
Delaware Register of Regulations

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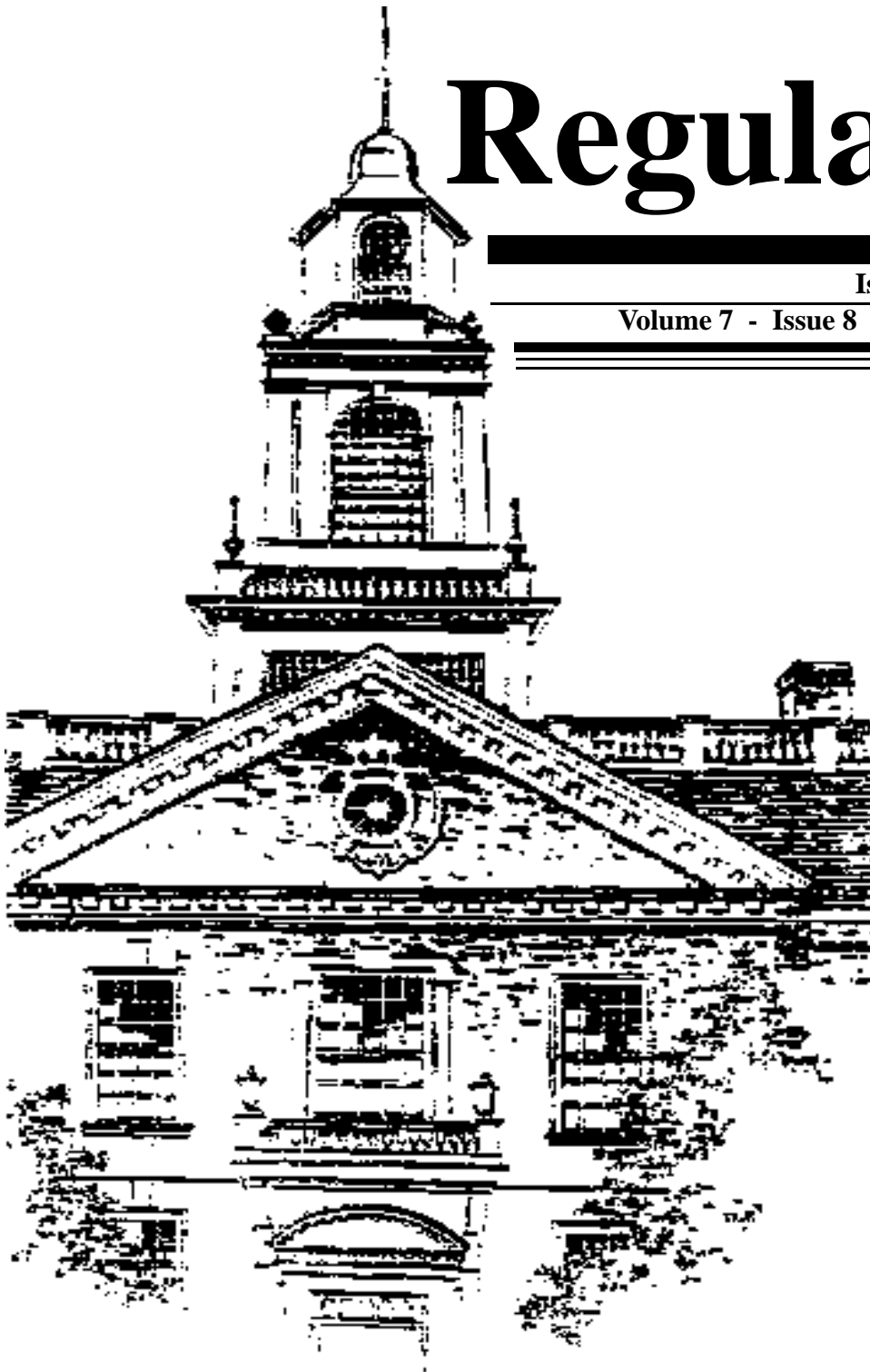
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Pursuant to 29 Del. C. Chapter 11, Subchapter III, this issue of the Register contains all documents required to be published, and received, on or before January 15, 2004.

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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The Delaware Register will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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
- Attorney General's Opinions in full text
- Agency Hearing and Meeting Notices
- Other documents considered to be in the public interest.

CITATION TO THE DELAWARE REGISTER

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

6 DE Reg. 1541-1542 (06/01/03)

Refers to Volume 6, pages 1541-1542 of the Delaware Register issued on June 1, 2003.

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.

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the Register of Regulations pursuant to §1134 of this title.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.

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

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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.

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
MARCH 1	FEBRUARY 15	4:30 P.M.
APRIL 1	MARCH 15	4:30 P.M.
MAY 1	APRIL 15	4:30 P.M.
JUNE 1	MAY 15	4:30 P.M.
JULY 1	JUNE 15	4:30 P.M.

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Symbol Key

Roman 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.

DEPARTMENT OF AGRICULTURE**THOROUGHBRED RACING COMMISSION**

Statutory Authority: 3 Delaware Code,
Section 10103 (3 Del.C. §10103)

PUBLIC NOTICE

The Commission proposes to amend Rule 13.12 to allow for post-race tests from horses in claiming races and to allow a claimant to request a post race test on a claimed horse, with the right to void the claim if the test is positive for a prohibited substance, illegal medication, or EPO antibody test. Further, the Commission proposes to enact a new Rule 15.01.2 on Erythropoietin, to provide that a horse that tests positive for EPO antibodies may be declared unfit to race, and may not resume racing until the owner or trainer submits a negative test for EPO antibodies.

The Commission will accept written comments from February 1, 2004 until March 22, 2004. Written comments should be sent to John Wayne, Administrator of Racing, Department of Agriculture, 2320 S. DuPont Highway, Dover, DE 19901. A public hearing will be held at Delaware Park on March 23, 2004 at 10:15 a.m. in the second floor conference room of the Horsemen's Office, 777 Delaware Park Boulevard, Wilmington, DE 19804.

13.0 Claiming Races**13.1 Owners Entitled:**

13.1.1 In claiming races, any horse is subject to claim for its entered price by any Owner in good standing, who has horses stabled on the Licensee's grounds, and who has started a horse at the race meeting at which the claim is

made.

13.1.2 An Owner may claim out of the race in which he first starts a horse. Owners shipping in from other stable areas who have a horse claimed shall be allowed one claim to replace the horse lost via claiming.

13.1.3 A new Owner, i.e., an individual, partnership, corporation or any other authorized racing interest who has not held an Owner's license in any racing jurisdiction during the prior year, is eligible to claim by obtaining an "Open Claiming License" from the Commission.

13.1.4 In order to obtain an open claiming license and file an open claim, an individual must comply with the following procedures:

13.1.4.1 Depositing an amount no less than the minimum claiming price of the intended claim at that meet with the Horsemen's Bookkeeper. Such amount shall remain on account until a claim is in fact made. In the event of withdrawal of such fund, any license issued hereunder shall be automatically revoked and terminated.

13.1.4.2 Securing an Owner or authorized racing interest license by the Commission. Such license will be conditioned upon the making of a claim and shall be revoked if no such claim is, in fact, made within thirty (30) racing days after issuance or if the deposit above required is withdrawn prior to completion of a claim.

13.1.4.3 Naming a Trainer licensed by the Commission who will represent him once said claim is made.

13.2 Claim by Agent:

13.2.1 A claim may be made by an authorized agent, but an agent may claim only for the account of those for whom he is authorized and registered as agent and the

name of the authorized agent, as well as the name of the Owner for whom the claim is being made, shall appear on the claim slip.

13.3 Claiming Own Horse Prohibited:

13.3.1 No person shall claim his own horse or cause his own horse to be claimed, directly or indirectly, for his own account. No claimed horse shall remain in the same stable or under the care or management of the Owner or Trainer from whom claimed.

13.4 Limits on claims:

13.4.1 No person shall claim more than one horse from any one race. No authorized agent, although representing several Owners, shall submit more than one claim for any race. When a stable consists of horses owned by more than one person, trained by the same Trainer, not more than one claim may be entered on behalf of such stable in any one race. An Owner who races in a partnership may not claim except in the interest of the partnership, unless he has also started a horse in his own individual interest. An owner who races in a partnership may claim in his or her individual interest if the individual has started a horse in the partnership. The individual must also have an account with the horsemen's bookkeeper that is separate from the partnership account.

13.5 Twenty Day Prohibition -- Sale of Claimed Horse:

13.5.1 A claimed horse shall not run for twenty days after being claimed in a race in which the determining eligibility price is less than twenty-five percent more than the price for which the horse was claimed. The day claimed shall not count but the following calendar day shall be the first day, and the horse shall be entitled to enter whenever necessary so that it may start on the twenty-first calendar day following the claim. This provision shall not apply to starter handicaps, allowance and starter allowance races.

13.6 Thirty Day Prohibition -- Sale of Claimed Horse:

13.6.1 No horse claimed in a claiming race shall be sold or transferred, wholly or in part, to anyone within thirty (30) days after the day it was claimed, except in another claiming race. No claimed horse shall race elsewhere until sixty (60) calendar days after the date on which it was claimed or until after the close of the meeting at which it was claimed, whichever comes first. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter elsewhere whenever necessary so the horse may start on the 61st calendar day following the claim. The Stewards shall have the authority to waive this rule upon application, so as to allow a claimed horse to race in a stakes race. The Stewards may also permit a horse claimed in a steeplechase or hurdle race to race elsewhere in a steeplechase or hurdle race after the close of the steeplechase program, if such a program ends before the close of the meeting at which it is

claimed.

Revised: 7/16/86

13.7 Form of Claim:

13.7.1 Each claim shall be made in writing on a form and in an envelope supplied by Licensee. Both form and envelope must be filled out completely and must be accurate in every detail.

13.8 Procedure for Claim:

13.8.1 Claims must be deposited in the claim box at least ten (10) minutes before post time of the race from which the claim is being made. No money or its equivalent shall be put in the claim box. For a claim to be valid, the claimant must have, at the time of filing the claim, a credit balance in his account with the Horsemen's Bookkeeper of not less than the amount of the claim.

Revised: 8/15/95

13.9 Stewards' Duties:

13.9.1 The Stewards, or their designated representatives, shall open the claim envelopes for each race as soon as the horses leave the paddock en route to the post. They shall thereafter check with the Horsemen's Bookkeeper to ascertain whether the proper credit balance has been established with the Licensee and with the Racing Secretary as to whether the claimant has claiming privileges at Licensee's meeting.

13.10 Conflicting claims:

13.10.1 If more than one valid claim is filed for the same horse, title to the horse shall be determined by lot under the supervision of the Stewards or their designated representative.

13.11 Delivery of Claimed Horse:

13.11.1 Any horse that has been claimed shall, after the race has been run, be taken to the paddock for delivery to the claimant, who must present written authorization for the claim from the Racing Secretary. No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race and, until delivery is made, the horse in question shall be disqualified from further racing.

13.12 Nature and Effect of a Claim:

13.12.1 Claims are irrevocable except as otherwise provided for in these Rules. Title to a claimed horse shall be vested in the successful claimant from the time the said horse is a starter and said claimant shall then become the Owner of the horse, whether it be alive or dead, sound or unsound, or injured, during the race or after it. A claimed horse shall run in the interest of and for the account of the Owner from whom claimed.

13.12.2 A post-race test may be taken from any horse claimed out of a claiming race. The trainer of the horse at the time of entry for the race from which the horse was claimed shall be responsible for the claimed horse until the post-race sample is collected. Any claimed horse not otherwise selected for testing by the stewards shall be tested

if requested by the claimant at the time the claim form is submitted in accordance with these Rules. The successful claimant shall have the right to void the claim should the forensic analysis be positive for any prohibited substance, an illegal level of a permitted medication, or if a blood sample exhibits a positive response to the Erythropoietin (EPO) antibody test.

13.13 Prohibited Practices:

13.13.1 No person shall offer or enter into an agreement to claim or not to claim or to attempt to prevent another person from claiming any horse in a claiming race. No person shall attempt, by intimidation, to prevent anyone from running a horse in any claiming race. No Owner or Trainer shall make an agreement with another Owner or Trainer for the protection of each other's horses in a claiming race.

13.14 Invalidation of Claim:

13.14.1 Claims which are not made in keeping with the Rules shall be void. The Stewards may, at any time in their discretion, require any person filing a claim to furnish an affidavit in writing that he is claiming in accordance with these Rules. The Stewards shall be the judges of the validity of the claim and, if they feel that a "starter" was nominated for the purpose of making its Owner eligible to claim, they may invalidate the claim.

13.15 Necessity to Record Lien:

13.15.1 Any person holding a lien of any kind against a horse entered in a claiming race must record the same with the Racing Secretary and/or Horsemen's Bookkeeper at least thirty (30) minutes before post time for that race. If none is so recorded, it shall be conclusively assumed, for claiming purposes, that none exists.

13.16 Claiming Privileges -- Eliminated Stable:

13.16.1 If a person's stable shall be eliminated with thirty (30) racing days or less remaining in the current racing season, and such person is unable to replace the horse(s) lost via a claim by the end of the racing season, such person may apply to the Stewards for an additional thirty (30) racing days of eligibility to claim in the new race meeting as long as the person owns no other horses at the start of the next race meeting. Should a stable at a meeting be eliminated by sale or removal from the grounds, the right to claim is void. After claiming a horse under the conditions of this Rule, the Owner shall be required to reinstate his eligibility to claim pursuant to these Rules before being eligible to make another claim.

See 6 DE Reg. 1205 (3/1/03)

13.17 Claim Embraces Horse's Prior Engagements:

13.17.1 The engagements of a claimed horse pass automatically with the horse to the claimant.

13.18 Caveat Emptor:

13.18.1 Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely

responsible for determining the age or sex of the horse claimed.

13.19 Racing Claimed Horse: Repealed

See 1 DE Reg. 713 (12/1/97)

See 2 DE Reg. 373 (9/1/98)

See 2 DE Reg. 2043 (5/1/99)

See 5 DE Reg. 849 (10/1/01)

See 5 DE Reg. 1710 (3/1/02)

See 6 DE Reg. 1205 (3/1/03)

See 7 DE Reg. 316 (9/1/03)

15.0 Medication; Testing Procedures

15.1 Prohibition and Control of Medication:

15.1.1 It shall be the intent of these Rules to protect the integrity of horse racing, to guard the health of the horse and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs and medications or substances foreign to the natural horse. In this context:

15.1.1.1 No horse participating in a race shall carry in its body any substance foreign to the natural horse, except as hereinafter provided.

15.1.1.2 No foreign substance shall be administered to a horse (entered to race) by injection, oral administration, rectal infusion or suppository, or by inhalation within twenty-four (24) hours prior to the scheduled post time for the first race, except as hereinafter provided.

15.1.1.3 No person other than a veterinarian shall have in his possession any equipment for hypodermic injection, any substance for hypodermic administration or any foreign substance which can be administered internally to a horse by any route, except for an existing condition as prescribed by a veterinarian.

15.1.1.4 Notwithstanding the provisions of Rule 15.1.1.3 above, any person may have in his possession within a race track enclosure, any chemical or biological substance for use on his own person, provided that, if such chemical substance is prohibited from being dispensed by any Federal law or law of this State without a prescription, he is in possession of documentary evidence that a valid prescription for such chemical or biological substance has been issued to him.

15.1.1.5 Notwithstanding the provisions of Rule 15.1.1.3 above, any person may have in his possession within any race track enclosure, any hypodermic syringe or needle for the purpose of administering a chemical or biological substance to himself, provided that he has notified the Stewards: (1) of his possession of such device; (2) of the size of such device; and (3) of the chemical substance to be administered by such device and has obtained written permission for possession and use from the Stewards.

15.1.2 Definitions:

The following terms and words used in these Rules are defined as:

15.1.2.1 Hypodermic Injection shall mean any injection into or under the skin or mucous, including intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection, intravenous injection and intraocular (intraconjunctival) injection.

15.1.2.2 Foreign Substances shall mean all substances except those which exist naturally in the untreated horse at normal physiological concentration, and shall also include substances foreign to a horse at levels that cause interference with testing procedures.

15.1.2.3 Veterinarian shall mean a veterinary practitioner authorized to practice at the race track.

15.1.2.4 Horse includes all horses registered for racing under the jurisdiction of the Commission and for the purposes of these Rules shall mean stallion, colt, gelding, ridgling, filly or mare.

15.1.2.5 Chemist shall mean the Commission's chemist.

15.1.2.6 Test Sample shall mean any body substance including, but not limited to, blood or urine taken from a horse under the supervision of the Commission's Veterinarian and in such manner as prescribed by the Commission for the purpose of analysis.

15.1.2.7 Race Day shall mean the 24-hour period prior to the scheduled post time for the first race.

15.1.3 Foreign Substances:

15.1.3.1 No horse participating in a race shall carry in its body any foreign substance except as provided in Rule 15.1.3.1.3:

15.1.3.1.1 A finding by the chemist that a foreign substance is present in the test sample shall be prima facie evidence that such foreign substance was administered and carried in the body of the horse while participating in a race. Such a finding shall also be taken as prima facie evidence that the Trainer and agents responsible for the care or custody of the horse has/have been negligent in the handling or care of the horse.

15.1.3.1.2 A finding by the chemist of a foreign substance or an approved substance used in violation of Rule 15.1 in any test sample of a horse participating in a race shall result in the horse being disqualified from purse money or other awards, except for purposes of pari-mutuel wagering which shall in no way be affected.

15.1.3.1.3 A foreign substance of accepted therapeutic value may be administered as prescribed by a Veterinarian when test levels and guidelines for its use have been established by the Veterinary-Chemist Advisory Committee of the National Association of State Racing Commissioners and approved by the Commission. Aminocaproic acid may be present in a horse's body while it is participating in a race, subject to all the provisions of these

Rules.

15.1.3.1.4 The only approved non-steroidal anti-inflammatory drug (NSAID) that may be present in a horse's body while it is participating in a race is phenylbutazone/oxyphenobutazone in the level stated in 15.1.3.1.5 or 15.1.3.1.6. The presence of any other NSAID at any test level is forbidden.

Revised: 1/6/92.

15.1.3.1.5 The test level of phenylbutazone under this Rule shall not be in excess of two point five (2.5) micrograms (mcg) per milliliter (ml) of plasma without penalties in the following format:

Micrograms per milliliter Penalties

0 to 2.5	No action
2.6 to 4.9	First Offense-\$250.00 fine
2.6 to 4.9	Second Offense within 365 days \$500.00 fine
2.6 to 4.9	Third Offense within 365 days \$500.00 fine and/or Suspension and/or Loss of Purse
5.0 and Over	Fine, Suspension, Loss of Purse

15.1.3.1.6 The test level for oxphenobutazone under this Rule shall not be in excess of two (2) micrograms (mcg) per milliliter (ml) of plasma.

Micrograms per milliliter Penalties

0 to 2.5	No action
2.6 to 4.9	First Offense-\$250.00 fine
2.6 to 4.9	Second Offense within 365 days \$500.00 fine
2.6 to 4.9	Third Offense within 365 days \$500.00 fine and/or Suspension and/or Loss of Purse
5.0 and Over	Fine, Suspension, Loss of Purse

15.1.3.1.7 No bleeder medication otherwise permissible under this Rule may be administered to a horse within one hour of the scheduled post time of the horse's race. The administration of salix to a horse on race day will be governed by Rule 15.2.

15.1.3.1.8 If a horse is to receive one or more bleeder medications, aminocaproic acid and/or salix, the trainer shall declare said use at the time of entry.

15.1.3.1.9 A veterinarian administering bleeder medications shall report the administration of such medications on the same form that is used to report the

administration of salix.

15.1.3.1.10 The race program shall denote what medication(s) have been administered to a horse in the race and the past performance lines in the program, if any, shall denote any medications administered to said horse in those races.

15.1.3.1.11 Any horse running on permissible bleeder medication under these Rules shall remain on the medication for a period of not less than sixty (60) days before being permitted to race without the permissible bleeder medication.

