

(ii) Rehabilitative services, such as physical therapy and occupational therapy;

(iii) Wound care;

(iv) Mental health;

(v) Dialysis; and

(vi) Substance-abuse treatment;

(G) Develop and maintain written policies and procedures governing the management and operation of the facility, which shall be required by the Department of Health as a component of licensure, reviewed by the Department of Health, and made available upon request, including policies and procedures governing:

(i) Nursing services;

(ii) Physician services;

(iii) Emergency care;

(iv) Dental services;

(v) Ventilator services;

(vi) Use of physical and chemical restraints;

(vii) Infection control;

(viii) Medication management;

(ix) Podiatry services;

(x) Dialysis services;

(xi) Recreational services;

(xii) Emergency water supply;

(xiii) Laundry and linen management;

(xiv) Fire and disaster preparedness; and

(xv) Resident emergency and non-emergency transportation.

(H) Based on a resident's right to participate in resident and family groups (Requirements For Long Term Care Facilities, 42 C.F.R. § 483.15(c)), make available to any resident or family group:

(i) Promotional and advertising assistance so that residents and residents' family members are aware of their right to convene groups;

(ii) Adequate meeting space and logistical assistance;

(iii) Information regarding policies and procedures for nursing home care, resident rights and responsibilities, and laws and rules that apply to the facility and its residents;

(iv) Staff for the operation of each meeting, upon request; and

(v) Written feedback and responses to recommendations and grievances;

(I) Ensure that a resident is seen by a physician within 72 hours of admission and has recorded in his or her medical record:

(i) An evaluation of the resident's primary diagnoses;

(ii) The resident's:

(I) Height;

(II) Weight;

(III) Mental health status; and

(IV) Personal care needs;

(iii) Whether it is medically contraindicated for the resident to participate in:

(I) Physical;

(II) Recreational; or

(III) Rehabilitative activities; and

(iv) An evaluation of any existing:

(I) Medical care plan;

(II) Treatment orders; and

(III) Medications;

(J) Obtain a medical order from the resident's attending physician, the facility's medical director, an on-staff physician, or advanced practice registered nurse if a resident requires medical treatment prior to calling 911; provided, that a prior medical order shall not be required if it is determined that there is a situation that requires an immediate transfer to a hospital; provided further, that if a nursing facility does not obtain a required medical order prior to calling 911, the facility shall document in the resident's medical record why obtaining a medical order was not practicable; and

(K) Conduct a discharge assessment within 14 days of admission, and biannually thereafter, that includes:

(i) A time frame for discharging the resident to return home or to another facility; and

(ii) If the resident is likely to be discharged within 6 months of the discharge assessment, a discharge plan.

(2) The Department of Health shall have the authority to adjust the staffing requirements and formulas set forth in paragraph (1)(B)(i) and (ii) of this subsection based on the individual needs of a nursing facility; provided, that the staffing requirements set forth in paragraph (1)(B)(ii) of this subsection shall never be less than 3.5 hours of direct nursing care per resident per day.

(i)(1) As part of the standards for hospitals and renal dialysis facilities required by subsection (a)(3) of this section, the Mayor shall establish standards and procedures with respect to:

(A) The labeling, handling, transporting, storage, routine inspection, and preventive maintenance of dialysis equipment;

(B) The reprocessing and reuse of hemodialyzers, dialysate port caps, and blood port caps;

(C) Water purification and quality;

(D) The flushing of residues from potentially toxic sterilants and disinfectants used during manufacture or reprocessing;

(E) The facility's responsibility to ensure individualized treatment, including the most appropriate choice of equipment for each patient and, for patients exhibiting hypersensitivity, the use of biocompatible membranes;

(F) The reporting of equipment failures and occurrences of pyrexia, sepsis, or bacteremia;

(G) The training, minimum qualifications, and supervision of dialysis staff; and

(H) The training and support provided to self-dialysis and home dialysis patients.

(2) The standards and procedures required by paragraph (1) of this subsection shall not be less stringent than the guidelines set forth in the July 28, 1986, Recommended Practice for Reuse of Hemodialyzers published by the Association for the Advancement of Medical Instrumentation ("AAMI Recommended Practice") and the recommendations of the Centers for Disease Control referenced in those guidelines ("CDC Recommendations").

(3) Until the standards and procedures required by paragraph (1) of this subsection become enforceable through licensure, hospitals and renal dialysis facilities shall comply with the AAMI Recommended Practice, except that, where there are CDC Recommendations, hospitals and renal dialysis facilities shall comply with the CDC Recommendations.

(4) No hospital or renal dialysis facility shall reuse blood tubing or transducer protectors.

(5) No hospital or renal dialysis facility shall reuse a hemodialyzer or dialyzer caps on a patient unless that patient has first signed a written consent form after having been orally advised by a physician of the potential risks, benefits, and uncertainties surrounding reuse and the disinfection process. The advising physician shall not be a medical director of the facility or dialysis unit, nor shall he or she have a financial interest in the facility. The information conveyed shall consist of a full and fair presentation of representative opinions from those in the medical community who have expressed concerns about reuse practices, and those who support these practices. Any discussion of "first-use syndrome" shall include information about advances in biocompatible-membrane technology.

(6) Dialysis patients shall have the following nonwaivable rights, to be supplemented by the statement of rights and responsibilities established by the Mayor pursuant to subsection (a)(4) of this section:

(A) To revoke or limit, either orally or in writing, a previously executed reuse consent at any time and for any reason;

(B) To be informed before each dialysis treatment of the number of times the dialyzer and dialyzer caps have been previously used;

(C) To have documented in their patient-care records all consents to reuse, refusals to consent, revocations of consent, and limitations placed upon consent;

(D) To have unrestricted access to their patient-care records;

(E) To make the reuse-content decision in an environment devoid of threats, intimidation, or retaliation by the facility or its staff; and

(F) Except as provided by paragraph (7) of this subsection, to remain at a facility and receive treatments with a new, state-of-the-art dialyzer and new dialyzer caps whenever consent to reuse is refused or revoked or reuse is prohibited by limitations placed upon consent.

(7) A hospital or renal dialysis facility may transfer or decline to admit a patient on account of that patient's refusal to consent to the reuse of hemodialyzers or dialyzer caps only if:

(A) The Mayor certifies that the facility is currently in full compliance with this subsection and all other District of Columbia laws that regulate, either directly or indirectly, the reprocessing and reuse of hemodialyzers and dialyzer caps;

(B) The facility, in cooperation with a patient-care ombudsman designated by the Mayor, identifies and secures a permanent placement for the patient in an alternative facility within the District of Columbia where that patient will be provided the option of receiving each treatment with a new, state-of-the-art dialyzer and new dialyzer caps; and

(C) The patient-care ombudsman designated by the Mayor finds that the patient can obtain equally reliable transportation to and from the alternative facility without suffering extreme physical, psychological, or financial hardship.

