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# Delaware Register of Regulations

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Issue Date: February 1, 2022

Volume 25 - Issue 8, Pages 734 - 793

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## IN THIS ISSUE:

Regulations:  
Proposed  
Final

General Notices

Calendar of Events &  
Hearing Notices



Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the *Register* contains all documents required to be published, and received, on or before January 15, 2022.

*Cover Photo*  
*Silver Lake*  
*Dover, DE*

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# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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## DELAWARE REGISTER OF REGULATIONS

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

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

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

- Governor's Executive Orders
- Governor's Appointments
- Agency Hearing and Meeting Notices
- Other documents considered to be in the public interest.

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## CITATION TO THE DELAWARE REGISTER

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

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

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

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## SUBSCRIPTION INFORMATION

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

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## CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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

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# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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

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

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

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

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

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

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

| ISSUE DATE | CLOSING DATE | CLOSING TIME |
|------------|--------------|--------------|
| 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 16       | 4:30 p.m.    |
| July 1     | June 15      | 4:30 p.m.    |
| August 1   | July 15      | 4:30 p.m.    |

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| 3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit;<br>Possession Limit..... | 25 DE Reg. 103 (Final) |
| 3541 Atlantic Sharks.....  | 25 DE Reg. 290 (Final) |
| 3542 Tilefish.....   | 25 DE Reg. 64 (Prop.)  |
|  | 25 DE Reg. 295 (Final) |
| 3550 Cobia ( <i>Rachycentron canadum</i> ).....  | 25 DE Reg. 66 (Prop.)  |
|  | 25 DE Reg. 297 (Final) |

**Division of Watershed Stewardship**

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| 7402 Shellfish Sanitation Regulations..... | 25 DE Reg. 268 (Prop.) |
|  | 25 DE Reg. 726 (Final) |

**DEPARTMENT OF SAFETY AND HOMELAND SECURITY****Delaware Sex Offender Management Board**

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| 1100 Delaware Sex Offender Management Board..... | 25 DE Reg. 301 (Final) |
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**Office of the Alcoholic Beverage Control Commissioner**

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| Rule 1008 (Formerly 19.1) Bottle Clubs - Licensing and Operation..... | 25 DE Reg. 301 (Final) |
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**DEPARTMENT OF STATE****Division of Professional Regulation**

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| 100 Board of Accountancy.....                                   | 25 DE Reg. 160 (Prop.)  |
| 1400 Board of Electrical Examiners.....                         | 25 DE Reg. 691 (Prop.)  |
| 1700 Board of Medical Licensure and Discipline.....             | 25 DE Reg. 161 (Prop.)  |
| 1900 Board of Nursing.....                                      | 25 DE Reg. 199 (Final)  |
|   | 25 DE Reg. 318 (Errata) |
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| 2500 Board of Pharmacy.....                                     | 25 DE Reg. 621 (Prop.)  |
| 2700 Board of Registration for Professional Land Surveyors..... | 25 DE Reg. 69 (Prop.)   |
|   | 25 DE Reg. 632 (Final)  |
| 2925 Real Estate Commission Education Committee.....            | 25 DE Reg. 505 (Prop.)  |
| 2930 Council on Real Estate Appraisers.....                     | 25 DE Reg. 163 (Prop.)  |
|   | 25 DE Reg. 633 (Final)  |
| 3500 Board of Examiners of Psychologists.....                   | 25 DE Reg. 622 (Prop.)  |

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| 3800 State Board of Dietetics/Nutrition.....  | 25 DE Reg. 201 (Final)                           |
| Uniform Controlled Substance Act Regulations.....   | 25 DE Reg. 506 (Prop.)                           |
| <b>Public Service Commission</b>  |  |
| 3001 Rules for Certification and Regulation of Electric Suppliers.....  | 25 DE Reg. 396 (Prop.)                           |
| 3008 Rules and Procedures to Implement the Renewable Energy Portfolio<br>Standard (Opened August 23, 2005)..... | 25 DE Reg. 541 (Final)                           |
| <b>OFFICE OF THE STATE TREASURER</b>  |  |
| <b>Cash Management Policy Board</b>   |  |
| 1201 Statement of Objectives and Guidelines for the Investment of State of<br>Delaware Funds.....               | 25 DE Reg. 399 (Prop.)<br>25 DE Reg. 728 (Final) |

**Symbol Key**

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

**Proposed Regulations**

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

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**DEPARTMENT OF EDUCATION**  
**PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))  
14 **DE Admin. Code** 1549

**PUBLIC NOTICE****Educational Impact Analysis Pursuant to 14 Del.C. §122(d)****1549 Dance Teacher****A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

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

Pursuant to 14 **Del.C.** §§1203 and 1205(b), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1549 Dance Teacher. The regulation concerns the requirements for a Dance Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments include adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a Dance Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Dance Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns requests for the Secretary of Education to review standard certificate applications; adding Section 7.0, which concerns the validity of a Dance Teacher Standard Certificate; adding Section 8.0, which concerns disciplinary actions; adding Section 9.0, which concerns recognizing past certificates that were issued by the Department; and adding Section 10.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address.

Persons wishing to present their views regarding this matter may do so in writing by the close of business (4:30 p.m.) on or before March 4, 2022 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to [DOERegulations.comment@doe.k12.de.us](mailto:DOERegulations.comment@doe.k12.de.us). A copy of

this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Department of Education's Office of the Secretary, located at the address above.

## C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The education, knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The education, knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to ensure students in Delaware public schools receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators and is not designed to help ensure students' health and safety is protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a standard certificate for educators and is not designed to help ensure students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** §1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a Dance Teacher Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 6.0 is consistent with the statute.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 5.0 apply to individual applicants. In addition, the requirements in Section 10.0 apply to individual applicants and Educators.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 **Del.C.** Ch. 12 relating to licensure and certification of educators.

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

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

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

<http://regulations.delaware.gov/register/february2022/proposed/25 DE Reg 746RFA 02-01-22.pdf>

## 1549 Dance Teacher

### 1.0 Content

- 4-4 This regulation shall apply to the issuance of a Dance Teacher Standard Certificate, pursuant to 14 **Del.C.** §1220(a), ~~for Dance Teacher~~. This ~~certification~~ Standard Certificate is required for grades 9 K to 12, ~~and is valid in grades 5 to 8 in a Middle Level school in Delaware public schools.~~

# PROPOSED REGULATIONS

- 1.2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

## 2.0 Definitions

- 2.1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

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

~~"Approved Accrediting Agency" means a National, Regional, or Specialized Accrediting agency or association that appears on the list of recognized accrediting agencies published by the United States Secretary of Education or any other accrediting agency the Delaware Secretary of Education, deems within his or her discretion, to be reliable or be equivalent to those on the published list.~~

~~"Accredited institution" means an institution that has received accreditation from an approved accrediting agency.~~

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State under 14 Del.C. Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.

"Employing Authority" means any entity which employs educators, and includes, but is not limited to, school districts, charter schools, boards of directors, and management companies.

"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 the educator's unfitness or otherwise.

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

"Regionally Accredited" means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

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

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

"Valid and Current License or Certificate" means a current full or permanent certificate or license as an educator issued by another state or jurisdiction. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification as an educator in another state or jurisdiction and is in good standing in that state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

## 3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a Dance Teacher Standard Certificate as a Dance Teacher to an educator applicant who has met the following:

- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; License, or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; ~~and, 2003 and~~ meets the requirements set forth in Section 4.0 of this regulation; or

~~3.1.2~~ ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and, Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a dance teacher issued by another state or jurisdiction.~~

~~3.1.3~~ ~~Has satisfied the additional requirements in this regulation.~~

3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Dance Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

#### 4.0 **Additional Prescribed Education, Knowledge, and Skill Requirements**

4.1 If an examination of content knowledge such as Praxis II is not applicable and available, in the area the Standard Certificate is requested, an educator must also meet the following:

4.2 If the educator is applying for their second Standard Certificate pursuant to 14 DE Admin. Code 1505 Standard Certificate 3.1.5;

4.2.1 Has satisfactorily completed fifteen (15) credits or their equivalent in professional development related to Dance, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; or

4.2.2 Has obtained certification in Dance from an accredited institution.

4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied one of the following education requirements:

4.1.1 Earned and currently maintain accreditation as Registered Dance Educator through the National Dance Education Organization; or

4.1.2 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in dance from an educator preparation program approved or recognized by the Council for the Accreditation of Educator Preparation (CAEP) or a state where the state approval body employed the appropriate standards; or

4.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach dance as provided in 14 Del.C. §§1260 - 1266; or

4.1.4 Satisfactorily completed a Department-approved educator preparation program in dance education; or

4.1.5 If the applicant is applying for an Initial License after the applicant completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school as provided in subsection 4.1.3.1 of 14 DE Admin. Code 1510, earned a bachelor's degree from a Regionally Accredited college or university in any content area and also satisfactorily completed 15 college credits related to dance education of which at least six credits focus on pedagogy or an equivalent number of hours in professional development with one credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department.