15.1.3.1.12 The detection of permissible bleeder medications (salix and/or aminocaproic acid) in a horse following the running of a race which was not declared or reported to the Stewards, may result in the disqualification of the horse and other disciplinary action imposed upon the trainer and administering veterinarian. Conversely, the absence of bleeder medication following the running of a race in which was declared and reported by a trainer and/or veterinarian, may result in the disqualification of the horse and other disciplinary action imposed upon the trainer and administering veterinarian.

15.1.3.1.13 Erythropietin (EPO)

A finding by the official chemist that the antibody of Erythropietin (EPO) was present in a post-race test specimen of a horse shall be promptly reported in writing to the Stewards. The Stewards shall notify the owner and trainer of the positive test result for Erythropietin antibodies. The Stewards shall notify the Commission Veterinarian of the name of the horse for placement on the Veterinarian's List, pursuant to Rule 5.32, if the positive test result indicates that the horse is unfit to race. Any horse placed on the Veterinarian's List pursuant to this Rule shall not be permitted to enter a race until the owner or trainer, at their own expense, provides proof of a negative test result for EPO antibodies from a laboratory approved by the Commission provided said test sample is obtained under collection procedures acceptable to the Commission or its designee under these Rules.

Notwithstanding _____ any inconsistent provision of these Rules, a horse shall not be subject to disqualification from the race and from any share of the purse in the race and the trainer of the horse shall not be subject to application of trainer's responsibility based on the finding by the laboratory that the antibody of Erythropietin was present in the sample taken from that horse.

*** PLEASE NOTE: AS THE REST OF THE REGULATIONS WERE NOT AMENDED, THEY ARE NOT BEING PUBLISHED.**

DEPARTMENT OF EDUCATION

Statutory Authority: 14 Delaware Code,
Section 122(e) (14 Del.C. §122(e))

Education Impact Analysis Pursuant To 14 Del.C. §122(d)

511 Credit Requirements for High School Graduation 515 High School Diplomas and Certificate of Performance 520 Options for Awarding Credit Toward High School Graduation

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulations

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend regulations 511 Credit Requirements for High School Graduation, 515 High School Diplomas and Certificate of Performance and 520 Options for Awarding Credit Toward High School Graduation by combining them into a single regulation 505 High School Graduation Requirements and Diplomas. Regulation 520 Options for Awarding Credit Toward High School Graduation was under review as per the five year review cycle and the Department decided that combining these three regulations was a more efficient and helpful method of presenting the regulatory material contained in these regulations. In 2.1.5 the words nationally accredited were removed from correspondence schools because the meaning was not universally understood and in addition, schools and districts make the primary decision as to the quality of any correspondence schools under consideration for use for high school credit. In 2.17 a line was added to require that middle school credit granted toward high school graduation in one school district or charter school will be accepted in another district or charter school.

This regulation was previously advertised in the January 1, 2004 edition of the Register of Regulations and is now being re-advertised in order to include charter schools in the regulation and to insert new language in 2.1 to assure that school districts and charter schools (if they choose to do so) have local policies concerning other means of accruing credit toward graduation than seat time. The change also requires that if local districts or charter school governing boards have multiple high schools that they all follow the same policy.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amendment requires districts and charter

schools (if they decide to do so) to have policies concerning the approval of credit for graduation from sources other than traditional class time. This may contribute to aspects of student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation requires districts and charter schools to standardize their decision making process if they decide to give credit toward graduation for things other than traditional class time. This may affect issues associated with 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 health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation requires districts and charter schools to standardize their decision making process if they decide to give credit toward graduation for things other than traditional class time. This may affect issues associated with students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of 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 will not place any unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated will remain in the same entity.

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 will 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.

9. Is there a less burdensome method for addressing the purpose of the amended regulation? The Department is required to make regulations concerning graduation requirements by the **Delaware Code**.

10. What is the cost to the State and to the local school boards of compliance with the amended regulation? There is

no additional cost to State and to the local school boards of compliance with the amended regulation.

511 Credit Requirements for High School Graduation

~~1.0 No public Credit Requirements for High School Graduation. A public school student shall be granted a State of Delaware Diploma unless such student shall have successfully completed a minimum of twenty-two credits in order to graduate including:~~

~~4 credits in English Language Arts, 3 credits in mathematics, 3 credits in science, 3 credits in social studies, 1 credit in physical education, 1/2 credit in health, 1 credit in computer literacy, 3 credits in a career pathway, and 3 1/2 credits in elective courses.~~

~~1.1 Definitions:~~

~~1.1.1 "Credit" means a minimum of 135 hours of actual classroom instruction or a demonstration of competency.~~

~~1.1.2 "Credit for Computer Literacy" means credit granted toward graduation at any point when the student can demonstrate competency in the required skill areas either through an integrated approach, a specific course, or a demonstration of accumulated knowledge over the student's educational career.~~

~~1.1.3 "Career Pathway" means a planned program of sequenced or specialized courses designed to develop knowledge and skills in a particular career or academic area.~~

~~2.0 Local school boards may establish requirements over and above the minimum number of credits required by the State Department of Education.~~

~~See 4 DE Reg. 995 (12/1/00)~~

515 High School Diplomas and Certificate of Performance

~~1.0 A State sanctioned diploma shall be granted to students who meet the state and local district requirements for graduation pursuant to regulation 511 Credit Requirements for High School Graduation and to 14 Del.C. §152(b)(c)and(d).~~

~~2.0 A State sanctioned certificate of performance will be granted to students who meet the requirements of 14 Del.C. §152(e).~~

~~3.0 Diplomas from one school year shall not be issued after December 31 of the next school year.~~

~~4.0 Duplicate diplomas or certificates of performance will not be issued, but legitimate requests for validation of the diploma or the certificate of performance will be satisfied~~

through a letter of certification. Requests for diploma information from graduates of Delaware high schools should be directed to the high school the student was attending at the time of graduation. If the school does not have the records then the student should contact the Department of Education in Dover for a notarized letter of certification that contains the name of the applicant, the name of the school, the date of graduation, and the diploma registry number (if available).

5.0 State High School Diploma for World War II veterans pursuant to 14 Del.C. § 159 (a) (b) (c)

5.1 "World War II Veteran" means any veteran who performed wartime service between December 7, 1941 and December 31, 1946. If the veteran was in the service on December 31, 1946, continuous service before July 16, 1947 is considered World War II.

5.2 The Department of Education shall provide a high school diploma to any World War II veteran who:

5.2.1 Left a Delaware high school prior to graduation in order to serve in the armed forces of the United States.

5.2.2 Did not receive a high school diploma, or received a G.E.D., as a consequence of such service and;

5.2.3 Was discharged from the armed forces under honorable circumstances.

5.3 The diploma may also be awarded posthumously if the deceased veteran meets the qualifications in 4.2.1 through 4.2.3.

5.4 Applications for this high school diploma shall be made on forms designated by the Delaware Department of Education and the Delaware Commission of Veterans Affairs and shall have a copy of the candidate's honorable discharge papers attached to the application.

See 5 DE Reg. 625 (9/1/01)

520 Options for Awarding Credit Toward High School Graduation

1.0 The following options are approved by the Department of Education as means for awarding credit toward high school graduation. In all cases listed the option or options selected shall be approved ahead of time by the local school board or their designee(s) and shall incorporate the appropriate state content standards.

1.1 Courses taken at or through an accredited community college, two or four year college.

1.2 Voluntary community service as defined in 14 Del.C. §§ 8901A, 8902A.

1.3 Supervised work experience in the school and the community which meets the educational objectives or special career interest of the individual student.

1.4 Independent Study.

1.5 Nationally Accredited Correspondence Courses.

1.6 Distance Learning Courses. These courses may be synchronous or asynchronous via videos or online format.

1.7 High school courses taken while in the middle school in conjunction with an articulated agreement between the district middle school and the district high school(s).

1.8 Course credit transferred from another high school.

1.9 Course credit earned through summer or evening school classes, as a member of the military service and/or as part of the James H. Groves Adult High School.

1.10 Tutoring programs taught by a teacher certified in the subject being taught.

1.11 Course credit awarded by agencies or instrumentalities of the state other than public schools which provide educational services to students. A description of the program provided to the student, grades given, and the number of clock hours of instruction or a demonstration of competency must be provided to the school district prior to receipt of credit.

See 2 DE Reg. 1542 (3/1/99)

505 High School Graduation Requirements and Diplomas

1.0 Credit Requirements

1.1 No public Credit Requirements for High School Graduation public school student shall be granted a State of Delaware Diploma unless such student shall have successfully completed a minimum of twenty-two credits in order to graduate including: 4 credits in English Language Arts, 3 credits in mathematics, 3 credits in science, 3 credits in social studies, 1 credit in physical education, 1/2 credit in health, 1 credit in computer literacy, 3 credits in a career pathway, and 3 1/2 credits in elective courses.

1.2 Definitions:

1.2.1 "Credit" means a minimum of 135 hours of actual classroom instruction or a demonstration of competency.

1.2.2 "Credit for Computer Literacy" means credit granted toward graduation at any point when the student can demonstrate competency in the required skill areas either through an integrated approach, a specific course, or a demonstration of accumulated knowledge over the student's educational career.

1.2.3 "Career Pathway" means a planned program of sequenced or specialized courses designed to develop knowledge and skills in a particular career or academic area.

1.3 Local school boards and charter schools may establish requirements over and above the minimum number of credits required by the State Department of Education.

See 4 DE Reg. 995 (12/1/00)

2.0 Options for Awarding Credit Toward High School Graduation

2.1 Local school boards and charter school boards of directors are authorized to award credit toward high school graduation for the following activities, on the condition that the activities incorporate any applicable state content standards. Before awarding credit for any of the following activities, the local school board or charter school board of directors shall have adopted a policy approving the activity for credit and establishing any specific conditions for the award of credit for the activity. Such policy shall be applicable to each school within the district or governed by the charter school board of directors.

2.1.1 Courses taken at or through an accredited community college, two or four year college.

2.1.2 Voluntary community service as defined in 14 Del.C. §§ 8901A, 8902A.

2.1.3 Supervised work experience in the school and the community which meets the educational objectives or special career interest of the individual student.

2.1.4 Independent study.

2.1.5 Correspondence Courses.

2.1.6 Distance learning courses. These courses may be synchronous or asynchronous via videos or online format.

2.1.7 High school courses taken while in the middle school in conjunction with an articulated agreement between the district middle school and the district high school(s). Such credit shall also transfer to a high school in another district.

2.1.8 Course credit transferred from another high school.

2.1.9 Course credit earned through summer or evening school classes, as a member of the military service and/or as part of the James H. Groves Adult High School.

2.1.10 Tutoring programs taught by a teacher certified in the subject being taught.

2.1.11 Course credit awarded by agencies or instrumentalities of the state other than public schools which provide educational services to students. A description of the program provided to the student, grades given, and the number of clock hours of instruction or a demonstration of competency must be provided to the school district prior to receipt of credit.

See 2 DE Reg. 1542 (3/1/99)

3.0 High School Diplomas and the Certificate of Performance

3.1 A State sanctioned diploma shall be granted to students who meet the state and local district or charter school requirements for graduation pursuant to regulation 14 Del. C. §152 (a) (b) (c) and (d).

3.2 A State sanctioned certificate of performance will be granted to students who meet the requirements of 14 Del.

C. §152 (e).

3.3 Diplomas from one school year shall not be issued after December 31 of the next school year.

3.4 Duplicate diplomas or certificates of performance will not be issued, but legitimate requests for validation of the diploma or the certificate of performance will be satisfied through a letter of certification. Requests for diploma information from graduates of Delaware high schools should be directed to the high school the student was attending at the time of graduation. If the school does not have the records then the student should contact the Department of Education in Dover for a notarized letter of certification that contains the name of the applicant, the name of the school, the date of graduation, and the diploma registry number (if available).

3.5 State High School Diploma for World War II veterans pursuant to 14 Del. C. §159 (a) (b) (c)).

3.5.1 "World War II Veteran" means any veteran who performed wartime service between December 7, 1941 and December 31, 1946. If the veteran was in the service on December 31, 1946, continuous service before July 16, 1947 is considered World War II.

3.5.2 The Department of Education shall provide a high school diploma to any World War II veteran who:

3.5.2.1 Left a Delaware high school prior to graduation in order to serve in the armed forces of the United States.

3.5.2.2 Did not receive a high school diploma, or received a G.E.D., as a consequence of such service and.

3.5.2.3 Was discharged from the armed forces under honorable circumstances.

3.5.3 The diploma may also be awarded posthumously if the deceased veteran meets the qualifications in 3.5.2.1 through 3.5.2.3.

3.5.4 Applications for this high school diploma shall be made on forms designated by the Delaware Department of Education and the Delaware Commission of Veterans Affairs and shall have a copy of the candidate's honorable discharge papers attached to the application.

See 5 DE Reg. 625 (9/1/01)

PROFESSIONAL STANDARDS BOARD

REPEAL OF REGULATIONS

~~342 Endorsement Trade and Industrial Teacher~~

~~364 Certification Interpreter Tutor for the Hearing Impaired~~

~~365 Certification Resident Advisor~~

~~373 Certification Coordinator, Cooperative Occupational/Vocational Education and/or Work-Study Programs~~

~~374 Certification Counselor Career Guidance and Placement~~

~~383 Visiting Teacher.~~

A. TYPE OF REGULATORY ACTION REQUESTED

Repeal

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

The Professional Standards Board in cooperation and collaboration with the Department of Education seeks the approval of the State Board of Education to repeal regulations 342 Endorsement Trade and Industrial Teacher, 364 Certification Interpreter Tutor for the Hearing Impaired, 365 Certification Resident Advisor, 373 Certification Coordinator, Cooperative Occupational/Vocational Education and/or Work-Study Programs, 374 Certification Counselor Career Guidance and Placement, and 383 Visiting Teacher. Two of these regulations concern the certification of individuals who provide interpreting services to hearing impaired students and individuals who serve as house parents at the Sterck School. It is necessary to repeal these regulations as it is not necessary for individuals employed in these roles to be licensed and certified as educators, and requiring an unnecessary set of requirements for licensure and certification presents an undue burden on both the agency hiring individuals to fill these roles and on individuals who are fully competent to provide interpreting and after school and evening supervision to hearing impaired students, but who do not provide direct instruction to students in a classroom setting. The other regulations concern positions which can be filled by qualified individuals holding certification as teachers or counselors, and which are very low incidence positions.

~~342 Endorsement Trade And Industrial (T&I) Teacher~~

~~Special Education Teacher Endorsement~~

~~Effective July 1, 1993~~

~~1.0 The following shall be required for the Standard Endorsement~~

~~1.1 A Standard License in Trade and Industrial Education and,~~

~~1.2 Twelve semester hours of college-level coursework to include the following:~~

~~1.2.1 Introduction/Education of Exceptional Children~~

~~1.2.2 Methods/Curriculum for Exceptional Children~~

~~1.2.3 Diagnosis/Assessment of Exceptional Children~~

~~1.2.4 Behavior Management/Applied Behavior Analysis~~

~~2.0 Endorsements that may be issued for this position include Standard Endorsement and Limited Standard Endorsement.~~

~~The Limited Standard Endorsement may be issued upon request of a Delaware public school district for a teacher employed for this position who meets the standards set forth in 2.3 of regulation 301 General Regulations for Certification of Professional Public School Personnel.~~

~~364 Certification Interpreter Tutor For The Hearing Impaired~~

~~Effective July 1, 1976~~

~~1.0 The following shall be required for the Standard License~~

~~1.1 High school or college graduate and,~~

~~1.2 Registered member of Interpreters of the Deaf (National) and/or Licensed as a teacher for the deaf and,~~

~~1.3 Adequate competency in the language of signs and finger spelling receptively and expressively as determined by an agency authorized by the Delaware Department of Education.~~

~~2.0 The License that may be issued for this position is the Standard License.~~

~~365 Certification Resident Advisor (Houseparent)~~

~~Effective July 1 1993~~

~~1.0 The following shall be required for the Standard License.~~

~~1.1 Bachelor's degree from an accredited college and,~~

~~1.2 Demonstrated competency in manual communications as determined by employer and,~~

~~1.3 Professional Education~~

~~1.3.1 Completion of a program in teacher education in any area or,~~

~~1.3.2 A Minimum of 18 semester hours from at least 4 of the following areas: Survey/Introduction/Psychology/Education of Exceptional Children Child Growth and Development/Human Development Behavior Problems/Behavior Management/Behavior Disorders/Behavior Modification Educational Psychology/Psychology of Learning/Learning Theory/Child Psychology/Psychology of Adolescence Interpersonal Relationships/Functioning Principles and Practices of Guidance/Guidance in the~~

~~Classroom Tools and Techniques of Counseling/Group Counseling Alternative Communications Audiology Manual Communications Course(s) in any specific disability of Exceptional Children~~

2.0 The following shall be required for the Limited Standard License (not renewable)

2.1 This License may be issued for a period of three years at the request of a Delaware public school district to a person who meets the requirements listed below and who is employed as a Resident Advisor to allow for the completion of the requirements for the Standard License in 1.0:

2.1.1 Requirements of 1.1 and;

2.1.2 Completion of minimum nine semester hours as listed in 1.3.1.1.

3.0 Licenses that may be issued for this position include Standard and Limited Standard.

~~373 Certification Coordinator, Cooperative Occupational/Vocational Education And/Or Work Study Programs~~

~~Effective July 1, 1993~~

1.0 The following shall be required for the Standard License
1.1 Bachelor's degree from a regionally accredited college and;

1.2 Specialized Professional Preparation

1.2.1 Meets certification requirements for Standard License in the area of one of these specific occupational vocational fields: Agriculture, Business and Office Education, Marketing Education, Technology Education, Health Occupations, Family and Consumer Science and/or other acceptable vocational baccalaureate degree programs and;

1.3 Experience

1.3.1 Two thousand hours of related work experience in organizations/businesses related to the area of the specific occupational/vocational fields stated above. The related work experience may consist of prior full time and/or full time part time work in the different organizations. (See Trade and Industry License for an exception related to that License.)

2.0 The license that may be issued for this position is the Standard License.

~~374 Certification Counselor Career Guidance And Placement~~

~~Effective July 1, 1993~~

1.0 The following shall be required for the Standard License
1.1 Master's degree from a regionally accredited college and;

1.2 Eligibility for a Standard License as a Secondary School Counselor and;

1.3 One calendar year (twelve months) of full time (or equivalent permanent part time) occupational experience in a non-educational setting.

2.0 The following shall be required for the Limited Standard License

2.1 The limited Standard License shall be issued for a period of three years at the request of a Delaware public school district to allow for the completion of the requirements for the Standard License as described 1.0.

2.1.1 Bachelor's degree from a regionally accredited college and;

2.1.2 A minimum of three years of professional experience in a secondary school setting; or three years of appropriate experience as approved by the Department of Education; or a supervised school counseling internship of one full year in a secondary school setting which is part of a graduate degree program in secondary school counseling or arranged through the Department of Education. The internship experience may be completed over a two year period on a half time basis and;

2.1.3 One calendar year (twelve months) of full time (or equivalent permanent part time) occupational experience in a non-educational setting and;

2.1.4 Specialized Professional Preparation of a minimum of one graduate level course in each of the following areas: Principles and Practices of the Guidance Program, Individual Counseling Skills, Group Counseling Skills, Career Development, Individual and Group Testing for Counselors.