(8) Paragraphs (3) through (7) of this subsection shall be applicable and enforceable with respect to all hospitals and renal dialysis facilities, whether licensed or temporarily exempt from licensure under § 44-502(c), immediately on February 28, 1987.

(j) The proposed rules, except those rules that establish or modify license fees as described in subsection (a) of this section, shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 5 of Title 2.

(k) Any license issued pursuant to this section shall be issued as a Public Health: Health Care Facility endorsement or a Public Health: Human Services Facility endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(Feb. 24, 1984, D.C. Law 5-48, § 5, 30 DCR 5778; Sept. 5, 1985, D.C. Law 6-26, § 2(b)-(d), 32 DCR 3615; Feb. 28, 1987, D.C. Law 6-215, § 2(b), (c), 34 DCR 893; Oct. 1, 1992, D.C. Law 9-168, § 2(a), (b), 39 DCR 5822; Apr. 20, 1999, D.C. Law 12-261, § 2003(aa)(2), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(ee)(2), 50 DCR 6913; Apr. 13, 2005, D.C. Law 15- 354, § 83(c)(2), 52 DCR 2638; Oct. 20, 2005, D.C. Law 16-33, § 5002, 52 DCR 7503; Apr. 29, 2010, D.C. Law 18-145, § 3(a), 57 DCR 1834; Sept. 26, 2012, D.C. Law 19-171, § 110, 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1304.

Effect of Amendments

D.C. Law 15-38, in subsec. (k), substituted "Public Health: Health Care Facility endorsement" and "to a basic

business license under the basic" for "Class A Public Health: Health Care Facility endorsement" and 'to a master business license under the master", respectively.

D.C. Law 15-354, in subsec. (k), validated a previously made technical correction.

D.C. Law 16-33, in subsec. (j), substituted "rules, except those rules that establish or modify license fees as described in subsection (a) of this section, shall be submitted" for "rules shall be submitted".

D.C. Law 18-145, in subsec. (a)(3), substituted "agency, including standards governing:" for "agency, including (where appropriate), but not limited to, standards governing the following:" and substituted "social, emergency and non-emergency transportation, and other services;" for "social, and other services;"; rewrote subsec. (a)(4); and added subsec. (e-1). Prior to amendment, subsec. (a)(4) read as follows:

"(4) A statement of patients'/clients'/residents' rights and responsibilities for each type of facility and agency."

D.C. Law 19-171, in subsec. (a)(3), validated a previously made technical correction.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(ee)(2) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

For temporary (90 day) amendment of section, see § 5002 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 5-48, see Historical and Statutory Notes following § 44-501.

For legislative history of D.C. Law 6-26, see Historical and Statutory Notes following § 44-501.

For legislative history of D.C. Law 6-215, see Historical and Statutory Notes following § 44-501.

Law 9-122 was introduced in Council and assigned Bill No. 9-417, which was retained by CounciL. The Bill was adopted on first and second readings on March 3, 1992, and April 7, 1992, respectively. Signed by the Mayor on April 24, 1992, it was assigned Act No. 9-196 and transmitted to both Houses of Congress for its review. D.C. Law 9-122 became effective on June 11, 1992.

Law 9-168 was introduced in Council and assigned Bill No. 9-418, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 23, 1992, it was assigned Act No. 9-266 and transmitted to both Houses of Congress for its review. D.C. Law 9-168 became effective on October 1, 1992.

For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 44-502.

For Law 15-38, see notes following § 44-202.

For Law 15-354, see notes following § 44-212.

Law 16-33, the "Fiscal Year 2006 Budget Support Act of 2005", was introduced in Council and assigned Bill No. 16-200 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 2005, and June 21, 2005, respectively. Signed by the Mayor on July 26, 2005, it was assigned Act No. 16-166 and transmitted to both Houses of Congress for its review. D.C. Law 16-33 became effective on October 20, 2005.

Law 18-145, the "Health Care Facilities Improvement Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-481, which was referred to the Committee on Health. The bill was adopted on first and second readings on January 19, 2010, and February 2, 2009, respectively. Returned without signature by the Mayor on March 1, 2010, it was assigned Act No. 18-320 and transmitted to both Houses of Congress for its review. D.C. Law 18-145 became effective on April 29, 2010.

For history of Law 19-171, see notes under § 44-407.

Editor's Notes

Because of the enactment of subchapter II of this chapter by D.C. Law 12-238 and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" at the end of (a)(1), in the introductory language of (a)(2) and in three places in (a)(2)(F), and twice in (g).

Delegation of Authority

Delegation of authority under Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, see Mayor's Order 84-105, June 19, 1984.

Delegation of authority pursuant to Law 6-26, see Mayor's Order 86-46, March 20, 1986.

Delegation of authority pursuant to Law 6-215, see Mayor's Order 87-146, June 19, 1987.

Delegation of authority under Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, see Mayor's Order 84-105, June 19, 1984.

Delegation of authority pursuant to Law 6-26, see Mayor's Order 86-46, March 20, 1986.

Delegation of authority pursuant to Law 6-215, see Mayor's Order 87-146, June 19, 1987.

Resolutions

Resolution 15-593, the "Adult Trauma Facilities Regulations Emergency Approval Resolution of 2004", was approved effective June 29, 2004.

Resolution 15-595, the "Pediatric Trauma Facilities Regulations Emergency Approval Resolution of 2004", was approved effective June 29, 2004.

Resolution 15-812, the"Nursing Facility Proposed Rulemaking Amendment Emergency Approval Resolution of 2004", was approved effective December 7, 2004.

Resolution 17-742, the"Hospital Licensing Proposed Rulemaking Emergency Approval Resolution of 2008", was approved effective July 15, 2008.

Miscellaneous Notes

Short title of subtitle A of title V of Law 16-33: Section 5001 of D.C. Law 16-33 provided that subtitle A of title V of the act may be cited as the Health Care and Child Development Facilities Licensor Fees Amendment Act of 2005.

§ 44-505. INSPECTIONS.

