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# Delaware Register of Regulations

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Issue Date: August 1, 2023

Volume 27 - Issue 2, Pages 72-129

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## IN THIS ISSUE:

Errata

Regulations:  
Proposed  
Final

General Notices

Calendar of Events &  
Hearing Notices



Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the *Register* contains all documents required to be published, and received, on or before July 15, 2023.

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# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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## DELAWARE REGISTER OF REGULATIONS

The *Delaware Register of Regulations* is an official State publication established by authority of 69 *Del. Laws*, c. 107 and is published on the first of each month throughout the year.

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

The *Register* will also publish some or all of the following information:

- Governor's Executive Orders
  - Governor's Appointments
  - Agency Hearing and Meeting Notices
  - Other documents considered to be in the public interest.
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## CITATION TO THE DELAWARE REGISTER

The *Delaware Register of Regulations* is cited by volume, issue, page number and date. An example would be:

19 **DE Reg.** 1100 (06/01/16)

Refers to Volume 19, page 1100 of the *Delaware Register* issued on June 1, 2016.

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## SUBSCRIPTION INFORMATION

The cost of a yearly subscription (12 issues) for the *Delaware Register of Regulations* is \$135.00. Single copies are available at a cost of \$12.00 per issue, including postage. For more information contact the Division of Research at 302-744-4114 or 1-800-282-8545 in Delaware.

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## CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

Delaware citizens and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

Under 29 **Del.C.** §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the *Register of Regulations*. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation. The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

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# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations*. At the conclusion of all hearings and after receipt, within the time allowed, of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the *Register of Regulations*, unless such adoption, amendment or repeal qualifies as an emergency under §10119.

Any person aggrieved by and claiming the unlawfulness of any regulation may bring an action in the Court for declaratory relief.

No action of an agency with respect to the making or consideration of a proposed adoption, amendment or repeal of a regulation shall be subject to review until final agency action on the proposal has been taken.

When any regulation is the subject of an enforcement action in the Court, the lawfulness of such regulation may be reviewed by the Court as a defense in the action.

Except as provided in the preceding section, no judicial review of a regulation is available unless a complaint therefor is filed in the Court within 30 days of the day the agency order with respect to the regulation was published in the *Register of Regulations*.

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## CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
September 1	August 15	4:30 p.m.
October 1	September 15	4:30 p.m.
November 1	October 15	4:30 p.m.
December 1	November 15	4:30 p.m.
January 1	December 15	4:30 p.m.
February 1	January 15	4:30 p.m.

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The regulations are listed alphabetically by the promulgating agency, followed by a citation to that issue of the *Register* in which the regulation was published. Proposed regulations are designated with (Prop.); Final regulations are designated with (Final); Emergency regulations are designated with (Emer.); and regulations that have been repealed are designated with (Rep.).

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**DEPARTMENT OF EDUCATION**  
**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 122 and Chapter 5 (14 **Del.C.** §122 & Ch. 5)  
14 **DE Admin. Code** 275

**ERRATA**

**275 Charter Schools**

**\* Please Note:** The Department of Education regulation, 14 **DE Admin. Code** 275 Charter Schools, was published as proposed in the *Delaware Register of Regulations*, 26 **DE Reg.** 925 (05/01/23). Subsections 4.2.1.4 and 9.9.3 were inadvertently published incorrectly.

Subsection 4.2.1.4 was published as:

- 4.2.1.4 Following charter approval, but not later than a date established by the Department, the ~~Applicant~~ applicant must enter into a ~~Charter Contract~~ charter school's with the approving authority and into a Performance Agreement approved by the Department with the assent of the State Board, which shall address the organizational, academic and financial performance expectations of the ~~Applicant~~ applicant during the term of the charter. The Department, with the assent of the Board, shall establish and publish a Performance Framework which shall be used to assess the school's compliance with its Performance Agreement. Nothing contained herein shall be interpreted to relieve an applicant of its obligation to comply with any approval criteria or requirement set forth in 14 **Del.C.** Ch. 5. The Department shall conduct an annual Performance Review using the Performance Framework to ensure ongoing compliance with the school's Performance Agreement.

Subsection 4.2.1.4 should have read:

- 4.2.1.4 Following charter approval, but not later than a date established by the Department, the ~~Applicant~~ applicant must enter into a ~~Charter Contract~~ charter contract with the approving authority and into a Performance Agreement approved by the Department with the assent of the State Board, which shall address the organizational, academic and financial performance expectations of the ~~Applicant~~ applicant during the term of the charter. The Department, with the assent of the Board, shall establish and publish a Performance Framework which shall be used to assess the school's compliance with its Performance Agreement. Nothing contained herein shall be interpreted to relieve an applicant of its obligation to comply with any approval criteria or requirement set forth in 14 **Del.C.** Ch. 5. The Department shall conduct an annual Performance Review using the Performance Framework to ensure ongoing compliance with the school's Performance Agreement.

Subsection 9.9.3 was published as:

- 9.9.3 The Secretary may refer a minor modification request to the Accountability Committee for review if the Secretary determines, in ~~her/his~~ the Secretary's sole discretion, that such review would be helpful in ~~her/his~~ the Secretary's consideration of the application. If the Secretary refers a minor modification application to the Accountability Committee, ~~she/he~~ the Secretary's may decide the application based on any report from the Committee and the supporting documents related to the application. The applicant for a minor modification shall be notified if the minor modification request has been forwarded to the Accountability Committee. The applicant may be asked to provide additional supporting documentation.

Subsection 9.9.3 should have read:

- 9.9.3 The Secretary may refer a minor modification request to the Accountability Committee for review if the Secretary determines, in ~~her/his~~ the Secretary's sole discretion, that such review would be

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helpful in ~~her/his~~ the Secretary's consideration of the application. If the Secretary refers a minor modification application to the Accountability Committee, ~~she/he~~ the Secretary may decide the application based on any report from the Committee and the supporting documents related to the application. The applicant for a minor modification shall be notified if the minor modification request has been forwarded to the Accountability Committee. The applicant may be asked to provide additional supporting documentation.

This regulation is corrected and being published as a final regulation in the August 2023 *Register*.

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**Symbol Key**

Arial type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text. Language which is ~~stricken~~ through indicates text being deleted.

**Proposed Regulations**

Under 29 **Del.C.** §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the *Register of Regulations*. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation. The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

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**DEPARTMENT OF AGRICULTURE****OFFICE OF THE SECRETARY**Statutory Authority: 3 Delaware Code, Chapter 29 (3 **Del.C.** Ch. 29)3 **DE Admin. Code** 806**PUBLIC NOTICE****806 Regulations for Invasive Plants****Summary**

Pursuant to the authority granted by Title 3 chapter 29 of the Delaware Code, the Department of Agriculture proposes to amend its regulations. The purpose of the amended regulations is to establish exemptions to the Invasive Plant List to match research efforts taken in establishing the sterility of these cultivars. The Delaware Department of Agriculture is approving these exemptions in order to allow the import, export, purchase, sale, transport, distribution, and/or propagation of these cultivars as they have been conditionally determined as noninvasive as they will not propagate and spread throughout the state. The Delaware Department of Agriculture has presented these exemptions to the Delaware Nursery and Landscapers Association (DNLA) and Delaware Native Species Commission (DNSC). These regulatory amendments will additionally assist the Nursery Industry and small business within the state to increase sales.

The Department of Agriculture is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

**Comments**

A copy of the proposed regulations is being published in the August 1, 2023, edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Department of Agriculture, 2320 South DuPont Highway, Dover, Delaware 19901 and is available for inspection during regular office hours. Copies are also published online at the *Delaware Register of Regulations* website: [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml).

Interested parties may offer written comments on the proposed regulations indicating whether these proposed

regulations should be adopted, rejected or modified. Interested parties may hand deliver to the Department, any written suggestions, data, briefs or other materials at the above address Pursuant to 29 Del.C. § 10118(a), public comments must be received on or before September 1, 2023. Written materials submitted will be available for inspection at the above address.

### Adoption of Proposed Regulation

On or after September 5, 2023, following review of the public comment, the Department of Agriculture will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received.

### Effective Date of Amendments to Regulations

If adopted by the Department of Agriculture, the amendments shall take effect ten days after being published as final in the *Delaware Register of Regulations*.

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 80RFA 08-01-23.pdf>

## 806 Regulations for Invasive Plants (Break in Continuity of Sections)

### 3.0 The Invasive Plant List and List, Plant Watch List List, and the Exemptions to the Invasive Plant List

3.1 The Invasive Plant List. Conditionally exempt cultivars are listed in subsection 3.3.

- 3.1.1 Amur honeysuckle, *Lonicera maackii*
- 3.1.2 Autumn olive, *Elaeagnus umbellata*
- 3.1.3 Callery pear, *Pyrus calleryana*
- 3.1.4 Chinese wisteria, *Wisteria sinensis*
- 3.1.5 Creeping water primrose, *Ludwigia peploides subsp. glabrescens*
- 3.1.6 English ivy, *Hedera helix*
- 3.1.7 European privet, *Ligustrum vulgare*
- 3.1.8 European reed, *Phragmites australis subsp. australis*
- 3.1.9 European sweetflag, *Acorus calamus*
- 3.1.10 Garlic mustard, *Alliaria petiolata*
- 3.1.11 Hydrilla, *Hydrilla verticillata*
- 3.1.12 Japanese barberry, *Berberis thunbergii*
- 3.1.13 Japanese honeysuckle, *Lonicera japonica*
- 3.1.14 Japanese knotweed, *Fallopia japonica*
- 3.1.15 Japanese pachysandra, *Pachysandra terminalis*
- 3.1.16 Japanese stiltgrass, *Microstegium vimineum*
- 3.1.17 Lesser celandine, *Ficaria verna*
- 3.1.18 Lesser periwinkle, *Vinca minor*
- 3.1.19 Marsh dewflower, *Murdannia keisak*
- 3.1.20 Mile-a-minute weed, *Persicaria perfoliata*
- 3.1.21 Morrow's honeysuckle, *Lonicera morrowii*
- 3.1.22 Multiflora rose, *Rosa multiflora*
- 3.1.23 Norway maple, *Acer platanoides*
- 3.1.24 Orange daylily, *Hemerocallis fulva*
- 3.1.25 Oriental bittersweet, *Celastrus orbiculatus*

# PROPOSED REGULATIONS

- 3.1.26 Parrot-feather, *Myriophyllum aquaticum*
- 3.1.27 Porcelain berry, *Ampelopsis glandulosa*
- 3.1.28 Purple loosestrife, *Lythrum salicaria*
- 3.1.29 Spotted knapweed, *Centaurea stoebe subsp. micranthos*
- 3.1.30 Tatarian honeysuckle, *Lonicera tatarica*
- 3.1.31 Tree of heaven, *Ailanthus altissima*
- 3.1.32 Water hyacinth, *Eichhornia crassipes*
- 3.1.33 Wineberry, *Rubus phoenicolasius*
- 3.1.34 Winged euonymus, *Euonymus alatus*
- 3.1.35 Yam-leaved clematis, *Clematis terniflora*
- 3.1.36 Yellow flag iris, *Iris pseudoacorus*
- 3.2 The Plant Watch List. Plants listed on the Plant Watch List must be identified with a tag, label, or sign on each plant or in the general vicinity of the plants for sale.
  - 3.2.1 Creeping Jenny, *Lysimachia nummularia*
- 3.3 Exemptions to the Invasive Plant List.
  - 3.3.1 The following cultivars of Japanese barberry, *Berberis thunbergia*, are conditionally exempted from subsection 3.1.12 of the Invasive Plant List by the Department:
    - 3.3.1.1 'UCONNBTCP4N'; Trademark Name - Crimson Cutie
    - 3.3.1.2 'UCONNBTCP4N'; Trademark Name - Lemon Cutie
    - 3.3.1.3 'UCONNBTB048'; Trademark Name - Lemon Glow

**\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 80 08-01-23.htm>

## DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 3001A-3005A (14 Del.C. §§3001A-3005A)  
9 DE Admin. Code 105

### PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del. C. §122(d)

### 105 Residential Child Care Facilities and Day Treatment Programs

#### A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

#### B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 Del. C. §3003A, the Secretary of the Department of Education wishes to transfer 9 DE Admin. Code 105 to 14 DE Admin. Code by creating 935 DELACARE: Regulations for Residential Child Care Facilities and Day Treatment Programs. The Office of Child Care Licensing which oversees these facilities moved from the Department of Services for Children, Youth and Their Families to the Department of Education on July 1, 2020, and this is the final set of regulations that were required to be transferred. The previous 105 regulations are being stricken in their entirety because they were last revised in 1998, new federal legislation (Family First Prevention Services Act) was enacted, and acceptable practices regarding the use of restrictive procedures have also changed. A task force consisting of stakeholders, licensed facilities, and agency representatives reviewed a draft and provided comments which resulted in the creation of these proposed regulations. Other changes were made to

ensure compliance with the *Delaware Administrative Code Drafting and Style Manual*. This regulation was previously proposed in the May 2023 Edition of the *Register of Regulations*. Based on comments received, the definition of chemical restraint was changed to match the definition used in DSCYF's "Operating Guidelines for Contracted Children and Family Programs and Services." In addition, safeguards were included in the "time-out" procedure by adding, "The events and actions of the child leading up to each "time-out" are evaluated and staff responses to those events and actions are reviewed to ensure competency of staff to implement a "time-out" only when necessary." Other changes were made to ensure compliance with the *Delaware Administrative Code Drafting and Style Manual*. The current proposal replaces the initial proposal.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before September 5, 2023. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

### **C. IMPACT CRITERIA**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable and safe education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help the Office of Child Care Licensing in its efforts to ensure students' health and safety are adequately protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements or mandates on decision makers.