4.1.5.1 The applicant, in consultation with the applicant's Employing Authority, shall select the 15 credits or the equivalent number of hours in professional development subject to the Department's approval.

4.1.5.2 If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the 15 credits or the equivalent number of hours in professional development in consultation with the Department and subject to the Department's approval.

4.1.5.3 For the purpose of subsection 4.1.5, professional development means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences



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# PROPOSED REGULATIONS

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designed to change the participants' attitudes, insights, and perspectives and ultimately results in improved professional practice.

4.1.5.4 Professional development hours may be approved if the applicant shows that the activity meets all of the following criteria:

4.1.5.4.1 Relevant courses from a Regionally Accredited college or university in dance are not available to the applicant online or in the applicant's county of residence; and

4.1.5.4.2 The activity is grounded in research and current best practices as judged by the Department's content specialist in dance; and

4.1.5.4.3 The activity is documented by the provider to provide knowledge and skills that are required for the dance certification; and

4.1.5.4.4 The activity is part of a professional development program that includes knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.

4.1.6 Earned and currently maintain a Certificate in Dance Instruction from the National Dance Education Organization.

4.2 For an applicant who holds at least one content area Standard Certificate, the applicant shall have satisfied one of the following education requirements:

4.2.1 Satisfactorily completed 15 college credits related to dance education of which at least six credits focus on pedagogy or an equivalent number of hours in professional development with one credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department as provided in subsection 4.1.5; or

4.2.2 Earned and currently maintain a Certificate in Dance Instruction from the National Dance Education Organization; or

4.2.3 Completed the equivalent of subsection 4.2.1 or subsection 4.2.2 in professional experience; or

4.2.4 Achieved a minimum score of 80 points on the Dance Entry Level Teacher's Assessment (DELTA).

## **5.0 Application Requirements**

5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with an application for the Initial License, and the applicant shall also provide all required documentation for the License.

5.2 An applicant must disclose the applicant's criminal conviction history upon application for a Dance Teacher Standard Certificate. Failure to disclose a criminal conviction history is grounds for denial of a Dance Teacher Standard Certificate as specified in 14 Del.C. §1219.

5.3 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Dance Teacher Standard Certificate:

5.3.1 Evidence of earning and currently maintaining accreditation as Registered Dance Educator through the National Dance Education Organization, if applicable; and

5.3.2 Official transcript from the applicant's Regionally Accredited college or university.

5.3.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

5.3.2.2 Sealed paper transcripts may be submitted.

5.3.2.3 The Department will not accept copies of transcripts; and

5.3.3 Documents verifying successful completion of Department-approved professional development, if applicable; and

5.3.4 Evidence of earning and currently maintaining a Certificate in Dance Instruction from the National Dance Education Organization, if applicable;

5.3.5 Additional documentation as required by the Department.

- 5.4 For an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for a Dance Teacher Standard Certificate:
- 5.4.1 Official transcript from the applicant's Regionally Accredited college or university, if applicable.
    - 5.4.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
    - 5.4.1.2 Sealed paper transcripts may be submitted.
    - 5.4.1.3 The Department will not accept copies of transcripts; and
  - 5.4.2 Documents verifying successful completion of Department-approved professional development, if applicable; and
  - 5.4.3 Evidence of earning and currently maintaining a Certificate in Dance Instruction from the National Dance Education Organization, if applicable; and
  - 5.4.4 Evidence of completing the equivalent of subsection 4.2.1 or subsection 4.2.2 in professional experience, if applicable; and
  - 5.4.5 Official score on the Dance Entry Level Teacher's Assessment (DELTA), if applicable; and
  - 5.4.6 Additional documentation as required by the Department.
- 5.5 For applicants who have met the requirements for licensure as an educator in Delaware and hold a Valid and Current License or Certificate as a dance teacher from another state or jurisdiction, the following documentation is required in the application for a Dance Teacher Standard Certificate:
- 5.5.1 An official copy of the Valid and Current License or Certificate; and
  - 5.5.2 Additional documentation as required by the Department.

## **6.0 Secretary of Education Review**

- 6.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Dance Teacher Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Dance Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.
- 6.1.1 For school districts, requests shall be approved by the superintendent of the school district.
  - 6.1.2 For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.

## **7.0 Validity of a Standard Certificate**

- 7.1 A Dance Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- 7.2 A Dance Teacher Standard Certificate is not subject to renewal.

## **8.0 Disciplinary Action**

- 8.1 An Educator's Dance Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 **DE Admin. Code** 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.
- 8.2 An Educator's Dance Teacher Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 **Del.C.** §1222.
- 8.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

# PROPOSED REGULATIONS

## 9.0 Past Certificate Recognized

The Department shall recognize a Dance Teacher Standard Certificate issued by the Department prior to effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach dance.

## 10.0 Contact Information and Change of Name or Address

- 10.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
- 10.2 An Educator who legally changes the Educator's name and wishes to change the name on the Dance Teacher Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
- 10.3 An applicant or Educator whose mailing address, email address, or phone number changes shall provide the Department with the new mailing address, email address, or phone number within 14 calendar days of the change.

## DEPARTMENT OF STATE

### DIVISION OF PROFESSIONAL REGULATION

### 3500 BOARD OF EXAMINERS OF PSYCHOLOGISTS

Statutory Authority: 24 Delaware Code, Section 3506(a)(1) (24 Del.C. §3506(a)(1))  
24 DE Admin. Code 3500

#### PUBLIC NOTICE

#### 3500 Board of Examiners of Psychologists

The Delaware Board of Examiners of Psychologists, pursuant to 24 Del.C. §3506(a)(1), proposes to add a requirement that all licensees complete three continuing education credits in cultural inclusion, equity, and diversity. Psychologists will still be required to complete 40 CEs per renewal period, and psychological assistants will still be required to complete 20 CEs per renewal period, but of those totals, three must be in cultural inclusion, equity, and diversity.

The original amendments were published on page 1051 of the June 1, 2021 issue of the *Delaware Register of Regulations* (24 DE Reg. 1051 (06/01/21)). The Board planned to hold a virtual public hearing on July 26, 2021 at 9:00 a.m., but that meeting was cancelled. The amendments were republished on page 622 of the December 1, 2021 issue of the *Delaware Register of Regulations* (25 DE Reg. 622 (12/01/21)). The Board planned to hold a virtual public hearing on January 3, 2022, but that meeting was cancelled due to inclement weather. As a result, the Board will now hold a virtual hearing on the re-proposed rule change on March 7, 2022. Written comments should be sent to Randall Clack, Administrator of the Delaware Board of Examiners of Psychologists, Cannon Building, 861 Silver Lake Blvd, Suite 203, Dover, DE 19904. Written comments will be accepted until March 22, 2022.

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

<http://regulations.delaware.gov/register/february2022/proposed/25 DE Reg 752RFA 02-01-22.pdf>

#### 3500 Board of Examiners of Psychologists (Break in Continuity of Sections)

## 5.0 Procedures for Licensure

### (Break in Continuity Within Section)

- 5.4 Inactive Status: A licensee may be placed on inactive status by the Board for a period of no more than five years. Requests for inactive status shall be made, in writing, to the Board and requests which exceed one year shall be renewed biennially at the time of regular license renewals.