(a) To ensure that each new facility and agency will be in compliance with the provisions of this subchapter, rules adopted pursuant to this subchapter, and all other applicable laws and rules, the Mayor shall conduct an on-site inspection prior to a facility's or agency's initial licensure. Instead of issuing a full-year license to a new facility or agency, the Mayor may issue a provisional license under § 44-506 pending satisfactory completion of additional, follow-up inspections.

(b) After initial licensure the Mayor shall conduct an on-site inspection as a precondition to licensure renewal, except that the Mayor may accept accreditation by a private accrediting body, federal certification for participation in a health-insurance or medical assistance program, or federal qualification of a health maintenance organization as evidence of, and in lieu of inspecting for, compliance with any or all of the provisions of this subchapter and rules adopted pursuant to this subchapter that incorporate or are substantially similar to applicable standards or conditions of participation established by that body or the federal government. Acceptance of private accreditation by the Mayor shall be contingent on the facility's or agency's:

(1) Notifying the Mayor of all survey and resurvey dates no later than 5 days after it receives notice of these dates;

(2) Permitting authorized government officials to accompany the survey team; and

(3) Submitting to the Mayor a copy of the certificate of accreditation, all survey findings, recommendations, and reports, plans of correction, interim self-survey reports, notices of noncompliance, progress reports on correction of noncompliances, preliminary decisions to deny or limit accreditation, and all other similar documents relevant to the accreditation process, no later than 5 days after their receipt by the facility or agency or submission to the accrediting body.

(c) An authorized government official may enter the premises of a facility or agency during operating hours for the purpose of conducting an announced or unannounced inspection to check for compliance with any provision of this subchapter, rule adopted pursuant to this subchapter, or other provision of District of Columbia law. In conducting an inspection, the official shall make every effort not to disrupt the normal operations of the facility or agency and its staff.

(d)(1) If a facility or agency loses private accreditation or federal certification, it shall give the Mayor written notice of the loss within 5 calendar days. If in such a case accreditation or certification was accepted in lieu of an inspection under subsection (b) of this section, the Mayor shall immediately upon notification:

(A) Convert the facility's or agency's license to a provisional or restricted license under § 44-506 pending satisfactory completion of an inspection conducted by the Mayor; or

(B) Suspend the facility's or agency's license based upon a finding that loss of accreditation or certification was prompted by existing deficiencies that constitute an immediate or serious and continuing danger to the health, safety, or welfare of its patients/clients/residents.

(2) The Mayor may, prior to a hearing, suspend the license of any facility or agency or convert its license to a provisional or restricted license if he or she determines that existing deficiencies constitute an immediate or serious and continuing danger to the health, safety, or welfare of its patients/clients/residents.

(3) Upon the suspension or conversion of a license pursuant to this subsection, the Mayor shall immediately give the facility or agency written notice of the action, including a copy of the order of suspension or conversion, a statement of the grounds for the action, and notification that the facility or agency has 7 days (excluding Saturdays, Sundays, and legal holidays) from the day written notice is

received to request an expedited, preliminary review hearing. If the facility or agency fails to communicate, either orally or in writing, a timely request for a preliminary review hearing, the order of suspension or conversion shall remain in effect until terminated by the Mayor or an unexpedited hearing is held pursuant to procedures adopted under § 44-504. Upon receipt of a timely request for an expedited, preliminary review hearing, the Mayor shall within 72 hours (excluding Saturdays, Sundays, and legal holidays) provide a hearing to review the reasonableness of the suspension or conversion order. At this hearing, the Mayor shall have the burden of establishing a prima facie case of immediate or serious and continuing endangerment. The suspension or conversion order shall be either affirmed or vacated at the hearing. In the event an order is affirmed, it shall, unless extended, remain in effect for no longer than 30 calendar days, during which time a final hearing shall be scheduled to consider the appropriateness of revocation or continuing restrictions on licensure. Before expiration of a suspension or conversion order, an extension may be granted for a period not to exceed an additional 30 calendar days upon agreement of all the parties or for good cause shown.

(e) The Mayor shall have the authority, upon a showing of undue hardship and if not inconsistent with other provisions of this chapter or deleterious to the public health and safety, to grant variances with respect to the standards to be established under § 44-504(a)(3) and (h-1). The Mayor shall maintain a public record listing all variances granted under this subsection and containing a complete written explanation of the basis for each variance.

(Feb. 24, 1984, D.C. Law 5-48, § 6, 30 DCR 5778; Sept. 5, 1985, D.C. Law 6-26, § 2(e), (f), 32 DCR 3615; Apr. 29, 2010, D.C. Law 18-145, § 3(b), 57 DCR 1834.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1305.

Effect of Amendments

D.C. Law 18-145, in subsec. (e), substituted "§ 44-504(a)(3) and (h-1)" for "§ 44-504(a)(3)".

Legislative History of Laws

For legislative history of D.C. Law 5-48, see Historical and Statutory Notes following § 44-501.

For legislative history of D.C. Law 5-154, see Historical and Statutory Notes following § 44-501.

For legislative history of D.C. Law 6-26, see Historical and Statutory Notes following § 44-501.

For Law 18-145, see notes following § 44-504.

Editor's Notes

Because of the enactment of subchapter II of this chapter by D.C. Law 12-238 and the designation of the preexisting text of Chapter 5 as subchapter I, "subchapter" has been substituted for "act" twice in the first sentence of (a)- (c).

§ 44-506. PROVISIONAL AND RESTRICTED LICENSES.

(a) As an alternative to denial, nonrenewal, suspension, or revocation of a license when a facility or agency has numerous deficiencies or a serious single deficiency with respect to the standards to be established under § 44- 504(a)(3), the Mayor may:

(1) Issue a provisional license if the facility or agency is taking appropriate ameliorative action in accordance with a mutually agreed upon timetable; or

(2) Issue a restricted license that prohibits the facility or agency from accepting new patients/clients/residents or delivering certain specified services that it would otherwise be authorized to deliver, if appropriate ameliorative action is not forthcoming.

(b) As provided in § 44-505(a), provisional licenses may be issued to new facilities and agencies in order to afford the Mayor sufficient time and evidence to evaluate whether a new facility or agency is capable of complying with the provisions of this subchapter, rules adopted pursuant to this subchapter, and other applicable provisions of law.

(c) Provisional licenses may be granted for a period not exceeding 90 days, and may be renewed no more than once.

(d) Any provisional license issued pursuant to this section shall be issued as a provisional Public Health: Health Care Facility endorsement or a provisional Public Health: Human Services facility endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(e) If a facility is issued a restricted or provisional license, the Department of Health may, if appropriate, appoint a temporary manager or monitor in accordance with a mutually agreed upon timetable or until the

facility becomes compliant with § 44-504(a)(3) and (h-1).