7. Will the decision-making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision-making authority and accountability for addressing the subject to be regulated.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

#### **\*Please Note:**

(1) **The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

[https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 82RFA 08-01-23.pdf](https://regulations.delaware.gov/register/august2023/proposed/27%20DE%20Reg%2082RFA%2008-01-23.pdf)

(2) **Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:**

[https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 82 08-01-23.htm](https://regulations.delaware.gov/register/august2023/proposed/27%20DE%20Reg%2082%2008-01-23.htm)

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# PROPOSED REGULATIONS

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## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))  
14 DE Admin. Code 235

### PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del.C. §122(d)

### 235 Teacher of the Year Award

#### A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

#### B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §122(b), the Secretary of Education intends to amend 14 DE Admin. Code 235 Teacher of the Year Award. Therefore, this regulation is being amended pursuant to 29 Del.C. §10407 which requires regulations to be reviewed on a recurring basis every four years. The amendments include corrections to grammar and style in order to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before September 1, 2023. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

#### C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation does not address students receiving an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation does not address students' health and safety are adequately protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation does not address students' legal rights being respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements or mandates on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 84RFA 08-01-23.pdf>

## 235 Teacher of the Year Award

### 1.0 Purpose

Pursuant to 14 Del.C. Ch. 89, this regulation provides guidance to Delaware public schools, districts and charter schools regarding the qualifications and nomination of candidates for Teacher of the Year.

### 2.0 Definitions

The words and terms, when used in this regulation, shall have the following meaning ~~unless the context clearly indicates otherwise:~~

“**Department**” means the Delaware Department of Education.

“**Standard Certificate**” means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

“**Teacher of the Year Award**” means recognition and a monetary award given by either a teacher’s employing school, district or charter school, or the Department of Education as a way to reward outstanding teachers in the state.

“**Teacher of the Year Award Fund**” means a \$5000 set aside fund within the budget of the Department to be used for the statewide Teacher of the Year Award recipient’s exclusive assignment and disbursement.

### 3.0 Qualifications for a local Teacher of the Year Award

3.1 To be considered for the local Teacher of the Year Award a person shall:

3.1.1 Have taught, continuously or intermittently, for an accumulative period of three years or more in a Delaware public school previous to the date of such person’s nomination;

3.1.2 Have been formally nominated;

3.1.3 Be actively teaching in the nominating district or charter school in Delaware at the time of nomination.

3.1.4 Meet all the requirements for a Standard Certificate for the position held and hold a valid and current license, as ~~approved~~ issued by the Department pursuant to the regulations promulgated by the Professional Standards Board, the Department and approved by the State Board of Education.

### 4.0 Nomination Procedure for state Teacher of the Year Award

4.1 The following procedure shall apply for identifying and nominating candidates for the state Teacher of the Year:

4.1.1 The Department shall meet annually with appropriate district personnel and the representative for the charter schools for the purpose of providing detailed instructions and proper forms for the nomination of candidates for the state Teacher of the Year Award.

4.1.2 Each district is invited to nominate one teacher employed by the district who has been chosen as a Teacher of the Year from amongst one of its school buildings.

4.1.3 Charter schools are invited to select one teacher to represent all of the charter schools.

4.1.4 Nominees for the state Teacher of the Year Award shall be skillful and dedicated teachers who teach a grade prekindergarten through grade 12.

4.1.5 Nominees for State Teacher of the Year Award who are not actively engaged in teaching in a public school at the time at which observations are made pursuant to Section 5.0 below shall be disqualified.

- 4.1.6 Administrative personnel such as principals and school counselors are not eligible to be considered for the State Teacher of the Year Award.

## 5.0 Requirements for state Teacher of the Year Award nominees

Nominees shall submit a portfolio describing themselves and setting forth their positions on educational issues in a Department-approved format that is also consistent with the National Teacher of the Year program.

## 6.0 Evaluation and Selection of the state Teacher of the Year Award Recipient

- 6.1 The following procedure shall occur to evaluate and select the state Teacher of the Year award recipient from amongst all nominated candidates:
- 6.1.1 Following the submission of portfolios, selected Department staff members and selected former state and local Teachers of the Year shall be assigned in pairs to read the portfolios of two nominees and observe those nominees in the classroom based on the criteria stipulated in the Teacher of the Year Program Guide that is updated each year.
- 6.1.2 Another group of Department staff members shall be assigned to read all of the portfolios and rate them based on forms found in the Teacher of the Year Program Guide. Based on the numerical ratings from both the portfolio readers and from the observations, three nominees shall be identified as finalists for consideration by a panel of judges.
- 6.1.3 The panel of judges shall include: the current State Teacher of the Year; the President of the State Parent Teacher Association; the President of the Future Educators Association; a member of the State Board of Education; a representative of the Chamber of Commerce; the President of the Delaware State Education Association; and the Chair of the Professional Standards Board or, if necessary, their designees.
- 6.1.4 The judges shall recommend one person for the Secretary of Education to declare as the State Teacher of the Year.
- 6.1.5 The final selection of the state Teacher of the Year Award recipient is made solely at the discretion of the Secretary of Education and the Secretary's decision shall be final.

## 7.0 Funding and Use of Funds

- 7.1 The Teacher of the Year Award Fund, in the amount of \$5,000, shall be set aside within the budget of the Department to be used for the statewide Teacher of the Year Award ~~Recipient's~~ recipient's exclusive assignment and disbursement.
- 7.1.1 The Teacher of the Year Award Funds, shall not be used for the personal benefit of the award recipient, but shall be used solely to accomplish educational purposes or objectives for students; however that in the use of such funds for educational purposes, the recipient may be an indirect or incidental beneficiary as teacher of the benefited pupils.
- 7.1.1.1 In the event all funds for an Award recipient have not been completely expended by the time a subsequent award is granted, the remainder of the former recipient's award shall not revert, but shall remain set aside in the name of the former recipient such time as it is totally expended or the recipient dies or leaves the state.
- 7.1.2 In order to withdraw funds, the ~~Recipient~~ recipient shall present to the superintendent of the local school district in which the recipient is employed a plan for utilization of the award in order to avoid wasteful duplication of materials or violation of school district policy.
- 7.1.3 Possible use of funds includes, ~~but is not limited to:~~
- 7.1.3.1 Purchase of non-consumable materials and supplies (library books, audio/visual equipment, computer equipment, etc.);
- 7.1.3.2 Purchase of otherwise consumable materials that are used in the production of a student designed item (artist's paper, canvas, instruments, wood, etc.);
- 7.1.3.3 Payment for student travel (museum, theatres, historic sites, etc.);

- 7.1.3.4 Employment of performers or consultants (musical group, author, poet or historian, etc.); or
  - 7.1.3.5 Reimbursements to the recipient, not to exceed \$500, for personal expenses.
  - 7.1.4 Materials, equipment or other items purchased with such funds shall be the property of the Delaware public school district in which the recipient is employed at the time of expenditure.
  - 7.1.5 Invoices, purchase orders or personal reimbursement forms related to withdrawals from the Teacher of the Year Award Fund shall be retained by the local school district and shall be available for inspection as public records and subject to regular audit by the State Auditor of Accounts.
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## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### DIVISION OF WASTE AND HAZARDOUS SUBSTANCES

Statutory Authority: 7 Delaware Code, Chapters 60 and 74 and Section 6010(a) (7 **Del.C.** Chs. 60 & 74 & §6010(a))  
**7 DE Admin. Code 1351**

#### PUBLIC NOTICE

**SAN # 2023-04**  
**DOCKET # 2023-R-WH-0006**

#### **1351 Underground Storage Tank Systems**

1. TITLE OF THE REGULATIONS:  
ADMIN. CODE 1351, *UNDERGROUND STORAGE TANK SYSTEMS*
2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:  
The DNREC Division of Waste and Hazardous Substances (DWHS) is proposing to amend regulatory requirements for owners/operators of underground storage tanks to: improve clarity for the regulated community, and to incorporate by reference three documents (Delaware Risk Based Corrective Action Protocol; Hydrogeologic Investigative Guidance; Vapor Intrusion Guidance) to be used as standards for soil sampling and analysis as well as for corrective action purposes.
3. POSSIBLE TERMS OF THE AGENCY ACTION:  
None.
4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:  
7 **Del.C.** Chapter 60, Section 6010(a), and  
7 **Del.C.** Chapter 74, Delaware Underground Storage Tank Act.
5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:  
The agency does not believe that other regulations will be impacted.
6. NOTICE OF PUBLIC COMMENT:  
A virtual public hearing (Docket # 2023-R-WH-0006) will be held on Wednesday, August 30, 2023, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC website at <https://de.gov/dnrehearings>. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the meeting ID: 984 4462 0083. If prompted for a passcode, please use 962375. Closed-captioning is available by request if made at least 7 days before the event.  
Those wishing to offer verbal comments during DNREC public hearings must pre-register no later than noon of the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9295.



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# PROPOSED REGULATIONS

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The proposed amendments may be inspected online starting August 1, 2023 on the Delaware Register of Regulations' website ([https://regulations.delaware.gov/services/current\\_issue.shtml](https://regulations.delaware.gov/services/current_issue.shtml)) or on the DNREC website at <https://dnrec.alpha.delaware.gov/waste-hazardous/regulations/>.

The Department will accept public comment through Thursday, September 14, 2023. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Newman, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

7. PREPARED BY: Eileen M. Butler

**\*Please Note:**

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 87RFA 08-01-23.pdf>

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 87 08-01-23.htm>

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## DIVISION OF WASTE AND HAZARDOUS SUBSTANCES

Statutory Authority: 7 Delaware Code, Chapter 74A and Section 7401A (7 Del.C. Ch. 74A & §7401A)

7 DE Admin. Code 1352

### PUBLIC NOTICE

SAN # 2023-03

DOCKET # 2023-R-WH-0007

### 1352 Aboveground Storage Tanks

1. TITLE OF THE REGULATIONS:

ADMIN. CODE 1352, ABOVEGROUND STORAGE TANKS

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The DNREC Division of Waste and Hazardous Substances (DWHS) is proposing to amend regulatory requirements for owners/operators of aboveground storage tanks to: improve clarity for the regulated community, and to incorporate by reference three documents (Delaware Risk Based Corrective Action Protocol; Hydrogeologic Investigative Guidance; Vapor Intrusion Guidance) to be used as standards for soil sampling and analysis as well as for corrective action purposes.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del.C. Chapter 74A, Section 7401A, The Jeffrey Davis Aboveground Storage Tank Act.

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

The agency does not believe that other regulations will be impacted.

## 6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2023-R-WH-0007) will be held on Wednesday, August 30, 2023, beginning at 6 p.m., directly following a virtual public hearing on Admin. Code 1351, *Underground Storage Tank Systems*. The web link to the virtual hearing can be accessed through the DNREC website at <https://de.gov/dnrehearings>. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the meeting ID: 984 4462 0083. If prompted for a passcode, please use: 962375. Closed-captioning is available by request if made at least 7 days before the event.

Those wishing to offer verbal comments during DNREC public hearings must pre-register no later than noon of the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9295.

The proposed amendments may be inspected online starting August 1, 2023 on the Delaware Register of Regulations' website ([https://regulations.delaware.gov/services/current\\_issue.shtml](https://regulations.delaware.gov/services/current_issue.shtml)) or on the DNREC website at <https://dnrec.alpha.delaware.gov/waste-hazardous/regulations/>.

The Department will accept public comment through Thursday, September 14, 2023. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Newman, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

## 7. PREPARED BY: Eileen M. Butler

### \*Please Note:

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:

[https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 88RFA 08-01-23.pdf](https://regulations.delaware.gov/register/august2023/proposed/27%20DE%20Reg%2088RFA%2008-01-23.pdf)

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

[https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 88 08-01-23.htm](https://regulations.delaware.gov/register/august2023/proposed/27%20DE%20Reg%2088%2008-01-23.htm)

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**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**Board of Medical Licensure and Discipline**  
Statutory Authority: 24 Delaware Code, Sections 1713(a)(12) and 1770A (24 Del.C.  
§§1713(a)(12) & 1770A)  
24 DE Admin. Code 1700

### PUBLIC NOTICE

#### 1700 Board of Medical Licensure and Discipline

The Delaware Board of Medical Licensure and Discipline, pursuant to 24 Del.C. §1713(a)(12) and §1770A, proposes to amend its regulations to comply with a law change regarding physician's assistants. The new law changed the relationship between physicians and PAs to one of collaboration versus supervision. The proposed regulation changes replace supervision with collaboration and clarify when a physician is limited to collaborating with only four PAs.

The Board will hold a public hearing on the proposed regulation change on September 12, 2023, at 3:00 p.m., virtually and in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904.

Written comments should be sent to Alison Warren, Executive Director of the Delaware Board of Medical Licensure and Discipline, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until September 27, 2023 pursuant to 29 Del. C. § 10118(a).

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 89RFA 08-01-23.pdf>

**1700 Board of Medical Licensure and Discipline**  
*(Break in Continuity of Sections)*

## 13.0 Physician Assistants

### 13.1 Definitions:

13.1.1 Rules and Regulations governing Physician Assistant (PA) practice in the State of Delaware. For information relative to the following categories refer to 24 Del.C. Ch. 17:

13.1.1.1 Definition of Physician Assistants

13.1.1.2 Criteria for Licensure

13.1.1.3 Licensure Fee

13.1.1.4 Prohibited Practices

13.1.1.5 Discipline

13.1.1.6 Scope of Practice

13.1.1.7 ~~Supervision of~~ Collaboration with Physician Assistants

13.1.1.7.1 The ~~supervising collaborating~~ physician cannot be involved in patient care in name only and ~~must provide adequate supervision~~. The ~~supervising collaborating~~ physician must be available for consultation, during the patient encounter, when necessary as defined under supervision in the 24 Del.C. ~~§1770A(3)~~ §1770A(2).

13.1.1.7.2 No ~~supervising collaborating~~ physician may ~~supervise collaborate with~~ more than 4 physician assistants at any one given time unless granted an exemption by the Board but may enter into collaborative with more than 4 physicians assistants at a time. That is, a physician is only restricted to four physicians assistants during 1 shift or while performing clinical work. As provided in 24 Del.C. §1771(f) ~~and (h)~~ the Board may increase or decrease the number of physician assistants ~~being supervised with whom the physician collaborates~~. The Board may issue an exemption to increase the number of physician assistants ~~supervised by a physician with whom the physician collaborates~~ upon written application filed by the ~~supervising collaborating~~ physician demonstrating good cause for the request. Requests for exemption will be considered on a case-by-case basis. The requesting physician has the burden of demonstrating that the granting of an exemption will not endanger the public health, safety, or welfare.