3.0 Licenses that may be issued for this position include Standard and Limited Standard.

~~383 Certification Visiting Teacher~~

~~Revised July 1, 1994~~

1.0 The following shall be required for a Standard License

1.1 Bachelor's degree from a regionally accredited college and;

1.2 Three years of successful full time experience in the school setting and;

1.3 Specialized Professional Preparation with a minimum of 15 semester hours of graduate level coursework with at least one course in each of the following:

1.3.1 Child Development

1.3.2 Family Systems/Family Counseling/
Family Therapy

1.3.3 Counseling Theory (to include both individual and group theory*)

1.3.4 Counseling Techniques (to include both individual and group techniques*)

1.3.5 Legal Issues in Education

~~*Note: Content related to both the group and the individual must be documented for each of these courses. If not present, additional coursework will be necessary. If additional coursework is required, the original semester hours may be used toward meeting the requirement for a Limited Standard.~~

~~2.0 The following shall be required for the Limited Standard License~~

~~2.1 The limited Standard License shall be issued for a period of three years at the request of a Delaware public school district to allow for the completion of the requirements for the Standard License as described in 1.0.~~

~~2.1.1 Bachelor's degree from a regionally accredited college and;~~

~~2.1.2 Experience as specified in 1.2 and;~~

~~2.1.3 Professional Preparation~~

~~2.1.3.1 Completion of a minimum of 6 semester hours toward meeting the requirements in 1.3.~~

~~3.0 Licenses that maybe issued for this position include Standard and Limited Standard~~

**EDUCATIONAL IMPACT ANALYSIS PURSUANT TO
14 DEL. C. SECTION 122 (d)
PROFESSIONAL STANDARDS BOARD**

**1511 ISSUANCE AND RENEWAL OF CONTINUING
LICENSE**

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

**B. SYNOPSIS OF SUBJECT MATTER OF
REGULATION**

The Professional Standards Board in cooperation and collaboration with the Department of Education seeks the approval of the State Board of Education to amend regulation 1511 Issuance and Renewal of Continuing License concerning the requirements for the issuance and renewal of a continuing license. This regulation shall apply to the issuance and renewal of a continuing license as established by 14 Del.C. §1211 and §1213. It is necessary to amend this regulation to clarify some of the requirements for options for renewal of a continuing license and to set forth requirements for professional development providers to issue documentation to educators who participate in professional development activities.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement

standards? The amended regulation addresses student achievement and requires that educators be fully qualified to teach a subject area and that they engage in professional development to maintain and improve their skills and knowledge as a condition of renewal of the license.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps ensure that all educators demonstrate high standards for the issuance of a continuing license and that they engage in professional development to maintain and improve their skills and knowledge as a condition of renewal of the license.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses educator licensure, not health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses educator licensure, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision makers 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 will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision-making authority and accountability for addressing the subject to be regulated rests with the Professional Standards Board, in collaboration and cooperation with the Department of Education, and with the consent of the State Board of Education.

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 will 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.

9. Is there a less burdensome method for addressing the purpose of the amended regulation? 14 Del.C. requires that we promulgate this regulation.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation? There is no additional cost to local school boards for compliance with

the regulation.

1511 ISSUANCE AND RENEWAL OF CONTINUING LICENSE

1.0 Content: This regulation shall apply to the issuance and renewal of a continuing license for educators, pursuant to **14 Del.C.** §1211 and §1212.

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

“College credit” means graduate or undergraduate level coursework and continuing education units (CEUs) completed at, or through, a regionally accredited college or university.

“Clock-hour” means actual time spent in professional development, not credit hours.

“Clusters” means focused groups of approved professional development activities that lead to measurable and observable knowledge and skills. Clusters must be approved by the Standards Board and the State Board.

“Cooperating teacher or intern supervisor” means an individual working with student teachers or graduate or undergraduate interns as part of a state-approved educator preparation program.

“Curriculum or assessment development” means work with a local, state, national, or international education agency or organization designing curriculum or assessments for improved educational practice in an area related to an individual’s professional responsibilities.

“Delaware Administrator Standards” means standards for education administrators approved by the Secretary of Education and the State Board of Education, as per **14 DE Admin. Code** 1594, Delaware Administrator Standards.

“Delaware Professional Teaching Standards” means standards of teaching approved by the Secretary of Education and the State Board of Education, as per **14 DE Admin. Code** 1593, Delaware Professional Teaching Standards.

“Department” means the Delaware Department of Education.

“Educational project” means an individual professional growth project of 15 or more clock hours, including a research project not related to a course for which credit is claimed, completed to enhance the individual’s professional practice, with the development of a final product or report.

“Educational travel” means a travel experience including 15 or more clock hours of work time directly related to the individual’s professional responsibilities, including a final project to be used to enhance the individual’s work.

“Educator” means a public school employee who holds a license issued under the provisions of **14 Del.C.** Chapter 12, and includes teachers and administrators, and as otherwise defined by the Standards Board and the State Board, pursuant to **14 Del.C.** §1203, but does not include substitute teachers.

“Exigent circumstances” means unanticipated circumstances or circumstances beyond the educator’s control, including, but not limited to, expiration of a license during the school year, serious illness of the educator or a member of his/her immediate family, activation to active military duty, and other serious emergencies which necessitate the educator’s temporarily leaving active service.

“Formal study group” means documented participation in a study group, related to an individual’s professional responsibilities, such as reviewing, discussing, and implementing strategies from a book or creating a group product as part of an action research project, as a form of professional development.

“Initial License” means a license issued as part of the three-tiered licensure system set forth in **14 Del.C.** §1210.

“Knowledge and skills” means understandings and abilities that, when acquired by educators, lead to more effective instruction.

“Mentoring” means training and service in providing mentoring support or assistance through a formally organized and approved state or district mentoring program to educators during the initial licensure period.

“NBPTS or similar national certification” means a certificate from the National Board for Professional Teaching Standards, or similar body as approved by the Standards Board, verifying completion of all requirements in an individual’s job-related area of the profession or, in the case of an individual seeking, but not earning, the national certificate, verification of the clock hours devoted to completing the requirements for the national certificate.

“Peer coaching” means training and service as a peer coach or peer assistant in a formally organized and approved state or school district peer-coaching or peer assistance program.

“Presentation” means preparation and presentation as a workshop or conference presenter or course instructor on a topic related to the individual’s professional responsibilities.

“Professional conference, workshop, institute, or academy” means a program offered either within, or outside, the state that contributes to the participant’s professional knowledge or skills in effectively conducting his/her work in education.

“Professional development” means classes, seminars, workshops, collaborative work groups, learning communities, cohort school or district teams which result in the acquisition of knowledge and skills which lead to more effective instruction.

“Professional development activities” means activities

designed to enhance knowledge and skill to promote continuous professional growth and to improve educator performance.

“Professional development cluster” or “cluster” means a focused group of professional development activities that leads to measurable and observable knowledge and skills.

“Professional portfolio” means a formal collection of artifacts and exhibits that include required examples of an individual’s professional work based upon specific performance tasks or standards.

“Professional programs or committees” means job related service, designed to enhance the profession.

“Publication” means the preparation of a formally published book, article, report, study, or grant that contributes to the education profession or adds to the body of knowledge in an individual’s specific field, but does not include such items prepared as part of a course for which an individual is also claiming credit.

“Standards Board” means the Professional Standards Board established pursuant to 14 **Del.C.** §104.

“State” means State of Delaware.

“State Board” means the State Board of Education of the State of Delaware established in response to 14 **Del.C.** §104.

3.0 Issuance of Initial Continuing License: In accordance with 14 **Del.C.** §1211, the Department shall issue, upon application, a continuing license to an educator who has successfully completed the requirements under the initial licensure as set forth in 14 **Del.C.** §1210 and §1211. The Department shall issue a continuing license to an applicant licensed as an educator in another jurisdiction who provides evidence of having completed three (3) or more years of successful teaching experience. A continuing license is valid for 5 years unless extended pursuant to 14 **Del.C.** §1216 or revoked for cause, as defined in 14 **Del.C.** §1218.

3.1 An applicant for a continuing license shall submit the approved application form to the Department. Copies of DPAS II annual summative evaluations for the period of initial licensure shall be submitted with an initial application for a Continuing License. An applicant with more than one (1) unsatisfactory DPAS II annual summative evaluation during the period of initial licensure is ineligible to be issued a continuing license. Incomplete applications will not be processed.

3.2 The Department shall not act on an application for licensure if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation’s resolution.

3.2.1 “Immorality” means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of his or her unfitness.

4.0 The Department may issue a continuing license to an educator who previously held a valid Delaware certificate that has expired.

4.1 An educator returning to employment and holding a current standard or professional status certificate will be issued a continuing license upon employment.

4.2 An educator who previously held a valid Delaware standard or professional status certificate which has expired and who has been out of the profession for less than three (3) years may be issued a continuing license, valid for 5 years, upon employment and application on the approved form and evidence of previous Delaware certification.

4.3 An educator who has completed three (3) or more years of successful teaching and who holds a continuing license which has expired who has been out of the profession for more than three (3) years may be issued a continuing license, but must, within the first year of employment, successfully complete a district-sponsored mentoring program which focuses on current best practices in curriculum, instruction and assessment aligned to state standards.

4.4 An educator holding a limited standard or temporary certificate and currently employed as an educator in a Delaware public school will be issued a continuing license upon completing all requirements for the current standard certificate. Requirements must be completed by the expiration date of the limited standard or temporary certificate.

4.5 An educator holding a current or expired professional status or standard certificate assigned to work outside the area covered by the professional status or standard certificate will be issued a continuing license, with an emergency certificate for the new area issued for a period of three years to enable the educator to fulfill the requirements for the standard certificate in the area of the new assignment. Professional status or standard certificates held by an educator at the time of reassignment will be added to the continuing license as standard certificates.

5.0 Renewal of a Continuing License: In accordance with 14 **Del.C.** §1212, the Department shall renew a continuing license, valid for an additional 5 years, to an educator who has fulfilled the 90-clock hour requirement for professional development. At least one-half of the required hours (45 hours every five years) for educators must be in activities ~~to~~ that relate to the educator’s work with students or staff. Satisfactory evidence of such completion, as set forth in

Section ~~3-4~~ 5.1, shall be submitted to the Department with the application for renewal. The 90-clock hours of professional development must have taken place during the term of the continuing license.

RE-LICENSURE OPTIONS – SPECIFICATIONS – TEACHERS/SPECIALISTS/ADMINISTRATORS

5.1 Options for Relicensure

OPTION	MAX. HOURS	HOUR VALUE	VERIFICATION	CRITERIA
College Credit	No limit	1 semester hour = 15 clock hours. 1 quarter hr./CEU = 10 clock hours.	Official Transcripts. Original Grade Slips. Original Certificate of Completion for CEUs.	Must be completed at a regionally accredited college. Must be taken for credit with grade of "C" or better or a "P" in pass/fail course.
“Clusters” of skills & knowledge. Planned school Prof. Dev. Day if activities Part of Approved Cluster	No limit	Verified clock hours in completion of cluster activities.	Approval Slip or Form Verifying Completion.	Cluster must be prior-approved by Professional Development & Associated Compensation Committee, the Professional Standards Board and the State Board of Education.
<u>Planned school professional development day.</u>	<u>No limit</u>	<u>Verified clock hours actively involved in professional development activities.</u>	<u>Certificate of Attendance provided by school district or school sponsoring the professional development.</u>	<u>Must focus on district or school identified curriculum, instruction, assessment, school climate, or other need identified in district or school improvement plan.</u>
Professional Conference/ Workshop/ Institute or Academy	30 clock hours per year 45 clock hours per cycle	Verified clock hours actively involved in workshop or conference sessions	Original Certificate of Attendance or Completion OR Letter from Supervisor/Conference Staff. Copies/ Exhibits of products developed by Applicant. Course Attendance Slip	Must include only time spent in those portions of the workshop or conference program that contribute to the participant's knowledge, competence, performance, or effectiveness in education. Includes workshops offered by districts or other employing authorities either as part of professional development day or after school hours.
Mentoring	30 per year 45 per cycle	Verified clock hours involved in mentoring activities	Activity Documentation Form. (No prior approval required)	Must be mentoring of teacher, administrator, or specialist. Must be part of a formal state/local program.
Cooperating Teacher/ Intern Supervisor	30 per year 45 per cycle	Verified clock hours involved in support of student teacher or intern	Activity Documentation Form completed by higher education director of field-based clinical studies. (No prior approval required)	Must be supervision of graduate or undergraduate intern or student teacher in a state-approved educator preparation program.
Presentation	10 per 3 clock hour course; 30 per longer course; 45 per cycle	Verified clock hours preparing and presenting	Activity Documentation Form ² (Prior approval required)	Must include only actual time preparing and presenting a course, workshop, or presentation. (Clock hours limited to first preparation and presentation of individual course, workshop, or presentation.)
Educational Project	30 per year 45 per cycle	Verified clock hours completing project. Minimum of 15 clock hours	Activity Documentation Form ² (Prior approval required)	Project must have been prior approved by the Professional Development & Associated Compensation Committee. Must have obtained final approval after completion and verification by PDAC
Curriculum/ Assessment Development	30 per year 45 per cycle	Verified clock hours of service; Minimum of 3 clock hours	Original documentation from committee chair verifying actual clock hours of participation	Must be service on formal committee organized by local, state, national, or international education agency or organization.

PROPOSED REGULATIONS

Educational Travel	3 per day 30 per cycle	Verified clock hours of experience. Minimum of 15 clock hours per travel activity. Final Project.	Activity Documentation Form* (Prior approval required)	Must be prior approved by Professional Development & Associated Compensation Committee. Must have obtained final approval after completion and verification by PDAC.
Professional Programs/ Committees	30 per year 45 per cycle	Verified clock hours of service or experience.	Original documentation from committee chair or activity leader verifying actual clock hours of participation.	Must be a formal activity provided through a recognized local, state, national, or international education agency or organization
Peer Coaching	30 per year 45 per cycle	Verified clock hours of service or experience.	Activity Documentation Form. (No prior approval required)	Must be part of a formal program.
Publication	30 per year 45 per cycle	30 clock hours for book. Up to 15 clock hours per other publication.	Copy of Publication or Document.	Must contribute to the education profession or add to the body of knowledge in the individual's specific field. Must be commercially published or a formally approved document or formally published in a medium sanctioned by a recognized state or national agency or organization. If a grant, must be approved for funding.
Professional Portfolio (to be developed by Standards Board).	30 per year 45 per cycle	45 clock hours for completed and approved portfolio.	The Completed/Approved Portfolio.	Must satisfy the standards established for teaching portfolios. Must be submitted to DOE by December 31 of the final year of the certificate for assessment and approval.
NBPTS Certification or similar National Certification	30 per year 45 per cycle	45 clock hours for attaining national certification Not complete – verified clock hours completing portfolio activities.	A Valid Copy of the National Certificate. For candidate not completing certificate - Activity Documentation Form. (No prior approval required)	Holds a certificate indicated by NBPTS as related to an individual's work or assignment. Certificate or participation as a candidate must be completed and verified by the expiration date of the Delaware certificate.
Formal Study Groups	30 per year 45 per cycle	Verified clock hours working as a member of a study group.	Activity Documentation Form and The Product of the Study.* (Prior approval required)	Must relate to the individual's work or assignment. Must include a product.

5.2 Documentation of Clock Hours for Relicensure

5.2.1 For renewal of the continuing license, educators may complete and document clock hours for the variety of activities described under relicensure options. When college or university courses are used to fulfill the requirements, the following equivalencies will be used: 1 semester hour = 15 clock hours, 1 quarter hour = 10 clock hours, 1 CEU = 10 clock hours. To be documented for clock hours, activities must meet the criteria set forth in the regulations and must be appropriately verified and applied for. Activities requiring prior approval must be approved by the educator's immediate supervisor. No additional requirements may be imposed as part of that approval. Professional development activities that are part of a DPAS H assistance plan may be used to satisfy this requirement. Individuals, schools or school districts, or other agencies organizing or conducting professional development activities which may be used for fulfilling the requirements for renewal of a license are responsible for providing documentation of participation to all participants.

5.2.2 Criteria for determining if activities are acceptable for clock hour credit include the following:

5.2.2.1 The activity enhances the knowledge and skills in the educator's job or contributes to his/her school or profession.

5.2.2.2 The activity meets one of the relicensure options.

5.2.2.3 The activity addresses one of the standards for the educator's area of the profession.

5.2.2.4 The activity is completed during the term of the educator's current continuing license.

5.2.2.5 The activity addresses specific Professional Teaching or Administrator Standards.

5.2.2.6 Participation in, or completion of, the activity can be documented.

5.3 The Re-Licensure Application, Activity Documentation Form, and, where required, original or official documents will be used to verify activities for renewal of a continuing license. Official transcripts or original grade slips are required documentation for

successful completion of college courses.

5.4 For applicants who change positions (grade levels, content areas, areas of supervisory responsibility, etc.) during the five-year term of a continuing license, clock hours documented must have been appropriate to the educator's position at the time the clock hours were completed.

6.0 To obtain renewal of a continuing license, educators are required to participate in professional development activities totaling 90 clock hours every five years. The 90 clock hours must be completed during the five-year term of the license. All activities must relate to the 14 **DE. Admin. Code** 1593, Delaware Professional Teaching or 14 **DE. Admin. Code** 1594, Delaware Administrator Standards.

7.0 Candidates for renewal of a continuing license may select from a variety of professional development options, as set forth in the relicensure options approved by the Professional Standards Board, set forth in Section 5.1 and contained in the Guidelines for Issuance and Renewal of a Continuing License. The activities selected must be beyond the normal or specified requirements of the position. Professional development activities which fulfill the criteria for relicensure for which educators receive compensation may be submitted in fulfillment of the 90-clock hour requirement for relicensure. Graduate or undergraduate credits used to satisfy the 90 clock hour requirement for license renewal may also be used for a salary increment on the state salary schedule, if they meet the requirements set forth in 14 **DE Admin. Code** 1505. The activities or options used to satisfy the 90 clock hour requirement for license renewal may be part of an approved professional development cluster eligible for a salary supplement.

8.0 The Department may extend a continuing license for a period not to exceed one year, exigent circumstances warranting the necessity of such extension.

9.0 An educator may take a leave of absence of up to three years with no effect upon the validity or expiration of the continuing license.

10.0 An applicant shall disclose his or her criminal conviction history upon application for a continuing license. Failure to disclose a criminal conviction history is grounds for denial or revocation of a continuing license as specified in 14 **Del.C.**, § 1219.

11.0 This regulation shall apply to all requests for continuing license, issuance and renewal, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate expiring on June 30, 2001 shall have until June 30, 2007 to meet the new continuing license renewal standards. All

administrators in instructional areas issued a continuing license as of July 1, 2001, shall have until June 30, 2007 to meet the new continuing license renewal standards. Educators holding a Professional Status Certificate or a Standard Certificate expiring July 1, 2001 or thereafter shall be required to satisfy the new continuing license renewal standards as set forth herein.

12.0 A license holder whose license expires during the school year may have the continuing license extended until the last day of the school year. This extension shall be considered an exigent circumstance and shall not exceed one (1) year in length.

13.0 The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a continuing license on an individual basis and grant a continuing license to an applicant who otherwise does not meet the requirements for a continuing license, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

Symbol Key

Roman 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 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.

DEPARTMENT OF EDUCATION

Statutory Authority: 14 Delaware Code,
Section 122(e) (14 **Del.C.** §122(e))
14 DE Admin. Code 240

REGULATORY IMPLEMENTING ORDER
240 Recruiting and Training of Professional Educators
for Critical Curricular Areas

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education seeks the consent of the State Board of Education to amend regulation 240 Recruiting and Training of Professional Educators for Critical Curricular Areas. The amendment is necessary in order to reflect the changes made pursuant to 14 **Del. C.** 1108(b). This section of the law now stipulates that an exception may be made to 8.2.5 of this regulation in that a loan for education in a Critical Curricular area may be forgiven by the Secretary of Education if it is determined that the recipient is unable to meet his or her payment obligation because of total and permanent disability or death. The amendment also includes a definition of total and permanent disability and the form for the physician to certify as to total and permanent disability.