- 5.4.1 To apply for reactivation of an inactive license, a licensee shall:
- 5.4.1.1 Submit a letter requesting reactivation;
  - 5.4.1.2 Submit a prorated reactivation fee;
  - ~~5.4.1.3 Be required to be fingerprinted by the State Bureau of Identification and provide all other necessary information in order to obtain a criminal background check; and~~
  - 5.4.1.4.1.3 Submit proof of completion of the continuing education requirements below;
    - ~~5.4.1.4.15.4.1.3.1~~ Inactive status for one year or less: 20 CE hours, including three hours of continuing education in ethics and three hours in cultural inclusion, equity, and diversity;
    - ~~5.4.1.4.25.4.1.3.2~~ Inactive status for more than one year: 40 CE hours, including three hours of continuing education in ethics and three hours in cultural inclusion, equity, and diversity, completed within 24 months prior to reapplication.

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

**10.0 Continuing Education**

- 10.1 Hours required.
- 10.1.1 The biennial licensing period begins August 1 of each odd-numbered year and ends July 31 of the next odd-numbered year.
  - 10.1.2 Psychologists must obtain 40 hours of continuing education during each biennial licensing period in order to be eligible for renewal of license. A minimum of ten hours of continuing education credit must be obtained via face to face or live webinar. Effective as of the license renewal period beginning August 1, ~~2009~~ 2021, all psychologists must complete three hours of continuing education in ethics and three hours in cultural inclusion, equity, and diversity.
  - 10.1.3 Psychological assistants must obtain 20 hours of continuing education during each biennial licensing period for re-registration. Effective as of the license renewal period beginning August 1, ~~2009~~ 2021, all psychological assistants must complete three hours of continuing education in ethics and three hours in cultural inclusion, equity, and diversity.
  - 10.1.4 A “**continuing education hour**” is defined as one sixty-minute period, unless otherwise specified.
- 10.2 Proration of CE Requirement for New and Reactivating Licensees
- 10.2.1 The CE requirement ~~for a licensee's initial licensing period~~ shall be prorated as follows:
    - 10.2.1.1 If an applicant is granted a psychologist license or reactivates a license during the first six months of a license period, i.e., between July 31 of an odd-numbered year and January 31 of the next year, the new licensee must complete 30 CEs. An applicant granted a psychological assistant license in the same time period must complete 15 CEs in the initial licensing period.
    - 10.2.1.2 If an applicant is granted a psychologist license or reactivates a license during the second six months of a license period, i.e., between February 1 of an even-numbered year and July 31 of that same year, the new licensee must complete 20 CEs. An applicant granted a psychological assistant license in the same time period must complete 10 CEs in the initial licensing period.
    - 10.2.1.3 If an applicant is granted a psychologist license or reactivates a license during the third six months of a license period, i.e., between the dates of August 1 of an even-numbered year and January 31 of the next year, the licensee must complete 10 CEs. An applicant granted a psychological assistant license in the same time period must complete 5 CEs in the initial licensing period.
    - 10.2.1.4 Any applicant granted a license or licensee who has reactivated a license during the last six months of a license period, i.e., between the dates of February 1 of an odd-numbered year and July 31 of that same year, need not complete any CEs during that period.

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

**3500 Board of Examiners of Psychologists**

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## Symbol Key

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

## Final Regulations

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

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

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## DEPARTMENT OF EDUCATION

### OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 3003A (14 **Del.C.** §3003A)  
14 **DE Admin. Code** 815

### REGULATORY IMPLEMENTING ORDER

### 815 Health Examinations and Screening

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

Pursuant to 14 **Del. C.** § 3003A, the Secretary of Education intends to amend 14 **DE Admin. C.** 815 Health Examinations and Screening. This regulation is being amended to change the vision and hearing screening dates, and postural and gait screening dates for the 2021-2022 school year only. The regulation is also being edited to comply with the *Delaware Administrative Code Drafting and Style Manual*. The proposed amendments to this regulation as published in the October 2021 issue of the *Register of Regulations* (25 **DE Reg.** 363 (10/01/21)) are no longer being considered.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on December 1, 2021. In addition, notice was published in *The News Journal* and the *Delaware State News* on December 1, 2021, in the form hereto attached as *Exhibit "A"*. No comments were received for this regulation.

#### II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 815 Health Examinations and Screening in order to change the vision and hearing screening dates, and postural and gait screening dates for the 2021-2022 school year only. The regulation is also being edited to comply with the *Delaware Administrative Code Drafting and Style Manual*. The proposed amendments to this regulation as published in the October 2021 issue of the *Register of Regulations* (25 **DE Reg.** 363 (10/01/21)) are no longer being considered.

#### III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 815

Health Examinations and Screening. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 815 Health Examinations and Screening attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 815 Health Examinations and Screening hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

#### IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 815 Health Examinations and Screening amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 815 Health Examinations and Screening in the *Administrative Code of Regulations* for the Department of Education.

#### V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on January 10, 2022. 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 10th day of January 2022.

**Department of Education**

Christine Alois, Ed.D., Acting Secretary of Education

Approved this 10th day of January 2022

### 815 Health Examinations and Screening

#### 1.0 Definitions

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

"**Delaware School Health Examination Form**" means the age-appropriate form developed by the Delaware Department of Education or a substantially similar form for documenting information from the parent, guardian or ~~Relative Caregiver~~ relative caregiver, and healthcare provider on the student's health status.

"**Delaware Interscholastic Athletic Association (DIAA) Pre-Participation Physical Evaluation Form**" means the form approved by the DIAA.

"**Health Examination**" means the medical examination done by a Healthcare Provider to determine health status and conditions.

"**Healthcare Provider**" means a currently licensed physician, advanced practice ~~nurse~~ nurse, nurse practitioner, or physician's assistant.

"**Lead Screening**" means a capillary blood lead test, including where a drop of blood is taken from a finger or heel of the foot (16 **Del.C.** Ch. 26).

"**School Enterer**" means any child between birth and twenty (20) years inclusive enrolling and attending a Delaware public school district or public school for the first time, including but not limited to, foreign exchange students, immigrants, students from other states or territories, and children entering from non-public schools.

"**Screenings**" means the vision, hearing, and postural gait screening performed by the school nurse or other qualified healthcare professional.

#### 2.0 Health Examinations

2.1 All public school students shall have two (2) health examinations, as provided in this section, that have been administered by a healthcare provider.

2.1.1 The first health examination shall have been done within the two (2) years prior to enrollment into a Delaware public school.

2.1.1.1 Within thirty (30) calendar days after enrollment, any public school student who has not complied with the health examination requirement shall have received the health

- examination or shall have a documented appointment with a healthcare provider for the health examination. If this documentation is not provided within this thirty (30) calendar days, the student shall be excluded from school until this documentation is received.
- 2.1.2 The second required health examination shall be done within the two (2) years prior to entry into grade 9.
- 2.1.2.1 Within thirty (30) calendar days after entry, any grade 9 student who has not complied with the second health examination requirement shall have received the health examination or shall have a documented appointment with a healthcare provider for the health examination. If this documentation is not provided within these thirty (30) calendar days, the student shall be excluded from school until this documentation is received.
- 2.1.3 Notwithstanding subsections 2.1.1.1 and 2.1.2.1, all students must meet the requirements under 14 **DE Admin. Code** 804 Immunizations.
- 2.1.4 The requirement for the health examination may be waived for students whose parent, guardian or relative caregiver as defined in 14 **Del.C.** §202(f), or the student if 18 years or older, or an unaccompanied homeless youth (as defined by ~~42 USC 11434a~~ 42 USC §11434a) presents a written declaration acknowledged before a notary public, that because of individual religious beliefs, they reject the concept of health examinations.
- 2.1.5 Notwithstanding the above, a second health examination shall not be required if the first health examination is within two (2) years of entering Grade 9.
- 2.1.6 The Delaware School Health Examination Form or the DIAA Pre-Participation Physical Evaluation ~~form~~ Form may be used as documentation of the health examination. In addition, a district or charter school may accept a health examination or evaluation documentation on a form which includes, at a minimum, health history, immunizations, results of medical tests and screenings, medical diagnoses, prescribed medications and treatments, and healthcare plans.
- 2.1.7 The school nurse shall record all findings within the student's electronic health record (see 14 **DE Admin. Code** 811) and maintain the original copy in the child's medical file.