13.1.1.7.3 Any physician desiring to ~~supervise collaborate with~~ an assistant who will perform acupuncture upon a patient shall make a medical evaluation of the patient and determine that acupuncture treatment is medically appropriate prior to the commencing of any acupuncture treatment by a physician assistant. Such evaluation will be made on the patient's initial contact with the physician without referral. A physician assistant employed by a physician for the purpose of administering an acupuncture treatment to patients shall not administer such treatment unless an initial evaluation by the physician has been made. In addition, no subsequent acupuncture treatments of a patient shall occur unless the physician has requested such treatment. No physician shall ~~supervise collaborate with~~ a physician assistant who administers acupuncture treatment to patients unless the physician is proficient in the field of acupuncture and has assured himself that the physician assistant is also proficient in the administration of acupuncture treatment. A physician assistant who administers

acupuncture treatment to patients at the direction of a physician shall administer such treatment only within the physical confines of the physician's office at such times when the physician is physically present on the premises and immediately available for consultation.

**\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 89 08-01-23.htm>

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## DIVISION OF PROFESSIONAL REGULATION

### Board of Occupational Therapy Practice

Statutory Authority: 24 Delaware Code, Section 2006(a)(1) (24 Del.C. §2006(a)(1))  
24 DE Admin. Code 2000

#### PUBLIC NOTICE

#### 2000 Board of Occupational Therapy Practice

Pursuant to 24 Del.C. §2006(a)(1), the Delaware Board of Occupational Therapy Practice ("Board") has proposed revisions to its Rules and Regulations. The revised subsection 1.1, the additions to subsection 1.2.1, and the deletion of former subsections 1.2.2, 1.2.3, and 1.2.4 are designed to address modifications to the supervision of occupational therapy assistants. These revisions will ensure that occupational therapy assistants are properly supervised in the interests of public protection. The remaining alterations to subsection 1.2 propose non-substantive formatting changes consistent with the other revisions. The addition to subsection 3.4.2 adds the Delaware Occupational Therapy Association as a sponsor or provider of continuing education that will be automatically approved. Additional revisions are technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

This proposed amendment is offered in place of a previous proposal that was published in the *Register* at Vol. 26, Issue 9 because the new proposal is substantively different than the original submission. The previously proposed amendments were published on page 683 of the February 1, 2023 issue of the *Delaware Register of Regulations* (26 DE Reg. 683 (2/01/23)). The Board planned to hold a hearing at its March 1, 2023 meeting at 4:30 p.m. but at that meeting, and subsequently at its May 3, 2023 meeting, the Board determined to delay voting on the proposed amended regulations. At its July 5, 2023 meeting, the Board determined to propose a substantively different amendment to its Rules and Regulations. As a result, the Board will now hold a public hearing on September 6, 2023, at 4:30 p.m. in the second-floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Occupational Therapy Practice, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at [Jessica.Lobaccaro@delaware.gov](mailto:Jessica.Lobaccaro@delaware.gov).

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be September 21, 2023. The Board will deliberate on all of the public comments at its regularly scheduled meeting.

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 91RFA 08-01-23.pdf>

#### 2000 Board of Occupational Therapy Practice

#### 1.0 Supervision/consultation Requirements for Occupational Therapy Assistants

- 1.1 Definitions. The following words and terms, when used in this regulation shall have the following meaning unless the context clearly indicates otherwise:

# PROPOSED REGULATIONS

“Occupational therapy assistant” shall mean a person licensed to assist in the practice of occupational therapy under the supervision of an occupational therapist. 24 Del.C. §2002.

“Under the supervision of an occupational therapist” means the interactive process between the licensed occupational therapist and the occupational therapy assistant. It shall be more than a paper review or co-signature. The supervising occupational therapist is responsible for insuring the extent, kind, and quality of the services rendered by the occupational therapy assistant.

- The phrase, “under the supervision of an occupational therapist,” as used in the definition of occupational therapist assistant includes, but is not limited to the following requirements:
  - Communicating to the occupational therapy assistant the results of patient/client evaluation and discussing the goals and program plan for the patient/client;
  - In accordance with supervision level and applicable health care, educational, professional and institutional regulations, reevaluating the patient/client, reviewing the documentation, modifying the program plan if necessary and co-signing the plan;
  - Case management;
  - Determining program termination;
  - Providing information, instruction and assistance as needed;
  - Observing the occupational therapy assistant periodically; and
  - Preparing on a regular basis, but at least annually, a written appraisal of the occupational therapy assistant’s performance ~~and~~ or discussion of that appraisal with the assistant.
    - The supervisor may assign to a competent occupational therapy assistant the administration of standardized tests, the performance of activities of daily living evaluations and other elements of patient/client evaluation and reevaluation that do not require the professional judgment and skill of an occupational therapist. The occupational therapy assistant may not evaluate or develop a treatment plan independently.

## 1.2 Supervision for Occupational Therapy Assistants

- 1.2.1 Supervising occupational therapists must have at least ~~one (1)~~ 1 year clinical experience after they have received permanent licensure. The supervisor may assign to a competent occupational therapy assistant the administration of standardized tests, the performance of activities of daily living evaluations and other elements of patient/client evaluation and reevaluation that do not require the professional judgment and skill of an occupational therapist. The occupational therapy assistant may not evaluate or develop a treatment plan independently.
- 1.2.2 ~~An occupational therapist may supervise up to three (3) occupational therapy assistants.~~
- 1.2.3 ~~Effective July 1, 2009, the supervising occupational therapist shall submit to the Board a completed Verification of Occupational Therapy Assistant Supervision form upon the commencement of supervision.~~
- 1.2.4 ~~Effective July 1, 2009, the supervising occupational therapist shall immediately advise the Board in writing when he or she is no longer supervising an occupational therapy assistant and shall provide the Board with an updated Verification of Occupational Therapy Assistant Supervision form.~~
- 1.2.5 1.2.2 The amount of supervision should be determined by the occupational therapist before the individuals enter into a supervisor/supervisee relationship. The chosen amount of supervision should be reevaluated regularly for effectiveness. Special consideration should be given to experience and any changes in practice area concentrations.
- 1.2.6 1.2.3 The supervising occupational therapist, in collaboration with the occupational therapy assistant, shall maintain a written supervisory plan specifying the amount of supervision and shall document the supervision of each occupational therapy assistant. The amount of supervision should be determined by the occupational therapist before the individuals enter into a supervisor/supervisee relationship. The chosen amount of supervision should be reevaluated regularly for effectiveness. This plan shall be reviewed at least every ~~six (6)~~ 6 months or more frequently as demands of service changes.
- 1.2.7 1.2.4A supervisor who is temporarily unable to provide supervision shall arrange for substitute supervision by an occupational therapist licensed by the Board with at least ~~one (1)~~ 1 year of

clinical experience, as defined above, to provide supervision as specified by Section 1.0 of ~~these rules and regulations~~ this regulation.

***(Break in Continuity of Sections)***

### **3.0 Continuing Education**

- 3.1 Continuing education units (CEUs) are required for license renewal and shall be completed by July 31<sup>st</sup> of each even numbered year. Occupational therapists and occupational therapy assistants are required to complete 24 hours per biennial period.
  - 3.1.1 Proof of continuing education is satisfied with an attestation by the licensee that ~~he or she~~ the licensee has satisfied the requirements;
  - 3.1.2 Attestation shall be completed electronically;
- 3.2 Random audits will be performed by the Board to ensure compliance with the CE requirement.
  - 3.2.1 The Board will notify licensees after July 31 of each biennial renewal period that they have been selected for audit.
  - 3.2.2 Licensees selected for random audit shall be required to submit verification within ten (10) business days of the date of notification of selection for audit.
  - 3.2.3 Verification shall include such information necessary for the Board to assess whether the course or other activity meets the CE requirements in Section 3.0, which may include, but is not limited to, the information noted for each type of CE.
  - 3.2.4 The Board shall review all documentation submitted by licensees pursuant to the continuing education audit. If the Board determines that the licensee has met the continuing education requirements, ~~his or her~~ the license shall remain in effect. If the Board determines that the licensee has not met the continuing education requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. The hearing will be conducted to determine if there are any extenuating circumstances justifying noncompliance with the continuing education requirements. Unjustified noncompliance with the continuing education requirements set forth in these rules and regulations shall constitute a violation of 24 **Del.C.** §2015(a)(5) and the licensee may be subject to one or more of the disciplinary sanctions set forth in 24 **Del.C.** §2017.
- 3.3 CEUs shall be prorated for new licensees in accordance with the following schedule:
  - 3.3.1 \*21 months up to and including 24 months remaining in the licensing cycle requires 24 hours;
  - 3.3.2 \*16 months up to an including 20 months remaining in the licensing cycle requires 15 hours;
  - 3.3.3 \*11 months up to and including 15 months remaining in the licensing cycle requires 10 hours;
  - 3.3.4 \*10 months or less remaining in the licensing cycle - exempt.
- 3.4 Continuing Education Content
  - 3.4.1 Continuing education must be in a field of health and social services related to occupational therapy, must be related to a licensee's current or anticipated roles and responsibilities in occupational therapy, and must serve to protect the public by enhancing the licensee's continuing competence.
  - 3.4.2 A licensee or continuing education provider may request prior approval by the Board by submitting an outline of the activity before it is scheduled. Continuing education sponsored or approved by NBCOT, the Delaware Occupational Therapy Association ("DOTA"), AOTA or offered by AOTA-approved providers is automatically approved.
  - 3.4.3 CE earned in excess of the required credits for the two (2) year period may not be carried over to the next biennial period.

**\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 91 08-01-23.htm>

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# PROPOSED REGULATIONS

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## DIVISION OF PROFESSIONAL REGULATION

### Council on Real Estate Appraisers

Statutory Authority: 24 Delaware Code, Section 4006(a)(1) (24 Del. C. §4006(a)(1))  
24 DE Admin. Code 2930

#### PUBLIC NOTICE

#### 2930 Council on Real Estate Appraisers

Pursuant to 24 Del. C. §4006(a)(1), the Delaware Council on Real Estate Appraisers has proposed revisions to its rules and regulations. The rules pertaining to continuing education are amended to allow for blended and nano learning. The Council is also taking the opportunity of this proposal to update citations contained in the regulations.

A public hearing will be held on September 19, 2023 at 9:30 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments on the amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Council on Real Estate Appraisers, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address in accordance with 29 Del. C. §10118(a). Written comments will be accepted until October 4, 2023.

#### \*Please Note:

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 94RFA 08-01-23.pdf>

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 94 08-01-23.htm>

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## DEPARTMENT OF TRANSPORTATION

### DIVISION OF MOTOR VEHICLES

#### Vehicle Services

Statutory Authority: 21 Delaware Code, Section 302, 29 Delaware Code, Section 8404(8), and 30 Delaware Code, Section 3003 (21 Del.C. §302, 29 Del.C. §8404(8) & 30 Del.C. §3003)  
2 DE Admin. Code 2266

#### PUBLIC NOTICE

#### 2266 Vehicle Document Fees

Pursuant to the authority provided by 21 Del.C. §302, 29 Del.C. §8404(8), and 30 Del.C. §3003, the Delaware Division of Motor Vehicles (DMV), adopted the Vehicle Document Fees.

The Division of Motor Vehicles seeks to adopt general revisions to its existing regulation, Vehicle Document Fees, to add an additional scenario whereby document fees are waived for customers to whom the exemption applies. Additional verbiage and grammatical edits are administrative in nature and serve in part to clarify the intent of the Division as enacted through these regulations.

#### Public Comment Period

DMV will take written comments on these proposed general revisions to Section 2266 of Title 2, Delaware Administrative Code, from August 1, 2023 through August 31, 2023. The public may submit their comments to:

Valerie Carey, Chief of Vehicle Services Division of Motor Vehicles

([Valerie.carey@delaware.gov](mailto:Valerie.carey@delaware.gov)) or in writing to their attention,  
Delaware Department of Transportation (DelDOT)  
Division of Motor Vehicles  
PO BOX 698  
Dover, DE 19903

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2023/proposed/27 DE Reg 94aRFA 08-01-23.pdf>

## 2266 Vehicle Document Fees

### 1.0 Authority

Pursuant to Title 30, Chapter 30, Section 3003, and Title 21, Chapter 21, Section 2102, the following ~~Regulation~~ regulation is promulgated, ~~effective immediately~~.

### 2.0 Exceptions

In addition to the waivers of the vehicle document fee as specified in Section 3002(a), Chapter 30, Title 30, and Title 21, Chapter 21, Section 2102, the document fee shall not be imposed on the sale, transfer or registration of motor vehicles or trailers in the following circumstances.

- 2.1 ~~Transfer of a motor vehicle, vehicle, or trailer by way of a gift between a husband and wife, parent and child, grandparent and child, or brother and sister from an immediate family member including spouse, parent, child, sibling, and grandparent, to include step and in-laws.~~ Transfer of a motor vehicle, vehicle, or trailer by way of a gift ~~between a husband and wife, parent and child, grandparent and child, or brother and sister~~ from an immediate family member including spouse, parent, child, sibling, and grandparent, to include step and in-laws. This exemption only applies ~~on~~ to the transfer of Delaware title.
- 2.2 Transfer between joint owners, provided that for the preceding 30 days the vehicle was previously titled in the name of the joint owners and ~~subsequently~~ transferred without monetary consideration to one or more of the joint owners.
- 2.3 Transfer resulting from inheritance from or bequest of a descendant. However, purchases from an estate are subject to the vehicle document fee.
- 2.4 Change of name only because of marriage, adoption, or other court order.
- 2.5 Transfer of a motor vehicle, vehicle, or trailer from a lessor to a lessee pursuant to a ~~lease-purchase~~ lease-purchase agreement, provided that the lessee has been in continuous possession of the vehicle for at least one year. Lessee must provide a letter from the lessor stating lessee paid the original document fee".
- 2.6 Lien change but only when such a change of a lien on a motor vehicle, vehicle, or trailer when the registered owner has not changed.
- 2.7 If such vehicle was previously registered in Delaware by the same owner who already paid a vehicle document fee, was then registered in another state, and is being ~~re-registered~~ re-registered in Delaware by the same owner.
- 2.8 Transfer of a motor vehicle, vehicle or trailer if such transfer is accompanied by an agreement of substitution which is equal in value to the net purchase price of the original motor vehicle, vehicle or trailer.
- 2.9 Registration of a motor vehicle by a member of the military (active, reserve or national guard) and their dependent family members who are stationed, on either a temporary or permanent basis, within the State, whose vehicles are registered in their state of residence or at their previous duty assignment (to include an overseas assignment). Military member or their dependent family member must provide documentation acceptable to the Division of Motor Vehicles indicating a temporary or permanent change of duty station within 90 days of relocating to the State or within 90 days of vehicle purchase.