Notice of the proposed regulation was published in the Delaware State News on November 24, 2003, and in the News Journal on November 25, 2003 in the form hereto

attached as *Exhibit "A"*. No comments were received.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend this regulation in order to reflect the changes made pursuant to 14 **Del. C.** 1108(b). The amended section of the **Delaware Code** now stipulates that an exception may be made to 8.2.5 of this regulation in that a loan for education in a Critical Curricular area may be forgiven by the Secretary of Education if it is determined that the recipient is unable to meet his or her payment obligation because of total and permanent disability or death.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend the regulation. Therefore, pursuant to 14 **Del.C.** Chapter 11, the regulation attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), the regulation 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 the regulation amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** §240 in the *Regulations of the Department of Education*.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del. C.** Chapter 11 on January 15, 2004. 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 January 2004.

Department of Education
Valerie A. Woodruff, Secretary of Education

Approved this 15th day of January, 2004

State Board of Education

Dr. Joseph A. Pika, President
Jean W. Allen, Vice President
Richard M. Farmer, Jr.
Mary B. Graham, Esquire
Valarie Pepper
Dennis J. Savage
Dr. Claibourne D. Smith

**240 Recruiting and Training of Professional Educators
for Critical Curricular Areas**

The programs shall be administered in accordance with 14 **Del.C.**, Chapter 11, and the following rules and regulations pursuant to the appropriation of funds in the annual Budget Bill.

1.0 Designation of Critical Curricular Areas - Annually, on a date not later than the July meeting of the State Board of Education, the Secretary of Education shall present a recommendation to the State Board on the Critical Curricular Areas to be addressed during that fiscal year. This recommendation will be based upon supply and demand information obtained from local school districts and from state and national sources.

2.0 Allocation of Funds - Annually, on a date not later than the July meeting of the State Board of Education, the Secretary of Education shall present a recommendation to the State Board of Education on the preliminary allocation of funds among the five programs authorized by Chapter 11. Final allocations will be based upon the total appropriation for that fiscal year and the number of eligible applicants for the five programs.

3.0 Applications - All applicants for funds under any of the five programs shall be required to complete an application on a form prescribed by the Department of Education and shall be required to provide whatever information and

documents the Department determines are necessary for the effective and efficient management of the programs.

4.0 Academic Year Institute - The Academic Year Institute is an ongoing program specifically designed to meet certification requirements in the critical areas of teacher shortage as determined by the Department of Education. This is a part-time program which shall be offered during the regular school year. Participants will register for a maximum of three semester hours of graduate/undergraduate college courses per semester. The Institute will be sponsored by the Department of Education and will be located at the University of Delaware and/or Delaware State University.

4.1 Eligibility

4.1.1 The candidate shall be employed as a teacher in the public schools of Delaware or in another State agency offering secondary education programs.

4.1.2 The candidate shall submit a completed application and other documentation and information by the specified closing date for application.

4.1.3 The candidate shall express an intent to enroll in a course or courses which will lead to certification in one or more of the critical curricular areas.

4.2 Financial Aid

4.2.1 Academic Year Institute participants shall receive full support for tuition, textbooks, laboratory fees and mileage for approved courses.

4.2.2 Depending upon the institution and the course or courses in which the participant is enrolled, the Department of Education shall either make direct payment to the institution for tuition and laboratory fees or will reimburse the participant for costs upon receipt of proper documentation of the participant's expenses.

4.2.3 The Department of Education shall reimburse the participant for expenditures for textbooks and mileage upon receipt of a completed personal reimbursement form.

4.3 Selection Procedures

4.3.1 Participants shall be selected competitively from the eligible applicants for the program within the limits of the funds authorized for the program.

4.3.2 An application review panel, composed of Department of Education staff members, shall meet twice each year - after the close of the application period for each semester - to review applications and select participants.

5.0 Summer Inservice Program (Summer Institute) - The Summer Institute Program is a summer program specifically designed to meet certification requirements in the critical areas of teacher shortage as determined by the Department of Education. The program will be offered during a six-week period in the summer beginning not later than the last week in June. Participants shall register for a minimum of six semester hours of graduate/undergraduate

credit in a specifically designed program focused on building skills and knowledge in the critical curricular areas. The Summer Institute, modeled after the National Science Foundation format, shall be sponsored by the Department of Education and will be located at the University of Delaware and/or Delaware State University.

5.1 Eligibility

5.1.1 The candidate shall be employed as a teacher in the public schools of Delaware or in another State agency offering secondary education programs.

5.1.2 The candidate shall not be currently certifiable in the critical curricular area being addressed by the Summer Institute for which application is made.

5.1.3 The candidate shall submit a completed application and other required information and documentation by the closing date for application.

5.1.4 The candidate shall express an interest and intent to pursue certification in one or more of the critical curricular areas for which he or she is not currently certifiable.

5.1.5 The candidate shall submit a letter of recommendation from the Superintendent or an appropriate supervisor of the candidate's school district or agency.

5.2 Financial Aid

5.2.1 Summer Institute participants shall receive full support for tuition, textbooks, and laboratory fees. Depending on the institution and the program in which the participant is enrolled, the Department of Education shall either make direct payment to the institution for these costs or shall reimburse the participant upon receipt of proper documentation of the participant's expenses.

5.2.2 The participants shall also receive a stipend as determined by the Department of Education. This stipend shall be paid by the Department of Education to the participant upon receipt of notification from the institution that the participant successfully completed all courses taken with a minimum grade of "C".

5.3 Selection Procedures

5.3.1 Participants shall be selected competitively from the eligible applicants for the program within the limits of the funds authorized for the program.

5.3.2 An application review panel, composed of Department of Education staff members, shall meet annually after the close of the application period to review applications and select participants.

6.0 Program For Persons From Other Professions Who Will Prepare To Teach - This program is designed to provide financial assistance to persons from other professions who possess the training and skills to teach in the critical curricular areas of teacher shortage as determined by the Department of Education but who lack the professional education courses required to qualify for a standard certificate. Participants shall be permitted to enroll in the

institution of higher education of their choice and shall be reimbursed for the tuition costs, within limits specified below, for up to six semester hours of credit per semester.

6.1 Eligibility

6.1.1 The candidate shall be a resident of the State of Delaware.

6.1.2 The candidate shall have a graduate or undergraduate degree from an accredited institution of higher education in a field related to one or more of the critical curriculum areas.

6.1.3 The candidate shall first submit official transcripts to the Department of Education for evaluation.

6.1.4 Candidates who lack no more than six semester credits of coursework from meeting the content area requirements in one or more of the critical curriculum areas shall be invited to apply for participation in the program.

6.1.5 The candidate shall submit a completed application form and must express an interest and intent to pursue certification.

6.1.6 The candidate shall submit a plan outlining educational plans, including a timeline, to complete the professional education courses needed to obtain certification.

6.2 Financial Aid

6.2.1 The participant shall receive financial support for tuition costs for up to six semester hours of credit per semester.

6.2.2 The participant may receive assistance for a maximum of thirty semester credits of professional education courses but must update his or her application and receive approval in advance each semester.

6.2.3 The participant shall be reimbursed for tuition costs in an amount not greater than the tuition charged a Delaware resident by the University of Delaware for a course or courses of equal credit value.

6.2.4 The Department of Education shall reimburse the participant upon receipt of proper documentation of the participant's expenses and upon receipt of notification from the institution that the participant successfully completed the courses for which reimbursement is requested with a minimum grade of "C".

6.3 Selection Procedures

6.3.1 An application review panel, composed of Department of Education staff members shall meet on an as-needed basis to review applications and select participants.

6.3.2 Participants shall be selected from eligible applicants on a first-come basis, except that applicants approved for one semester will be given preference in future semesters until they complete their educational requirements, use their total eligibility, or are unsuccessful in achieving the minimum grade of "C" in approved courses.

6.3.3 Participants shall be limited and the approval process will be terminated when authorized funds for this

program in any fiscal year have been allocated.

7.0 Teacher Scholarship Loan Programs - The Teacher Scholarship Loan Program is designed to meet certification requirements in the critical areas of teacher shortage as determined by the Department of Education. This is a full-time program offered during the regular school year. As a minimum, participants shall register for the number of semester hours required of a full-time student.

7.1 Eligibility

7.1.1 The candidate shall have taught in a Delaware public school for at least one year prior to the year in which the scholarship is to be used.

7.1.2 The candidate shall be employed as a teacher in a Delaware public school and/or must be a resident of the State of Delaware at the time of application.

7.1.3 The candidate shall express an interest and intent to pursue certification in one or more of the critical curricular areas identified by the Department of Education.

7.1.4 The candidate shall hold a standard Delaware teaching certificate but must not be currently certifiable in the critical curricular area specified in 7.1.3 above.

7.1.5 The candidate shall submit a completed application and other documentation and information by the specified closing date for application.

7.1.6 The candidate shall, if currently employed, have prior approval from his or her employing local district board of education.

7.1.7 The candidate shall be accepted into an approved program in an institution of higher education leading to certification in the critical curriculum area specified in 7.1.3 above.

7.2 Financial Aid

7.2.1 Teacher Scholarship Loan Program participant shall receive a scholarship in an amount equal to the salary he or she would receive for service as a teacher, as specified in 14 Del. C. Ch. 13.

7.2.2 A participant, who was employed by a Delaware public school district in the year prior to receipt of the scholarship and who is on leave of absence during the year of the scholarship, shall continue to receive all State-supported employee benefits through a grant from the Department of Education to the employing district. (Such participants shall be considered to be on sabbatical leave and for purposes of salary increments and pension eligibility and computation, a year of leave shall be considered a year of experience as provided in 14 Del. C. §1325(9).

7.2.3 A participant may receive a local salary supplement and local employee benefits if the employing district elects to provide them at the expense of the employing district.

7.2.4 A district shall also be eligible to receive an interest-free loan, in an amount to be determined by the

Department of Education, which the participant may use to defray the cost of tuition and books. The actual amount of the loan will be dependent upon estimated costs of these two items and other financial resources available to the participant.

7.2.5 Participants receiving a loan shall execute a promissory note, in the amount of the loan, to the State Treasurer. This note will be forgiven at the rate of one-third of the loan for each of three years of teaching in a Delaware public school after completion of the study authorized. In any year the teacher fails to meet the teaching obligation, the loan shall be due and payable for the unpaid balance plus interest specified in the note.

7.3 Selection Procedures

7.3.1 Participants shall be selected competitively from the eligible applicants for the program within the limits of the funds authorized for the program.

7.3.2 The applicant review panel, composed of Department of Education staff members, shall meet once each year at the close of the application period to review applications.

8.0 Student Loan Program - The Student Loan Program is for Delaware residents who are accepted into an institution of higher learning to be trained as a teacher in the critical area of teacher shortage as determined by the Department of Education. A student selected for the program may attend any accredited college or university in the United States where the appropriate training will result in certification as a teacher for a critical area of teacher shortage as determined by the Department of Education.

8.1 Eligibility

8.1.1 The candidate shall have been a Delaware resident for a period of one year at the time of application.

8.1.2 The candidate shall have Scholastic Aptitude Test (SAT) scores of 500 verbal and 500 quantitative. Candidates already in a college or university program must be maintaining a "C" average or better in courses in the critical curriculum areas.

8.1.3 The candidate shall have been admitted to an accredited college or university program directed toward certification in a critical curricular area as determined by the Department of Education.

8.1.4 The candidate shall submit a completed application and other documentation and information by the specified date for application.

8.2 Financial Aid

8.2.1 Student Loan Program participants shall receive a loan, the amount to be determined by the Department of Education, for one year's study, less scholarship aid available from other sources.

8.2.2 The loan may be renewed from year to year through a four-year training program.

8.2.3 Participants in the Student Loan Program

shall execute a promissory note, in the amount of the loan, to the State Treasurer. The entire note will be forgiven on the basis of two years of teaching in a Delaware public school in a critical curriculum area for each year of loan granted.

8.2.4 Each year of the loan will be interest-free to those who meet the two-year teaching obligation for each year of loan granted.

8.2.5 In the event that the participant does not graduate, does not continue to study in the critical curriculum area, or does not meet the teaching obligation, the entire loan, with interest specified by the State Treasurer, shall be due and payable. Payment of the note and interest shall be in accordance with the time schedule specified in the note.

8.2.5.1 Pursuant to 14 Del.C. 1108(b) an exception may be made to 8.2.5 of this regulation in that the loan may be forgiven by the Secretary of Education if it is determined that the recipient is unable to meet his or her payment obligation because of total and permanent disability or death. For purposes of this regulation, total and permanent disability shall mean the loan recipient is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death. In order to qualify for this exception the loan recipient must provide documentation that has been completed, signed and certified by a licensed doctor of medicine or doctor of osteopathy with the following information:

"I certify, in my best professional judgment, the loan recipient _____ is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death. I understand that any recipient able currently or in the future to work and earn money, even on a limited basis, is not considered to have a Total or Permanent Disability.

I am a (check one) _____ doctor of medicine _____ doctor of osteopathy legally authorized to practice in the state of _____ and my professional license number issued by that state is _____.

Physician's signature Name (printed) Date

Address City, State, Zip
() "

Telephone

In the case of death, a surviving family member must provide a certified copy of the death certificate.

8.3 Selection Procedures

8.3.1 Participants shall be selected competitively from the eligible applicants for the program within the limits of the funds authorized for the program.

8.3.2 The applicant review panel, composed of

Department of Education staff members, shall meet twice each year at the close of the application period for each semester to review applications.

See 3 DE Reg. 100 (7/1/99)

REGULATORY IMPLEMENTING ORDER

245 Michael C. Ferguson Achievement Awards Scholarship

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education intends to amend section 1.0 of regulation 245 Michael C. Ferguson Achievement Awards Scholarship. The amendment clarifies the issue of scholarship eligibility for students repeating the eighth grade.

Notice of the proposed regulation was published in the News Journal on November 25, 2003 and in the Delaware State News on November 24, 2003, in the form hereto attached as *Exhibit "A"*. No comments were received.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend this regulation in order to clarify the issue of scholarship eligibility for students repeating the eighth grade.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend the regulation. Therefore, pursuant to 14 Del.C. §153, the regulation attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 Del.C. §122(e), the regulation 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 the regulation amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** §245 in the *Regulations of the Department of Education*.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 Del.C. §153 on January 7, 2004. 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 7th day of January 2004.

Department of Education
Valerie A. Woodruff, Secretary of Education

**245 Michael C. Ferguson Achievement Awards
Scholarship**

The Michael C. Ferguson Achievement Awards Scholarship Program, included in the Educational Accountability Act of 1998, recognizes students who demonstrate superior performance on the assessments administered pursuant to 14 **Del. C.** Section 153 (c).

1.0 Subject to available funding, the Michael C. Ferguson Achievement Awards shall be made based on the student's score on the results of the annual spring administration of the Delaware Student Testing Program. Scores from re-testing shall not be considered. Students who have completed the eighth grade prior to first participating in the eighth grade assessment(s) pursuant to 14 Del.C. §151 shall not be eligible to receive an eighth grade scholarship. The Scholarships may be awarded to a maximum of 300 eighth grade students in the content areas of reading, writing and mathematics and to a maximum of 300 tenth grade students in the content areas of reading, writing, and mathematics.

1.1 The highest scoring eighth and tenth grade students in the state in reading, in writing and in mathematics shall receive the scholarships.

1.1.1 The eighth grade awards may be given to a maximum of 150 students in the areas of reading, writing and mathematics. The number of awards shall be as close to fifty in each area as possible and the unassigned awards shall be awarded in the priority order of reading, mathematics and writing.

1.1.2 The tenth grade awards may be given to a maximum of 150 students in the areas of reading, writing and mathematics. The number of awards shall be as close to fifty in each area as possible and the unassigned awards shall be allocated in the priority order of reading, mathematics and writing.

1.2 The highest scoring eighth and tenth grade students in the state in reading, in writing and in mathematics, who participate in the free and reduced lunch program and who are not already identified as one of the students in section 1.1. shall receive the scholarships.

1.2.1 The eighth grade awards may be given to a maximum of 150 students in the areas of reading, writing and mathematics. The number of awards shall be as close to fifty in each area as possible and the unassigned awards shall be allocated in the priority order of reading, mathematics and

writing.

1.2.2 The tenth grade awards may be given to a maximum of 150 students in the areas of reading, writing and mathematics. The number of awards shall be as close to fifty in each area as possible and the unassigned awards shall be allocated in the priority order of reading, mathematics and writing.

1.3 A Foreign Exchange student who is on a temporary visa is not eligible to receive the Michael C Ferguson Achievement Award Scholarship.

2.0 Students may receive a scholarship in more than one content area and may also receive scholarships for their 8th and their 10th grade scores.

3.0 The Michael C. Ferguson Scholarship Award can only be used at a regionally or nationally accredited post secondary institution or at a Delaware or other state approved private business and trade school in the United States of America. The award cannot exceed direct educational costs.

4.0 All scholarship awards shall be deposited in an account at the Delaware Higher Education Commission in an interest bearing account. Interest earned shall be utilized by the Department of Education and/or Delaware Higher Education Commission to offset administrative expenses associated with the program.

4.1 Funds deposited for scholarships through the Michael C. Ferguson Achievement Awards shall cease to be available to the recipient if the recipient does not attend a post secondary institution within five calendar years after graduating from high school.

4.2 It is the responsibility of the parent or guardian to notify the Higher Education Commission of any change of address during the scholarship eligibility period. Students may receive their scholarship awards even if they are living in another state at the time they attend a post secondary institution.

4.3 The Department of Education shall annually announce the winners of Michael C. Ferguson Scholarships.

4.4 The Delaware Higher Education Commission shall send a "Request for Information" form to Michael C. Ferguson Scholarship recipients annually to update their account information

4.4.1 The Delaware Higher Education Commission shall send enrollment verification forms to institutions identified by recipients. When completed verification forms are received by the Delaware Higher Education Commission, disbursement of scholarship funds will be made to the institution.

4.4.2 If a student does not plan to attend a post secondary institution immediately after high school

graduation, it is the student parent or guardian's responsibility to provide timely notification to the Delaware Higher Education Commission prior to enrollment in order to receive payment of the scholarship.

4.4.3 Recipients may defer all or a portion of payment of Michael C. Ferguson Scholarships beyond their first post secondary year, but must assume the responsibility to notify the Delaware Higher Education Commission of their plans to claim the Scholarship, and may not extend payment beyond the five year limit.

See 4 DE Reg. 224 (7/1/00)

REGULATORY IMPLEMENTING ORDER

707 Salary Continuation: Operation Noble Eagle and Enduring Freedom

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education intends to repeal regulation 707 Salary Continuation: Operation Noble Eagle and Enduring Freedom. The repeal is necessary because Senate Bill 169 of the 142nd General Assembly amended Title 14 Section 1327 concerning pay for "principals, teachers or other school employee taking a leave of absence who as a member of the Delaware National Guard or a United States military reserve organization, that has been ordered to active duty by Presidential determination to augment active forces for any operational mission". This amendment, in addition to broadening the reference to "any operational mission" instead of a specific military operation, designated the State Personnel Office as the entity to make the rules and regulations necessary to implement the pay provisions of the law and not the Department of Education as was previously indicated in Title 14 Section 1327 of the Code.

Notice of the proposed regulation was published in the News Journal on November 25, 2003 and in the Delaware State News on November 24, 2003, in the form hereto attached as *Exhibit "A"*. No comments were received.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to repeal this regulation because Senate Bill 169 of the 142nd General Assembly amended Title 14 Section 1327 concerning pay for "principals, teachers or other school employee taking a leave of absence who as a member of the Delaware National Guard or a United States military reserve organization, that has been ordered to active duty by Presidential determination to augment active forces for any operational mission".

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to repeal the regulation. Therefore, pursuant to 14 Del.C. §122, the regulation attached hereto as *Exhibit "B"* is hereby repealed.

IV. TEXT AND CITATION

The text of the regulation repealed hereby shall be in the form attached hereto as *Exhibit "B"*, removed from the *Regulations of 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 January 7, 2004. 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 7th day of January 2004.