**Non regulatory note:** See 14 **DE Admin. Code** 1008.3 and 14 **DE Admin. Code** 1009.3 for physical or health examination requirements associated with participation in sports.

## 3.0 Screening

- 3.1 Vision and Hearing Screening
- 3.1.1 Each public school student in kindergarten and in grades 2, 4, 7 and grades 9 or 10 shall receive a vision and a hearing screening by January 15th of each school year. For the 2021-2022 school year only, the required screenings shall be completed by April 15, 2022 and not required to be completed by January 15, 2022.
- 3.1.1.1 In addition to the screening requirements in subsection 3.1.1, screening shall also be provided to school enterers, students referred by a teacher or an administrator, and students considered for special education.
- 3.1.1.1.1 Driver education students shall have a vision screening within a one (1) year prior to ~~of~~ their in-car driving hours.
- 3.1.2 The school nurse shall record the results within the student's electronic health record (see 14 **DE Admin. Code** 811) and shall notify the parent, guardian or relative caregiver as defined in 14 **Del.C.** §202(f), or the student if 18 years or older, or an unaccompanied homeless youth (as defined by ~~42 USC 11434a~~ 42 USC §11434a) if the student has a suspected problem.
- 3.2 Postural and Gait Screening
- 3.2.1 Each public school student in grades 5 through 9 shall receive a postural and gait screening by December ~~15th.~~ 15<sup>th</sup> of each school year. For the 2021-2022 school year only, the required screening shall be completed by February 15, 2022 and not required to be completed by December 15, 2021.



3.2.2 The school nurse shall record the findings within the student's electronic health record (see 14 **DE Admin. Code** 811) and shall notify the parents, guardian or relative caregiver as defined in 14 **Del.C.** §202(f), or the student if 18 years or older, or an unaccompanied homeless youth (as defined by ~~42 USC 11434a~~) 42 USC §11434a) if a suspected deviation has been detected.

3.2.2.1 If a suspected deviation is detected, the school nurse shall refer the student for further evaluation through an ~~onsite~~ on-site follow up evaluation or a referral to the student's healthcare provider.

### 3.3 Lead Screening

3.3.1 School enterers at kindergarten or at age 5 or prior, shall be required to provide documentation of ~~the results of~~ lead screening as per 16 **Del.C.** Ch. 26.

3.3.1.1 For school enterers in kindergarten, documentation of lead screening shall be provided within sixty (60) calendar days of the date of enrollment. Failure to provide the required documentation shall result in the child's exclusion from school until the documentation is provided.

3.3.1.2 Exemption from this requirement may be granted for religious exemptions, per 16 **Del.C.** §2603.

3.3.1.3 The Childhood Lead Poisoning Prevention Act, 16 **Del.C.** Ch. 26, requires all healthcare providers to order lead screening for children at or around the age of 12 months ~~of age~~.

3.3.1.4 For school year 2021-2022, children entering first grade, who did not provide documentation of the results of lead screening when enrolling in kindergarten for the 2020-2021 school year, shall provide such documentation within sixty (60) calendar days of the date of the beginning of the 2021-2022 school year. Failure to provide the required documentation shall result in the child's exclusion from school until documentation is provided.

3.3.2 The school nurse shall document the lead screening within the student's electronic ~~medical~~ health record. See 14 **DE Admin. Code** 811.

## 4.0 Health Records

If the student is at risk of exclusion because of not meeting the health examinations or immunization documentation requirements, the school nurse may contact the previous Delaware public school nurse to obtain health examinations and immunization records.

## 5.0 Special Considerations

5.1 School districts and charter schools shall ensure that policies concerning immunization, guardianship and birth certificates do not create barriers to the school enrollment and participation of identified special populations.

5.1.1 Homeless Children and Youth - The federal McKinney-Vento Homeless Assistance Act, ~~42 U.S.C. 44304~~ 42 USC §11301 et seq., requires immediate enrollment and entry to school, even if students are unable to produce immunization or other medical records. The Delaware public school nurse and the LEA Homeless Education Liaison at the enrolling school shall work together to obtain the necessary immunization records as soon as possible. If a student has not had immunizations, the school nurse and LEA Homeless Education Liaison shall assist homeless children and youth in meeting the immunization requirements.

5.1.2 Youth in Foster Care – The federal Elementary and Secondary Education Act of ~~1965~~ 1965, Section 1111(g)(1)(E) requires that when a determination is made that it is not in ~~a youth in foster care's~~ the best interest of a youth in foster care to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment. The enrolling school shall immediately contact the school last attended by any such child to obtain relevant academic and other records. The school nurse and LEA foster care liaison at the enrolling school shall work together to obtain the necessary immunization records as soon as possible.

- 5.1.3 Military-Connected Youth - In accordance with the provisions of 14 **Del.C.** Ch. 1, Subchapter III-A Interstate Compact on Education For Children of Military Families (MIC3) and its enabling regulation, a school enterer or secondary school student who is subject to MIC3 shall be allowed thirty (30) calendar days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, to obtain or to initiate a series of immunizations required by this regulation. The Delaware public school nurse of the enrolling school shall work with the parent or guardian of the school enterer to obtain the necessary immunization records as soon as possible.
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## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)  
16 **DE Admin. Code** 3201

#### ORDER

#### 3201 Skilled and Intermediate Care Nursing Facilities

##### Nature of The Proceedings

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Skilled and Intermediate Care Nursing Facilities. The DHSS proceedings to adopt regulations were initiated pursuant to Title 29 of the Delaware Code, Chapter 101 and authority as prescribed by Title 16 of the Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

##### Summary of Proposal

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Skilled and Intermediate Care Nursing Facilities.

##### Background

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 6 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 443 (11/01/21).

##### Statutory Authority

16 **Del.C.** §1119C

##### Purpose

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, skilled and intermediate care nursing facilities must expand infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities.

**Fiscal Impact**

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Skilled and Intermediate Care Nursing Facilities are adopted and shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

Date 1/13/2022

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 587 (25 DE Reg. 587). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3201 Skilled and Intermediate Care Nursing Facilities**

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**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C (16 Del.C. §1119C)  
16 DE Admin. Code 3210

**ORDER****3210 Nursing Homes Admitting Pediatric Residents****Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Nursing Homes Admitting Pediatric Residents. The DHSS proceedings to adopt regulations were initiated pursuant to Title 29 of the Delaware Code, Chapter 101 and authority as prescribed by Title 16 of the Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 Del.C. § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

**Summary of Proposal**

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Nursing Homes Admitting Pediatric Residents.

**Background**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 DE Reg. 9 (07/01/21) and extended in the November 2021 *Register* at 25 DE Reg. 446 (11/01/21). The extended emergency regulations also added the requirement that staff at nursing homes admitting pediatric residents must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Statutory Authority**

16 Del.C. §1119C

**Purpose**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Nursing Homes Admitting Pediatric Residents must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at nursing homes that admit pediatric residents must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Fiscal Impact**

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Nursing Homes Admitting Pediatric Residents are adopted and shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

Date 1/13/2022

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 588 (25 DE Reg. 588). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3210 Nursing Homes Admitting Pediatric Residents**

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**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C (16 Del.C. §1119C)  
16 DE Admin. Code 3225

**ORDER**

**3225 Assisted Living Facilities**

**Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Assisted Living Facilities. The DHSS proceedings to adopt regulations were initiated pursuant to Title 29 of the Delaware Code, Chapter 101 and authority as prescribed by Title 16 of the Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 Del.C. § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

**Summary of Proposal**

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Assisted Living Facilities.

**Background**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 11 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 448 (11/01/21).

**Statutory Authority**

16 Del.C. §1119C

**Purpose**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Assisted Living Facilities must expand infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities.

**Fiscal Impact**

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Assisted Living Facilities are adopted and shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

Date 01/13/2022

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 590 (25 DE Reg. 590). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3225 Assisted Living Facilities**

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**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C (16 Del.C. §1119C)

16 DE Admin. Code 3301

**ORDER**

**3301 Group Home Facilities for Persons with AIDS**

**Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Group Home Facilities for Persons with AIDS. The DHSS proceedings to adopt regulations were initiated pursuant to Title 29 of the Delaware Code, Chapter 101 and authority as prescribed by Title 16 of the

Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

## Summary of Proposal

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Group Home Facilities for Persons with AIDS.