19 DE Reg. 1030 (05/01/16)

### 3.0 Determination of Document Fees



When a gross purchase price discrepancy exists between the title application and the lien contract vehicle purchase price (Block #1 of the lien contract), the highest price will be used in determining document fees. ~~Trade-in~~ Trade-in allowance will be deducted from the gross purchase price.

#### **4.0 Trade-in Allowance**

- 4.1 Trade-in allowance for document fee computations will only be allowed for vehicles currently titled in Delaware. The following two exceptions are authorized provided positive proof (receipts, old title, etc.) are provided by vehicle owners or can be established by DMV ~~records~~ records:
- 4.1.1 Vehicle was previously registered in Delaware by the same owner who already paid a vehicle document fee, was then registered in another state, and vehicle is being used as a trade-in for a vehicle to be registered and titled in Delaware.
- 4.1.2 Vehicles bought by the owner and registered outside the state and then used for a trade-in for a vehicle to be registered and titled in this state; provided, such owner had paid to such other state a sales tax, transfer ~~tax~~ tax, or some similar levy on the purchase of such motor vehicle within 90 days prior to registration and titling in this state.
- 4.2 Trade-in allowance credit is not applicable if no documentation fee was paid at the time of registration.
- 4.3 Trade-in allowance credit against document fees may not exceed the actual document fees paid on the trade-in vehicle at the time the trade-in vehicle was registered.

#### **5.0 Licensed Dealer**

A certificate of title issued in the name of a licensed dealer, which has a lien or encumbrance entered against such title, shall not be considered for the sole purpose of resale and shall not be exempt from the vehicle document fee unless the vehicle is part of a manufacturer's warranty program such as a loaner vehicle and the manufacturer is the lien holder.

**19 DE Reg. 1030 (05/01/16)**

#### **6.0 Transfer of Motor Vehicle**

If a transfer of a motor vehicle, vehicle or trailer is accompanied by a transfer of equity document, the document fee imposed shall be assessed on the amount of such equity.

#### **7.0 Gift of Motor Vehicle**

If the motor vehicle, vehicle, trailer or motorcycle is a gift and does not qualify for exemption pursuant to subsection 2.1 of this regulation, the vehicle document fee shall be assessed based upon the current average trade-in value indicated in the most recent N.A.D.A. Guide. However, the owner may obtain an appraisal from a Delaware licensed vehicle dealer and such appraisal may also be considered in determining vehicle document fee.

#### **8.0 Amount of Purchase Price**

If the amount of purchase price indicated on a non-dealer bill of sale is less than the average trade-in value as listed in the most recent N.A.D.A. Guide, the document fee is to be assessed on the current average trade in value as listed in the N.A.D.A. Guide. However, the owner may obtain an appraisal from a Delaware ~~license~~ licensed vehicle dealer and such appraisal may also be considered in determining vehicle document fee.

#### **9.0 Computation of Document Fee**

- 9.1 The document fee for a current model year used vehicle for which no dealer's invoice is available or that has no wholesale price listed in the N.A.D.A. Guide will be computed by using one of the following procedures:
- 9.1.1 Use the current year manufacturer's suggested retail price, if one exists, or the M.S. R. P. from the prior year's model. Depreciate that price using the following formula.

Vehicle Price	Amount Depreciation
\$0 - \$10,000	10%
\$10,001 - \$20,000	15%
\$20,001 - <del>\$100,000</del>	20%
Example:	1989 Oldsmobile 88, Royale, 4D Sedan
1988 M.S.R.P.	\$14,498
	<u>x .15% Depreciation</u>
	\$2,174 Depreciation
	Document fee will be based on \$14,498 - \$2,174 = \$12,324

- 9.1.2 If the buyer has a bill of sale from a licensed dealer, use that price.
- 9.1.3 The owner may obtain an appraisal from a Delaware licensed dealer and such appraisal may also be considered in determining vehicle document fee.

**10.0 Wrecked or Damaged Vehicles**

Applicants claiming to have purchased wrecked or dismantled vehicles and restored or rebuilt such vehicles must present such ~~vehicle~~ vehicles to the Auto Theft Unit for verification of vehicle identification numbers, along with sales slips, etc. Vehicle document fees are to be assessed based upon the average trade-in value as listed in the most recent N.A.D.A. Guide or based upon an appraisal obtained from a licensed vehicle dealer.

**11.0 Transfer**

The word "transfer" as utilized in Section 3002, Title 30, shall include the following:

- 11.1 ~~change~~ Change of business entity status

Examples:      Haven Trucks **to** Fast Express  
                          John Doe Trucks, Inc. **to** John Doe, Inc.  
                          Joe Smith Buses **to** Smith Buses, Inc.  
                          Joe Smith **to** Smith Buses

- 11.2 ~~change~~ Change of ownership between private individuals

Examples:      Joe Smith **to** Tom Jones  
                          Joe Smith **to** Harry Smith & or Tom Smith  
                          Helen Jones **to** Ralph Jones

- 11.3 The above-listed types of transfers must be accompanied by a Bill of Sale pursuant to Section 3002(b) or an affidavit. If neither a Bill of Sale ~~or~~ nor an affidavit is available, the document fee shall be based on the current N.A.D.A. average trade-in value. If the Bill of Sale or affidavit indicates no money was exchanged for the transfer of ownership and the same person signed the title for both buyer and seller, then no document fee shall be assessed.

**12.0 Use of NADA Appraisal Guide**

- 12.1 The N.A.D.A. Appraisal Guide for older models is only to be used in the following instances:
  - 12.1.1 If a vehicle, which has been titled in another state, is being titled in Delaware and there has been no sales tax or similar titling tax paid on the vehicle in the other state within the last 90 days, use the current N.A.D.A. Official Used Car Guide OR the N.A.D.A. Appraisal Guide for OLDER Vehicles (whichever guide the vehicle is listed in) to determine the current average ~~trade-in~~ trade-in value and assess the vehicle document fee.

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## PROPOSED REGULATIONS

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- 12.1.2 If a Delaware title is being presented for transfer and the applicant has no Bill of Sale or the reverse side of the Delaware title does not indicate the purchase price, the document fee is to be based on the current average trade-in value as listed in the current N.A.D.A Guide.
- 12.2 However, the owner may elect to obtain an appraisal from a licensed Delaware dealer, and such appraisal may also be considered in determining the vehicle document fee.

### 13.0 Prorated Document Fee

If an individual received a part-interest in a vehicle whether by gift or purchase, the amount of the document fee shall be prorated in ~~accord~~ accordance with the number of persons named as owners on the new certificate of title.

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## Symbol Key

Arial type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text added at the time of the proposed action. Language which is ~~stricken~~ through indicates text being deleted. **[Bracketed Bold language]** indicates text added at the time the final order was issued. ~~**[Bracketed bold stricken through]**~~ indicates language deleted at the time the final order was issued.

## Final Regulations

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations*. At the conclusion of all hearings and after receipt within the time allowed of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the *Register of Regulations*, unless such adoption, amendment or repeal qualifies as an emergency under §10119.

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## DEPARTMENT OF EDUCATION

### OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(a) and 1270A (14 **Del.C.** §§122(a) & 1270A)  
14 **DE Admin. Code** 106A

### ORDER

### **106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised**

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §122(a) and 1270A, the Delaware Department of Education ("Department") developed amendments to 14 **DE Admin. Code** 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised. The proposed amendments change the regulation to the Delaware Teacher Growth and Support System (DTGSS) in order to align the regulation with 14 **Del.C.** §1270A. Specifically, the proposed amendments include revising the title of the regulation, adding and striking terms in Section 2.0, revising language around performance ratings and summative evaluation ratings, replacing the term "Evaluator" with "Credentialed Administrator," replacing the term "Improvement Plan" with "Directed Growth Plan," and adding Section 11.0, which concerns waivers of the DTGSS provisions. The proposed amendments are consistent with House Substitute 1 for House Bill 291 of the 151st General Assembly, which was signed into law on February 16, 2022. The applicable statutory changes are effective July 1, 2023. Other proposed amendments to this regulation include updates to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *Register of Regulations* on May 1, 2023. The Department did not receive any written submittals concerning the proposed regulation.

#### II. FINDINGS OF FACTS

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** §1270A. In addition, the Department finds that the proposed amendments are consistent with House Substitute 1

# FINAL REGULATIONS

for House Bill 291 of the 151st General Assembly, which was signed into law on February 16, 2022 and will go into effect on July 1, 2023. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised.

### III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised subject to the State Board of Education's approval. On June 15, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised. Therefore, pursuant to 14 **Del.C.** §§122(a) and 1270A, 14 **DE Admin. Code** 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised, attached hereto as Exhibit A, is hereby amended.

### IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 106A Delaware Teacher and Growth Support System in the *Administrative Code of Regulations* for the Department.

### V. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 15th day of June, 2023.

#### Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 15th day of June, 2023.

#### State Board of Education

/s/ Shawn Brittingham, President

/s/ Vincent Lofink, Vice President

/s/ Candice Fifer

/s/ Audrey J. Noble, Ph.D.

/s/ Wali W. Rushdan, II

Provey Powell, Jr. (Absent)

/s/ Deborah Stevens

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the May 2023 issue of the *Register* at page 920 (26 DE Reg. 920). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2023/final/27 DE Reg 99 08-01-23.htm>**

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(a) and 1270B (14 **Del.C.** §§122(a) & 1270B)

14 **DE Admin. Code** 107A

### ORDER

#### 107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised

##### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§122(a) and 1270B, the Delaware Department of Education ("Department") developed amendments to 14 **DE Admin. Code** 107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised. The proposed amendments include revising Section 1.0, adding and striking terms in Section 2.0, replacing the term "Evaluator" with the term "Credentialed Administrator" throughout the regulation, and adding Section 11.0, which concerns waivers of DPAS II provisions. The proposed amendments are consistent with House Substitute 1 for House Bill 291 of the 151st General Assembly, which was signed into law on February 16, 2022. The applicable statutory changes are effective July 1, 2023. Other proposed amendments to this regulation include updates to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *Register of Regulations* on May 1, 2023. The Department did not receive any written submittals concerning the proposed regulation.

##### II. FINDINGS OF FACTS

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** §1270B. In addition, the Department finds that the proposed amendments are consistent with House Substitute 1 for House Bill 291 of the 151st General Assembly, which was signed into law on February 16, 2022 and will go into effect on July 1, 2023. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised.

##### III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised subject to the State Board of Education's approval. On June 15, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised. Therefore, pursuant to 14 **Del.C.** §§122(a) and 1270B, 14 **DE Admin. Code** 107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised, attached hereto as Exhibit A, is hereby amended.

##### IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised in the *Administrative Code of Regulations* for the Department.

##### V. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 15th day of June, 2023.

**Department of Education**

Mark A. Holodick, Ed.D., Secretary of Education

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# FINAL REGULATIONS

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Approved this 15th day of June, 2023.

## State Board of Education

/s/ Shawn Brittingham, President

/s/ Wali W. Rushdan, II

/s/ Vincent Lofink, Vice President

Provey Powell, Jr. (Absent)

/s/ Candice Fifer

/s/ Deborah Stevens

/s/ Audrey J. Noble, Ph.D.

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the May 2023 issue of the *Register* at page 921 (26 DE Reg. 921). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2023/final/27 DE Reg 101 08-01-23.htm>**

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## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(a) and 1270B (14 Del.C. §§122(a) & 1270B)

14 DE Admin. Code 108A

## ORDER

### 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II)

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §122(a) and 1270B, the Delaware Department of Education ("Department") developed amendments to 14 DE Admin. Code 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II). The proposed amendments include revising Section 1.0, adding and striking terms in Section 2.0, replacing the term "Evaluator" with the term "Credentialed Administrator" throughout the regulation, and adding Section 12.0, which concerns waivers of DPAS II provisions. The proposed amendments are consistent with House Substitute 1 for House Bill 291 of the 151st General Assembly, which was signed into law on February 16, 2022. The applicable statutory changes are effective July 1, 2023. Other proposed amendments to this regulation include updates to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *Register of Regulations* on May 1, 2023. The Department did not receive any written submittals concerning the proposed regulation.

#### II. FINDINGS OF FACTS

The Department finds that the proposed amendments to the regulation are necessary to implement 14 Del.C. §1270B. In addition, the Department finds that the proposed amendments are consistent with House Substitute 1 for House Bill 291 of the 151st General Assembly, which was signed into law on February 16, 2022 and will go into effect on July 1, 2023. Accordingly, the Department finds that it is appropriate to amend 14 DE Admin. Code 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II).

#### III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) subject to the State Board of Education's approval. On June 15, 2023, the State Board of Education approved amending 14 DE Admin. Code 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II). Therefore, pursuant to 14 Del.C. §§122(a) and 1270B, 14 DE Admin. Code 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II), attached hereto as Exhibit A, is hereby amended.

**IV. TEXT AND CITATION**

The text of 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) in the *Administrative Code of Regulations* for the Department.

**V. EFFECTIVE DATE OF ORDER**

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 15th day of June, 2023.

Department of Education  
Mark A. Holodick, Ed.D., Secretary of Education

Approved this 15th day of June, 2023.

**State Board of Education**

/s/ Shawn Brittingham, President

/s/ Vincent Lofink, Vice President

/s/ Candice Fifer

/s/ Audrey J. Noble, Ph.D.

/s/ Wali W. Rushdan, II

Provey Powell, Jr. (Absent)

/s/ Deborah Stevens

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the May 2023 issue of the *Register* at page 923 (26 DE Reg. 923). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2023/final/27 DE Reg 102 08-01-23.htm>**

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**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 122 and Chapter 5 (14 **Del.C.** §122 & Ch. 5)  
14 **DE Admin. Code** 275

**ORDER****275 Charter Schools****I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Pursuant to of 14 **Del.C.** §122 and Chapter 5, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 275 Charter Schools. This regulation was proposed January 1, 2023 in order to: (1) remove reference to "Delaware Comprehensive Assessment System," (2) to include additional clarifying language regarding debts of a charter school, (3) update the definition of "Charter School" to align with 14 **DE Admin. Code** 255 Definitions of Types of Schools, and (4) to make grammatical corrections to comply with the *Delaware Administrative Code Manual*. Two comments were received asking for further clarification to Section 8.0 and to not remove "non-home based" in the definition of "Charter School," as there is concern that the definition would allow charter schools to operate as full-time virtual schools which could negatively impact students' academic and mental health. The Department considered these comments and at this time is amending the regulation to make the four changes noted above and to update Section 8.0 to reflect current case law regarding



Individuals with Disabilities Education Act debts. Also, for further clarification, the Department specified the statute (14 **Del.C.** Ch. 5) in the definition of "Department's Annual Charter Report," and removed the definition of "Highly Successful Charter School Operator" as it is not used in the regulation. The Department wishes to allow charter schools the flexibility to have virtual programming and does not believe the proposed changes allow for fully virtual charter schools.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on May 1, 2023. The Department of Education did not receive any written comments concerning the proposed amendments.