Department of Education

Valerie A. Woodruff, Secretary of Education

~~707 Salary Continuation: Operation Noble Eagle and Enduring Freedom~~

~~1.0 Principals, teachers and other employees of a school district called to active military service in connection with Operation Noble Eagle and/or Operation Enduring Freedom shall be eligible for continuation of their state share of salary, less any military compensation received during the initial period of active duty.~~

~~2.0 Employees receiving continuation of their state share of salary shall be placed either on a "Military Leave Without Pay" if they are to receive their pay when they return from active duty or on a "Military Leave With Pay" if they are to receive their biweekly pay while on active duty. They will not accumulate holidays, sick leave, or annual leave while in a leave status. In accordance with state and federal statutes, employees will be credited with state service for the amount of time on military leave upon their return to active employment.~~

~~3.0 The amount of salary continuation provided through this regulation shall apply to the state share of salary only. However, a local school district may elect to provide salary continuation for the local district portion of the employee's salary.~~

~~3.1 The state share of compensation shall be limited to the state share of the base salary as calculated from the appropriate salary schedule, administrative supplements and all other stipends as provided for in 14 Del. C. Chapter 13.~~

~~3.2 Military compensation shall include base salary, basic allowance for quarters (BAQ), basic allowance for subsistence (BAS), hazardous duty pay and all other supplemental compensation. The military compensation shall be multiplied by the ratio of state share of compensation to total compensation in determining the state portion of the salary continuation.~~

~~3.3 Salary continuation checks shall be subject to applicable federal, state, and city of Wilmington taxes and FICA, if the employee is in a FICA eligible position. Pension contributions, if the employee is in a pension eligible position, and garnishments will also be made from the salary continuation checks. Other deductions from the salary continuation checks will be made in accordance with Department of Education guidelines.~~

~~4.0 Claims must be filed within 90 days of release from active duty or by Tuesday November 12, 2002, whichever is later.~~

~~4.1 Salary continuation shall be effective retroactive to September 11, 2001.~~

~~4.2 The request for continuation of salary shall be initiated by the employee. Employees must contact the school district personnel office for a copy of the forms and instructions for filing a claim.~~

~~4.3 Districts shall process claims in accordance with the procedures and forms developed by the Department of Education.~~

**BEFORE THE STATE BOARD OF EDUCATION OF
THE STATE OF DELAWARE**

PROFESSIONAL STANDARDS BOARD

REGULATORY IMPLEMENTING ORDER

**1507 PROFESSIONAL GROWTH SALARY
INCREMENTS**

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

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to adopt regulation 1507 Professional Growth Salary Increments. It is necessary to adopt this regulation in order to implement movement by educators on the salary schedule set forth in 14 **Del.C.** §1305. This regulation addresses movement from one column to another based on the satisfactory completion of graduate level course work toward a master's degree or graduate level course work completed toward a second master's degree, a doctorate, or directly related to an educator's job assignment.

Notice of the proposed adoption of the regulation was published in the News Journal and the Delaware State News on November 26, 2003, in the form hereto attached as Exhibit "A". The notice invited written comments. Comments received from the State Board of Education have been considered, and changes have been incorporated into the regulation to address those comments.

II. FINDINGS OF FACTS

The Professional Standards Board and the State Board of Education find that it is appropriate to adopt this regulation to comply with changes in statute regarding educators' movement on the salary schedule set forth in 14 **Del.C.** §1305.

III. DECISION TO ADOPT THE REGULATION

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is appropriate to adopt the regulation. Therefore, pursuant to 14 **Del.C.** §1205(b), the regulation attached hereto as Exhibit "B" is hereby adopted. Pursuant to the provision of 14 **Del.C.** §122(e), the regulation 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 the regulation amended shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** §1507 in the *Regulations of the Department of Education*.

V. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten (10) days from the date this Order is published in the Delaware Register of Regulations.

**APPROVED BY THE PROFESSIONAL
STANDARDS BOARD THE 8TH DAY OF JANUARY,
2004**

Harold Roberts, Chair	Sharon Brittingham
Heath Chasanov	Patricia Clements
Edward Czerwinski	Karen Gordon
Barbara Grogg	Bruce Harter
Leslie Holden	Claudia Lawson
Mary Maribeau	John Pallace
Karen Schilling Ross	Carol Vukelich
Geraldine A. Williams	

FOR IMPLEMENTATION BY THE
DEPARTMENT OF EDUCATION:

Valerie A. Woodruff, Secretary of Education

IT IS SO ORDERED THIS 15TH DAY OF JANUARY,
2004

STATE BOARD OF EDUCATION

Dr. Joseph A. Pika, President
Jean W. Allen, Vice President
Richard M. Farmer, Jr.
Mary B. Graham, Esquire
Valarie Pepper
Dennis J. Savage
Dr. Claibourne D. Smith

1507 Professional Growth Salary Increments
(Effective 7/1/04)

1.0 Content: This regulation shall apply to professional growth salary increments for educators, pursuant to 14 Del. C. § 1305 (q).

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

“Critical needs areas” means content, specialty, or administrative areas identified by the Department as areas of shortage in Delaware schools.

“Department” means the Delaware Department of Education.

“Educator” means a public school employee who holds a license issued under the provisions of 14 Del.C., Chapter 12, and includes teachers, specialists, and administrators, and as otherwise defined by the Standards Board and State Board, but does not include substitute teachers.

“Graduate level course” means any course which is awarded graduate level credit by a regionally accredited college or university.

“Graduate level course of study” means a non-matriculated but focused and coherent program of study (e.g., a certificate program) which is directly linked to professional responsibilities.

“Matriculated graduate credit” means credit earned from a regionally accredited college or university earned toward a master's degree or a doctorate degree.

“Standards Board” means the Professional Standards Board established pursuant to 14 Del.C. § 1201.

“State Board” means the State Board of Education of the State pursuant to 14 Del.C. §104.

3.0 Educators who hold a bachelor's degree and who are enrolled in a master's degree program at a regionally

accredited college or university may accrue graduate level credits toward salary increments on the basic salary schedule for educators, set forth in 14 Del.C., § 1305 (a). No credits earned prior to the conferring of a bachelor's degree may be applied toward movement on the salary schedule. Credits shall be applied in the order in which they were taken and no credit may be applied more than once toward movement on the salary schedule.

3.1 Educators enrolled in a master's degree program at an accredited college or university may apply for movement to the bachelor's plus 15 column of the basic salary schedule for educators, set forth in 14 Del.C., §1305 (a), upon completion of 15 graduate credits toward a master's degree.

3.2 Educators enrolled in a master's degree program at an accredited college or university may apply for movement to the bachelor's plus 30 column of the basic salary schedule for educators, set forth in 14 Del.C., §1305 (a), upon completion of 30 graduate credits toward a master's degree.

3.3 Upon completion of a master's degree program at an accredited college or university, an educator may apply for movement to the master's degree column of the basic salary schedule for educators, set forth in 14 Del.C., § 1305 (a).

4.0 Educators who hold a master's degree may accrue credits beyond the master's degree toward salary increments toward a master's degree plus 15 graduate credits, a master's degree plus 30 graduate credits, a master's degree plus 45 graduate credits, or a doctorate degree on the basic salary schedule for educators, set forth in 14 Del.C., §1305 (a). All credits taken must be graduate level and must be:

4.1 Earned through a graduate-level course of study clearly related to the educator's professional responsibilities and otherwise approved pursuant to 14 Del.C., Chapter 12, or

4.2 Earned toward a second master's degree, or

4.3 Matriculated graduate credits earned toward a doctorate degree.

5.0 Use of Undergraduate and In-service Credits.

5.1 Educators entitled to rightward movement on the basic salary schedule for educators, set forth in 14 Del.C. § 1305 (a), on the basis of in-service or undergraduate credits approved prior to July 1, 2004, shall continue to be entitled to such movement in the event of any future application for movement submitted after July 1, 2004.

5.1.1 For example, an educator who holds a bachelor's plus 15 or a bachelor's plus 30 approved prior to July 1, 2004 and based entirely on in-service or undergraduate credits, shall be entitled to move to a master's plus 15 or master's plus 30, whichever is applicable, upon completion of a master's degree program.

5.1.2 In order to use undergraduate credits toward a salary increment on the basic salary schedule for

educators, set forth in 14 **Del.C.**, § 1305 (a), the credits must be completed by, and the application for salary increment submitted to, and approved by, the Office of Professional Accountability by June 30, 2004. Undergraduate credits will not be accepted for plus 15, 30 or 45 salary increments after June 30, 2004.

5.1.3 In order to use in-service credits toward a salary increment on the basic salary schedule for educators, set forth in 14 **Del.C.**, §1305 (a), the credits must be completed by, and the application for salary increment submitted to, and approved by, the Office of Professional Accountability by June 30, 2004. In-service credits will not be accepted for plus 15, 30 or 45 salary increments after June 30, 2004.

6.0 All credits must be expressed in terms of semester hours. College or university credits expressed in quarter hours will be converted by the Department to semester hours by multiplying the number of quarter hours by two-thirds.

7.0 Acceptable Grades

7.1 All grades for graduate level credit submitted for a professional growth salary increments must be a grade of [~~"C"~~ "B"] or better [or satisfy the granting institution's standard for graduate level work. ~~from the granting institution.~~] In the case of credits earned on a pass-fail basis, a grade of "pass" is acceptable.

8.0 Trade and Industry teachers: A bachelor's degree equivalent for trade and industry teachers shall be two years of college and six years of work experience (14 **Del.C.**, §1301). Undergraduate credit in a matriculated bachelor's degree may be accepted in lieu of graduate credit for trade and industry teachers who do not hold a bachelor's degree. Initial placement on the basic salary schedule for educators, set forth in 14 **Del.C.**, §1305, for trade and industry teachers who have completed two years of college and six years of work experience, is at the bachelor's degree level. In order to be eligible for movement on the basic salary schedule, trade and industry teachers must possess a standard certificate.

8.1 Movement beyond the bachelor's degree level on the basic salary schedule for trade and industry teachers shall apply as follows:

8.1.1 75 credits toward a bachelor's degree is equivalent to a bachelor's degree plus 15 credits.

8.1.2 90 credits toward a bachelor's degree is equivalent to a bachelor's degree plus 30 credits.

8.1.3 A bachelor's degree is equivalent to a master's degree on the basic salary schedule.

8.1.4 A master's degree is equivalent to a master's degree plus fifteen credits on the basic salary schedule.

8.1.5 A master's degree plus fifteen credits is

equivalent to a master's degree plus 30 credits on the basic salary schedule.

8.1.6 A master's degree plus thirty credits is equivalent to a master's degree plus 45 credits on the basic salary schedule.

8.1.7 A master's degree plus 45 credits is equivalent to a doctorate degree on the basic salary schedule.

9.0 Graduate credits which are included in the approved Alternative Routes to Certification program, as defined in subchapter VI, Chapter 12 of Title 14 of the Delaware Code, are recognized as a graduate level course of study and may be applied by educators who hold master's degrees and who are enrolled in the approved alternative routes program toward a master's degree plus 15 credits, a master's degree plus 30 credits, a master's degree plus 45 credits or a doctorate degree on the basic salary schedule for educators, set forth in 14 **Del.C.**, §1305 (a).

10.0 An applicant for a professional growth salary increment must hold a limited standard, standard or professional status certificate issued pursuant to General Regulations for Certification of Professional Public School Personnel and the specific regulations as adopted for certification effective July 1, 1993, or an initial, continuing, or advanced license issued by the Department in accordance with Subchapter III of Chapter 12 of Title 14 of the Delaware Code. An educator employed on an emergency certificate pursuant to 14 DE Admin. Code 1515 is eligible to receive a salary increment.

11.0 Acceptable Professional Degrees.

11.1 In order to be applicable to professional growth salary increments, master's and doctorate degrees must be directly related to an area or specialty in which the educator is employed, which has been identified as a critical needs area in K-12 education, or which the district or charter school, if applicable, in which the educator is employed has requested the educator to pursue. Any such request from a district or charter school, if applicable, must be in writing and must be submitted with the completed application for a salary increment.

12.0 Application Procedures.

12.1 Upon completion of the credits required for movement on the basic salary schedule for educators, set forth in 14 **Del.C.**, §1305 (a), an applicant may apply for a salary increment. No applications will be considered prior to the completion of credits necessary for movement on the salary schedule.

12.1.1 An applicant shall secure the proper form from the local school district or charter school office, complete the form, and return it to the school district office for transmittal to the Office of Professional Accountability.

12.1.2 The applicant shall arrange for official transcripts to be submitted by the college or university directly to the Office of Professional Accountability or delivered by the applicant in an unopened, unaltered envelope.

12.1.3 An application for a salary increment for the current fiscal year (July 1 – June 30) must be received in the Office of Professional Accountability no later than June 1. This date is necessary to allow adequate time for evaluation and notification to the district payroll office for salary adjustment. Applications received after June 1 will be approved effective the first day of the next fiscal year.

13.0 Effective Date of Salary Adjustment

13.1 The salary adjustment shall be made after the evaluation and approval of the candidate's application by the Office of Professional Accountability. The adjustment will be authorized to be made retroactive to the first of the month following the date certified by transcript or official grade slip as to when the program or credit was completed. This date is necessary to allow adequate time for evaluation and notification to the district payroll office for salary adjustment. Applications received after June 1 will be approved effective the first day of the next fiscal year.

13.2 Retroactive salary adjustment may be by a single payment or by payments divided equally among all the pay periods remaining in a current fiscal year as may be determined by the district or state fiscal officers.

13.3 No salary increment shall be retroactive to a prior fiscal year.

PROFESSIONAL STANDARDS BOARD

REGULATORY IMPLEMENTING ORDER

1516 STANDARD CERTIFICATE

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to amend regulation 1516 Standard Certificate from the *Regulations of the Department of Education*. The regulation concerns the requirements for certification of educational personnel. It is necessary to amend this regulation to address ways in which educators may acquire the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a recognized educator preparation program of from a NASDTEC approved educator preparation program offered by a regionally

accredited college or university outside the State of Delaware. The definition of educator is expanded to include specialists. A clarification is made that an individual under investigation by another state will not be issued a certificate until there is a favorable resolution to the investigative proceeding. The date by which all requirements must be met by individuals working on limited standard or temporary certificates is changed from 2009 to 2008.

Notice of the proposed amendment of the regulation was published in the News Journal and the Delaware State News on November 26, 2003, in the form hereto attached as Exhibit "A". The notice invited written comments. No comments were received.

II. FINDINGS OF FACTS

The Professional Standards Board and the State Board of Education find that it is appropriate to amend this regulation to comply with changes in statute regarding the certification of educators.

III. DECISION TO ADOPT THE REGULATION

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is appropriate to amend the regulation. Therefore, pursuant to 14 Del.C. §1205(b), the regulation attached hereto as Exhibit "B" is hereby adopted. Pursuant to the provision of 14 Del.C. §122(e), the regulation 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 the regulation amended shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** §1516 in the *Regulations of the Department of Education*.

V. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten (10) days from the date this Order is published in the Delaware Register of Regulations.

**APPROVED BY THE PROFESSIONAL
STANDARDS BOARD THE 8TH DAY OF JANUARY,
2004**

Harold Roberts, Chair	Sharon Brittingham
Heath Chasanov	Patricia Clements
Edward Czerwinski	Karen Gordon
Barbara Grogg	Bruce Harter

Leslie Holden Claudia Lawson
Mary Maribeau John Pallace
Karen Schilling Ross Carol Vukelich
Geraldine A. Williams

**FOR IMPLEMENTATION BY THE
DEPARTMENT OF EDUCATION:**

Valerie A. Woodruff, Secretary of Education

**IT IS SO ORDERED THIS 15TH DAY OF JANUARY,
2004**

STATE BOARD OF EDUCATION

Dr. Joseph A. Pika, President
Jean W. Allen, Vice President
Richard M. Farmer, Jr.
Mary B. Graham, Esquire
Valarie Pepper
Dennis J. Savage
Dr. Claibourne D. Smith

1516 Standard Certificate

1.0 Content: This regulation shall apply to the issuance of a standard certificate, pursuant to 14 Del.C. §1220(a).

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

“Certification” means the issuance of a certificate, which may occur regardless of a recipient’s assignment or employment status.

“Department” means the Delaware Department of Education.

“Educator” means a public school employee who holds a license issued under the provisions of 14 Del.C., Chapter 12, and includes teachers, specialists, and administrators, and as otherwise defined by the Standards Board and the State Board pursuant to 14 Del.C., §1203, but does not include substitute teachers.

“Examination of content knowledge” means a standardized test which measures knowledge in a specific content area.

“License” means a credential which authorizes the holder to engage in the practice for which the license is issued.

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

“Standards Board” means the Professional Standards Board established pursuant to 14 Del.C. §1201.

“State Board” means the State Board of Education of

the State pursuant to 14 Del.C. §104.

3.0 The Department shall issue a standard certificate to an educator who holds a valid Delaware initial, continuing or advanced license; or limited standard, standard, or professional status certificate issued prior to August 31, 2003, who has:

3.1 Acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a standard certificate is requested; or

3.1.2 Meeting the requirements set forth in the relevant Department or Standards Board regulation governing the issuance of a standard certificate in the area for which a standard certificate is sought; or

3.1.3 ~~[Graduating from an NCATE specialty organization recognized educator preparation program or from a NASDTEC approved educator preparation program, either of which must be offered by a regionally accredited college or university, with a major in the area of the standard certificate requested; or Graduating from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university, with a major in the area of the standard certificate requested, or~~

3.1.4 Graduating from a state approved educator preparation program offered by a regionally accredited college or university, with a major in the area of the standard certificate requested, where the state approval body employed the appropriate NCATE specialty organization standards.

3.1.5 Obtaining Meritorious New Teacher Candidate Designation in the area, subject, or category for which a standard certificate is requested.]

3.2 Graduating from an educator preparation program offered by a Delaware higher education institution approved by the Department pursuant to 14 DE Admin. Code 399, with a major in the area of the standard certificate requested; or

3.3 Achieving a passing score on a Praxis II examination in the area requested. This section is subject to the establishment of passing scores for Praxis II examinations by the Department and their approval by the Standards Board, with concurrence from the State Board; or

3.4 Holding a valid and current certificate from another state in the area for which a standard certificate is sought.

3.4.1 A “valid and current certificate from another state” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

3.4.2 ~~[A certificate will not be issued to an~~

~~individual who is under investigation by another state until there is a favorable resolution of that proceeding.~~
The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials, until the applicant provides evidence of the investigation's resolution.

3.4.2.1 "Immorality" means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness.]

4.0 Educators may hold certificates in more than one area.

5.0 An applicant for a standard certificate shall submit: ~~evidence of (1) a bachelors degree from a regionally accredited 4 year college or university; (2) official transcripts and, if applicable,~~

5.1 official transcripts; or

5.2 official scores on the Praxis II examination; or

5.3 evidence of passage of the National Board for Professional Teaching Standards Certificate; or

5.4 an official copy of the out-of-state license or certification, if applicable.

5.5 If applied for simultaneously with application for an initial license, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

6.0 If an applicant holds a valid initial, continuing, or advanced Delaware license; or a limited standard, standard or professional status certificate issued prior to August 31, 2003 and is requesting additional standard certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill and/or education required for the additional standard certificate requested is required.

7.0 This regulation shall apply to all requests for issuance of a standard certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current professional status certificate or standard certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License. The Department shall also recognize a limited standard certificate or temporary certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with

the limited standard or temporary certificate. Requirements must be completed by the expiration date of the limited standard or temporary certificate, but in no case later than December 31, 2009 ~~8~~.

8.0 A standard certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's initial, continuing, or advanced license or limited standard, standard, or professional status certificate is revoked in accordance with 14 **DE Admin. Code** 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

9.0 The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a standard certificate on an individual basis and grant a standard certificate to an applicant who otherwise does not meet the requirements for a standard certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

PROFESSIONAL STANDARDS BOARD

REGULATORY IMPLEMENTING ORDER

1584 PERMITS – SCHOOL, CLASSROOM AIDES AND AUTISTIC RESIDENTIAL CHILD CARE SPECIALISTS

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to amend regulation 1584 Permits – School, Classroom Aides and Autistic Residential Child Care Specialists. It is necessary to amend this regulation due to changes in federal statute, particularly *No Child Left Behind* and its requirements for Title I paraeducators, regarding the qualifications and training of paraeducators. Amending this regulation also requires the repeal of regulation 379 Certification Paraprofessional, as the content of regulation 379 has been incorporated into regulation 1584 as amended. The amended regulation will also be renamed *Permits – Paraeducators* to reflect the statutory changes.