## Background

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. The purpose of this amendment is to add the requirement that staff at Group Home Facilities for Persons with AIDS must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

## Statutory Authority

16 **Del.C.** §1119C

## Purpose

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Group Home Facilities for Persons with AIDS must expand the infection prevention and control program by requiring staff at Group Home Facilities for Persons with AIDS must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

## Fiscal Impact

N/A

## Findings of Fact:

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Group Home Facilities for Persons with AIDS are adopted and shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

Date 01/13/2022

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 591 (25 DE Reg. 591). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3301 Group Home Facilities for Persons with AIDS**

**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)  
16 **DE Admin. Code** 3305

**ORDER****3305 Group Homes for Persons with Mental Illness****Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Group Homes for Persons with Mental Illness. The DHSS proceedings to adopt regulations were initiated pursuant to Title 29 of the Delaware Code, Chapter 101 and authority as prescribed by Title 16 of the Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

**Summary of Proposal**

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Group Homes for Persons with Mental Illness.

**Background**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 13 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 449 (11/01/21). The extended emergency regulations also added the requirement that staff at Group Homes for Persons with Mental Illness must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Statutory Authority**

16 **Del.C.** §1119C

**Purpose**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Group Homes for Persons with Mental Illness must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at Group Homes for Persons with Mental Illness must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Fiscal Impact**

N/A

## Findings of Fact:

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Group Homes for Persons with Mental Illness are adopted and shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

Date 01/13/2022

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 592 (25 DE Reg. 592). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3305 Group Homes for Persons with Mental Illness**

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## DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)  
16 **DE Admin. Code** 3310

## ORDER

### **3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities**

#### Nature of The Proceedings

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities. The DHSS proceedings to adopt regulations were initiated pursuant to Title 29 of the Delaware Code, Chapter 101 and authority as prescribed by Title 16 of the Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

#### Summary of Proposal

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities.

#### Background

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 15 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 452 (11/01/21).

#### Statutory Authority

16 **Del.C.** §1119C

#### Purpose

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities must add infection



prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Fiscal Impact**

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities are adopted and shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

Date 01/13/2022

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 594 (25 DE Reg. 594). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities**

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**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C (16 Del.C. §1119C)  
16 DE Admin. Code 3315

**ORDER****3315 Family Care Homes****Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Family Care Homes. The DHSS proceedings to adopt regulations were initiated pursuant to Title 29 of the Delaware Code, Chapter 101 and authority as prescribed by Title 16 of the Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 Del.C. § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

**Summary of Proposal**

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Family Care Homes.

**Background**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving

healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 17 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 454 (11/01/21).

**Statutory Authority**

16 **Del.C.** §1119C

**Purpose**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Family Care Homes must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at Family Care Homes must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Fiscal Impact**

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Family Care Homes are adopted and shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

Date 1/13/2022

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 595 (25 DE Reg. 595). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3315 Family Care Homes**

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**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)  
16 **DE Admin. Code** 3320

**ORDER****3320 Intensive Behavioral Support and Educational Residence****Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Intensive Behavioral Support and Educational Residence. The DHSS proceedings to adopt regulations were initiated pursuant to Title 29 of the Delaware Code, Chapter 101 and authority as prescribed by Title 16 of the Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** § 10115. It requested that written materials and suggestions

from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

### Summary of Proposal

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Intensive Behavioral Support and Education Residence.

### Background

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 19 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 455 (11/01/21).

### Statutory Authority

16 Del.C. §1119C

### Purpose

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Intensive Behavioral Support and Educational Residence must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at Intensive Behavioral Support and Educational Residence must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

### Fiscal Impact

N/A

### Findings of Fact:

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Intensive Behavioral Support and Educational Residence are adopted and shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

Date 1/13/2022

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 596 (25 DE Reg. 596). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3320 Intensive Behavioral Support and Educational Residence**

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## DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)  
16 **DE Admin. Code** 3330

### ORDER

#### 3330 Regulations Governing Dialysis Centers

#### Nature of The Proceedings

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Dialysis Centers. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

#### Summary of Proposal

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Dialysis Centers.

#### Background

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community.

#### Statutory Authority

16 **Del.C.** §1119C

#### Purpose

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, staff at Dialysis Centers must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

#### Fiscal Impact

N/A

#### Findings of Fact:

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Dialysis Centers shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

1/14/2022  
Date

Molly Magarik, Secretary, DHSS

\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 598 (25 DE Reg. 598). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

**3330 Regulations Governing Dialysis Centers**

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**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)  
16 **DE Admin. Code** 3335

**ORDER**

**3335 Office-Based Surgery**

**Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Office-Based Surgery. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

**Summary of Proposal**

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Office-Based Surgery.

**Background**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community.

**Statutory Authority**

16 **Del.C.** §1119C

**Purpose**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, staff at Office-Based Surgery must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Fiscal Impact**

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Office-Based Surgery shall become effective February 11, 2022, after publication of the final regulations in the *Delaware*

*Register of Regulations.*

1/14/2022

Date

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 599 (25 DE Reg. 599). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3335 Office-Based Surgery**

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## DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C (16 Del.C. §1119C)  
16 DE Admin. Code 3340

### ORDER

#### 3340 Free Standing Emergency Departments

#### Nature of The Proceedings

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Free Standing Emergency Departments. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 Del.C. § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

#### Summary of Proposal

Effective February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Free Standing Emergency Departments.

#### Background

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community.

#### Statutory Authority

16 Del.C. §1119C

#### Purpose

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, staff at Free Standing Emergency Departments must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

#### Fiscal Impact

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Free Standing Emergency Departments shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

1/14/2022  
Date

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 600 (25 DE Reg. 600). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3340 Free Standing Emergency Departments**

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**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)  
16 **DE Admin. Code** 3345

**ORDER****3345 Personal Assistance Services Agencies****Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Personal Assistance Services Agencies. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

**Summary of Proposal**

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Personal Assistance Services Agencies.

**Background**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 21 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 457 (11/01/21).

**Statutory Authority**

16 **Del.C.** §1119C

**Purpose**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-

19, Personal Assistance Services Agencies must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at Personal Assistance Services Agencies must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Fiscal Impact**

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Personal Assistance Services Agencies shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

1/14/2022  
Date

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 601 (25 DE Reg. 601). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3345 Personal Assistance Services Agencies**

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## DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)  
16 **DE Admin. Code** 3350

### ORDER

**3350 Skilled Home Health Agencies (Licensure)**

**Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Skilled Home Health Agencies (Licensure). The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** §10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

**Summary of Proposal**

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Skilled Home Health Agencies (Licensure).



**Background**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 35 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 467 (11/01/21).

**Statutory Authority**

16 Del.C. §1119C

**Purpose**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Skilled Home Health Agencies (Licensure) must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at Skilled Home Health Agencies (Licensure) must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Fiscal Impact**

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Skilled Home Health Agencies (Licensure) shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

1/14/2022

Date

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 602 (25 DE Reg. 602). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**[3350 Skilled Home Health Agencies \(Licensure\)](#)**

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**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)  
16 **DE Admin. Code** 3351

**ORDER**

**[3351 Home Health Agencies--Aide Only \(Licensure\)](#)**

**Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Home Health Agencies-Aide Only (Licensure). The DHSS proceedings to adopt regulations

were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** §10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

## **Summary of Proposal**

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Home Health Agencies-Aide Only (Licensure).

## **Background**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 27 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 462 (11/01/21).

## **Statutory Authority**

16 **Del.C.** §1119C

## **Purpose**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Home Health Agencies-Aide Only (Licensure) must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at Home Health Agencies-Aide Only (Licensure) must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

## **Fiscal Impact**

N/A

## **Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Home Health Agencies-Aide Only (Licensure) shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

1/14/2022

Date

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 604 (25 DE Reg. 604). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**3351 Home Health Agencies--Aide Only (Licensure)**

## DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C (16 Del.C. §1119C)  
16 DE Admin. Code 4402

## ORDER

## 4402 Regulations for Adult Day Care Facilities

**Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Adult Day Care Facilities. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 Del.C. § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

**Summary of Proposal**

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Adult Day Care Facilities.