## II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 275 Charter Schools in order to: (1) remove reference to "Delaware Comprehensive Assessment System," (2) to include additional clarifying language regarding debts of a charter school, (3) update the definition of "Charter School" to align with 14 **DE Admin. Code** 255 Definitions of Types of Schools, and (4) to make grammatical corrections to comply with the *Delaware Administrative Code Manual* and to (5) provide further clarification to Section 8.0 and to not remove "non-home based" in the definition of "Charter School," as there is concern that the definition would allow charter schools to operate as full-time virtual schools which could negatively impact students' academic and mental health. The Department amended the regulation to make the changes noted above and to update Section 8.0 to reflect current case law regarding Individuals with Disabilities Education Act debts. Also, for further clarification, the Department specified the statute (14 **Del.C.** Ch. 5) in the definition of "Department's Annual Charter Report," and removed the definition of "Highly Successful Charter School Operator" as it is not used in the regulation. The Department wishes to allow charter schools the flexibility to have virtual programming and does not believe the proposed changes allow for fully virtual charter schools.

## III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 275 Charter Schools. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 275 Charter Schools is attached hereto as Exhibit "A" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 275 Charter Schools hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

## IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 275 Charter Schools amended hereby shall be in the form attached hereto as Exhibit "A", and said regulation shall be cited as 14 **DE Admin. Code** 275 Charter Schools in the *Administrative Code of Regulations* for the Department of Education.

## V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on June 15, 2023. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 15th day of June 2023.

**Department of Education**

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 15th day of June 2023

## State Board of Education

/s/ Shawn Brittingham, President  
/s/ Vincent Lofink, Vice President  
/s/ Candice Fifer  
/s/ Audrey J. Noble, Ph.D.

/s/ Wali W. Rushdan, II  
Provey Powell, Jr. (Absent)  
/s/ Deborah Stevens

\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).

\*Please note that no changes were made to the regulation as originally proposed for the May 2023 issue of the *Register* at page 925 (26 DE Reg. 925). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/august2023/final/27 DE Reg 103 08-01-23.htm>

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## DEPARTMENT OF FINANCE DIVISION OF REVENUE

Statutory Authority: 30 Delaware Code, Section 545(c) (30 Del.C. §545(c))

### ORDER

#### Regulation Governing Tax Refund Offset and Lottery Winnings Intercept Programs

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 30 Del.C. § 545(c), the Delaware Department of Finance (the "Department"), through its Division of Revenue ("Revenue"), proposed to adopt regulations on the tax refund offset and lottery winnings intercept programs. The regulations establish procedures for Revenue, Lottery, and State agencies to follow in connection with the programs, including a certification process and a notice and opportunity for an administrative hearing prior to offsetting against a state tax refund and notice of intercepted lottery winnings.

#### II. FINDINGS OF FACT

The Department finds that the proposed regulation is necessary to implement 30 Del.C. §545(c) and facilitate the process for State agencies to refer debts for collection under the tax refund offset and lottery winnings intercept programs. The Department finds that the proposed regulation should be adopted as submitted. Notice of the proposed regulation and a Regulatory Flexibility Analysis and Impact Statement as required under 29 Del.C. Ch. 104 were published in the *Register of Regulations* on June 1, 2023. The Department provided the public with an opportunity to submit written comments for thirty (30) days concerning the proposed regulation and did not receive written comments.

#### III. DECISION AND EFFECTIVE DATE OF ORDER

The Department adopts the regulations as proposed. The effective date of this Order shall be ten (10) days following its publication in the *Delaware Register of Regulations*.

IT IS SO ORDERED this 10th day of July 2023.

**Department of Finance**  
Richard J. Geisenberger  
Secretary of Finance

\*Please note that no changes were made to the regulation as originally proposed and published in the June 2023 issue of the *Register* at page 1008 (26 DE Reg. 1008). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/august2023/final/27 DE Reg 105 08-01-23.htm>

### OFFICE OF THE STATE LOTTERY

Statutory Authority: 29 Delaware Code, Section 4805 (29 Del.C. §4805)  
10 DE Admin. Code 203

### ORDER

#### 203 Video Lottery and Table Game Regulations

The Director of the Office of the State Lottery ("Director") issues this Order to take effect ten (10) days after it has been published in the *Delaware Register of Regulations*:

1. Pursuant to his statutory authority, the Director proposed for adoption revisions to the Office of the State Lottery's existing regulations on video lottery and table games (10 DE Admin. Code 203) to remove certain requirements relating to the casinos' daily table games counts. Other regulations issued by the Director are not affected by this Order.

2. The statutory authority for these revisions is 29 Del.C. §§4805(a)(21).

3. A copy of the proposed regulations was published in the June 1, 2023 edition of the *Delaware Register of Regulations* and has been available for inspection in the Office of the State Lottery, 1575 McKee Road, Suite 102, Dover, Delaware 19904 during regular office hours.

4. The Director did not receive any written comments on the proposed regulations during the thirty-day period following publication of the proposed regulations on June 1, 2023.

5. The Director finds that the proposed changes as set forth in the June 2023 *Register of Regulations* should be adopted as submitted.

### DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Director of the Office of the State Lottery does hereby ORDER that the regulations be, and that they hereby are, enacted as set forth below. The effective date of this Order is ten days from the date of its publication in the *Delaware Register of Regulations*, in accordance with 29 Del.C. §10118(g).

Helene M. Keeley, Director  
Office of the State Lottery

July 31, 2023  
Date

\*Please note that no changes were made to the regulation as originally proposed and published in the June 2023 issue of the *Register* at page 1012 (26 DE Reg. 1012). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/august2023/final/27 DE Reg 106 08-01-23.htm>

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## DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

### ORDER

#### Temporary Extension to COVID-19 Disaster Relief Co-pay & Premium Provisions

#### NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding a Temporary Extension to COVID-19 Disaster Relief Co-pay & Premium Provisions, specifically, to request that an extension for co-pays and premiums to be waived. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the June 2023 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by July 3, 2023, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

#### SUMMARY OF PROPOSAL

The purpose of this proposed regulation is to amend Title XIX Medicaid State Plan, regarding a Temporary Extension to COVID-19 Disaster Relief Co-pay & Premium Provisions, specifically, to request that an extension for co-pays and premiums to be waived.

#### Background

On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency. Additionally, on March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act as a result of the consequences of the COVID-19 pandemic, to the extent necessary, as determined by the Centers for Medicare & Medicaid Services (CMS). This is to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements as a result of the COVID-19 pandemic, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse.

During the Public Health Emergency (PHE) Delaware waived copays and premiums for members. On January 27, 2023, CMS approved an amendment to Delaware's Medicaid State Plan to extend the waiving of copays and premiums for 6 months following the end of the month in which the PHE ended. CMS has since instructed states that members may not be charged a premium until they have received a full redetermination and provided states guidance regarding the resumption of premiums. Additionally, the end of the PHE has been announced and CMS has required states to assign dates to the end of temporary extension SPAs to reflect this.

#### Statutory Authority

Title XIX of the Social Security Act

#### Purpose

The purpose of this proposed regulation is to align the resumption of premiums with the end of the unwinding period and to assign dates to the temporarily extended suspension of member copays and premiums.

#### *Summary of Proposed Changes*

Effective for services provided on the day after the end of the PHE until December 1, 2023, DHSS/DMMA

proposes to amend Section 7.4-B of the Medicaid State Plan to temporarily extend the provision approved by CMS to waive member copays.

Effective for services provided on the day after the end of the PHE until July 1, 2024, DHSS/DMMA proposes to amend Section 7.4-B of the Medicaid State Plan to temporarily extend the provision approved by CMS to waive premiums.

#### *Public Notice*

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 440.386 and the state public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on July 3, 2023.

#### *Centers for Medicare and Medicaid Services Review and Approval*

The provisions of this state plan amendment (SPA) are subject to approval by the Centers for Medicare and Medicaid Services (CMS). The draft SPA page(s) may undergo further revisions before and after submittal to CMS based upon public comment and/or CMS feedback. The final version may be subject to significant change.

#### *Provider Manuals and Communications Update*

Also, there may be additional provider manuals that may require updates as a result of these changes. The applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals and/or Delaware Medical Assistance Portal will be updated. Manual updates, revised pages or additions to the provider manual are issued, as required, for new policy, policy clarification, and/or revisions to the DMAP program. Provider billing guidelines or instructions to incorporate any new requirement may also be issued. A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding DMAP updates. DMAP updates are available on the Delaware Medical Assistance Portal website: <https://medicaid.dhss.delaware.gov/provider>

#### **Fiscal Impact Statement**

There is no anticipated fiscal impact.

#### **Summary of Comments Received with Agency Response and Explanation of Changes**

There were no public comments received.

#### FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the June 2023 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan regarding Temp Extension to the COVID-19 DR Co-pay and Premium Provisions is adopted, specifically, to request that an extension for co-pays and premiums to be waived and shall be final effective August 11, 2023.

7/17/2023

Date of Signature

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the June 2023 issue of the *Register* at page 1019 (26 DE Reg. 1019). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2023/final/27 DE Reg 107 08-01-23.htm>**

## DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(3)t and Sections 2601-2606 (16 Del.C. §122(3)t & §§2601-2606)  
16 DE Admin. Code 4459A

### ORDER

#### 4459A Regulations Governing the Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months

##### NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt the State of Delaware Regulations Governing Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, subsections 122(3)(t) and 2601-2606.

On May 1, 2023 (Volume 26, Issue 11), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 *Del.C.* § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by June 8, 2023, after which time DHSS would review information, factual evidence, and public comment to the said proposed regulations. A public hearing was also held on Wednesday, May 24, 2023.

Written comments were received during the public comment period and evaluated. The results of that evaluation are summarized in the accompanying "Summary of Evidence."

##### FINDINGS OF FACT:

Some changes were made to the regulations since publication as proposed. The Department finds that the proposed regulations, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations Governing Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months is adopted and shall become effective August 11, 2023 (ten days), after publication of the final regulation in the *Delaware Register of Regulations*.

7/31/2023 | 2:47 PM EDT

Date

JOSETTE D. MANNING, ESQ.

CABINET SECRETARY

##### **SUMMARY OF EVIDENCE**

##### STATE OF DELAWARE REGULATIONS GOVERNING CHILDHOOD LEAD POISONING PREVENTION ACT FOR CHILDREN BETWEEN THE AGES OF 22 AND 26 MONTHS

In accordance with Delaware Law, public notices regarding proposed Department of Health and Social Services (DHSS) Regulations Governing Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months were published in the *Delaware Register of Regulations*. Written comments were received on the proposed regulations during the public comment period (May 1, 2023 through June 8, 2023). During this period, DHSS received four written responses, which are summarized below and are on file with DHSS along with the public hearing transcript.

Two commenters offered comments that suggested substantive and non-substantive changes including adding school nurses to the definition of "health care provider" and requiring specific methodologies for lead screening to be established. One commenter requested an update to the definition of "screening" to mean capillary or venous blood lead test, however these regulations specifically follow the definitions of "screening" and "testing" established by 16 *Del.C.* § 2601. One commenter requested the definition of "baseline screening/test" and "high risk" so insurance carriers have clarity in which screenings or tests are required to be covered under HB 222 AAB HA 1

(150th GA), however this is outside of the scope of these regulations and should be addressed through legislation.

In response to these comments, DHSS made the following non-substantive changes to the final regulation:

- **Section 1.0:** Reinstated the phrase "enforcement modalities" to reflect the Department's ability to institute penalties if these regulations are violated as a method of enforcement (Section 12.0).
- **Section 2.0:** Adds the phrase, "including a school nurse" to the definition of "Health care provider." While "including, but not limited to" implies that the health care providers specifically listed are not the only providers that meet the definition, DHSS added school nurses specifically at the request of the written comments received during the public comment period.
- **Subsection 7.1:** At the suggestion of written comments, DHSS replaced the proposed language in subsection 7.1 with language directly from the 16 **Del.C.** § 2602(d). This change does not substantially change the meaning of this subsection.
- **Subsection 10.3:** Removed the phrase, "to the administrator of" to align with the proposed change in subsection 10.1 that requires parents or guardians to provide proof of blood lead level screening or test to a child care facility public or private nurse school, preschool, or kindergarten. Though the suggestion was to specifically add school nurses to this subsection in lieu of "administrator," DHSS determined that not all entities listed will have nurses on staff and this language allows flexibility in whom the screening/testing information is submitted to, to include school nurses.

DHSS is appreciative of these comments and greatly appreciates the thoughtful input given.

#### **4459A Regulations Governing the Childhood Lead Poisoning Prevention Act ~~for Children Between the Ages of 22 and 26 Months~~**

### **1.0 ~~General Provisions.~~ Provisions**

#### 4.4 Preamble.

- 4.4.1 These regulations are adopted by the Secretary of Delaware Health and Social Services pursuant to 16 **Del.C.**, §122(3)(t) and ~~§ 2602 §§2601-2606~~. These regulations establish standards for blood lead level screening and testing of children between ~~22 12~~ and ~~26 24~~ months of age ~~who are at high risk of lead poisoning~~. These regulations also establish a record retention policy, ~~enforcement modalities~~, **enforcement modalities,** and penalties for violators.

### **2.0 ~~Definitions.~~ Definitions**

For purposes of this chapter, the following definitions shall apply:

***(Break in Continuity Within Section)***

“**Health care provider**” means ~~the a licensed practitioner~~ individual that generally provides medical care to a child including, but not limited to, a physician, a ~~physician’s assistant~~ physician assistant, or a ~~nurse~~ nurse, including a school nurse.