Notice of the proposed amendment of the regulation was published in the News Journal and the Delaware State News on November 26, 2003, in the form hereto attached as Exhibit "A". The notice invited written comments. Public comment was received from the State Council for Persons with Disabilities and from the Governor's Advisory Council for Exceptional Citizens. Both groups considered the definition of "paraeducator" to be too broad, thought 15 hours of professional development was insufficient, and recommended that the requirements for Title I paraeducators be extended to all paraeducators. These comments were all considered in the drafting of this regulation, and it is not recommended that any of the recommendations be included in the regulation at this time.

II. FINDINGS OF FACTS

The Professional Standards Board and the State Board of Education find that it is appropriate to amend this regulation to comply with changes in statute regarding the qualifications and training of paraeducators.

III. DECISION TO ADOPT THE REGULATION

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is appropriate to amend the regulation. Therefore, pursuant to 14 **Del.C.** §1205(b), the regulation attached hereto as Exhibit "B" is hereby adopted. Pursuant to the provision of 14 **Del.C.** §122(e), the regulation 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 the regulation amended shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** §1584 in the *Regulations of the Department of Education*.

V. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten (10) days from the date this Order is published in the Delaware Register of Regulations.

APPROVED BY THE PROFESSIONAL STANDARDS BOARD THE 8TH DAY OF JANUARY, 2004

Harold Roberts, Chair	Sharon Brittingham
Heath Chasanov	Patricia Clements
Edward Czerwinski	Karen Gordon

Barbara Grogg	Bruce Harter
Leslie Holden	Claudia Lawson
Mary Maribeau	John Pallace
Karen Schilling Ross	Carol Vukelich
Geraldine A. Williams	

FOR IMPLEMENTATION BY THE DEPARTMENT OF EDUCATION:

Valerie A. Woodruff, Secretary of Education

IT IS SO ORDERED THIS 15TH DAY OF JANUARY, 2004

STATE BOARD OF EDUCATION

Dr. Joseph A. Pika, President
Jean W. Allen, Vice President
Richard M. Farmer, Jr.
Mary B. Graham, Esquire
Valarie Pepper
Dennis J. Savage
Dr. Claibourne D. Smith

~~379 Certification Paraprofessional~~

~~Effective July 1, 1993~~

~~1.0 The following shall be required for License Level I for Pre-kindergarten-12. However, it is not required for employment in any non-professional position.~~

~~1.1 High school diploma from an accredited secondary school or its equivalent and;~~

~~1.2 Three years of successful full-time experience in the Delaware public school system and;~~

~~1.3 Professional Preparation to include a minimum of 15 semester hours of college level coursework in education and/or coursework related to the area in which the individual is currently employed.~~

~~2.0 The following shall be required for License Level II.~~

~~2.1 High school diploma from an accredited secondary school or its equivalent and;~~

~~2.2 Three years of successful, full-time experience in the Delaware public school system and;~~

~~2.3 Professional Preparation to include a minimum of 30 semester hours of college level coursework in education and/or coursework related to the area in which the individual is currently employed.~~

~~3.0 The following shall be required for License Level III~~

~~3.1 High school diploma from an accredited secondary school or its equivalent and;~~

~~3.2 Three years of successful full-time experience in the Delaware public school system and;~~

~~3.3 Professional Preparation to include a minimum of~~

60 semester hours or an Associate's degree from a regionally accredited institution in any field. At least 15 semester hours of coursework in the area of education shall be a part of the Associate's degree or may be taken in addition to the degree.

1584 Permits – School, Classroom Aides And Autistic Residential Child Care Specialists

Effective October 11, 2001

1.0 The following shall be required for a Permit.

1.1 A permit shall be required for all persons hired either full time or part time as a school aide, classroom aide, or autistic residential child care specialist, regardless of funding source (state, federal, local or other funding).

1.1.1 Qualifications include evaluated experience and training that shall emphasize skills relevant to the position as well as giving consideration to unique personal qualifications. Applicants shall be at least 18 years of age.

1.2 Categories of Functions shall include those persons participating in non-teaching activities such as:

1.2.1 Classroom Aides – assisting classroom teachers in activities that support the teaching process, but are under the supervision of the teacher (such as typing stories, putting on wraps, reading stories, locating reference materials, etc.);

1.2.2 Autistic Residential Child Care Specialists – Assisting in training functions such as domestic, community, self-care, leisure and behavior management activities.

1.3 Credentials

1.3.1 All persons hired under the Permit Program shall be expected to submit to the district, the same credentials as required of other Licensed employees, including the Health License.

1.4 Job Definition

1.4.1 A school district shall be required to submit a job definition for any person hired as an aide or as an autistic residential child care specialist.

See 5 DE Reg. 856 (10/1/01)

1584 Permits Paraeducators

1.0 Content: Pursuant to 14 Del.C. §1205(a) this regulation shall apply to the qualifications required of Title I paraeducators, instructional paraeducators, and service paraeducators employed, either full-time or part-time, in support positions in public schools.

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

“Associate’s or higher degree” means that the degree

is conferred by a regionally accredited institution of higher education or by a distance education institution that is regionally or nationally accredited through an agency recognized by the U.S. Secretary of Education.

“Completed at least 2 years of study at an institution of higher education” means the satisfactory completion of a minimum of 60 semester hours of instruction at a regionally accredited institution of higher education or by a distance education institution that is regionally or nationally accredited through an agency recognized by the U.S. Secretary of Education, in general **[and or]** educational studies, including reading, writing, and mathematics content and pedagogy, unless the institution of higher education defines two years of full-time study as the successful completion of a minimum of 48 semester hours, and provides documentation of such definition.

“Department” means the Delaware Department of Education.

“Instructional paraeducator” means a public school employee who provides one-on-one or small group instruction; assists with classroom management or individual student behavior; provides assistance in a computer laboratory; provides support in a library or media center; assists in training and support with functional skill activities, such as personal care or assistive technology; or provides instructional services to students under the direct supervision of a teacher. Instructional paraeducators are those working with regular education students and students with disabilities in schools other than Title I schoolwide schools or with students not receiving Title I services in Title I targeted assistance schools.

“Paraeducator”, as used herein, means a paraprofessional, as it is used in 14 Del.C. §1205. Paraeducators are not “educators” within the meaning of 14 Del.C. §1202 (6).

“Permit” means a document issued by the Department that verifies an individual’s qualifications and training to serve as a Title I, instructional or service paraeducator.

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

“Service paraeducator” means a public school employee who provides support services other than instructional assistance to students.

“Standards Board” means the Professional Standards Board of the State of Delaware as established in response to 14 Del.C. §1205.

“State Board” means the State Board of Education of the State of Delaware established in response to 14 Del.C. §104.

“Title I paraeducator” means a public school employee who provides one-on-one or small group tutoring; assists with classroom management; provides assistance in a computer laboratory; provides support in a library or media center; or provides instructional services to students under

the direct supervision of a teacher. Additionally, Title I paraeducators are all instructional paraeducators who work with regular students and children with disabilities in Title I schoolwide schools and all Title I paraeducators who work with children receiving Title I services in Title I targeted assistance schools, except those whose duties are limited to acting as a translator or as a home-school liaison.

3.0 Title I Paraeducators. A Title I paraeducator must hold a Title I paraeducator permit.

3.1 The Department shall issue a permit to a Title I paraeducator applicant who submits evidence to his/her district, charter school, or other employing authority of:

3.1.1 completion of at least two years of study in general or educational studies at an institution of higher education; or

3.1.2 receipt of an associate's or higher degree;
or

3.1.3 evidence of a high school diploma or its recognized equivalent, and a passing score on a rigorous assessment of knowledge of, and the ability to assist in, the instruction in reading, writing, and mathematics.

3.1.3.1 Assessments which are accepted as providing evidence of knowledge and ability to assist in the instruction in reading, writing, and mathematics include:

3.1.3.1.1 Para Pro assessment with a qualifying score of 459 or higher.

3.1.3.1.2 Accuplacer Test, if taken before April 1, 2003, with the following qualifying scores:

3.1.3.1.2.1 Mathematics: greater than or equal to a total right score of 94 on arithmetic.

3.1.3.1.2.2 English: greater than or equal to a total right score of 87.

3.1.3.1.2.3 Reading: greater than or equal to a total right score of 78.

3.1.3.1.3 Such alternative as may be established by the Standards Board, with the approval of the State Board.

3.2 Pursuant to the provisions of the *No Child Left Behind Act*, Title I paraeducators hired after January 8, 2002 must meet the requirements set forth in 3.1 immediately.

3.3 Notwithstanding the above, and pursuant to the provisions of the *No Child Left Behind Act*, Title I paraeducators hired before January 8, 2002 must hold a high school diploma or its recognized equivalent and shall have until June 30, 2006 to meet the requirements of 3.1.

3.3.1 Accordingly, Title I paraeducators hired before January 8, 2002 who do not meet the requirements set forth in 3.1 above, with the exception of the high school diploma or its recognized equivalent, shall be issued a Title I paraeducator permit which shall expire on June 30, 2006

unless evidence of meeting the requirements set forth in 3.1 above is provided prior thereto. If such evidence is provided to the Department prior to June 30, 2006, the permit shall expire five years from the date of issuance and may be renewed pursuant to 5.0.

3.4 Application Procedures.

3.4.1 The district, charter school, or other employing authority shall submit the approved application form, official transcripts or official scores on an assessment of knowledge of, and the ability to assist in, the instruction in reading, writing, and mathematics, to the Department on behalf of the applicant. The district, charter school or other employing authority shall certify as part of the application form that the applicant, in their opinion, meets the requirements of 3.0.

3.4.1.1 Official transcripts shall be forwarded directly from the issuing institution or by the applicant in an unopened, unaltered envelope to the district, charter school or other employing authority.

3.4.1.2 Test scores shall be official and sent directly from Educational Testing Service or other test vendor to the district, charter school or other employing authority. Unopened, unaltered envelopes containing test scores sent to an individual may be accepted as official. The Department shall determine whether the scores, as presented, are acceptable.

4.0 All instructional paraeducators and service paraeducators must hold the appropriate permit. The Department shall issue a permit to an instructional paraeducator applicant or a service paraeducator applicant for whom the district, charter school, or other employing authority has submitted a Department approved application form and who provides evidence of a high school diploma or its recognized equivalent.

4.1 Notwithstanding the above, instructional paraeducators and service paraeducators hired before February 11, 2004 and who do not have a high school diploma may be issued the applicable permit which shall expire June 30, 2006 unless evidence of a high school diploma or its recognized equivalent is provided prior thereto. If such evidence is provided prior to June 30, 2006, the permit shall expire five years from the date of issuance and may be renewed pursuant to section 5.0

5.0 Unless stated otherwise herein, a Title I, instructional, or service paraeducator permit shall be valid for five years from the date of issuance. The Department shall renew a paraeducator permit, valid for an additional five years, to a paraeducator whose school district, charter school, or other employing authority provides evidence to the Department of successful completion of a minimum of 15 clock hours of professional development.

5.1 Fifteen clock hours of professional development is

required to be completed during the term of validity of the paraeducator permit.

5.2 Options for Renewal: The following professional development activities are approved options for the renewal of a paraeducator permit. Unless otherwise stated, there is no limit to the number of hours that may be taken in any of the options listed below:

5.2.1 College credit completed at a regionally accredited college or university with a grade of "C" or better or a "P" in a pass/fail course (1 semester hour equals 15 clock hours).

5.2.2 Planned school professional development day (maximum 6 clock hours per day).

5.2.3 Professional conference, workshop, institute, or academy that contributes to the participant's knowledge, competence, performance, or effectiveness as a paraeducator (verified clock hours actively involved in workshop or conference sessions).

5.2.4 Participation on school, district, or state-sponsored committee which has as its focus curriculum, instruction, or school or district improvement (verified clock hours of service or experience).

6.0 An applicant shall disclose his or her criminal conviction history upon application for any paraeducator permit. Failure to disclose a criminal conviction history is grounds for denial or revocation of a paraeducator permit as specified in 14 Del. C. §1219.

7.0 A paraeducator permit may be denied an applicant upon a finding that an applicant is unfit to be issued a permit in the State in accordance with 14 DE Admin. Code 1513 or revoked upon the dismissal of the permit holder for immorality, misconduct in office, incompetence, willful neglect of duty or disloyalty, and must be revoked upon a finding that the permit holder made a materially false or misleading statement in his or her permit application in accordance with 14 DE Admin. Code 1514.

**DEPARTMENT OF FINANCE
OFFICE OF THE STATE LOTTERY**

Statutory Authority: 29 Delaware Code,
Sections 4805(a) & 10115
(29 Del.C. §§4805(a) & 10115)

ORDER

Pursuant to 29 Del.C. §4805(a), the Delaware State Lottery Office hereby issues this Order regarding a proposed amendment to the Lottery Regulations. Following notice and a request for public comments, the Lottery makes the

following findings and conclusions:

Summary Of Evidence And Information Submitted

1. The Lottery posted public notice of the proposed amendment in the Register of Regulations on September 1, 2003 and in two newspapers of general circulation. The Lottery proposed to amend Rule 30(6)(a) pertaining to permitted exemptions to clarify that retailers and license applicants may apply for an exemption to the standards of accessibility.

2. On September 29, 2003, the Lottery received written submissions from Chairperson Rita Landgra of the Delaware State Council for Persons with Disabilities and Chairperson John A. Werner of the Governor's Advisory Council for Exceptional Citizens. Both submissions, almost identical in content, opposed adoption of the proposed Regulation for several reasons including that: i) exemptions should not be granted to new license applicants; ii) legal authority may not authorize the proposed regulation; and, iii) the proposed regulation is inconsistent with the Delaware Equal Accommodations Act, 6 Del.C. chapter 45. The Lottery received no public comments at a hearing held on October 2, 2003.

Findings of Fact and Conclusions

3. The public was given notice and an opportunity to provide the Lottery with comments on the proposed Regulations. The evidence received by the Lottery is summarized in paragraphs #2.

4. The proposed amendments were promulgated by the Lottery Office in accord with its statutory duties and authority as set forth in 29 Del.C. §4805(a). The Lottery has considered the written comments received from the State Council for Persons with Disabilities and the Governor's Advisory Council for Exceptional Citizens in opposition to the proposed regulation. While the Lottery does not question the legality of the proposed regulation, the written comments from the public require further consideration by this agency. The Lottery will therefore withdraw the proposed regulation at this time for further study of the issue.

5. The effective date of this Order shall be ten (10) days from the date of publication of the Order in the Register of Regulations on November 1, 2003.

IT IS SO ORDERED this 3rd day of October, 2003.

*** PLEASE NOTE: IT HAS BEEN REQUESTED BY THE SUBMITTING AGENCY THAT THE FINAL ORDER CONCERNING LOTTERY REGULATIONS BE REPUBLISHED TO EMPHASIZE THAT THE PROPOSED REGULATIONS WERE WITHDRAWN BY THE DEPARTMENT OF FINANCE, OFFICE OF THE STATE LOTTERY.**

**DEPARTMENT OF HEALTH AND
SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES**

Statutory Authority: 31 Delaware Code,
Section 107 (31 Del.C. §107)

ORDER**Nature Of The Proceedings**

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend the Title XIX Medicaid State Plan and the Delaware Medicaid/Medical Assistance (DMAP) Provider Manual to provide for such methods and procedures relating to the utilization of, and payment for physical therapy, occupation therapy, and speech therapy. Specific details of provider participation, criteria and methodology for provider reimbursement, recipient eligibility, and amount, duration and scope of services covered will be included in the provider manual and are summarized below. The Department's proceedings to amend its regulations were initiated pursuant to 29 Delaware Code Section 10114 and its authority as prescribed by 31 Delaware Code Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 Delaware Code Section 10115 in the December 2003 Delaware Register of Regulations, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 31, 2003 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

No comments were received.

Summary Of Proposed Changes

This notice is being given to provide information of public interest with respect to the intent of DSS to submit to the Centers for Medicare and Medicaid Services (CMS) an amendment to the Title XIX Medicaid State Plan and to amend the DMAP Provider Manual. This regulation will allow independent therapists (physical therapists, occupational therapists, and speech/language pathologists) to bill DMAP directly for their services.

Findings Of Fact

The Department finds that the proposed changes as set forth in the December 2003 Register of Regulations should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Title XIX Medicaid State Plan to provide for such methods and procedures relating to the utilization of, and payment for physical therapy, occupation therapy, and speech therapy is adopted and shall be final effective February 10, 2004.

Vincent P. Meconi, Secretary, DHSS, 1/15/2004

Independent Therapist Provider Specific Policy Manual

DISCLAIMER: Health care services are provided to the majority of Medicaid clients through a Managed Care Organization (MCO). Services provided by therapists are included in the MCO benefits package. All Medicaid clients who are enrolled with an MCO must receive therapy services through the MCO. The MCO may require prior authorization for services. Providers must follow the guidelines for prior authorization as determined by the client's MCO.

This manual reflects the policies as they relate to Medicaid clients who are exempt from managed care coverage. A list of clients exempt from managed care coverage is found in the Managed Care Section of the General Policy Manual.

1.0 General Information**1.1 Applicability**

1.1.1 This manual contains policies and procedures to be utilized by therapists who shall include the following provider types:

- Physical Therapist
- Occupational Therapist
- Speech/language Pathologist

1.1.2 All rules and regulations in the General Policy and referenced in the provider contract are applicable to these providers.

1.1.3 All therapy services must be medically necessary and ordered by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law.

1.1.4 Group practices may enroll in the Delaware Medical Assistance Program (DMAP) and use their provider identification number to bill. However, individual therapists who are members of the group must also have individual contracts and individual DMAP provider numbers. The therapist's number must be used to identify the provider performing the service on the claim form submitted by the enrolled group.

1.1.5 Therapists who bill the DMAP for services provided to eligible Medicaid clients are required to verify that they actually rendered the service which is being billed. The following are the documentation requirements to verify the identity of the performing provider:

1.1.5.1 A therapist in a solo practice is not required to sign or initial medical records. However, a therapist who is a substitute or who is covering for a therapist in a solo practice is required to initial the medical record of the Medicaid client for whom services have been provided.

1.1.5.2 A performing therapist in a group practice is required to initial the entry in the client's medical record at the time of service. Any system that a particular office may have in place that identifies the performing provider for each service will be acceptable.

1.1.5.3 Therapists enrolled with the DMAP must countersign the services performed by the associate/assistant they oversee or supervise.

2.0 Physical Therapy Services

2.1 Definition of Physical Therapy

2.1.1 Physical therapy (PT) restores functions, improves mobility, relieves pain, and prevents or limits permanent physical disabilities of patient suffering from injuries or disease.

2.1.2 PT often includes exercise for patients who have been immobilized and lack flexibility, strength, or endurance. Patients are encouraged to use their own muscles to further increase flexibility and range of motion before finally advancing to other exercises improving strength, balance, coordination, and endurance.

2.1.3 PT may include the use of electrical stimulation, hot packs or cold compresses, and ultrasounds to relieve pain and reduce swelling. Traction or deep-tissue massage may be used to relieve pain.

2.1.4 Physical therapists teach patients to use assistive and adaptive devices such as crutches, prostheses, and wheelchairs. They may also show patients exercises to do at home to expedite their recovery.

2.2 Coverage Requirements

2.2.1 The patient must be under the care of a physician. There must be evidence in the clinical record maintained by the therapist that the patient has been seen by the physician at least every 30 days.

2.2.2 The therapy must be furnished under a written plan of treatment established by the physician or therapist caring for the patient (i.e., written either by the physician who makes the plan available to the therapist or by the therapist). The plan must be established before treatment is started. The plan must be signed by the physician or therapist and incorporated into the therapist's permanent record for the patient.