**Background**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 DE Reg. 23 (07/01/21) and extended in the November 2021 *Register* at 25 DE Reg. 459 (11/01/21).

**Statutory Authority**

16 Del.C. §1119C

**Purpose**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Adult Day Care Facilities must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at Adult Day Care Facilities must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Fiscal Impact**

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Adult Day Care Facilities shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

1/14/2022  
Date

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 605 (25 DE Reg. 605). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**4402 Regulations for Adult Day Care Facilities**

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## DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)  
16 **DE Admin. Code** 4403

### ORDER

#### 4403 Free Standing Birthing Centers

#### Nature of The Proceedings

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Free Standing Birthing Centers. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

#### Summary of Proposal

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Free Standing Birthing Centers.

#### Background

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 25 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 460 (11/01/21).

#### Statutory Authority

16 **Del.C.** §1119C

#### Purpose

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Free Standing Birthing Centers must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at Free Standing Birthing Centers must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Fiscal Impact**

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Free Standing Birthing Centers shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

1/14/2022

Molly Magarik, Secretary, DHSS

Date

\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 606 (25 DE Reg. 606). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

**4403 Free Standing Birthing Centers**

**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C (16 Del.C. §1119C)  
16 DE Admin. Code 4407

**ORDER****4407 Hospital Standards (Construction, Maintenance, and Operation)****Nature of The Proceedings**

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Hospital Standards (Construction, Maintenance, and Operation). The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 Del.C. §10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

**Summary of Proposal**

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Hospital Standards (Construction, Maintenance, and Operation).

**Background**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 DE Reg. 29 (07/01/21) and extended in the November 2021 *Register* at 25 DE Reg. 464 (11/01/21).

**Statutory Authority**

16 Del.C. §1119C

## Purpose

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, hospitals must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at hospitals must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

## Fiscal Impact

N/A

## Findings of Fact:

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Hospital Standards (Construction, Maintenance, and Operation) shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

1/14/2022

Date

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 608 (25 DE Reg. 608). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**4407 Hospital Standards (Construction, Maintenance, and Operation)**

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## DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C (16 Del.C. §1119C)  
16 DE Admin. Code 4409

## ORDER

**4409 Prescribed Pediatric Extended Care Centers (PPECC)**

## Nature of The Proceedings

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Prescribed Pediatric Extended Care Centers (PPECC). The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 Del.C. §10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

## Summary of Proposal

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations

governing Prescribed Pediatric Extended Care Centers (PPECC).

**Background**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 33 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 465 (11/01/21).

**Statutory Authority**

16 Del.C. §1119C

**Purpose**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Prescribed Pediatric Extended Care Centers (PPECC) must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at Prescribed Pediatric Extended Care Centers (PPECC) must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

**Fiscal Impact**

N/A

**Findings of Fact:**

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Prescribed Pediatric Extended Care Centers (PPECC) shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

1/14/2022

Date

Molly Magarik, Secretary, DHSS

**\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 611 (25 DE Reg. 611). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**4409 Prescribed Pediatric Extended Care Centers (PPECC)**

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## DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)  
16 **DE Admin. Code** 4468

### ORDER

#### 4468 Delivery of Hospice Services

#### Nature of The Proceedings

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Delivery of Hospice Services. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** §10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

#### Summary of Proposal

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Delivery of Hospice Services.

#### Background

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. Emergency regulations to require an infection prevention and control program were published in the July 2021 *Register* at 25 **DE Reg.** 37 (07/01/21) and extended in the November 2021 *Register* at 25 **DE Reg.** 469 (11/01/21).

#### Statutory Authority

16 **Del.C.** §1119C

#### Purpose

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Delivery of Hospice Services agencies must add infection prevention and control program requirements. A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Control and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities. In addition, staff at Delivery of Hospice Services agencies must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

#### Fiscal Impact

N/A

#### Findings of Fact:

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Delivery of Hospice Services shall become effective February 11, 2022, after publication of the final regulations in the



*Delaware Register of Regulations.*

1/14/2022

Date

Molly Magarik, Secretary, DHSS

\*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 613 (25 DE Reg. 613). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

**4468 Delivery of Hospice Services**

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**DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH**

Statutory Authority: 21 Delaware Code, Section 4177D (21 Del.C. §4177D)  
2 DE Admin. Code 1201

**ORDER**

**1201 Driving Under the Influence Evaluation Program, Courses Of Instruction, Programs of Rehabilitation and Related Fees**

**NATURE OF THE PROCEEDINGS**

Pursuant to the *Administrative Procedures Act* (29 Del.C. Ch. 101) and under the authority of 21 Del. C. § 4177D, the State of Delaware Department of Health and Social Services ("the Department") initiated proceeding to repeal regulations governing driving under the influence programs.

On November 1, 2021, notice of the Department's proposal was published in the *Delaware Register of Regulations* (25 DE Reg. 496) pursuant to the *Administrative Procedures Act* (29 Del.C. Ch. 101). The notice requested the public provide written submissions of suggestions, data, testimony, briefs, or other materials related to the Department's proposal to the Department no later than December 1, 2021, after which the Division would review the submissions.

The Department did not receive any written submissions on the proposal.

**FINDINGS OF FACT**

No changes have been made to the published proposal. The Department finds that the proposed repeal, as set forth in the attached copy, should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED that 2 DE Admin. Code 1201 is repealed effective February 11, 2022 (10 days), after publication in the *Delaware Register of Regulations*.

Molly K. Magarik, M.S.  
Secretary

1/14/2022  
Date

\*Please note that no changes were made to the regulation as originally proposed and published in the November 2021 issue of the *Register* at page 496 (25 DE Reg. 496). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

**1201 Driving Under the Influence Evaluation Program, Courses Of Instruction, etc.**

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## DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

Statutory Authority: 21 Delaware Code, Section 4177D (21 **Del.C.** §4177D)  
2 **DE Admin. Code** 1204

### ORDER

#### 1204 Drinking Driver Programs Standard Operating Procedures

#### NATURE OF THE PROCEEDINGS

Pursuant to the Administrative Procedures Act (29 **Del.C.** Ch. 101) and under the authority of 21 **Del. C.** § 4177D, the State of Delaware Department of Health and Social Services ("the Department") initiated proceeding to repeal regulations governing driving under the influence programs.

On November 1, 2021, notice of the Department's proposal was published in the *Delaware Register of Regulations* (25 **DE Reg.** 499) pursuant to the *Administrative Procedures Act* (29 **Del.C.** Ch. 101). The notice requested the public provide written submissions of suggestions, data, testimony, briefs, or other materials related to the Department's proposal to the Department no later than December 1, 2021, after which the Division would review the submissions.

The Department did not receive any written submissions on the proposal.

#### FINDINGS OF FACT

No changes have been made to the published proposal. The Department finds that the proposed repeal, as set forth in the attached copy, should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED that 2 **DE Admin. Code** 1204 is repealed effective February 11, 2022 (10 days), after publication in the *Delaware Register of Regulations*.

Molly K. Magarik, M.S.  
Secretary

1/14/2022  
Date

**\*Please note that no changes were made to the regulation as originally proposed and published in the November 2021 issue of the Register at page 499 (25 DE Reg. 499). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**1204 Drinking Driver Programs Standard Operating Procedures**

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## DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

Statutory Authority: 21 Delaware Code, Section 4177D (21 **Del.C.** §4177D)

### ORDER

#### 6003 DUI Programs

#### NATURE OF THE PROCEEDINGS

Pursuant to the *Administrative Procedures Act* (29 **Del.C.** Ch. 101) and under the authority of 21 **Del. C.** § 4177D, the State of Delaware Department of Health and Social Services ("the Department") initiated proceeding to adopt regulations governing driving under the influence programs.

On November 1, 2021, notice of the Department's proposed regulations was published in the *Delaware Register of Regulations* (25 **DE Reg.** 500) pursuant to the *Administrative Procedures Act* (29 **Del.C.** Ch. 101). The notice requested the public provide written submissions of suggestions, data, testimony, briefs, or other materials related to the Department's proposal to the Department no later than December 1, 2021, after which the Division would review the submissions.