***(Break in Continuity of Sections)***

### **7.0 ~~Documentation.~~ Blood Lead Level Screening and Testing Documentation and Reporting Requirements**

- 7.1 ~~[A health care provider and a laboratory performing a blood lead level screening or test required by these regulations shall ensure that the results of the blood lead level screening or test are reported to the Division. All laboratories and health-care providers involved in blood lead level analysis, including screening and testing, shall participate in a universal reporting system as established by the Division of Public Health.]~~

***(Break in Continuity of Sections)***

### **10.0 Proof of Documentation Requirements Prior to Child Care or School Enrollment**

- 10.1 Upon first admission or continued enrollment, the parent or guardian of a child 12 months of age or older shall provide to the child care facility, public or private nursery school, preschool, or kindergarten proof that the child received a blood lead level screening or test.
- 10.2 Except in the case of enrollment in kindergarten, the blood lead level screening or test may be done within 60 calendar days of the date of enrollment.
- 10.3 A child's parent or guardian must provide one of the following to ~~the administrator of~~ a child care facility, public or private nursery school, preschool, or kindergarten:

**\*Please note that no additional changes were made to the regulation as originally proposed and published in the May 2023 issue of the *Register* at page 929 (26 DE Reg. 929). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

**[https://regulations.delaware.gov/register/august2023/final/27 DE Reg 109 08-01-23.htm](https://regulations.delaware.gov/register/august2023/final/27%20DE%20Reg%20109%2008-01-23.htm)**

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## DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)  
16 **DE Admin. Code** 9000

### ORDER

### Delaware's SNAP EBT System

#### NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services (DSS) initiated proceedings to amend Division of Social Services Manual (DSSM) regarding Delaware's SNAP EBT System specifically, to define Delaware's EBT system and EBT card responsibilities for the Supplemental Nutrition Assistance Program (SNAP). The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the June 2023 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by July 1, 2023, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

#### **SUMMARY OF PROPOSAL**

Effective for services provided on and after August 11, 2023 Delaware Health and Social Services (DHSS) / Division of Social Services (DSS) proposes to amend the Division of Social Services Manual (DSSM) to define Delaware's EBT system and EBT card responsibilities for the Supplemental Nutrition Assistance Program (SNAP).

#### **Statutory Authority**

7 CFR 274.1  
7 CFR 274.2 (b) & (f)  
7 CFR 274.5  
7 CFR 274.6 (b)  
7 CFR 274.8  
7 CFR 273.2 (f)(1)(vii)

#### **Background**

The Division of Social Services (DSS) is proposing this regulation to define Delaware's EBT system and EBT card responsibilities for the Supplemental Nutrition Assistance Program (SNAP). The regulation includes guidelines for Delaware Health and Social Services (DHSS) to administer the State's EBT system and maintain and issue EBT cards. Several Divisions within DHSS have EBT roles that must be clearly defined and EBT system security requirements that must be followed to maintain compliance with federal regulations.



DSSM 9093 is being amended to add EBT system functions and requirements to the policy.

DSSM 9093.1 establishes SNAP EBT card maintenance responsibilities for the DHSS Office of the Secretary-Administration and Division of State Service Centers.

DSSM 9093.11 establishes the SNAP EBT card procedures for issuing cards to households who receive SNAP food benefits. Delaware's EBT contractor mails EBT cards to households, and the Division of State Service Centers issues over-the-counter EBT cards to households who have an immediate need to access food benefits.

### **Purpose**

The purpose of this proposed regulation is to define Delaware's EBT system and EBT card responsibilities for the Supplemental Nutrition Assistance Program (SNAP).

### **Public Notice**

In accordance with the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DSS gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on July 1, 2023.

### **Fiscal Impact Statement**

The policy and procedures in the regulation are currently in operation and are being codified to define EBT card responsibilities within DHSS. There is no cost associated with the regulation.

### **Summary of Comments Received with Agency Response and Explanation of Changes**

No comments were received during the public comment period.

### **FINDINGS OF FACT:**

The Department finds that the proposed changes as set forth in the June 2023 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend DSSM 9093, 9093.1, 9093.11 regarding Delaware's SNAP EBT System, specifically, to define Delaware's EBT system and EBT card responsibilities for the Supplemental Nutrition Assistance Program (SNAP), is adopted and shall be final effective August 11, 2023.

7/17/2023

Date of Signature

Molly Magarik, Secretary, DHSS

**9000 Food Stamp Program**

### **9093 ~~Electronic Benefit Transfer (EBT)~~ Administering Delaware's EBT System**

#### **Statutory Authority**

[7 CFR 272.4(c);] 7 CFR 274.1; 7 CFR 274.8

**\*Please note that no additional changes were made to the regulation as originally proposed and published in the June 2023 issue of the *Register* at page 1022 (26 DE Reg. 1022). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2023/final/27 DE Reg 111 08-01-23.htm>**

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## DEPARTMENT OF INSURANCE OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 311, 3349, and 3565 (18 Del.C. §§311, 3349 & 3565)  
18 DE Admin. Code 1316

### REGULATORY IMPLEMENTING ORDER

#### 1316 Arbitration of Health Insurance Disputes Between Carriers And Non-Network Providers of Emergency Care Services

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

In the June 1, 2023 edition of the *Register of Regulations*, at 26 DE Reg. 1025 (June 1, 2023), the Commissioner of the Delaware Department of Insurance (Commissioner) published a proposal to remove subsection 3.15 of Regulation 1316 to eliminate the need for carriers to provide the Department with a quarterly list of exempt plan numbers. The Department also took the opportunity to make grammatical and formatting edits throughout the regulation.

The Department received one timely comment regarding the June 1, 2023 proposal recommending that the subheading and first sentence of subsection 3.15 be maintained to continue to provide clarity regarding the non-applicability of Regulation 1316 to self-funded plans.

The Department agrees with the commenter's recommendation.

#### II. FINDINGS OF FACTS

The Commissioner finds that the amendments to 18 DE Admin. Code 1316 as proposed in the June 1, 2023 *Register of Regulations*, having been properly noticed and open for public comment, should be adopted for the reasons set forth in the proposal with one additional change. The subheading and first sentence of subsection 3.15 shall remain, and the proposed deletion of those parts are rescinded. The Commissioner further finds, pursuant to 29 Del.C. § 10118(c), that this change is not substantive and may be made upon adoption.

#### III. DECISION TO ADOPT THE PROPOSED AMENDMENTS

For the foregoing reasons, the Commissioner concludes that it is appropriate to adopt the proposed amendments to 18 DE Admin. Code 1316, as revised by this Order.

#### IV. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED.

The 14th day of July, 2023.

Trinidad Navarro  
Delaware Department of Insurance

#### 1316 Arbitration of Health Insurance Disputes Between Carriers And Non-Network Providers of Emergency Care Services

#### 3.0 Provisions Applicable to Arbitration Pursuant to 18 Del.C. §§3349 and 3565

(Break in Continuity of Sections)

3.15 ~~Exemption from Arbitration. 18 Del.C. §§3349(b) and 3565(b) shall not apply to health insurance policies exempt from state regulation under federal law or regulation. On a quarterly basis, each carrier shall provide a list of exempt plan numbers to the Department. The Department shall maintain a public register of exempt plan numbers. The placement of an exempt plan number on the register shall constitute a rebuttable presumption that the policy plan is not subject to the provisions of this regulation. A carrier that clearly identifies whether a plan is either exempt or non-exempt on the face of an identification or membership card shall not be required to comply with the provisions of this section but only with respect to the plans for which such identification or membership cards display the group status. The failure of a carrier to either (1) provide the Department with a list of exempt plan numbers, or (2) clearly identify if a plan is exempt or non-exempt on the face of an identification or membership card shall constitute a rebuttable presumption that the plan is subject to the provisions of this regulation.~~

**[3.15 Exemption from Arbitration. 18 Del.C. §§3349(b) and 3565(b) shall not apply to health insurance policies exempt from state regulation under federal law or regulation.]**

~~3.16 [3.15 3.16]~~A carrier and a non-network emergency care provider can mutually agree in writing to submit to arbitration pursuant to Section 3.0 payment disputes relating to the delivery of emergency care services to patients covered by a plan otherwise exempt from arbitration, except that such agreement will only apply to the plan and the services stated therein.

~~3.17 [3.15 3.17]~~The provisions of this regulation shall not apply to Medicaid or any other health insurance program where the review of coverage determinations is otherwise regulated by the provisions of other state or federal laws or regulations.

*(Break in Continuity of Sections)*

## 6.0 Effective Date

This Regulation ~~became effective on April 11, 2016. The [amendment deleting subsection 3.15 of amendments to] this regulation shall become effective ten 10 days after being published as a final regulation.~~

**\*Please note that no additional changes were made to the regulation as originally proposed and published in the June 2023 issue of the *Register* at page 1025 (26 DE Reg. 1025). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2023/final/27 DE Reg 113 08-01-23.htm>**

## OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 531, 2304, and 2312 (18 Del.C. §§531, 2304 & 2312)

18 DE Admin. Code 2102

## REGULATORY IMPLEMENTING ORDER

**2102 Termination of Coverage for Policies of Commercial Governmental and Professional Liability Insurance [Formerly Regulation 54]**

### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

In the June 1, 2023 edition of the *Register of Regulations*, at 26 DE Reg. 1030, the Commissioner of the Delaware Department of Insurance (Commissioner) published a proposal to repeal Regulation 2102, expired by operation of law effective November 5, 1986.

The Department did not receive any comments regarding the proposed repeal of Regulation 2102.

### II. FINDINGS OF FACTS

The Commissioner finds that the repeal of 18 **DE Admin. Code** 2102 as proposed in the June 1, 2023 *Register of Regulations*, having been properly noticed and open for public comment, should be adopted for the reasons set forth in the proposal.

### III. DECISION TO ADOPT THE PROPOSED REPEAL

For the foregoing reasons, the Commissioner concludes that it is appropriate to repeal 18 **DE Admin. Code** 2102 as proposed on June 1, 2023.

### IV. EFFECTIVE DATE OF ORDER

The effective date of this Order and the repeal of Regulation 2102 shall be ten days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED.

The 14th day of July, 2023.

Trinidad Navarro  
Delaware Department of Insurance

**\*Please note that no changes were made to the regulation as originally proposed and published in the June 2023 issue of the *Register* at page 1030 (26 DE Reg. 1030). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2023/final/27 DE Reg 114 08-01-23.htm>**

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## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 903(e)(2)a.1 (7 **Del.C.** §903(e)(2)a.1)  
7 **DE Admin. Code** 3503

Secretary's Order No.: 2023-F-0015

**RE: Approving Final Regulation, pursuant to 7 *Del. C.* §903(e)(2)a.1, to Amend 7 *DE Admin. Code* 3503 - *Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit.***

**Date of Issuance: June 30, 2023**

**Effective Date of the Amendment:** 48 hours following publication of this Secretary's Order and regulation on the Department's website: <https://de.gov/dnrecorders>

### **3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit.**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 7 *Del. C.* §903(e)(2)a.1, and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory amendment.

Notwithstanding 29 *Del.C.* Ch. 101 (which sets forth the standardized procedures whereby a state agency shall promulgate regulations), the Department also has the statutory authority under 7 *Del. C.* §903(e)(2)a.1 to promulgate certain regulations in order to adopt a specified management measure for finfish, subject to 7 *Del.C.* Ch. 9, *Finfishing in Tidal Waters*, by the issuance of a Secretary's Order. The Department is allowed to follow this

abbreviated regulatory promulgation process only in instances where the management measures are specified by, and ensures compliance or maintains consistency with, a fisheries management plan or rule established by the Atlantic States Marine Fisheries Commission ("ASMFC"), the *Atlantic Coastal Fisheries Cooperative Management Act*, the Mid-Atlantic Fishery Management Council, or the National Marine Fisheries Service.

Whenever the Department promulgates a regulation pursuant to 7 *Del. C.* §903(e)(2)a.1, it shall also (1) publish on its website a public notice with a copy of the Secretary's Order and final regulation that implements the specific management measure; and (2) file the Secretary's Order and regulation that implements the specified management measure in the next available issue of the Delaware *Register of Regulations*. The final regulation becomes effective 48 hours after the Department has published the aforementioned public notice on its website, as mandated by 7 *Del. C.* §903(e)(2)a.2.

### Background, Procedural History and Findings of Fact

This order amends 7 DE Admin. Code 3503 - *Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit* as part of an effort to reduce striped bass mortality in the recreational fishery by adopting a specified management measure required by the ASMFC's Amendment 7 to the Interstate Fisheries Management Plan for Atlantic Striped Bass ("FMP"). Specifically, this amendment prohibits the use of a gaff, which is a hook, with or without a handle, used for holding or lifting striped bass by recreational anglers. This order is required for Delaware to remain compliant with the ASMFC FMP, which was approved in 2022.

The 2018 benchmark Striped Bass stock assessment and peer review conducted by the Northeast Regional Stock Assessment Workshop found that striped bass were overfished and overfishing was occurring. Approximately 90% of striped bass removals were attributed to the recreational fishery and recreational removals attributed to catch and release mortality were estimated to be as high as 50% of total recreational removals in recent years. This proposed regulatory action will reduce release mortality of recreationally caught striped bass by prohibiting the use of gaffs, which can critically injure striped bass when used to remove striped bass from the water.

The Department has the statutory basis and legal authority to act with regard to the promulgation of the proposed amendments to 7 DE Admin. Code 3503 - *Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit*, pursuant to 7 *Del. C.* §§901 (c), (d) and 903(e)(2)a.1.

### ORDER

In accordance with 7 *Del. C.* §903(e)(2)a.1, it is hereby ordered, this 30th day of June, 2023, that the above referenced amendments to 7 DE Admin. Code 3503 - *Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit*, a copy of which is hereby attached, are supported by the evidence contained herein and are hereby adopted. The above referenced amendment shall take effect 48 hours following publication of this Secretary's Order and regulation on the Department's website in accordance with 7 *Del. C.* §903(e)(2)a.2.