(Feb. 24, 1984, D.C. Law 5-48, § 7, 30 DCR 5778; Apr. 20, 1999, D.C. Law 12-261, § 2003(aa)(3), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(ee)(3), 50 DCR 6913; Apr. 29, 2010, D.C. Law 18-145, § 3(c), 57 DCR 1834; Sept. 26, 2012, D.C. Law 19-171, § 112, 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1306.

Effect of Amendments

D.C. Law 15-38, in subsec. (d), substituted "Public Health: Health Care Facility endorsement or a provisional Public Health: Human Services Facility endorsement to a basic business license under the basic" for "Class A Public Health: Health Care Facility endorsement or a provisional Public Health: Human Services facility endorsement to a master business license under the master".

D.C. Law 18-145 added subsec. (e).

D.C. Law 19-171, in subsec. (e), validated a previously made technical correction.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(ee)(3) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

Legislative History of Laws

For legislative history of D.C. Law 5-48, see Historical and Statutory Notes following § 44-501.

For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 44-502.

For Law 15-38, see notes following § 44-202.

For Law 18-145, see notes following § 44-504.

For history of Law 19-171, see notes under § 44-407.

Editor's Notes

Because of the enactment of subchapter II of this chapter by D.C. Law 12-238 and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "act" twice near the end of (b).

§ 44-507. STANDARDS FOR CLINICAL PRIVILEGES AND STAFF MEMBERSHIP; ANTICOMPETITIVE PRACTICES PROHIBITED.

(a) The accordance and delineation of clinical privileges shall be determined on an individual basis and commensurate with an applicant's education, training, experience, and demonstrated current competence. In implementing these criteria, each facility and agency shall formulate and apply reasonable, nondiscriminatory standards for the evaluation of an applicant's credentials. As part of its overall responsibility for the operation of a facility or agency, the governing body, or designated persons so functioning, shall ensure that decisions on clinical privileges and staff membership are based on an objective evaluation of an applicant's credentials, free of anticompetitive intent or purpose. Whenever possible, the credentials committee and other staff who evaluate and determine the qualifications of applicants for clinical privileges and staff membership shall include members of the applicant's profession. The credentials committee shall accept the District of Columbia's uniform credentialing form as the sole application for a healthcare provider to become credentialed or recredentialed.

(b)(1) The following are not valid factors for consideration in the determination of qualifications for staff membership or clinical privileges:

(A) An applicant's membership or lack of membership in a professional society or association;

(B) An applicant's decision to advertise, lower fees, or engage in other competitive acts intended to solicit business;

(C) An applicant's participation in prepaid group health plans, salaried employment, or any other manner of delivering health services on other than a fee-for-service basis;

(D) An applicant's support for, training of, or participation in a private group practice with members of a particular class of health professional;

(E) An applicant's practices with respect to testifying in malpractice suits, disciplinary actions, or any other type of proceeding; and

(F) An applicant's willingness to send a certain amount of patients/clients who are in need of the services of a facility or agency to a particular facility or agency; provided, that this last restriction

shall not apply to public facilities and agencies.

(2)Each facility or agency shall formulate procedures to ensure that the foregoing factors play no part when decisions regarding clinical privileges and staff membership are made. In any action brought by an individual against a facility or agency regarding a determination of clinical privileges or staff membership, the facility or agency shall have the burden of proving that none of these considerations were a factor in the determination.

(c) No provision of District of Columbia law, institutional or staff bylaw of a facility or agency, rule or regulation, or practice shall prohibit qualified advanced practice registered nurses, podiatrists, or psychologists from being accorded clinical privileges and appointed to all categories of staff membership at those facilities and agencies that offer the kinds of services that can be performed by either members of these health professions or physicians.

(d) General and family practitioners who have demonstrated a current competence in the performance of particular services or procedures shall not be discriminated against with respect to staff membership or the accordance and delineation of clinical privileges on account of their type of practice.

(e) If a facility or agency offers the types of services that can be performed by physician assistants or other, analogous health professional assistants, it shall establish clearly defined and objective procedures for the processing and evaluation of requests by members of these groups to provide such services at the facility or agency.

(f) Whenever a health professional submits a completed application for staff membership or clinical privileges to a facility or agency, that facility or agency shall have 120 calendar days to grant or deny the application. No facility or agency may deny such an application, terminate, or reduce the rights and responsibilities attending the staff membership of a health professional, or reduce, suspend, revoke, or refuse to renew his or her clinical privileges, without providing him or her with the following minimum procedural protections:

(1) A contemporaneous written explanation containing the explicit reasons for taking the action;

(2) Reasonable advance notice of the right to a fair hearing which would afford the applicant an opportunity to adequately prepare a rebuttal to the stated reasons for the action;

(3) A fair hearing, including the right to present evidence and call witnesses in his or her behalf;

(4) The right to have retained counsel present at the hearing if the facility or agency is represented by counsel at the hearing;

(5) A written decision containing the explicit reasons for taking the action and substantially based on the evidence produced at the hearing; and

(6) Access to a complete record documenting all preliminary and final decisions and proceedings related to the decisions.

(Feb. 24, 1984, D.C. Law 5-48, § 8, 30 DCR 5778; Mar. 14, 1985, D.C. Law 5-159, § 6, 32 DCR 30; Dec. 3, 1985, D.C. Law 6-66, § 11, 32 DCR 6086; Mar. 23, 1995, D.C. Law 10-247, § 5, 42 DCR 457; Apr. 13, 2002, D.C. Law 14-96, § 201, 49 DCR 991; Mar. 2, 2007, D.C. Law 16-191, § 68(a), 53 DCR 6794.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1307.

Effect of Amendments

D.C. Law 14-96, in subsec. (a), at the end, added "The credentials committee shall accept the District of Columbia's uniform credentialing form as the sole application for a healthcare provider to become credentialed or recredentialed."

D.C. Law 16-191, in subsec. (b), designated the lead-in language as par. (1), redesignated former pars. (1) to (6) as subpars. (A) to (F), and designated par. (2).

Legislative History of Laws

For legislative history of D.C. Law 5-48, see Historical and Statutory Notes following § 44-501.