2.2.2.1 The plan must include:

- Diagnosis
- Specific statements of long and short-term goals
- A reasonable estimate of when the goals will be reached

• The specific modalities/procedures to be used in treatment

• The frequency of treatment

2.2.2.2 All changes made to the plan of treatment must be made in writing and signed by the physician or therapist. Oral changes given by the attending physician must be recorded in the patient's record and signed by the therapist receiving the orders. The physician may change the plan of treatment established by the therapist, but the therapist may not alter a plan of treatment established by a physician.

2.2.2.3 The plan must be reviewed by the physician, in consultation with the therapist at such intervals as the severity of the patient's condition requires, but at least every 30 days. Each review of the plan should contain the initials of the physician and the date of review.

2.2.3 The physical therapy must be reasonable and necessary to the treatment of the individual's illness or injury. To be considered reasonable and necessary the following conditions must be met:

2.2.3.1 The services must be considered under accepted standards of medical practice to be specific and effective treatment for the individual's condition.

2.2.3.2 The physical therapy is performed to restore the individual's level of function that has been lost or reduced by illness or injury.

2.2.3.3 The physical therapy services must be a level of complexity and sophistication or the condition of the patient must be such that services required can be safely and effectively performed only by a qualified physical therapist or under his or her supervision. Services which do not require the performance or supervision of a physical therapist are not considered reasonable or necessary.

2.2.4 The following are the most common physical therapy modalities and procedures used in the treatment of patients and are covered services if certain conditions are met:

2.2.4.1 Hot packs, Hydrocollator, Infra-Red Treatments, Paraffin Baths and Whirlpool Baths - These types of therapy will be covered in cases when the skills, knowledge and judgement of a physical therapist is required or where the patient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, or other complications.

2.2.4.2 Gait Training - Gait evaluation and training requires the skills of a qualified physical therapist. The service is furnished to patients whose ability to walk has been impaired by neurological, muscular, or a skeletal abnormality. Gait training is provided with the expectation that it will significantly improve the patient's ability to walk.

2.2.4.3 Ultrasound, Shortwave, and Microwave Diathermy Treatments - Modalities must be performed by or under the supervision of a qualified physical therapist.

2.2.4.4 Range of Motion Tests - Range of motion tests must be performed by a qualified physical therapist.

2.2.4.5 Therapeutic Exercises - Therapeutic exercises must be performed by or under the supervision of a qualified physical therapist. The exercises must be part of the active treatment of a specific disease or injury which has resulted in a loss or restriction of mobility.

2.3 Services Not Covered

2.3.1 Physical therapy services that are not covered include, but are not limited, to:

2.3.1.1 Services related to the general good and welfare of the individual, e.g., general exercises to promote overall fitness and flexibility and activities to provide diversion or general motivation, do not constitute physical therapy.

2.3.1.2 Physical therapy services that do not require the skills or supervision of a qualified physical therapist are not considered reasonable and necessary and therefore, will not be covered.

2.4 Limitations

2.4.1 The amount, frequency, and duration of the PT services must be reasonable and necessary. Refer to Coverage Requirements section for reasonable and necessary conditions that must be met.

2.4.2 DMAP does not reimburse individual therapists directly for PT services provided to nursing home residents. The nursing facility is responsible for providing PT service to residents either directly or through contractual arrangement.

2.4.3 Independent physical therapy services are limited to services provided in the therapist's office or client's home. The patients treated are the therapist's own patients and the therapist collects a fee for the services rendered.

3.0 Occupational Therapy Services

3.1 Definition of Occupational Therapy

3.1.1 Occupational therapy (OT) involves treatment of the physically disabled by means of constructive activities designed to promote the restoration of an individual's ability to perform required daily living tasks and those required by the person's particular occupational role.

3.1.2 OT helps individuals develop, recover, or maintain daily living and work skills as well as improve basic motor functions and reasoning abilities and helps to compensate for permanent loss of function.

3.1.3 Occupational therapists work with individuals who have conditions that are mentally, physically, developmentally, or emotionally disabling to improve their ability to perform tasks in their daily living and working environments.

3.1.3.1 Occupational therapists assist

individuals in performing activities of all types, ranging from using a computer, to caring for daily needs such as dressing, cooking, and eating. Physical exercises may be used to increase strength and dexterity, while paper and pencil exercises may be chosen to improve visual acuity and the ability to recognize or comprehend pattern. An individual with short-term memory loss, for instance, might be encouraged to make lists to aid recall. A person with coordination problems might be assigned exercises to improve hand-eye coordination.

3.1.3.2 Occupational therapists instruct individuals with permanent functional disabilities, such as spinal cord injuries, cerebral palsy, or muscular dystrophy, in the use of adaptive equipment such as wheelchairs, splints, and aids for eating and dressing. An occupational therapist may make special equipment needed at home or at work. They also develop computer-aided adaptive equipment and teach individuals with severe limitation how to use it. This equipment enables the individual to communicate better and to control other aspects of their environment.

3.1.3.3 Occupational therapists in mental health settings treat individuals who are mentally ill, mentally retarded, or emotionally disturbed. To treat these problems, therapists choose activities that help people learn to cope with daily life. Activities include time management skills, budgeting, shopping, homemaking, and use of public transportation. They may also work with individuals who are dealing with alcoholism, drug abuse, depression, eating disorders, or stress related disorders.

3.2 Coverage Requirements

3.2.1 The patient must be under the care of a physician. There must be evidence in the clinical record maintained by the therapist that the patient has seen the physician at least every 30 days.

3.2.2 The service must be appropriate for the treatment of the individual's illness or injury.

3.2.3 The services provided must be restorative or for the purpose of designing and teaching a program for the individual to conduct at home.

3.2.4 The therapy must be furnished under a written plan of treatment established by the physician caring for the patient. The plan must be established (written either by the physician who makes the plan available to the therapist or by the therapist) before treatment begins. The plan must be signed by the physician or therapist and incorporated into the therapist's permanent record for the patient.

3.2.4.1 The plan must include:

- Diagnosis
- Specific statements of long and short-term goals
- A reasonable estimate of when the goals will be reached
- The specific modalities/procedures to

be used in treatment

- The frequency of treatment

3.2.4.2 All changes to the plan must be made in writing and signed by the physician. Oral changes given by the attending physician must be recorded in the patient's record and signed by the therapist receiving the orders. The physician may change the plan of treatment established by the therapist, but the therapist may not alter a plan of treatment established by a physician.

3.2.4.3 The plan must be reviewed by the physician, in consultation with the therapist as such intervals as the severity of the patient's condition's requires, but at least every 30 days. Each review of the plan should contain the initials of the physician and the date of review.

3.2.5 The occupational therapy must be reasonable and necessary to the treatment of the individual's illness or injury. To be considered reasonable and necessary the following conditions must be met:

3.2.5.1 The services must be considered under accepted standards of medical practice to be specific and effective treatment for the individual's condition.

3.2.5.2 The occupational therapy is performed to restore the individual's level of function that has been lost or reduced by illness or injury.

3.2.5.3 The occupational therapy services must be a level of complexity and sophistication or the condition of the patient must be such that services required can be safely and effectively performed only by a qualified physical therapist or under his or her supervision. Services which do not require the performance or supervision of a physical therapist are not considered reasonable or necessary.

3.3 Services Not Covered

3.3.1 Occupational therapy services include but are not limited to OT services which are not intended to improve functions are not covered by the DMAP.

3.4 Limitations

3.4.1 The amount, frequency, and duration of the OT services must be reasonable and necessary. Refer to Coverage Requirements section for reasonable and necessary conditions that must be met.

3.4.2 Independent occupational therapy services are limited to services provided in the therapist's office or client's home. The patients treated are the therapist's own patients and the therapist collects a fee for the services rendered.

3.4.3 The services rendered under occupational therapy shall not be duplicated by physical therapy.

3.4.4 DMAP does not reimburse individual therapists directly for OT services provided to nursing home residents. The nursing facility is responsible for providing OT services to residents either directly or through contractual arrangement.

4.0 Speech/Language Pathology Services

4.1 Definition of Speech/Language Therapy

4.1.1 Speech/language pathology services include assessing, diagnosing, treating, and helping to prevent speech, language, cognitive, communication, voice, swallowing, fluency, and other related disorders.

4.1.2 Speech/language pathologists work with people who:

4.1.2.1 have cognitive communication impairments, such as attention, memory, and problem solving disorders;

4.1.2.2 have speech rhythm and fluency problems, such as stuttering;

4.1.2.3 cannot make speech sounds or cannot make them clearly;

4.1.2.4 have oral motor problems causing eating and swallowing difficulties.

4.1.3 Speech and language problems can result from a variety of conditions including hearing loss, brain injury or deterioration, cerebral palsy, stroke, cleft palate, voice pathology, mental retardation, or emotional disorders. Problems can be congenital, developmental, or acquired. Speech/language pathologists use written and oral tests, as well as special instruments, to diagnose the nature and extent of impairment and to record and analyze speech, language, and swallowing irregularities. For individuals with little or no speech capability, speech/language pathologists may select augmentative or alternative communication methods, including automated devices and sign language, and teach their use. Speech/language pathologists teach individuals how to make sounds, improve their voices, or increase their language skills to communicate more effectively. They help patients develop, or recover, reliable communication skills so patients can fulfill their educational, vocational, and social roles.

4.2 Coverage Requirements

4.2.1 The therapy must be furnished under a written plan of treatment established by the physician or therapist caring for the patient (i.e., written either by the physician who makes the plan available to the therapist or by the therapist). The plan must be established before treatment is started. The plan must be signed by the physician or therapist and incorporated into the therapist's permanent record for the patient.

4.2.1.1 The plan must include:

- Diagnosis
- Specific statements of long and short-term goals
- A reasonable estimate of when the goals will be reached
- The specific modalities/procedures to be used in treatment
- The frequency of treatment

4.2.2 The pathologist shall complete an in-depth

assessment of particular areas that may be problematic. The assessment may include clinical observations and standardized tests. The areas assessed in-depth depend upon what the screening procedures suggest that the "presenting problem" is. If language development appears to be delayed, then the assessment will focus on language areas. If fluency is an issue, then the therapist will evaluate fluency. Some individuals may require detailed speech/language pathology assessments across several areas (i.e., speech AND language AND fluency). The speech/language pathologist views the assessment information in conjunction with the results of testing conducted by other professionals (psychologist, medical practitioners, audiologists, etc.).

4.2.3 Speech/language pathology services must be reasonable and necessary to the treatment of the individual's illness or injury. To be considered reasonable and necessary, the following conditions must be met:

4.2.3.1 The services must be considered under accepted standards of practice to be a specific and effective treatment for the patient's condition;

4.2.3.2 The services must be of such a level of complexity and sophistication, or the patient's condition must be such that the services required can be safely and effectively performed only by or under the supervision of a qualified speech pathologist.

4.2.3.3 The amount, frequency, and duration of the services must be reasonable under accepted standards of practice guidelines as developed by the State chapter of the American Speech/Language/Hearing Association.

4.3 Services Not Covered

4.3.1 Speech/language therapy services not covered include but are not limited to services provided to:

4.3.1.1 individuals with voice quality problems, such as inappropriate pitch or harsh voice and/or;

4.3.1.2 individuals who wish to improve their communication skills by modifying an accent.

4.4 Limitations

4.4.1 DMAP does not reimburse individual therapists directly for speech/language therapy services provided to nursing home residents. The nursing facility is responsible for providing speech/language therapy services to residents either directly or through contractual arrangement.

4.4.2 The amount, frequency, and duration of the speech/language therapy services must be reasonable and necessary. Refer to Coverage Requirements section for reasonable and necessary conditions that must be met.

4.4.3 Independent speech/language pathology services are limited to services provided in the therapist's office or client's home. The patients treated are the therapist's own patients and the therapist collects a fee for the services rendered.

5.0 Reimbursement for Therapy Services

5.1 Methodology

5.1.1 Physical and occupational therapists and speech/language pathologists who are individually enrolled with the DMAP are reimbursed at a set rate using HCPCS procedure codes. Reimbursement rates shall be based on the Medicare Relative Value (RVU).

5.1.2 All necessary supplies and equipment used by the therapist in the course of treatment are included in the reimbursement visit and cannot be billed separately.

5.1.3 Services provided by an occupational therapy assistant, physical therapy assistant, and a speech/language pathology assistant are included in the reimbursement to the qualified therapist/pathologist.

6.0 Billing Information

6.1 Codes

6.1.1 When billing for PT, OT and Speech/language pathology services providers shall use the appropriate Physical Medicine and Rehabilitation CPT procedure codes and specify the diagnosis with accurate ICD-9-CM codes..

6.1.2 When billing for services provided by a physical therapist, it will be necessary to specify the diagnosis that is being treated. For billing purposes, it is necessary to include the medical diagnosis that may differ from the impairment-based diagnosis described in *The Guide to Physical Therapist Practice Patient/Client Management Model*.

ATTACHMENT 3.1-A

Page 4

State DELAWARE

AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

11. Physical therapy and related services.

a. Physical therapy.

Provided: No limitations With limitations*
 Not provided.

b. Occupational therapy.

Provided: No limitations With limitations*
 Not provided.

c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist).

Provided: No limitations With limitations*
 Not provided.

*Limitations indicated on Attachment 3.1-A, Page 4 Addendum

ATTACHMENT 3.1-A
Page 4 Addendum

State DELAWARE

AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

9. Clinic Services

Clinic services are limited to the following:

- medical or rehabilitation clinics (including Mental Health clinics which require certification by the ~~Division of Alcohol, Drug Abuse and Mental Health (DADAMH)~~ Division of Substance Abuse and Mental Health (DSAMH) as part of the Single State Agency for Medicaid) and
- State Licensed Free Standing Surgical Centers (FSSCs) which equate to Federally defined Ambulatory surgical Centers (ACs) using related policies for ACSs described in Sections 2265 and 2266 of the Medicare Carriers Manual.

10. Dental clinic services are available only to EPSDT eligibles.

11. Physical therapy and related services are limited to the following:

a. Physical therapy (PT) services are limited to the amount, frequency, and duration of the PT services and must be reasonable and necessary. DMAP does not reimburse individual therapists directly for PT services provided to nursing home residents. The nursing facility is responsible for providing PT service to residents either directly or through contractual arrangement. Independent physical therapy services are limited to services provided in the therapist's office or client's home. The patients treated are the therapist's own patients and the therapist collects a fee for the services rendered.

b. Occupational therapy (OT) services are limited to the amount, frequency, and duration of the OT services and must be reasonable and necessary. Independent occupational therapy services are limited to services provided in the therapist's office or client's home. The patients treated are the therapist's own patients and the therapist collects a fee for the services rendered. The services rendered under occupational therapy shall not be duplicated by physical

therapy. DMAP does not reimburse individual therapists directly for OT services provided to nursing home residents. The nursing facility is responsible for providing OT services to residents either directly or through contractual arrangement.

c. Speech/Language Pathology Services are limited to the amount, frequency, and duration of the speech/language therapy services and must be reasonable and necessary. Independent speech/language pathology services are limited to services provided in the therapist's office or client's home. The patients treated are the therapist's own patients and the therapist collects a fee for the services rendered. DMAP does not reimburse individual therapists directly for speech/language therapy services provided to nursing home residents. The nursing facility is responsible for providing speech/language therapy services to residents either directly or through contractual arrangement.

ATTACHMENT 4.19-B

Page 21

State DELAWARE

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES – PHYSICAL THERAPY AND RELATED SERVICES

Physical therapy and related services are reimbursed as follows:

Physical and occupational therapists and speech/language pathologists who are individually enrolled with the DMAP are reimbursed at a set rate using HCPCS procedure codes. Reimbursement rates shall be based on the Medicare Relative Value (RVU).

All necessary supplies and equipment used by the therapist in the course of treatment are included in the reimbursement visit and cannot be billed separately.

Services provided by an occupational therapy assistant, physical therapy assistant, and a speech/language pathology assistant are included in the reimbursement to the qualified therapist/pathologist.

When billing for PT, OT and Speech/language pathology services providers shall use the appropriate Physical Medicine and Rehabilitation CPT procedure codes and specify the diagnosis with accurate ICD-9-CM codes.

When billing for services provided by a physical therapist, providers must specify the diagnosis that is being treated. For billing purposes, providers must include the medical diagnosis that may differ from the impairment-based diagnosis described in *The Guide to Physical Therapist Practice Patient/Client Management Model*.

**DEPARTMENT OF SAFETY &
HOMELAND SECURITY**

Statutory Authority: 21 Delaware Code,
Section 302, 2733(a)(4)
(21 Del.C. §§302, 2733(a)(4))

ORDER**SUMMARY OF EVIDENCE**

A properly noticed public hearing was scheduled on December 23, 2003 pursuant to 21 Del.C. §§302 and 2733 and 29 Del.C. ch. 101 in the second floor conference room, Safety and Homeland Security Building, Dover, Delaware to receive public comment on the proposed Safety and Homeland Security Regulation ("Regulation"). The attendance sheet, record of public comments and documents received are attached to this Order.

Testimony was given by Captain Barbara Conley of the Delaware Police stating that the seat belt credit question was discussed in great depth and various options were considered. The reason that violations of § 4176(a) and (b) were chosen for credit is that they did not want to reward aggressive type driving behavior such as speeding. Also it was determined that inattentive and careless driving are the highest causes of accidents and data from previous years supports this conclusion. It was felt that they wanted to reward these less aggressive drivers because if there is a crash, seat belts are being worn. Twenty-five percent of accidents are caused by inattentive drivers, and careless drivers contribute another twenty percent.

Cheryl Roe of the Department of Motor Vehicles described how the credit would be placed on the computer.

FINDINGS OF FACT

Based on the evidence received, the Department of Safety and Homeland Security finds the following facts to supported by the record:

1. Personnel of the Delaware State Police discussed the seat belt credit issue and reviewed the data from traffic accidents.
2. The State Police recommended to the Secretary of Safety and Homeland Security that the moving traffic violations chosen for credit not reward aggressive drivers.
3. The offense of careless driving, § 4176(a) and inattentive driving, § 4176(b) are cited in forty-five percent of motor vehicle accidents.
4. No other more aggressive violation, based on a review of data from the last few years is cited in more than nine to eleven percent of accidents.
5. The Delaware State Police believe that a credit should be given to a violator if all the passengers in a vehicle

being driven in a careless or inattentive manner are wearing seat belts.

6. The period of public comment for this Regulation was extended to January 8, 2004. There were two letters received by the Department regarding the proposed Regulation, one from the State Council for Persons with Disabilities dated December 23, 2003 and one from the Governor's Advisory Council for Exceptional Citizens dated December 16, 2003.

7. No one appeared at the December 23, 2003 hearing to oppose the proposed Regulation.

8. At the conclusion of the December 23rd public hearing, it was stated that the record remained opened until the end of December, 2003.

9. The Department notes that both the State Council for Persons with Disabilities and the Governor's Advisory Council for Exceptional Citizens criticized the restrictive or narrow scope of the Regulation because it did not include more violations. The Department declines to increase the scope of the Regulation to include the more aggressive violations cited because their inclusion would in effect reward aggressive drivers.

10. The Department finds that granting the credit to drivers violating § 4176(a) and (b) may lessen injuries from accidents resulting from violation of these sections.

THE LAW

The Secretary of the Department of Safety and Homeland Security rulemaking authority is provided by 21 Del.C. §302 and 2733 that state:

§ 302. Rules and Regulations.

The Secretary of Transportation and/or the Secretary of Safety and Homeland Security, in keeping with their respective responsibilities, may adopt and enforce such administrative rules and regulations and designate such agencies as may be necessary to carry out this title. The Secretary of Transportation and/or the Secretary of Safety and Homeland Security, in keeping with their respective responsibilities, may also adopt and enforce such rules and regulations relative to equipment, weight, size and operation of motor vehicles, provided such rules and regulations are not contrary to a positive law, as may be necessary and proper in order to conform to the rules and regulations of the Interstate Commerce Commission and in order to establish a more uniform Motor Vehicle Code and more uniform traffic rules and regulations. No rule or regulation adopted pursuant to the authority granted by this section shall extend, modify or conflict with any law of this State, or the reasonable

implications thereof.