The Department received public comment from the Governor's Advisory Council for Exceptional Citizens ("the Council") via a letter from Chairperson Fisher on November 29, 2021. The Council stated it "cannot support the

proposed regulation because they do not contain a sliding scale or other options for possible waiver of fees for qualifying individuals."

The Department notes that no sliding scale has ever existed for DUI programs. The Department believes that these fees are necessary to ensure that providing these services remains a financially viable venture for programs. While the Department is supportive of a sliding scale fee based on the participant's ability to pay, the Department is unable to implement such a system as it lacks a funding source to reimburse programs the difference and the administrative capacity to determine financial eligibility for participants.

The Department did not receive any other written submissions on the proposal.

### **FINDINGS OF FACT**

The Department made technical changes to improve the clarity of the published regulation. The Department has determined pursuant to 29 **Del.C.** §10118(c) that the changes are nonsubstantive and do not require reproposing of the regulation. The Department finds that the proposed regulation, as set forth in the attached copy, should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations governing driving under the influence programs is adopted effective February 11, 2022 (10 days), after publication of the final regulation in the *Delaware Register of Regulations*.

Molly K. Magarik, M.S.  
Secretary

1/14/2022  
Date

### **6003 DUI Programs** *(Break in Continuity of Sections)*

#### **5.0 Programs**

5.1 A program may provide services if the program ~~meets all of the following requirements:~~ is authorized, contracted, and licensed by the Division to provide substance use disorder services.

~~5.1.1 The program is licensed by the Division to provide treatment for substance use disorder.~~

~~5.1.2 The program is authorized by the Division to provide services for substance use disorder.~~

~~5.1.3 The program is contracted by the Division to provide services for substance use disorder.]~~

*(Break in Continuity of Sections)*

#### **7.0 Attendance**

*(Break in Continuity Within Section)*

7.4 A participant's absence is excused from an activity whenever any of the following occurs:

7.4.1 The participant notifies a program during regular business hours at least 24 hours before the start of an activity ~~they are unable to attend~~ and requests ~~a pre arranged absence to be excused~~.

7.4.2 The participant's absence is due to events that are wholly beyond the participant's control, or the participant otherwise demonstrates good cause.

7.4.3 The activity does not begin less than one hour after the scheduled start time.

7.4.4 The program cancels the activity.

*(Break in Continuity Within Section)*

7.9 A participant may request a leave of absence from a program. ~~The Subject to the approval of the program's director, a~~ program may grant the participant's request if the participant does all of the following:

7.9.1 Requests the leave in advance.

7.9.2 Demonstrates good cause.

7.9.3 Provides reasonable documentation to support the request.

~~[7.9.4 The program's director approves the request.]~~

*(Break in Continuity of Sections)*

## 9.0 Referrals

*(Break in Continuity Within Section)*

9.3 A program must refer a participant to a program for ~~[Level 1]~~ treatment services whenever ~~[all any]~~ of the following conditions exist:

~~[9.3.1 The participant's DUI is the participant's first.~~

~~9.3.2 The participant's BAC was less than .15.~~

~~9.3.3 The participant's screening report identifies a moderate or higher risk of substance use disorder.~~

9.3.1 The participant's DUI is the participant's first and any of the following conditions exist:

9.3.1.1 The participant's screening report identifies a moderate or higher risk of substance use disorder.

9.3.1.2 The participant's BAC was .15 or more.

9.3.1.3 The participant refused to submit to a chemical test.

9.3.1.4 The participant's DUI involved the use of drugs.

9.3.2 The participant's DUI is the participant's second within 10 years and the participant's BAC was .15 or less.]

9.4 A program must refer a participant to a program for ~~[Level 2 intensive]~~ treatment services whenever ~~[one any]~~ of the following conditions exist:

9.4.1 The participant's DUI is the participant's ~~[first second within 10 years]~~ and any of the following conditions exist:

9.4.1.1 The participant's BAC was .15 or more.

9.4.1.2 The participant refused to submit to a chemical test.

~~[9.4.1.3 The participant's DUI involved the use of drugs.]~~

9.4.2 The participant's DUI is the participant's ~~[second within 10 years and the participant's BAC was .15 or less third or subsequent DUI]~~.

~~[9.4.3 The participant's DUI is the participant's first DUI or second DUI within 10 years and the participant's DUI involved the use of drugs.~~

~~9.5 A program must refer a participant to a program for Level 3 treatment services whenever all of the following conditions exist:~~

~~9.5.1 The participant's DUI is the participant's second within 10 years.~~

~~9.5.2 Any of the following conditions exist:~~

~~9.5.2.1 The participant's BAC was .15 or more.~~

~~9.5.2.2 The participant refused to submit to a chemical test.~~

~~9.6 9.5] Whenever a participant does not meet the criteria under subsections 9.2 through [9.5 9.4] of this regulation, a program must refer the participant for appropriate treatment services based on the participant's risk of substance use disorder identified in the participant's screening report.~~

~~[9.7 9.6] Whenever a participant's screening report indicates co-occurring mental health or medical conditions, a program must provide the participant with a referral to appropriate services.~~

*(Break in Continuity of Sections)*

## 11.0 Treatment Services

*(Break in Continuity Within Section)*

11.6 A program ~~[must may]~~ require a participant ~~[receiving Level 2 or 3 treatment services]~~ to submit to urine drug screenings as part of the participant's treatment plan. Subject to the Division's approval, a program administering urine drug screenings must adopt written policies and procedures for conducting the screenings.

**12.0 Completion Requirements***(Break in Continuity Within Section)*

- 12.2 A program may grant a certificate of completion to a participant receiving ~~[Level 1 or 2]~~ treatment services whenever the participant satisfies the requirements of their treatment plan, attends 16 hours of treatment activities, and pays the fees required by the program.
- 12.3 A program may grant a certificate of completion to a participant receiving ~~[Level 3 intensive]~~ treatment services whenever the participant satisfies the requirements of their treatment plan, attends 27 hours of treatment activities, and pays the fees required by the program.
- 12.4 A program may grant a certificate of completion to a nonresident participant if the participant substantially satisfies the requirements of this section in their home state. Subject to the Division's approval, the program must establish policies and procedures to assist a nonresident participant satisfactorily in complying with the requirements of this section.

**13.0 Fees and Payments***(Break in Continuity Within Section)*

- 13.6 A treatment program may charge a participant a total program fee of \$1,000 or less for 16-hours of ~~[Level 1 or 2]~~ treatment activities.
- 13.7 A treatment program may charge a participant a total program fee of \$1,700 or less for 27-hours of ~~[Level 3 intensive]~~ treatment activities.

**\*Please note that no additional changes were made to the regulation as originally proposed and published in the November 2021 issue of the *Register* at page 500 (25 DE Reg. 500). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

**6003 DUI Programs**

**DEPARTMENT OF STATE  
DIVISION OF PROFESSIONAL REGULATION  
1900 BOARD OF NURSING**

Statutory Authority: 24 Delaware Code, Section 1906(a)(1) (24 Del.C. §1906(a)(1))  
24 DE Admin. Code 1900

**FINAL ORDER ADOPTING REGULATION CHANGES****1900 Board of Nursing**

The Delaware Board of Nursing pursuant to 24 Del. C. § 1906(a)(1), proposed to revise its regulations. The proposed amendments seek to clarify what percentage of a nursing course's clinical experience may be through simulation; clarify who may go inactive and the procedure to do; and amends the advanced practice registered nurse regulations in order to comply with changes to the law, which among other changes, eliminate the collaborative agreement and independent practice application requirements and change the make-up of the APRN committee.

**SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Following publication in the Delaware Register of Regulations on October 1, 2021 a public hearing was held on November 10, 2021. Written comment periods were held open for thirty days, and an additional fifteen days following the public hearing. At the hearing, the Board accepted as evidence and marked as the Board's Exhibits 1 and 2 documentation of publication of the notice of the public hearing in the News Journal and the Delaware State News. In addition, Barbara Kidner, of the Delaware Association of Nurse Anesthetists (DANA), offered testimony. Ms. Kidner voiced support for the proposed regulation changes in general, but noted two technical issues.