Law 6-66 was introduced in Council and assigned Bill No. 6-135, which was referred to the Committee on Education and reassigned to the Committee on Human Services. The Bill was adopted on first and second readings on September 10, 1985, and September 24, 1985, respectively. Signed by the Mayor on October 9, 1985, it was assigned Act No. 6-89 and transmitted to both Houses of Congress for its review.

Law 10-247, the "Health Occupations Revision Act of 1985 Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-598, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 1, 1994, and December 1, 1994, respectively.

Law 14-96, the "Health Insurers and Credentialing Intermediaries Uniform Credentialing Form Act of 2002", was introduced in Council and assigned Bill No. 14-54, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 2001, and January 8, 2002, respectively. Signed by the Mayor on January 28, 2002, it was assigned Act No. 14-229 and transmitted to both Houses of Congress for its review. D.C. Law 14-96 became effective on April 13, 2002.

For Law 16-191, see notes following § 44-151.02.

§ 44-508. REPORTING TO LICENSING AUTHORITY.

(a) Except as provided in subsection (b) of this section, in the event that a health professional's: (1) clinical privileges are reduced, suspended, revoked, or not renewed; or (2) employment or staff membership is involuntarily terminated or restricted for reasons of, or voluntarily terminated or restricted while involuntary action is being contemplated for reasons of, professional incompetence, mental or physical impairment, or unprofessional or unethical conduct, a facility or agency shall submit a written report detailing the facts of the case to the duly constituted governmental board, commission, or other authority, if one exists, responsible for licensing that health professional.

(b) The reporting requirement in subsection (a) of this section shall not apply to a temporary suspension or relinquishment of privileges or responsibilities if a health professional enters and successfully completes a prescribed program of education or rehabilitation. As soon as there exists no reasonable expectation that he or she will enter and successfully complete such a prescribed program, the facility or agency shall submit a report forthwith pursuant to subsection (a) of this section.

(Feb. 24, 1984, D.C. Law 5-48, § 9, 30 DCR 5778.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1308.

Legislative History of Laws

For legislative history of D.C. Law 5-48, see Historical and Statutory Notes following § 44-501.

§ 44-509. PENALTIES; ENFORCEMENT.

(a) Any person who intentionally impedes a District of Columbia official or employee in the performance of his or her authorized duties under this subchapter, or any rule issued pursuant to this subchapter, shall be subject to a fine not exceeding $1,000 per day of violation, imprisonment for not more than 90 days, or both. Prosecution shall be in the Superior Court of the District of Columbia by information signed by the Attorney General for the District of Columbia or one of his or her assistants.

(b) Notwithstanding the availability of any other remedy, the Attorney General for the District of Columbia or one of his or her assistants may maintain, in the name of the District of Columbia, an action in the Superior Court of the District of Columbia to enjoin any person, agency, corporation, or other entity from operating a facility or agency in violation of the terms of its license, provisions of this subchapter, or any rule issued pursuant to this subchapter.

(c) Notwithstanding the availability of any other remedy, an individual who is aggrieved by a violation of any provision of this subchapter or rule issued pursuant to this subchapter may maintain an action in the Superior Court of the District of Columbia to enjoin the continuation of that violation or the commission of any future violation.

(d)(1) Any person who knowingly gives an owner, licensee, administrator, or employee of a facility or agency, whether directly or indirectly, advance notice of an officially unannounced inspection or investigation to be conducted by the Mayor, the Long-Term Care Ombudsman designated pursuant to 42 U.S.C. § 3027(a)(12), or their designees, shall be:

(A) Guilty of a misdemeanor and, upon conviction, subject to a fine not exceeding $5,000, imprisonment for not more than 90 days, or both; and

(B) If a District government employee, subject to disciplinary and other remedial action in accordance with District law.

(2) Prosecution under paragraph (1)(A) of this subsection shall be in the Superior Court of the District of Columbia by information signed by the Attorney General for the District of Columbia or one of his or her assistants.

(e)(1) Civil fines, penalties, and related costs may be imposed against a facility or agency, whether public or private, for the violation of any provision of this subchapter, rule issued pursuant to this subchapter (including residents' rights established pursuant to § 44-504(a)(4)), or other District of Columbia or locally

enforceable federal law. Except as provided in paragraphs (2) through (5) of this subsection and subsection (f)(1) of this section, procedures for adjudication and enforcement and applicable fines, penalties, and costs shall be those established by or pursuant to Chapter 18 of Title 2. Governmental immunity shall not be a defense to any civil fine, penalty, or cost imposed.

(2) Whenever the respondent in proceedings for a civil fine or penalty is the licensee or administrator of a nursing home or community residence facility, the Long-Term Care Ombudsman shall have the right to intervene as a party in any hearing, administrative appeal, or court review that is a part of those proceedings. As a party to the proceedings, the Long-Term Care Ombudsman shall be served with a copy of the notice of infraction, all hearing notices, all orders of the Administrative Law Judge, any notices of appeal, and any orders of a court.

(3) Civil fines, penalties, and related costs imposed against a nursing home or community residence facility shall not come out of the funds needed to provide quality care and services to residents. To monitor compliance with this paragraph, the Mayor shall conduct an audit at least annually of every nursing home and community residence facility against which civil fines, penalties, or costs have been imposed. Civil fines, penalties, and costs imposed against any nursing home or community residence facility owned by the District of Columbia shall be paid into either the special fund or account if established pursuant to § 44-1002.09, or a special account to be used for the personal needs of residents.

(4) Notwithstanding the availability of other means of enforcement, the Mayor may directly deduct the amount of civil fines, penalties, and related costs imposed against any facility or agency from amounts otherwise payable by the District of Columbia to the licensee or administrator of that facility or agency.

(5) Any person who violates any provision of this subchapter, or any rules or regulations promulgated pursuant to this subchapter, for which a civil fine has not been established pursuant to § 2-1801.04, shall be subject to a civil fine in an amount not to exceed that established for the closest existing analogous violation.

(f)(1) Any person who commits a violation of any provision of this subchapter, or any rules or regulations promulgated pursuant to this subchapter, that results in demonstrable harm to a patient, resident, or client of a facility or agency, shall be subject to a fine for each offense not to exceed $10,000. For each violation, each day of violation shall constitute a separate offense, and the penalties prescribed shall apply to each separate offense. The total fine for a series of related offenses shall not exceed $100,000. Procedures for adjudication of violations under this subsection shall be those established pursuant to Chapter 18 of Title 2.