Section 4 of House Bill No. 43 as amended by the Senate Amendment No. 1 of the 142nd General Assembly States:

Section 4. Pursuant to the authority provided by Title 21, Sections 302 and 2733, the Secretary of Public Safety will promulgate rules and regulations to post credit on the driving record of those individuals convicted of specific moving traffic violations in which all passengers of the vehicle are wearing seat belts at the time of the arrest. The seat belt credit will be considered when determining license suspensions based upon the Division of Motor Vehicles' point system. The office [sic] will annotate the traffic citation when all of the occupants in the vehicle are wearing a seat belt and the Courts will inform the Division of Motor Vehicles upon conviction.

DECISION

The Secretary hereby adopts the Regulation as proposed with clarifications noted in this Order and a copy of the Regulation as adopted is attached to this Order. The Secretary relies upon the conclusions of the Delaware State Police, his experience as a police officer and the capability of the Division of Motor Vehicles and accepts the findings of fact when promulgating this Regulation.

IT IS SO ORDERED this ___ day of _____, 2004.

Honorable James L. Ford, Jr.

POLICY REGULATION NUMBER 45 CONCERNING Driver Improvement Problem Driver Program

I. AUTHORITY

The authority to promulgate this regulation is 21 **Del.C.** Section 302, 21 **Del.C.** Section 2733(a)(4) and 29 **Del.C.** Section 10115.

II. PURPOSE

The Highway Safety Program Standard for Driver Licensing, as adopted by the National Highway Traffic Safety Administration, requires each state to have a Driver Improvement Program to identify problem drivers and take actions to reduce the frequency of their involvement in traffic accidents and violations. The Driver Improvement Problem Driver Program is designed to identify problem drivers, to change the problem driver's behavior by

providing information and training opportunities and, if necessary, to progressively impose sanctions as more convictions/points are accumulated on the driving record. The goal of the program is crash prevention. The steps in the program are geared to the seriousness of the driving record.

The Division of Motor Vehicles' Driver Improvement staff uses these policy guidelines to initiate program requirements and impose license suspensions.

III. APPLICABILITY

This policy regulation interprets the following sections found in Title 21: Section 2722, Section 2733(b), (e), (j), Section 2755, Section 2756, Section 4166(d), (j), Section 4169, Section 4175, 4175a, Section 4172(a), (b), Section 4172A, Section 6702, and Section 8101.

IV. SUBSTANCE OF POLICY

1. Point System. The Division of Motor Vehicles shall identify problem drivers, educate and impose driver license sanctions based upon a point system. Violations will be assessed points based up the following:

Violations

Speeding 1-9 miles per hour over posted limit	2
Speeding 10-14 miles per hour over posted limit	4
Speeding 15-19 miles per hour over posted limit	5
Speeding 20 or more miles per hour over posted limit	5*
*May result in additional actions including suspension	
Passing a Stopped School Bus	6
Reckless Driving	6
Aggressive Driving	6
Disregarding Stop Sign or Red Light	3
Moving violation contained in Chapters 27, 41 or 42 of Title 21	2

Point Credits

a. A licensee who is convicted of a speeding violation from 1 – 14 miles per hour over the posted speed limit will not be assessed points for the first violation within any three (3) year period provided the ticket is paid through the voluntary assessment center.

b. Completion of the Defensive Driving Course (DDC), recognized by the Division of Motor Vehicles and approved by the Insurance Commissioner's Office will be entered on the licensee's driving record. The licensee shall have a 3-point credit entered on their driving record following satisfactory completion of the course. The licensee is responsible for enrollment scheduling and the payment of all fees associated with this course. DDC credit

is effective on the date of course completion. DDC credit will not be applied retroactively once an action item is in effect.

c. The point credits listed in paragraph (b) and (d) shall not be considered when determining the eligibility of a school bus operator. To determine the point level for a school bus operator or applicant, use full point value, not calculated points, for the previous 3-year period.

(d) A motor vehicle licensee shall have a one point credit entered on their driving record under the Division of Motor Vehicle Point System if a driver is convicted of a violation of 21 Del. C. § 4176(a) or 21 Del. C. §4176(b) and at the time of arrest for that conviction all passengers including the driver of the vehicle were wearing seat belts. This credit shall remain on a driving record for a 1-year period. If a motor vehicle licensee has more than one conviction of 21 Del. C. § 4176(a) or 21 Del. C. §4176(b) during this one year period, where at the time of arrest all passengers including the driver were wearing a seatbelt, the motor vehicle licensee shall not receive an additional one point credit on their driving record for each conviction. However, the one point credit on the driving record shall be extended for one year from the date of the last conviction.

2. Driver Improvement Problem Driver Program. A driver enters the Driver Improvement Problem Driver Program when they accumulate 8 calculated points based upon their driving record for the previous two years. At that time an advisory letter is sent to the driver. Studies show that early intervention with inexpensive actions reduce accidents and improve driving behavior.

Convictions received from other jurisdictions are posted to the Delaware driving record. The points will be assessed on these violations as though the offense was committed in this State in accordance with the Driver's License Compact.

"The Aggressive Driving Committee, in accordance with Policy Regulation 90, must certify all behavior modification/attitudinal driving courses. The committee has the authority to designate alternative courses to comply with the requirements of Policy Regulation 45."

The actions listed below occur as calculated points are accumulated during any 24-month period. The 24-month period is computed based upon the date of the offense and "slides" forward based upon that date. The driving record will record the actions taken. The Driver Improvement Section will conduct a record review at each step in the process and schedule interviews as necessary. The action items may be processed automatically without an interview. When the calculated points fall between the threshold limits, use the action items specified in the lower level. (Example: If the driver accumulates 9 points before any action is taken, send out an advisory letter as required when they accumulate 8 points.) If the driver accumulates 12 points before the advisory letter is sent, use the action item listed for drivers

with 12 points.

Calculated Points	<u>Action Items</u>
8	Division of Motor Vehicles advisory letter is mailed to the driver. DDC credits will not impact the issuance of an advisory letter.
12	Driver must complete an approved "behavior modification/attitudinal driving course" within 90 days after notification (unless extended by the Division). Failure to comply or upon preference of the driver, a mandatory 2 month suspension will be imposed in lieu of the program.
14	Mandatory 4 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a behavior modification / attitudinal driving course" within the previous 2 years.
16	Mandatory 6 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years.
18	Mandatory 8 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years.
20	Mandatory 10 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years.
22	Mandatory 12 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years.

3. Serious Speeding Violations. The Division of Motor Vehicles considers all speeding violations 20 miles

per hour (MPH) or more above the posted speed limit to be a serious speeding violation that identifies the driver as a problem driver. The following actions will be taken:

a. When a driver is convicted of a single speeding violation for driving 20-24 MPH over the posted limit and accumulated less than 12 calculated points, the Driver Improvement staff will review their driving record and send the driver an advisory letter.

b. When convicted of driving 25 MPH over the posted limit, the driver's license will be suspended for a mandatory period of 1 month. The suspension period will be increased by one month for each additional 5 MPH over the initial 25 MPH threshold. Note: The driver may elect to attend the "behavior modification/attitudinal driving course" in lieu of a license suspension if they were driving 25-29 MPH over the posted limit.

c. Anyone convicted of driving 50 MPH or more over the posted speed or driving 100 MPH or more shall be suspended for a period of one year. The driver is not eligible for an occupational license during the first three months of the suspension period.

4. Additional Sanctions Imposed by Statute or Policy:

a. Passing a stopped school bus in violation of 21 **Del.C.** Section 4166(d). For the first offense, one-month driver's license suspension. For the second offense, six months suspension. For the third or more offenses, suspend the driver's license for twelve months.

b. Driving in violation of a license restriction per 21 **Del.C.** Section 2722. For the first offense, send an advisory letter. Suspend the driver's license for one month for subsequent offenses.

c. Speed exhibition violation per 21 **Del.C.** Section 4172(a)(d). One-month suspension for the first offense and one-year driver's license suspension for subsequent offenses.

d. Spinning wheels violation per 21 **Del.C.** Section 4172(b). Send an advisory letter for the first offense. Suspend the driver's license for one year for second and subsequent offenses.

e. Malicious mischief violations per 21 **Del.C.** Section 4172A. One-month driver's license suspension for the first offense. One-year suspension for the second and subsequent offenses.

f. Knowingly permit an unlicensed person to operate a vehicle violation per 21 **Del. C.** Section 2755. Send an advisory letter for the first offense. Three-month driver's license suspension for the second and subsequent offenses.

g. Driving without consent of the owner violation per 21 **Del.C.** Section 6702. One month driver's license suspension for the first offense and three month's suspension for the second and subsequent offenses.

h. Driving during suspension or revocation violations per 21 **Del.C.** Section 2756. A conviction for

driving during suspension or revocation shall extend the period of the suspension or revocation for a like period. No driving authority will be permitted during the balance of the initial suspension or revocation period and the extended period. Any driving authority previously issued by the Division must be surrendered.

Note: For violations to be considered a subsequent offense, the violations must be under the same subsection and cannot be a combination of violations such as Sections 4172(a) and Section 4172(b). To be considered a second or subsequent offense, the convictions must be within the previous three years.

5. Occupational License. In the event of a suspension of a driver's license pursuant to this policy regulation, the Division may issue an occupational license during the period of suspension if the applicant stipulates the suspension has created an extreme hardship. However, no such occupational license shall be issued if the applicant has two previous suspensions under the policy regulation within the previous 3 years, or if the suspension is for physical and/or mental disability, or if the license is revoked for convictions of any crimes specified in Section 2732 of Title 21 even though it causes an extreme hardship. Any driver convicted of operating a motor vehicle in violation of the restrictions imposed by the occupational license shall immediately extend the suspension period for an additional like period and shall direct the driver to surrender their occupational license. No more than one occupational license under this policy shall be issued within any 12-month period.

Drivers suspended under this program are ineligible for an occupational license for one month. If the calculated point level reaches 15 or more points in a 24-month period, an occupational license will not be issued until the calculated points are less than 15 points.

6. Calculated Points. For the purposes of this Policy Regulation, calculated points are credited at full point value for the first twelve months from the date of the violation. After the initial 12 months have expired, the calculated points will be credited at (1/2) point value for the next 12 months. The Division will only take action based upon convictions accumulated within the 24-month period following the date of the offense.

7. Moving Violations. Those violations contained in 21 **Del.C.** Chapters 27, Chapter 41 and Chapter 42, excluding those violations that require mandatory suspension or revocation actions. Multiple violations occurring within a 24-hour period shall be considered individual violations for the purposes of this policy regulation.

8. Advisory Letter. The Division will send an advisory letter to those drivers who accumulate 8 calculated points or when convicted of speeding 20-24 MPH over the posted limit. The purpose of the advisory letter is to express our concern about the operator's driving habits and their

impact upon highway safety. The letter will inform the driver about the Driver Improvement Problem Driver Program. An advisory letter may be sent for both point accumulations and excessive speed violations.

9. Record Review. The goal of the record review is to assess any problems the driver may have and require a course of action. The record review may result in a driver improvement interview/counseling session, medical or vision examination, knowledge and/or skills testing, restricted license, license suspension or the surrender of a license.

10. Interviews. The Driver Improvement staff may schedule the driver to attend an interview based upon the record review. The licensee may request an interview with a Driver Improvement Officer or staff member when notified of pending action against them. The following issues are open to discussion:

The driver may request an additional 90 days to complete a mandatory attendance at the "behavior modification/attitudinal driving course" or they may request a license suspension in lieu of attending the program. Any further delays in completing the program must be approved by the Driver Improvement Manager or the Chief of Driver Services.

The driver can present evidence that the convictions on their driving record belong to another driver. If proven, the convictions will be removed.

If the violation on record is under appeal by the court, the driver must submit a copy of the appeal bond and the violation will be removed from the driving record. If applicable, the suspension action resulting from this violation be removed from the driving record.

The Driver Improvement staff may require the driver to complete a medical or vision examination, pass a knowledge or skill test or restrict their driving privileges based upon the results of the interview.

11. This policy regulation shall have no effect on the revocation actions, medical qualifications or requirements, or suspension action required by statute unrelated to this policy.

V. SEVERABILITY

If any part of this Rule is held to be unconstitutional or otherwise contrary to law by a court of competent jurisdiction, said portion shall be severed and the remaining portions of this rule shall remain in full force and effect under Delaware law.

VI. EFFECTIVE DATE

The following regulations shall be effective 10 days from the date the order is signed and it is published in its final form in the Register of Regulations in accordance with 29 Del.C. Section 10118(e).

**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER**

**EXECUTIVE ORDER
NUMBER FIFTY-ONE**

RE: Declaring December 26, 2003 a Holiday

WHEREAS, December 26, 2003 is the day after the statutory Christmas Day holiday; and

WHEREAS, I wish to allow State of Delaware employees an additional day this year to be with their families during the holiday season.

I, RUTH ANN MINNER, GOVERNOR OF THE STATE OF DELAWARE, HEREBY ORDER ON THIS 24th DAY OF NOVEMBER, 2003:

1. December 26, 2003 is declared a holiday pursuant to Rule 6.0100 of the Merit Rules of the State of Delaware.

2. Public offices of the state subject to my authority will be closed on December 26, 2003.

APPROVED: November 24, 2003

Ruth Ann Minner,
Governor

ATTEST:
Harriet Smith Windsor
Secretary of State

**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER**

**EXECUTIVE ORDER
NUMBER FIFTY-TWO**

RE: Expanding Bidding Competition for State-Funded Purchases

WHEREAS, the State of Delaware should make the maximum effort to ensure that opportunities to do business with the state are widely publicized; and

WHEREAS, broad knowledge of state contracting opportunities increases competition for state business, which benefits taxpayers; and

WHEREAS, broad knowledge of state contracting opportunities also provides newer and smaller businesses, including those owned and operated by women and minorities, an opportunity to compete with larger, more established businesses on a level playing field; and

WHEREAS, advances in technology have allowed

private vendors, such as DeLEXCHANGE, Women's Business Enterprise National Council, and National Minority Supplier Development Council of PA-NJ-DE, to make available to the state, at no cost, the opportunity to increase the audience that receives notice of state contracting opportunities;

I, RUTH ANN MINNER, HEREBY ORDER ON THIS 18th DAY OF DECEMBER, 2003:

1. Each state agency making a purchase of material, non-professional services, professional services or a combination thereof which it anticipates will exceed \$10,000 and which is not available on a state central contract pursuant to 29 Delaware Code 6910-6915 shall prepare formal notice of that intended purchase and provide it to the Secretary of Administrative Services (the "Secretary"), who shall forward that notice to each databank that he or she has approved pursuant to paragraph 6 of this Order. The notice shall be transmitted via e-mail to the Secretary or the Secretary's designee, and shall provide specific information regarding the items or services that the agency intends to purchase. This paragraph shall not apply to emergencies, as described in 29 Delaware Code 6907 or to exceptions, as defined in 29 Delaware Code 6904 subsections (b), (f), (g), (h), (i), (j), (k) and (l).

2. In addition to paragraph 1 above, each state agency making a purchase of material, non-professional services, professional services or a combination thereof in excess of \$10,000 but below the threshold amount set for the formal bid process pursuant to 29 Delaware Code 6913(d)(4) and which is not available on a state central contract pursuant to 29 Delaware Code 6910-6915 shall consult any databank approved by the Secretary for potential providers of such material and services prior to making any purchase. This paragraph shall not apply to emergencies, as described in 29 Delaware Code 6907 or to exceptions, as defined in 29 Delaware Code 6904 subsections (b), (f), (g), (h), (i), (j), (k) and (l).

3. Each state agency shall review any databank approved by the Secretary at least three times per year for the purpose of determining whether any vendors listed on such databank should be added to the agency's lists of prospective vendors or bidders with respect to public works, material, professional services and non-professional service contracts.

4. Paragraphs 1 through 3 of this Order shall not apply to purchases from state central contracts made pursuant to 29 Delaware Code 6910-6915. However, paragraphs 1 through 3 of this Order shall apply to the creation of state central contracts by the Department of Administrative Services.

5. The Secretary shall develop measures to ensure compliance with paragraphs 1 through 4 of this Order, and shall report to the Governor by January 31 of each calendar year on each state agency's compliance with this Order.

6. The Secretary shall approve each databank for

purposes of this Order which demonstrates

(a) that it contains a substantial number of names, addresses and other contact information of small businesses or women and minority owned businesses located in Delaware;

(b) that a substantial number of the businesses in the databank are not currently on the lists of prospective vendors for existing state agencies;

(c) that the databank is in a form whereby it can be easily accessed and used by state agencies through existing state computer resources; and

(d) that the description of services provided by businesses on the databank is adequate for state agencies to determine whether those businesses should be contacted regarding the opportunity to bid on state contracts.

7. The Secretary may withdraw approval of a databank if, in his or her exclusive judgment, the purposes of this Order are not being fulfilled by the databank.

8. This Order shall not affect any existing rule, order, or procedure properly issued by the Secretary, to the effect that such rule, order, or procedure is consistent with this Order. This Order shall be interpreted in a manner consistent with existing Delaware statute.

9. For purposes of this Order, "state agency" refers to Departments under the Governor's immediate supervision and Divisions and entities under the direct supervision of such Departments.

APPROVED: December 18, 2003

Ruth Ann Minner,
Governor

ATTEST:
Harriet Smith Windsor
Secretary of State

**DEPARTMENT OF
ADMINISTRATIVE SERVICES
BOARD OF CLINICAL SOCIAL WORK
EXAMINERS**

PLEASE TAKE NOTICE, pursuant to 29 **Del.C.** Chapter 101 and 24 **Del.C.** §3906(1), the Delaware Board of Clinical Social Work Examiners proposes to revise its rules and regulations. The proposed revisions clarify the definition of "Clinical Social Work" and the requirements for acceptable clinical social work experience and professional supervision for purposes of licensure.

A public hearing will be held on the proposed Rules and Regulations on Monday, March 15, 2004 at 9:00 a.m. in the Second Floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, 19904. The Board will receive and consider input in writing from any person on the proposed Rules and Regulations. Any written comments should be submitted to the Board in care of Karin Stone at the above address. The final date to submit written comments shall be at the above scheduled public hearing. Anyone wishing to obtain a copy of the proposed Rules and Regulations or to make comments at the public hearing should notify Karin Stone at the above address or by calling (302) 744-4534.

This notice will be published in two newspapers of general circulation not less than twenty (20) days prior to the date of the hearing.

The proposed regulations were published in the January 2004 issue of the Register on page 854.

**DEPARTMENT OF AGRICULTURE
THOROUGHBRED RACING COMMISSION**

PUBLIC NOTICE

The Commission proposes to amend Rule 13.12 to allow for post-race tests from horses in claiming races and to allow a claimant to request a post race test on a claimed horse, with the right to void the claim if the test is positive for a prohibited substance, illegal medication, or EPO antibody test. Further, the Commission proposes to enact a new Rule 15.01.2 on Erythropietin, to provide that a horse that tests positive for EPO antibodies may be declared unfit to race, and may not resume racing until the owner or trainer submits a negative test for EPO antibodies.

The Commission will accept written comments from February 1, 2004 until March 22, 2004. Written comments should be sent to John Wayne, Administrator of Racing, Department of Agriculture, 2320 S. DuPont Highway,

Dover, DE 19901. A public hearing will be held at Delaware Park on March 23, 2004 at 10:15 a.m. in the second floor conference room of the Horsemen's Office, 777 Delaware Park Boulevard, Wilmington, DE 19804.

STATE BOARD OF EDUCATION

The State Board of Education will hold its monthly meeting on Thursday, February 19, 2003 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

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Delaware's lawmaking body, is comprised of a State House of Representatives, whose 41 members are elected for two-year terms, and a State Senate, whose 21 members are elected for four-year terms. Half of the Senate seats are contested in each general election.

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