

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 1007 (16 Del.C. §1007)

16 DE Admin. Code 4407

PROPOSED

PUBLIC NOTICE

4407 Hospital Standards (Construction, Maintenance, and Operation)

The Office of Health Facilities Licensing and Certification, Health Systems Protection Section, Division of Public Health, Department of Health and Social Services, has proposed amendments to the State of Delaware 4407 Hospital Standards (Construction, Maintenance, and Operation) regulation.

House Bill 129 (“Christina’s Law”), signed by the Governor on June 10, 2014, requires the Department of Health and Social Services to adopt regulations to ensure that hospital staff have ready access to a locked hospital bathroom in the event of an emergency. The proposed amendment adds to the existing regulation a section 4.4 “Hospitals must develop and implement policies and procedures for hospital staff to have ready access to a locked hospital bathroom in the event of an emergency.”

On August 1, 2014, the Department plans to publish proposed amendments to the 4407 Hospital Standards (Construction, Maintenance, and Operation) regulation and hold them out for public comment per Delaware law.

Copies of the proposed regulation are available for review in the August 1, 2014 edition of the Delaware *Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Office of Health Facilities Licensing and Certification at (302) 283-7220.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulation must submit same to Deborah Harvey by 4:30 p.m. on Tuesday, September 2, 2014 at:

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4407 Hospital Standards (Construction, Maintenance, and Operation)

1.0 General Licensing Requirements and Procedures

- 1.1 Definitions: The definitions as contained in 16 Del.C. 1001 of the Hospital Licensure Law shall apply to these rules and regulations.
- 1.2 Purpose: The purpose of these regulations is to establish reasonable standards of equipment, capacity, sanitation, and any conditions which might influence the health care received by patients or promote the purposes of the Hospital Licensure Law.
- 1.3 Application: These rules and regulations apply to all health facilities that meet the criteria for a hospital as defined under 16 Del.C. 1001 of the Hospital Licensure Law. The Department of Health and Social Services in these regulations officially adopts certain National Standards for hospital licensure inspections and procedures. Nothing stated in these rules and regulations shall relieve a hospital from complying with local, city, county ordinances, codes, laws, regulations or relieve the hospital from compliance with other State or Federal requirements.
- 1.4 Issuance and Renewal of License. Upon receipt and approval of a complete application the Department of Health and Social Services shall issue or renew a license in accordance with one of the following categories:
 - 1.4.1 Annual License: An annual license shall be issued or renewed on a calendar year basis if the applying hospital is in substantial compliance with the provisions of these rules and regulations:
 - 1.4.2 Provisional License: A provisional license for a term not to exceed six (6) calendar months may be granted only to an applying hospital which, although not in substantial compliance, is demonstrating satisfactory evidence to meet the provisions of these rules and regulations.

2.0 New Construction, Additions and Alterations

- 2.1 Definition: **"New construction, additions, and alterations"** means new buildings to be used as hospitals, additions to existing buildings to be used as hospitals, conversion of existing buildings or portions thereof for use as hospitals, alterations other than minor alterations to existing hospitals.
- 2.2 A person desiring to establish a new hospital or a new addition or alteration to a licensed hospital must apply to the Department of Health and Social Services prior to establishing or beginning construction. The person must demonstrate that the new facility will meet the standards of these rules and regulations. A letter of approval to proceed with the development of plans and specifications will be issued by the Department of Health and Social Services to any person or hospital which demonstrates that the new facility will be in accordance with these rules and regulations. Plans and specifications for new construction, additions, or alterations, other than minor alterations must be prepared by or under the direction of an architect or engineer duly registered in the State of Delaware. A narrative description must be submitted with or prior to the submission of preliminary drawings. Final working drawings and specifications must be submitted to and approved by the Department of Health and Social Services prior to the beginning of actual construction.
- 2.3 Under the authority of 16 **Del.C.** Ch. 10 as amended, the Department of Health and Social Services adopts as the official standards for new construction, additions and alterations of hospitals, where applicable, the "Guidelines for Construction and Equipment of Hospital and Medical Facilities". U.S. Department of Health and Human Services, Public Health Service Publication Number (HRS-M-HF), 84-1 and all codes or standards referred under these adopted parts. When a hospital that is required to be licensed under these rules and regulations does not normally provide a particular service or department the parts of the following which relate to such service or department shall not be applicable. This Section of rules and regulations shall apply to new construction, additions, or alterations of hospitals only and not to existing facilities.

3.0 Physical Environment

- 3.1 Under the authority of 16 **Del.C.** Ch. 10, as amended, the Department of Health and Social Services adopts as the official standards for the physical environment in hospitals the following parts of the regulations, Medicare Program Regulations, 42 CFR Part 405, Subpart J, U.S. Department of Health and Human Services, Social Security Administration, dated October, 1977, Sections 405.1020 - 405.1034 inclusive, and all codes and standards referred to under these adopted parts. If any part of this section is in conflict with Section 50.1, "New Construction, Additions, and Alterations" this part shall be void and the preceding section shall apply. When a hospital that is required to be licensed under these rules and regulations does not normally provide a particular service or department, the parts of the following which relate to such service or department shall not be applicable.
- 3.2 Physical Environment. Section 405.1022 and subsection b of Section 405.1025 shall apply. The Department of Health and Social Services' regulation governing the sanitation of eating places shall also apply to the dietary department. The radiation control regulations adopted by the Authority on Radiation Protection shall govern the hospital's radiological department.

4.0 Governing Body, Organization and Staff

- 4.1 Under the authority of 16 **Del.C.** Ch. 10, as amended, the Department of Health and Social Services adopts as the official standards for the governing body, organization, and staff of hospitals the following parts of "Standards for Accreditation of Hospitals Plus Provisional Interpretations", published by the Joint Commission on Accreditation of Hospitals, dated 1981 Edition, and the "Requirements and Interpretative Guide for Accredited Hospitals", by the American Osteopathic Hospital Association, and all codes or standards referred to under these adopted parts. If any part of this section is in conflict with Section 2.0 "New Construction, Additions, and Alterations" or Section 3.0 "Physical Environment", this part shall be void and the preceding Sections shall apply. When a hospital that is required to be licensed under these rules and regulations does not normally provide a particular service or department the parts of the following which relate to such service or department shall not be applicable.
- 4.2 Allopathic Hospitals. Pages 1 through 107 inclusive of the Standards for Accreditation of Hospitals Plus Provisional Interpretations by the Joint Commission on Accreditation of Hospitals, shall apply to the governing body, organization and staff of all allopathic hospitals.
- 4.3 Osteopathic Hospitals. Pages 7 through 93 inclusive of the Requirements and Interpretative Guide for Accredited Hospitals by the American Osteopathic Association shall apply to the governing body, organization and staff of all osteopathic hospitals.
- 4.4 Hospitals must develop and implement policies and procedures for hospital staff to have ready access to a locked hospital bathroom in the event of an emergency.

5.0 Fire Safety

Fire safety in hospitals shall comply with the adopted rules and regulations of the State Fire Prevention Commission. Enforcement of the fire requirements is the responsibility of the State Fire Prevention Commission. All applications for license must include, with the application, a letter certifying compliance by the Fire Marshall having jurisdiction. Notification of non-compliance with the rules and regulations of the State Fire Prevention Commission may be grounds for revocation of license.

18 DE Reg. 119 (08/01/14) (Prop.)