(2) Except as provided in subsections (a) and (d) of this section, any person who knowingly violates this subchapter, or any rules or regulations promulgated pursuant to this subchapter, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than $25,000, or imprisoned for not more than 180 days, or both. For each violation, each day of violation shall constitute a separate offense, and the penalties prescribed shall apply to each separate offense. Prosecutions for violation of this subchapter pursuant to this subsection shall be brought in the Superior Court of the District of Columbia by the Attorney General for the District of Columbia.

(Feb. 24, 1984, D.C. Law 5-48, § 10, 30 DCR 5778; Apr. 18, 1986, D.C. Law 6-108, § 502, 33 DCR 1510; Feb. 28, 1987, D.C. Law 6-215, § 2(d), 34 DCR 893; June 25, 2002, D.C. Law 14-155, § 2, 49 DCR 4269; Apr. 13, 2005, D.C. Law 15-354, § 65, 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 68(b), 53 DCR 6794.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1309.

Effect of Amendments

D.C. Law 14-155 rewrote subsec. (a); in subsec. (e)(1), substituted "Except as provided in paragraphs (2) through (5) of this subsection and subsection (f)(1) of this section," for "Except as provided in paragraphs (2) through (4) of this subsection,"; and added subsecs. (e)(5) and (f). Prior to amendment, subsec. (a) read as follows:

D.C. Law 15-354 substituted "Attorney General for the District of Columbia" for "Corporation Counsel"; and, in subsec. (e)(2), substituted "Administrative Law Judge" for "hearing examiner" and 'any orders" for "any orders of the District of Columbia Board of Appeals and Review or".

D.C. Law 16-191, in subsec. (f)(2), validated a previously made technical correction.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2 of Health Care and Community Residence Facility, Hospice and Home Care Licensure Penalties Temporary Amendment Act of 2000 (D.C. Law 13-271, April 4, 2001, law notification 48 DCR 3605).

For temporary (225 day) amendment of section, see § 2 of Health Care and Community Residence Facility, Hospice and Home Care Licensure Penalties Temporary Amendment Act of 2001 (D.C. Law 14-85, March 19, 2002, law notification 49 DCR 2990).

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 2 of the Health Care and Community Residence Facility Hospice and Home Care Licensure Penalties Emergency Amendment Act of 2000 (D.C. Act 13-546, January 11, 2001, 48 DCR 770).

For temporary (90 day) amendment of section, see § 2 of Health Care and Community Residence Facility, Hospice and Home Care Licensure Penalties Emergency Amendment Act of 2001 (D.C. Act 14-175, November 19, 2001, 48 DCR 11053).

For temporary (90 day) amendment of section, see § 2 of Health Care and Community Residence Facility, Hospice and Home Care Licensure Penalties Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-294, February 25, 2002, 49 DCR 2532).

Legislative History of Laws

For legislative history of D.C. Law 5-48, see Historical and Statutory Notes following § 44-501.

Law 6-108 was introduced in Council and assigned Bill No. 6-256, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on January 28, 1986, and February 11, 1986, respectively. Signed by the Mayor on February 24, 1986, it was assigned Act No. 6-138 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 6-215, see Historical and Statutory Notes following § 44-501.

Law 14-155, the "Health Care and Community Residence Facility, Hospice and Home Care Licensure Penalties Amendment Act of 2002", was introduced in Council and assigned Bill No. 14-392, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on March 5, 2002, and April 9, 2002, respectively. Signed by the Mayor on April 24, 2002, it was assigned Act No. 14-334 and transmitted to both Houses of Congress for its review. D.C. Law 14-155 became effective on June 25, 2002.

For Law 15-354, see notes following § 44-212.

For Law 16-191, see notes following § 44-151.02.

Editor's Notes

Because of the enactment of subchapter II of this chapter by D.C. Law 12-238 and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "act" twice in the first sentence of (a), twice in (e)(5), and five times in (f) and for "chapter" twice near the end of (b), in (c) and twice in (e)(1).

SUBCHAPTER II. UNLICENSED PERSONNEL CRIMINAL BACKGROUND CHECK.

§ 44-551. DEFINITIONS.

For purposes of this subchapter, the term:

(1A) "Contract worker" means a compensated contractor for whom it is foreseeable he or she will come in direct contact with patients.

(1B) "Criminal background check" means an investigation into a person's criminal history to determine whether, within the 7 years preceding the background check, the person has been convicted in the District of Columbia, or in any other state or territory of the United States where such person has worked or resided, of any of the offenses enumerated in § 44-552(e) or their equivalent in another state or territory.

(1C) "Facility" means any entity required to be licensed pursuant to subchapter I of this chapter or Chapter 1 of this title and any entity furnishing Medicaid services under a provider agreement with the District of Columbia in accordance with regulations promulgated under title XIX of the Social Security Act, approved July 30, 1965 (Pub. L. 89-97; 42 U.S.C. § 1396 et seq.).

(2) Repealed.

(3) "Medicaid services" means nursing facility services, home health-care services, inpatient hospital services and nursing facilities for individuals 65 years of age or older in an institution for mental disease, mental health rehabilitation services in an intermediate care facility for persons with intellectual disabilities, home and community care for elderly individuals with functional disabilities, and community supported living arrangement services as defined in title XIX of the Social Security Act,

approved July 30, 1965 (Pub. L. 89-97; 42 U.S.C. § 1396 et seq.).

(4) "Nurse Aide Abuse Registry" means a record, maintained by the District of Columbia in accordance with section 4211 of the Omnibus Budget Reconciliation Act of 1987, approved December 22, 1987 (101 Stat. 1330-182; 42 U.S.C. § 1396r), and 29 DCMR § 3250-3254, containing names of individuals who worked as nurse aides and were determined to have abused or neglected, or misappropriated the property of, a nursing home resident.

(5) "Person" means an individual.

(6) "Private agency" means an entity or person that offers customer assistance in the use of criminal background checks for employment purposes.

(7) "Unlicensed person" means a person not licensed pursuant to Chapter 12 of Title 3, who functions in a complementary or assistance role to licensed health care professionals in providing direct patient care or in performing common nursing tasks. The term "unlicensed person" includes nurse aides, orderlies, assistant technicians, attendants, home health aides, personal care aides, medication aides, geriatric aides, or other health aides. The term "unlicensed person" also includes housekeeping, maintenance, and administrative staff for whom it is foreseeable that the prospective employee or contract worker will come in direct contact with patients.