Lisa Borin Ogden for  
Shawn M. Garvin  
Secretary

### 3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit.

#### 3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit.

(Penalty Section 7 *Del.C.* §936(b)(2))

##### 1.0 Definitions

The following words and terms, when used in this regulation, have the following meanings unless the context clearly indicates otherwise:

**"Bait"** means any marine or aquatic organism live or dead, whole or parts thereof.

**"Circle hook"** means a hook where the point is pointed perpendicularly back towards the shank.

**"Gaff"** means a hook, with or without a handle, used for holding or lifting fish.

- "Non-offset"** means the hook point and barb being in the same plane as the hook shank.
- 2.0 It is lawful for any person to take and reduce to possession striped bass from the tidal waters of this State at any time except as otherwise set forth in this regulation or in Tidal Finfish Regulations 3502 and 3504.
- 3.0 It is unlawful for any recreational fisherman to take or attempt to take any striped bass from the tidal waters of this State with any fishing equipment other than a hook and line or a spear while said recreational fisherman using the spear is underwater. Recreational gill net permittees are not authorized to take and reduce to possession any striped bass in gill nets.
- 4.0 Unless otherwise authorized, it is unlawful for any recreational fisherman to take and reduce to possession more than one striped bass per day (a day being 24 hours) from the tidal waters of this State. Any striped bass taken from the tidal waters of this State that is not immediately returned, without unnecessary injury, to the same waters from which it was taken, is deemed taken and reduced to possession for purposes of this subsection.
- 5.0 Unless otherwise authorized, it is unlawful for any recreational fisherman to have in possession more than one striped bass at or between the place said striped bass was taken and said fisherman's personal abode or temporary or transient place of lodging.
- 6.0 Notwithstanding 7 **Del.C.** §943, which only relates to commercial fishermen, it is lawful for a recreational fisherman to possess striped bass that have not been tagged, unless otherwise prohibited.
- 7.0 It is unlawful for any recreational fisherman to fish for striped bass with bait using any hook other than a non-offset circle hook. This shall not apply to any artificial lure with bait attached.
- 8.0 It is unlawful for a recreational fisherman to use a gaff on a striped bass.
- 

## DEPARTMENT OF STATE PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Section 209(a) (26 **Del.C.** §209(a))  
26 **DE Admin. Code** 1002

### ORDER

#### 1002 Minimum Filing Requirements for All Regulated Companies Subject to the Jurisdiction of the Public Service Commission

IN THE MATTER OF THE REGULATION  
ESTABLISHING THE MINIMUM FILING  
REQUIREMENTS FOR ALL REGULATED  
COMPANIES SUBJECT TO THE JURISDICTION  
OF THE PUBLIC SERVICE COMMISSION  
(REOPENED DECEMBER 14, 2022)

PSC REGULATION DOCKET NO. 4

#### ORDER NO. 10275

**AND NOW**, this 12th day of July 2023, the Delaware Public Service Commission ("Commission") determines and orders the following:

**WHEREAS**, the Commission has previously adopted *Minimum Filing Requirements for All Regulated Companies Subject to the Jurisdiction of the Public Service Commission*, 26 *Del. Admin. C.* § 1002 *et seq.* ("Minimum Filing Requirements") to ensure uniform content in many of the submissions made to the Commission, including applications for rate adjustments; and

**WHEREAS**, on December 14, 2022, Commission Staff ("Staff") petitioned the Commission to re-open

Regulation Docket No. 4, as Staff found that multiple amendments to the Minimum Filing Requirements were necessary for the purpose of increasing the procedural and practical efficiency of its oversight of the ratemaking process, and to lessen the administrative burdens of the same (the "Proposed Amendments"). The Proposed Amendments are specifically detailed in Exhibit "A" attached; and

**WHEREAS**, on December 14, 2022, by Order No. 10155, the Commission reopened this docket approved publication of the Proposed Amendments; directed the Secretary of the Commission ("Secretary") to transmit the Proposed Amendments to the Registrar of Regulations ("Registrar") for publication in the January 2023 edition of *Delaware Register*, as required by 29 *Del. C.* § 10113; in accordance with 26 *Del. C.* § 209(a) and 29 *Del. C.* § 10118(a), stated that the Commission would hold a public hearing on February 16, 2023 on the Proposed Amendments and that written materials to be considered at the public hearing must be filed on or before February 1, 2023; and appointed Mr. Glenn Kenton as Hearing Examiner to solicit comments concerning the efficacy, reasonableness, and propriety of Staff's proposed changes; and

**WHEREAS**, on January 31, 2023 Delmarva Power & Light ("Delmarva") submitted Formal Comments to Proposed MFR Regulations;<sup>1</sup> and

**WHEREAS**, on February 1, 2023, Artesian Water Company, Inc., ("Artesian") filed comments on the Proposed Changes to Part A of the Minimum Filing Requirements;<sup>2</sup> and

**WHEREAS**, on February 1, 2023, Veolia Water, Inc. Delaware ("Veolia") submitted proposed changes to Minimum Filing Requirements;<sup>3</sup> and

**WHEREAS**, on February 13, 2023, Delmarva submitted additional comments;<sup>4</sup> and

**WHEREAS**, February 14, 2023, the Division of the Public Advocate (the "DPA") and Staff submitted joint comments;<sup>5</sup> and

**WHEREAS**, pursuant to 26 *Del. C.* § 209(a), on February 16, 2023, the Commission conducted a public hearing to consider written comments submitted by February 1, 2023;

**WHEREAS**, on February 16, 2023, the Hearing Examiner heard the oral comments of Delmarva, Artesian, Veolia, the DPA, and Staff regarding the Proposed Amendments. No members of the; and

**WHEREAS**, pursuant to 29 *Del. C.* § 10118(a) the opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the Register of Regulations and the opportunity for public written comment shall be extended for a minimum of 15 days after the final public hearing. No additional public comments were received by March 3, 2023; and

**WHEREAS**, on March 3, 2023, the opportunity for public comment closed; and

**WHEREAS**, the Hearing Examiner has considered all commented received by March 3, 2023; and

**WHEREAS**, on April 6, 2023, the Hearing Examiner advised the Commission that he had held a duly noticed public hearing on February 16, 2023, at which no members of the public attended other than representatives of the parties who had intervened in the proceeding, and he had determined that the issues were sufficiently limited such that informal settlement discussions were appropriate and recessed the hearing for the purpose of having the parties participate in settlement discussions;<sup>6</sup> and

**WHEREAS**, under 26 *Del. C.* § 209(a), the Commission may "[f]ix just and reasonable standards, classifications, regulations, practices, measurements, or services to be furnished, imposed, observed, and followed thereafter by any public utility...;" and

**WHEREAS**, the parties having notified Mr. Kenton that all outstanding issues had been resolved and that the final Proposed Amendments ("Final Proposed Amendments"), attached as Exhibit "B." could come directly to the Commission for its consideration;<sup>7</sup> and

**WHEREAS**, the Commission has considered the Final Proposed Amendments to Part A of the Minimum Filing Requirements. The Commission finds the Final Proposed Amendments to be appropriate and in the public interest to adopt for the purpose of increasing the procedural and practical efficiency of its oversight of the ratemaking process, and to lessen the administrative burdens of the same;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE  
VOTE OF NO FEWER THAN THREE COMMISSIONERS:**

1. That for the reasons set forth above, the Commission hereby approves as final the Final Proposed Amendments to the *Minimum Filing Requirements for All Regulated Companies Subject to the Jurisdiction of the*

*Public Service Commission*, 26 Del. Admin. C. § 1002 et seq. ("Minimum Filing Requirements"), as proposed in Exhibit "B." A conformed, clean copy of the proposed changes are attached as Exhibit "C."

2. That pursuant to 26 Del. C. §§ 10113 and 10118, the Secretary of the Commission shall transmit a copy of this Order (with the attached Amended Minimum Filing Requirements) to the Registrar of Regulations for publication in the August 1, 2023 edition of the Delaware Register of Regulations in a manner compliant to Registrar's publication requirements. An exact copy of the Amended Rules shall be published as the current official regulations in the Delaware Register.

3. That, pursuant to 29 Del. C. 10118 (g), the effective date of the amendments shall be August 11, or ten (10) days after publication in the *Delaware Register of Regulations*.

4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

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1 See Docket Reg. 4, "DPL's Formal Comments to Proposed MFR Regulations", January 31, 2023.

2 See Docket Reg. 4, "Comments of Artesian Water Company, Inc. on Proposed Changes to Part A of the Minimum Filing Requirements", February 1, 2023.

3 See Docket Reg. 4, Veolia "Proposed Changes to Minimum Filing, February 1, 2023.

4 See Docket Reg. 4, "DPL's Additional Comments-signed", February 13, 2023.

5 See Docket Reg. 4, "Joint Comments of PSC Staff and the DPA", February 14, 2023.

6 See Docket Reg. 4, "Reg. 4 Letter", April 6, 2023.

7 Exhibit "B" is a marked up version of the Final Proposed Amendments. See Exhibit "C" for a clean copy of the Final Proposed Amendments.

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**BY ORDER OF THE COMMISSION::**

Dallas Winslow, Chairman

Joann T. Conaway, Commissioner

Harold B. Gray, Commissioner (absent)

Manubhai "Mike" Karia, Commissioner

K. F. Drexler, Commissioner

ATTEST: Malika Davis, Acting Secretary

**\*Please Note: Due to the size of the final regulation, it is not being published here. A copy of the regulation is available at:**

<https://regulations.delaware.gov/register/august2023/final/27 DE Reg 117 08-01-23.htm>



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# GENERAL NOTICES

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## DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION

### Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners

Statutory Authority: 24 Delaware Code, Section 1806(a)(2) (24 Del.C. §1806(a)(2))  
24 DE Admin. Code 1800

#### PUBLIC NOTICE

#### 1800 Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners

The Delaware Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners, pursuant to 24 Del.C. § 1806(a)(2), proposes to amend its rules and regulations. The proposed regulation changes establish a continuing education requirement. This proposed amendment is offered in place of a previous proposal that was published in the Register at Vol. 26, Issue 9 because the new proposal is substantively different than the original submission.

These amendments were published on page 1046 of the June 1, 2023 issue of the *Delaware Register of Regulations* (26 DE Reg. 1046 (6/01/23)). The Board planned to hold a hearing on July 11, 2023 at 8:30 a.m., but the hearing was cancelled. As a result, the Board will now hold a public hearing on the proposed regulation change on September 12, 2023 at 8:30 a.m., in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 or virtually. Written comments should be sent to Nikki Pecora at the Delaware Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until September 27, 2023 pursuant to 29 Del.C. §10118(a).

The proposed rule changes are as follows, additions are indicated in underline and deletions are indicated in strikethrough:

#### ~~5.0 Reserved~~

#### 5.0 Continuing Education

5.1 Continuing education (CE) is required of all licensees and shall be completed by June 30 of any year in which a license is to be renewed starting October 31, 2024. Extra continuing education hours do not carry over to the next licensing period. Licensees will only get CE credit for their first attendance of CE courses during each licensing period. Licensees may retake a CE course in the same licensing period but will not receive additional CE credit.

5.2 Courses must be approved by the Board in order to qualify as CE. Approved courses appear on the website of the Division of Professional Regulation at <https://www.dpr.delaware.gov>. Licensees may also contact the Administrative Specialist of the Board at the Division of Professional Regulation to determine whether particular courses have been approved.

5.2.1 Courses shall be designed to maintain and enhance the knowledge and skills of licensees related to providing plumbing or HVACR services.

5.2.2 Sponsors or licensees can obtain Board approval of courses at any time by completing a form approved by the Board and including a course outline with the number of classroom hours showing breakdown of time allotted for each part of course content, the curriculum vitae or resume of the instructor and the appropriate fee set by the Division. The completed application will be presented for review at the next regularly scheduled Board meeting.

5.3 Licensees shall complete 5 hours of approved CE during each renewal period.

5.3.1 All licensees shall complete:

5.3.1.1 3 hours in Code changes; and

5.3.1.2 1 hour in safety;

5.3.2 Plumbing licensees shall complete 1 hour in cross connections and back flow;

5.3.3 HVACR licensees shall complete 1 hour in Energy Code.

5.3.4 Dual licensees (Plumbing and HVACR) shall complete the required hours as set forth in subsections 5.3.1 through 5.3.3.

5.3.5 Exceptions to the requirements in subsections 5.3.1 through 5.3.4 are:

5.3.5.1 A person licensed less than 1 year does not need to complete CE at the first renewal;

5.3.5.2 A person licensed 1 year but less than 2 years must submit 3 CE hours at the first renewal.

5.4 The Board may consider a waiver of CE requirements or acceptance of partial fulfillment based on the Board's review of a written request with supporting documentation of hardship.

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## DEPARTMENT OF TRANSPORTATION

### DIVISION OF TRANSPORTATION SOLUTIONS

#### Traffic Engineering Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 Del.C. §4505(d)(1))

#### NOTICE

#### Senate Bill 89 as amended by Senate Amendment 1 - Old County Road (N395)

June 22, 2023

Yvette Smallwood  
Registrar of Regulations  
411 Legislative Avenue  
Dover, DE 19901

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 Del. C. §4505(d)(1), Notice is hereby given by Delaware Department of Transportation, Traffic Engineering Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 Del. C. §4505(c), for the following permanent traffic control device for the safe movement of traffic in the area:

"No Trucks Over 2 Axles Except Local Services" on Old County Road (N395) from Glasgow Avenue (N387A) to the Delaware Maryland State Line

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,  
Peter Haag

Chief of Traffic Engineering

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**DIVISION OF TRANSPORTATION SOLUTIONS**  
**Traffic Operation Section**Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 **Del.C.** §4505(d)(1))**NOTICE****Senate Bill 89 as amended by Senate Amendment 1 - SR 273 (N3)**

July 13, 2023

Yvette Smallwood  
Registrar of Regulations  
411 Legislative Avenue  
Dover, DE 19901

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 *Del. C.* §4505(d)(1), notice is hereby given by Delaware Department of Transportation, Traffic Operation Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 *Del. C.* §4505(c), for the following temporary traffic control device for the safe movement of traffic in the area:

- "Trailers, semi-trailers, and recreational trailers unattached to a motor vehicle, shall be prohibited from stopping, standing, or parking" on SR 273 (N3) from SR 1 (N67) to Appleby Road (N343).