(Apr. 20, 1999, D.C. Law 12-238, § 2, 46 DCR 881; Apr. 12, 2000, D.C. Law 13-91, § 148(a), 47 DCR 520; June 24, 2000, D.C. Law 13-127, § 1403, 47 DCR 2647; Dec. 18, 2001, D.C. Law 14-56, § 116(k), 48 DCR 7674; Apr. 13, 2002, D.C. Law 14-98, § 2(a), 49 DCR 997; Apr. 24, 2007, D.C. Law 16-305, § 70, 53 DCR 6198; Mar. 25, 2009, D.C. Law 17-353, §§ 200, 201, 56 DCR 1117; Sept. 26, 2012, D.C. Law 19-169, § 29, 59 DCR 5567.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1351.

Effect of Amendments

D.C. Law 13-91 validated a previously made technical amendment in subsec. (2).

D.C. Law 13-127 in subsec. (1) provided for adding the phrase "or Chapter 1 of this title," before the phrase "and any entity".

D.C. Law 14-56, in par. (3), inserted "mental health rehabilitation" before "services in an intermediate care facility for the mentally retarded,".

D.C. Law 14-98 redesignated par. (1) as par. (1C); added pars. (1A), (1B), (4), (5), (6), and (7); and repealed par. (2) which had read as follows:

"(2) 'Licensed professional' means a person employed by a facility who is licensed by a professional board or commission. 'Licensed professional' does not include a person who functions in a complementary or assistant role to licensed nurses in providing direct patient care or carrying out common nursing tasks, such as a nurses aide, orderly, assistant technician, attendant, home-health aide, medication aide, geriatric aide, or other health aide; housekeeping staff; maintenance staff; administrative staff, and compensated contractors."

D.C. Law 16-305, in par. (3), substituted "elderly individuals with disabilities" for "disabled elderly individuals".

D.C. Law 17-353 validated previously made technical corrections in par. (3).

D.C. Law 19-169, in par. (3), substituted "intellectual disabilities" for "mental retardation".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 3(a) of TANF-related Medicaid Managed Care Temporary Amendment Act of 1999 (D.C. Law 12-277, April 27, 1999, law notification 46 DCR 4283).

For temporary (225 day) amendment of section, see § 2(a) of Health-Care Facility Unlicensed Personnel Criminal Background Check Temporary Amendment Act of 2001 (D.C. Law 14-40, October 13, 2001, law notification 48 DCR 9913).

For temporary (225 day) amendment of section, see § 16(k) of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, November 3, 2001, law notification 48 DCR 10807).

Emergency Act Amendments

For temporary amendment of section, see § 3(a) of the TANF-related Medicaid Managed Care Program Technical Clarification Emergency Amendment Act of 1998 (D.C. Act 12-605, January 20, 1999, 46 DCR 1287).

For temporary (90-day) amendment of section, see § 2(a) of the Health-Care Facility Unlicensed Personnel Criminal Background Check Technical Amendments Emergency Act of 1999 (D.C. Act 13-201, December 1, 1999, 46 DCR 10452).

For temporary (90-day) amendment of section, see § 2(a) of the Health-Care Facility Unlicensed Personnel Criminal Background Check Technical Amendments Congressional Review Emergency Act of 2000 (D.C. Act 13-294, March 7, 2000, 47 DCR 2515).

For temporary (90 day) amendment of section, see § 16(k) of Department of Mental Health Establishment Emergency Amendment Act of 2001 (D.C. Act 14-55, May 2, 2001, 48 DCR 4390).

For temporary (90 day) amendment of section, see § 16(k) of Department of Mental Health Establishment Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-101, July 23, 2001, 48 DCR 7123).

For temporary (90 day) amendment of section, see § 2(a) of Health-Care Facility Unlicensed Personnel Criminal Background Check Emergency Amendment Act of 2001 (D.C. Act 14-102, July 23, 2001, 48 DCR 7143).

For temporary (90 day) amendment of section, see § 116(k) of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

For temporary (90 day) amendment of section, see § 2(a) of Health-Care Facility Unlicensed Personnel Criminal Background Check Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-160, November 2, 2001, 48 DCR 10395).

Legislative History of Laws

Law 12-238, the "Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998," was introduced in Council and assigned Bill No. 12-628, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on December 22, 1998, it was assigned Act No. 12-567 and transmitted to both Houses of Congress for its review. D.C. Law 12-238 became effective on April 20, 1999.

Law 13-91, the "Technical Amendments Act of 1999," was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

Law 13-127, the "Assisted Living Residence Regulatory Act of 2000," was introduced in Council and assigned Bill No. 13-107, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on January 4, 2000, and March 7, 2000, respectively. Signed by the Mayor on March 22, 2000, it was assigned Act No. 13-297 and transmitted to both Houses of Congress for its review. D.C. Law 13-127 became effective on June 24, 2000.

For Law 14-56, see notes following § 44-401.

Law 14-98, the "Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002", was introduced in Council and assigned Bill No. 14-99, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on December 4, 2001, and January 8, 2002, respectively. Signed by the Mayor on January 28, 2002, it was assigned Act No. 14-231 and transmitted to both Houses of Congress for its review. D.C. Law 14- 98 became effective on April 13, 2002.

For Law 16-305, see notes following § 44-102.01.

For Law 17-353, see notes following § 44-422.

For history of Law 19-169, see notes under § 44-102.01.

§ 44-552. CRIMINAL BACKGROUND CHECKS.

(a) The requirements of this section shall not apply to persons employed on or before July 23, 2001, persons licensed under Chapter 12 of Title 3, or to a person who volunteers services to a facility and works under the direct supervision of a person licensed pursuant to Chapter 12 of Title 3.

(b) No facility shall employ or contract with any unlicensed person until a criminal background check has been conducted for that person. Each facility shall inform each prospective employee or contract worker that the facility is required to conduct a criminal background check before employing or contracting with an unlicensed person.

(c) All criminal records received by a facility for the purposes of employing a person who is not a licensed professional pursuant to this subchapter shall be kept confidential and shall be used solely by the facility. The criminal records shall not be released or otherwise disclosed to any person except to:

(1) The Mayor or the Mayor's designee during an official inspection or investigation of the facility;

(2) The person whose background is being investigated;

(3) Comply with an order of a court; or

(4) Any person with the written consent of the person being investigated.

(d) All criminal records received by a facility shall be destroyed after one year from the end of employment of the person to whom the records relate.