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,  
Peter Haag, P.E., PTOE  
Chief of Traffic Engineering

## LEGISLATIVE COUNCIL OFFICE OF THE CONTROLLER GENERAL

Statutory Authority: Chapter 24 of Volume 84 of the Laws of Delaware

### NOTICE

#### **Appropriation of Funds for Implementation of House Bill 2 as amended by House Amendments 1 and 2**

July 5, 2023

#### **SENT VIA E-MAIL**

Yvette Smallwood  
Registrar of Regulations  
Division of Research  
411 Legislative Avenue  
Dover, DE 19901

Dear Ms. Smallwood:

The Delaware General Assembly passed House Bill 2 as amended by House Amendment 1 and House Amendment 2 on March 28, 2023. The legislation regulates and taxes marijuana for recreational use and creates a framework for production, manufacture, and sale in a legal recreational marijuana industry, and was subsequently enacted without signature on April 27, 2023.

Section 14 of this legislation states the following:

"Section 14. When funds have been appropriated for implementation of this Act, the Controller General shall provide notice to the Registrar of Regulations that the funds required to implement this Act have been appropriated."

In accordance with Section 14 of House Bill 2 as amended by House Amendment 1 and House Amendment 2, notice is hereby given that sufficient funds have been appropriated in the current fiscal year to implement this Act.

Please accept this as a notification to publish the information in the Register of Regulations.

Sincerely,

Ruth Ann Miller  
Controller General  
Office of the Controller General

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# GENERAL NOTICES

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## OFFICE OF THE CONTROLLER GENERAL

Statutory Authority: Chapter 112 of Volume 84 of the Laws of Delaware

### NOTICE

#### **Appropriation of Funds for Implementation of Section 2 of Senate Substitute 1 for Senate Bill 1 as amended by House Amendment 1**

July 28, 2023

#### **SENT VIA E-MAIL**

Yvette Smallwood  
Registrar of Regulations  
Division of Research  
411 Legislative Avenue  
Dover, DE 19901

Dear Ms. Smallwood:

The Delaware General Assembly passed Senate Substitute 1 for Senate Bill 1 as amended by House Amendment 1 on June 14, 2023. The legislation, which relates to the creation of a right to legal representation for eligible tenants in evictions and other landlord-tenant actions and authorizes the creation of a residential eviction diversion program, was subsequently signed by Governor Carney on July 25, 2023.

Section 5 of this legislation states the following:

"Section 5. Section 2 of this Act takes effect on the date of publication in the Register of Regulations of a notice by the Controller General that funds are appropriated to implement Section 2 of this Act. The Controller General shall provide notice to the Registrar of Regulations that the funds were appropriated. Until Section 2 of this Act takes effect, the Justice of the Peace Court shall adapt its Online Dispute Resolution program to function as a mandatory mediation process to facilitate post-filing eviction dispute resolution between landlords and tenants."

In accordance with Section 5 of Senate Substitute 1 for Senate Bill 1 as amended by House Amendment 1, notice is hereby given that sufficient funds have been appropriated in the current fiscal year to implement the provisions of Section 2.

Please accept this as a notification to publish the information in the Register of Regulations.

Sincerely,

Ruth Ann Miller  
Controller General  
Office of the Controller General

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**DELAWARE RIVER BASIN COMMISSION****PUBLIC NOTICE**

The Delaware River Basin Commission will hold a public hearing on **Wednesday, August 9, 2023 commencing at 1:30 p.m.** The public hearing will be conducted remotely. The draft docket decisions and draft resolutions that will be subjects of the public hearing, along with details about the remote platform and how to attend, will be posted on the Commission's website, [www.drbc.gov](http://www.drbc.gov), at least ten (10) days prior to the meeting date.

The Commission's quarterly business meeting will be held on **Thursday, September 7, 2023 commencing at 10:30 a.m.** The business meeting will be held remotely. An agenda will be posted on the Commission's website, [www.drbc.gov](http://www.drbc.gov), at least ten (10) days prior to the meeting date.

For additional information, including links to live streams of these events, please visit the DRBC website at [www.drbc.gov](http://www.drbc.gov) or contact Patricia Hausler at [patricia.hausler@drbc.gov](mailto:patricia.hausler@drbc.gov).

Pamela M. Bush, J.D., M.R.P.  
Commission Secretary and Assistant General Counsel

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**DEPARTMENT OF AGRICULTURE****OFFICE OF THE SECRETARY****PUBLIC NOTICE****806 Regulations for Invasive Plants****Summary**

Pursuant to the authority granted by Title 3 chapter 29 of the Delaware Code, the Department of Agriculture proposes to amend its regulations. The purpose of the amended regulations is to establish exemptions to the Invasive Plant List to match research efforts taken in establishing the sterility of these cultivars. The Delaware Department of Agriculture is approving these exemptions in order to allow the import, export, purchase, sale, transport, distribution, and/or propagation of these cultivars as they have been conditionally determined as noninvasive as they will not propagate and spread throughout the state. The Delaware Department of Agriculture has presented these exemptions to the Delaware Nursery and Landscapers Association (DNLA) and Delaware Native Species Commission (DNSC). These regulatory amendments will additionally assist the Nursery Industry and small business within the state to increase sales.

The Department of Agriculture is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

**Comments**

A copy of the proposed regulations is being published in the August 1, 2023, edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Department of Agriculture, 2320 South DuPont Highway, Dover, Delaware 19901 and is available for inspection during regular office hours. Copies are also published online at the *Delaware Register of Regulations* website: [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml).

Interested parties may offer written comments on the proposed regulations indicating whether these proposed regulations should be adopted, rejected or modified. Interested parties may hand deliver to the Department, any written suggestions, data, briefs or other materials at the above address Pursuant to 29 Del.C. § 10118(a), public comments must be received on or before September 1, 2023. Written materials submitted will be available for inspection at the above address.

**Adoption of Proposed Regulation**

On or after September 3, 2023, following review of the public comment, the Department of Agriculture will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received.

**Effective Date of Amendments to Regulations**

If adopted by the Department of Agriculture, the amendments shall take effect ten days after being published as final in the *Delaware Register of Regulations*.

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**DEPARTMENT OF EDUCATION**  
**PUBLIC NOTICE**

The State Board of Education meets monthly, generally at 5:00pm on the third Thursday of the month. These meetings are open to the public. The Board rotates locations of regular meetings among the three counties.

The State Board of Education provides information about meeting dates and times, materials, minutes, and audio recordings on its website:

<https://education.delaware.gov/community/governance/state-board-of-education/sbe-monthly-meetings/>

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**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL****DIVISION OF WASTE AND HAZARDOUS SUBSTANCES****PUBLIC NOTICE****1351 Underground Storage Tank Systems****SAN # 2023-04****DOCKET # 2023-R-WH-0006****1. TITLE OF THE REGULATIONS:**

ADMIN. CODE 1351, *UNDERGROUND STORAGE TANK SYSTEMS*

**2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:**

The DNREC Division of Waste and Hazardous Substances (DWHS) is proposing to amend regulatory requirements for owners/operators of underground storage tanks to: improve clarity for the regulated community, and to incorporate by reference three documents (Delaware Risk Based Corrective Action Protocol; Hydrogeologic Investigative Guidance; Vapor Intrusion Guidance) to be used as standards for soil sampling and analysis as well as for corrective action purposes.

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

None.

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

7 **Del.C.** Chapter 60, Section 6010(a), and

7 **Del.C.** Chapter 74, Delaware Underground Storage Tank Act.

**5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:**

The agency does not believe that other regulations will be impacted.

**6. NOTICE OF PUBLIC COMMENT:**

A virtual public hearing (Docket # 2023-R-WH-0006) will be held on Wednesday, August 30, 2023, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC website at <https://de.gov/dnrehearings>. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the meeting ID: 984 4462 0083. If prompted for a passcode, please use 962375. Closed-captioning is available by request if made at least 7 days before the event.

Those wishing to offer verbal comments during DNREC public hearings must pre-register no later than noon of the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9295.

The proposed amendments may be inspected online starting August 1, 2023 on the Delaware Register of

Regulations' website ([https://regulations.delaware.gov/services/current\\_issue.shtml](https://regulations.delaware.gov/services/current_issue.shtml)) or on the DNREC website at <https://dnrec.alpha.delaware.gov/waste-hazardous/regulations/>.

The Department will accept public comment through Thursday, September 14, 2023. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Newman, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

7. PREPARED BY: Eileen M. Butler

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**DIVISION OF WASTE AND HAZARDOUS SUBSTANCES**

**PUBLIC NOTICE**

**1352 Aboveground Storage Tanks**

**SAN # 2023-03**

**DOCKET # 2023-R-WH-0007**

1. TITLE OF THE REGULATIONS:

ADMIN. CODE 1352, *ABOVEGROUND STORAGE TANKS*

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The DNREC Division of Waste and Hazardous Substances (DWHS) is proposing to amend regulatory requirements for owners/operators of aboveground storage tanks to: improve clarity for the regulated community, and to incorporate by reference three documents (Delaware Risk Based Corrective Action Protocol; Hydrogeologic Investigative Guidance; Vapor Intrusion Guidance) to be used as standards for soil sampling and analysis as well as for corrective action purposes.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** Chapter 74A, Section 7401A, The Jeffrey Davis Aboveground Storage Tank Act.

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

The agency does not believe that other regulations will be impacted.

6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2023-R-WH-0007) will be held on Wednesday, August 30, 2023, beginning at 6 p.m., directly following a virtual public hearing on Admin. Code 1351, *Underground Storage Tank Systems*. The web link to the virtual hearing can be accessed through the DNREC website at <https://de.gov/dnrehearings>. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the meeting ID: 984 4462 0083. If prompted for a passcode, please use: 962375. Closed-captioning is available by request if made at least 7 days before the event.

Those wishing to offer verbal comments during DNREC public hearings must pre-register no later than noon of the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9295.

The proposed amendments may be inspected online starting August 1, 2023 on the Delaware Register of Regulations' website ([https://regulations.delaware.gov/services/current\\_issue.shtml](https://regulations.delaware.gov/services/current_issue.shtml)) or on the DNREC website at <https://dnrec.alpha.delaware.gov/waste-hazardous/regulations/>.

The Department will accept public comment through Thursday, September 14, 2023. Comments will be



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**CALENDAR OF EVENTS/HEARING NOTICES**

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accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Newman, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

7. PREPARED BY: Eileen M. Butler

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**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**

**PUBLIC NOTICE**

**1700 Board of Medical Licensure and Discipline**

The Delaware Board of Medical Licensure and Discipline, pursuant to 24 **Del.C.** §1713(a)(12) and §1770A, proposes to amend its regulations to comply with a law change regarding physician's assistants. The new law changed the relationship between physicians and PAs to one of collaboration versus supervision. The proposed regulation changes replace supervision with collaboration and clarify when a physician is limited to collaborating with only four PAs.

The Board will hold a public hearing on the proposed regulation change on September 12, 2023, at 3:00 p.m., virtually and in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Alison Warren, Executive Director of the Delaware Board of Medical Licensure and Discipline, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until September 27, 2023 pursuant to 29 Del. C. § 10118(a).

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**DIVISION OF PROFESSIONAL REGULATION**

**PUBLIC NOTICE**

**2000 Board of Occupational Therapy Practice**

Pursuant to 24 **Del.C.** §2006(a)(1), the Delaware Board of Occupational Therapy Practice ("Board") has proposed revisions to its Rules and Regulations. The revised subsection 1.1, the additions to subsection 1.2.1, and the deletion of former subsections 1.2.2, 1.2.3, and 1.2.4 are designed to address modifications to the supervision of occupational therapy assistants. These revisions will ensure that occupational therapy assistants are properly supervised in the interests of public protection. The remaining alterations to subsection 1.2 propose non-substantive formatting changes consistent with the other revisions. The addition to subsection 3.4.2 adds the Delaware Occupational Therapy Association as a sponsor or provider of continuing education that will be automatically approved. Additional revisions are technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

This proposed amendment is offered in place of a previous proposal that was published in the *Register* at Vol. 26, Issue 9 because the new proposal is substantively different than the original submission. The previously proposed amendments were published on page 683 of the February 1, 2023 issue of the *Delaware Register of Regulations* (26 **DE Reg.** 683 (2/01/23)). The Board planned to hold a hearing at its March 1, 2023 meeting at 4:30 p.m. but at that meeting, and subsequently at its May 3, 2023 meeting, the Board determined to delay voting on the proposed amended regulations. At its July 5, 2023 meeting, the Board determined to propose a substantively different amendment to its Rules and Regulations. As a result, the Board will now hold a public hearing on September 6, 2023, at 4:30 p.m. in the second-floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Occupational Therapy Practice, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at [Jessica.Lobaccaro@delaware.gov](mailto:Jessica.Lobaccaro@delaware.gov).

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be September 21, 2023. The Board will deliberate on all of the public comments at its regularly scheduled meeting.

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**DIVISION OF PROFESSIONAL REGULATION****PUBLIC NOTICE****2930 Council on Real Estate Appraisers**

Pursuant to 24 **Del. C.** §4006(a)(1), the Delaware Council on Real Estate Appraisers has proposed revisions to its rules and regulations. The rules pertaining to continuing education are amended to allow for blended and nano learning. The Council is also taking the opportunity of this proposal to update citations contained in the regulations.

A public hearing will be held on September 19, 2023 at 9:30 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments on the amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Council on Real Estate Appraisers, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address in accordance with 29 **Del. C.** §10118(a). Written comments will be accepted until October 4, 2023.

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**DEPARTMENT OF TRANSPORTATION****DIVISION OF MOTOR VEHICLES****PUBLIC NOTICE****2266 Vehicle Document Fees**

Pursuant to the authority provided by 21 **Del.C.** §302, 29 **Del.C.** §8404(8), and 30 **Del.C.** §3003, the Delaware Division of Motor Vehicles (DMV), adopted the Vehicle Document Fees.

The Division of Motor Vehicles seeks to adopt general revisions to its existing regulation, Vehicle Document Fees, to add an additional scenario whereby document fees are waived for customers to whom the exemption applies. Additional verbiage and grammatical edits are administrative in nature and serve in part to clarify the intent of the Division as enacted through these regulations.

**Public Comment Period**

DMV will take written comments on these proposed general revisions to Section 2266 of Title 2, Delaware Administrative Code, from August 1, 2023 through August 31, 2023. The public may submit their comments to:

Valerie Carey, Chief of Vehicle Services Division of Motor Vehicles  
([Valerie.carey@delaware.gov](mailto:Valerie.carey@delaware.gov)) or in writing to their attention,  
Delaware Department of Transportation (DelDOT)  
Division of Motor Vehicles  
PO BOX 698  
Dover, DE 19903