(e) No facility shall employ or contract with any unlicensed person if, within the 7 years preceding a criminal background check conducted pursuant to this section, that person has been convicted in the District of Columbia, or in any other state or territory of the United States where such person has worked or resided, of any of the following offenses or their equivalent in another state or territory:

(1) Murder, attempted murder, or manslaughter;

(2) Arson;

(3) Assault, battery, assault and battery, assault with a dangerous weapon, mayhem or threats to do bodily harm;

(4) Burglary;

(5) Robbery;

(6) Kidnapping;

(7) Theft, fraud, forgery, extortion or blackmail;

(8) Illegal use or possession of a firearm;

(9) Repealed.

(10) Rape, sexual assault, sexual battery, or sexual abuse;

(11) Child abuse or cruelty to children; or

(12) Unlawful distribution or possession with intent to distribute, a controlled substance.

(f) Repealed.

(g) No facility shall employ or contract with any unlicensed person who is not a licensed professional if that person's name appears on the Nurse Aide Abuse Registry maintained pursuant to regulations promulgated by the Mayor.

(h) Each facility may obtain a criminal background check from the Metropolitan Police Department, the U.S. Department of Justice, or from a private agency. The facility shall pay the fee that is established and charged by the entity that provides the criminal background check results. Nothing in this subsection shall preclude the facility from seeking reimbursement of the fee paid for the criminal background check from the applicant for employment or contract work.

(i) Except as provided in subsection (a) of this section, a facility may also opt to conduct a criminal background check on any employee or volunteer who provides services at the facility.

(Apr. 20, 1999, D.C. Law 12-238, § 3, 46 DCR 881; Apr. 12, 2000, D.C. Law 13-91, § 148(b), 47 DCR 520; Apr. 13, 2002, D.C. Law 14-98, § 2(b), 49 DCR 997.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1352.

Effect of Amendments

D.C. Law 13-91 validated a previously made technical amendment in subsec. (b).

D.C. Law 14-98, in subsec. (a), substituted "apply to persons employed on or before July 23, 2001, persons licensed" for "apply to persons licensed"; in subsec. (e)(12), substituted "distribution or possession with intent" for "distribution, possession, or possession with intent"; rewrote subsecs. (b), (e) (introductory matter), and (h); repealed subsecs. (e)(9) and (f); in subsec. (g), substituted "No facility shall employ or contract with any unlicensed person" for "Except as provided in subsection (f) of this section, no facility shall employ or contract with any person who is not a licensed professional". Prior to amendment and repeal, subsecs. (b), (e) (introductory matter), (e)(9), (f), and (h) read, respectively, as follows:

"(b) No facility shall offer to employ or contract with any person who is not a licensed professional until a criminal background check has been conducted for that person. Every facility shall inform each applicant for employment or a prospective contract worker that the facility is required to conduct a criminal background check before making an offer of employment to, or contracting with, a person who is not a licensed professional."

"(e) Except as provided in subsection (f) of this subsection, no facility shall employ or contract with any person who is not a licensed professional if that person has been convicted in the District of Columbia or in any other state or territory of the United States of any of the following offenses or their equivalent in another state or territory:"

"(9) Trespass or injury to property;"

"(f) The Mayor may, by rulemaking, provide that a person who is not a licensed professional who seeks employment with a facility, having been convicted of certain crimes or placed on the Nurse Aide Abuse Registry, may be employed in a health-care facility after a specified period of time during which the person has not been convicted of any crime or committed any other prohibited behavior."

"(h) At the request of a facility, accompanied by the payment of a fee as determined by the Mayor, the Mayor or the Mayor's designee, or any other authorized entity shall conduct a criminal background check of any person who is not a licensed professional seeking employment with, or employed by, the facility or an entity contracting with the facility."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b) of Health-Care Facility Unlicensed Personnel Criminal Background Check Temporary Amendment Act of 2001 (D.C. Law 14-40, October 13, 2001, law notification 48 DCR 9913).

Emergency Act Amendments

For temporary amendment of section, see § 3(b) of the TANF-related Medicaid Managed Care Program Technical Clarification Emergency Amendment Act of 1998 (D.C. Act 12-605, January 20, 1999, 46 DCR 1287).

For temporary (90-day) amendment of section, see § 2(b) of the Health-Care Facility Unlicensed Personnel Criminal Background Check Technical Amendments Emergency Act of 1999 (D.C. Act 13-201, December 1, 1999, 46 DCR 10452).

For temporary (90-day) amendment of section, see § 2(b) of the Health-Care Facility Unlicensed Personnel Criminal Background Check Technical Amendments Congressional Review Emergency Act of 2000 (D.C. Act 13-294, March 7, 2000, 47 DCR 2515).

For temporary (90 day) amendment of section, see § 2(b) of Health-Care Facility Unlicensed Personnel Criminal Background Check Emergency Amendment Act of 2001 (D.C. Act 14-102, July 23, 2001, 48 DCR 7143).

For temporary (90 day) amendment of section, see § 2(b) of Health-Care Facility Unlicensed Personnel Criminal Background Check Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-160, November 2, 2001, 48 DCR 10395).

Legislative History of Laws

For legislative history of D.C. Law 12-238, see Historical and Statutory Notes following § 44-551.

For Law 13-91, see notes following § 44-551.

For Law 14-40, see notes following § 44-551.

For Law 14-98, see notes following § 44-551.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 12-238, the "Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998", see Mayor's Order 2000-9, January 21, 2000 (47 DCR 1020).

§ 44-553. PENALTIES FOR UNAUTHORIZED RELEASED OF CRIMINAL INFORMATION.

(a) Any person releasing or disclosing any information in violation of § 44- 552(c) shall be guilty of a misdemeanor, and shall be punishable by the payment of a fine not greater than $300, a term of imprisonment not greater than 30 days, or both.

(b) Civil fines, penalties, and fees may be imposed as sanctions for any violation of this subchapter or the rules issued pursuant to this subchapter, pursuant to Chapter 18 of Title 2.

(c) No facility shall be subject to civil liability that in good faith relies on a criminal background check to terminate, or to refuse to offer employment to, any individual.

(Apr. 20, 1999, D.C. Law 12-238, § 4, 46 DCR 881.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1353.

Legislative History of Laws

For legislative history of D.C. Law 12-238, see Historical and Statutory Notes following § 44-551.

§ 44-554. RULES.

The Mayor may issue rules to implement this subchapter, including procedures for additional enforcement actions for violation of this subchapter and the setting of fees in accordance with the provisions of subchapter I of Chapter 5 of Title 2.

(Apr. 20, 1999, D.C. Law 12-238, § 5, 46 DCR 881.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 32-1354.

Legislative History of Laws

For legislative history of D.C. Law 12-238, see Historical and Statutory Notes following § 44-551.