At the time of the deliberations, the Board considered the following documents:

**Board Exhibit 1** - Affidavit of publication of the public hearing notice in the News Journal;

**Board Exhibit 2** - Affidavit of publication of the public hearing notice in the Delaware State News;

**Board Exhibit 3** - November 1, 2021 letter from Doyle Lim, MD, MMM, FAAP, President of the Delaware Association of Anesthesiologists voicing opposition to the proposed regulatory changes; and

**Board Exhibit 4** - November 22, 2021 letter from Carrie Kenney, DNP, CRNA, FNP-C, APRN, President of DANA reiterating Ms. Kidner's comments and providing suggested corrections in writing.

## FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.

2. Ms. Kidner testified at the hearing as a representative of the Delaware Association of Nurse Anesthetists. Ms. Kidner stated that DANA supports the proposed changes but asked that the Board consider amending Regulation 8.4 to accurately reflect the name of the accrediting body for CRNA education programs as well as the certifying body for CRNA's. The current regulation includes the former names of these entities and is therefore incorrect. Ms. Kidner also requested a change to Regulation 8.9.4, which currently states that an APRN must have earned a Master's degree in the appropriate role and focus. Ms. Kidner noted that there are now doctoral programs for CRNAs; therefore, this regulation would technically appear to exclude candidates who have received a degree higher than a master's degree. She asked that the regulation be changed to include doctoral degrees.

3. In follow up to Ms. Kidner's testimony, the President of Dana, Carrie Kenney submitted written comment setting for DANA's suggested changes in writing. Specifically, DANA suggested the following changes:

"Certified Registered Nurse Anesthetist (C.R.N.A.)" A Registered Nurse who has graduated from a nurse anesthesia educational program accredited by the Council on Accreditation of Nurse Anesthesia Educational programs (COA), ~~American Association of Nurse Anesthetists' Council on Accreditation of Nurse Anesthesia Educational programs~~ and who is certified by the National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA), ~~American Association of Nurse Anesthetists' Council on Certification of Nurse Anesthetists~~ or other nationally recognized, Board of Nursing approved certifying organization.

A Registered Nurse meeting requirements set forth in these Rules and Regulations may be issued a license as an Advanced Practice Registered Nurse in the role and population focus in which the nurse has been nationally certified at the advanced level ~~and/or~~ has earned at a minimum a Master's degree in the same role and population.

4. The Board agreed that the regulations should include the proper name of CRNA's educational accrediting body and certifying body. In addition, the Board believed it was appropriate to include "at a minimum" a Master's degree because to not do so could lead to an absurd result wherein a nurse with a doctoral degree versus the lower master's degree would appear to not be qualified for licensure as an APRN. Pursuant to 29 Del. C. § 10113(b)(4), "[n]onsubstantive changes in existing regulations to alter style or form **or to correct technical errors**" may be adopted without complying with the public comment requirements of the Administrative Procedures Act. As such, the Board voted to include DANA's suggested technical changes in this Final Order.

5. As to the written comment submitted by the Delaware Society of Anesthesiologists (DSA), the Board noted that the concerns raised by DSA were previously addressed when the Nurse Practice Act was amended to eliminate collaborative agreements and independent practice application requirements. DSA states that the proposed regulatory changes "would remove all physician involvement from anesthesia care for nurse anesthetists in Delaware;" however, the changes with which DSA disagrees already occurred when the law changed in August 2021. The proposed regulatory changes simply align the Board's regulations with its recently amended statute. Nonetheless, the Board noted that CRNAs are required to complete over 2,000 hours of clinical training, including in specialized areas such as pediatrics, prior to being qualified for licensure.

6. Pursuant to 24 Del. C. § 1906(a)(1), the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

7. The proposed amendments seek to clarify what percentage of a nursing course's clinical experience may be through simulation; clarify who may go inactive and the procedure to do; and amends the advanced practice registered nurse regulations in order to comply with changes to the law, which among other changes, eliminate the collaborative agreement and independent practice application requirements and change the make-up of the APRN committee.

8. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed changes to the Board's rules and regulations.

7. For the reasons stated above, the Board finds no reason to substantively amend the regulations in response to DSA's comments but to make small technical changes in response to comments from DANA.

#### DECISION AND ORDER CONCERNING THE REGULATIONS

Having found that the proposed changes to the regulations are necessary as outlined herein, the Board finds that the regulations shall be adopted as final in the form as proposed. The exact text of the regulations, as amended, are attached to this order as Exhibit A. These changes will become effective ten days following publication of this order in the Delaware Register of Regulations.

**IT IS SO ORDERED** this 12th day of January 2022 by the Delaware Board of Nursing.

Kimberly Hopkins, RN, Vice President

/s/ Jacqui Mainwaring, CRNA

/s/ Pamela James, RN

/s/ Stephanie Mitchell, FNP, PMH, NP

/s/ Sandra Glenn-Vernon, RN

/s/ Michael Brothers, Public Member

/s/Kenyette Walters, LPN, Vice President

/s/ Tiarra Davis, Public Member

/s/ Carol Abdill, RN

/s/ William Hare, Public Member

/s/ Marlo Metz, RN

/s/ Danielle Gomez

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

#### 1900 Board of Nursing (Break in Continuity of Sections)

#### 8.0 Rules and Regulations Governing the Practice of Nursing as an Advanced Practice Registered Nurse in the State of Delaware

##### (Break in Continuity Within Section)

#### 8.4 Definitions

##### (Break in Continuity Within Section)

**“Certified Registered Nurse Anesthetist (C.R.N.A.)”** A Registered Nurse who has graduated from a nurse anesthesia educational program accredited by the ~~[American Association of Nurse Anesthetists’ Council on Accreditation of Nurse Anesthesia Educational programs Council on Accreditation of Nurse Anesthesia Educational programs (COA)]~~, and who is certified by the ~~[American Association of Nurse Anesthetists’ Council on Certification of Nurse Anesthetists National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)]~~ or other nationally recognized, Board of Nursing approved certifying organization.

##### (Break in Continuity Within Section)

#### 8.9 Application for Initial Licensure to Practice as an Advanced Practice Registered Nurse

##### (Break in Continuity Within Section)

~~8.9.68.9.4~~ A Registered Nurse meeting requirements set forth in these Rules and Regulations may be issued a license as an Advanced Practice Registered Nurse in the role and population focus in which the nurse has been nationally certified at the advanced level ~~and/or~~ or has earned **[at a minimum]** a Master’s degree in the same role and population.

**\*Please note that no additional changes were made to the regulation as originally proposed and published in the October 2021 issue of the Register at page 395 (25 DE Reg. 395). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

**1900 Board of Nursing**

## DIVISION OF PROFESSIONAL REGULATION 2925 REAL ESTATE COMMISSION EDUCATION COMMITTEE

Statutory Authority: 24 Delaware Code, Section 2906(a)(1) (24 **Del.C.** §2906(a)(1))  
24 **DE Admin. Code** 2925

### FINAL ORDER

#### 2925 Real Estate Commission Education Committee

After due notice in the *Delaware Register of Regulations* and two Delaware newspapers, a public hearing was held on December 9, 2021 at a scheduled meeting of the Delaware Real Estate Commission ("Commission") to receive comments regarding proposed amendments to the Commission's Education Guidelines ("Guidelines"). Specifically, subsection 10.6, pertaining to first time instructor applicants, has been revised to state that an applicant who applies for instructor approval for the first time may be approved to teach only one continuing education module, and after obtaining at least 60 positive course evaluations, the instructor may apply to teach additional modules. This change broadens the instructor approval process to permit first time applicants to teach more than just Module 7.

The proposed changes to the Guidelines were published in the *Delaware Register of Regulations*, Volume 25, Issue 5, on November 1, 2021. Notice of the December 9, 2021 hearing was published in the *News Journal* (Exhibit 1) and the *Delaware State News*. Exhibit 2. Pursuant to 29 **Del.C.** § 10118(a), the date to receive final written comments was December 24, 2021, 15 days following the public hearing. The Commission deliberated on the proposed revisions at its regularly scheduled meeting on January 13, 2022.

#### Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

Commission Exhibit 1: *News Journal* Affidavit of Publication.

Commission Exhibit 2: *Delaware State News* Affidavit of Publication.

There was no verbal testimony given at the public hearing on December 9, 2021. Further, no written comments were received by the Commission.

#### Findings of Fact and Conclusions

The public was given notice and an opportunity to provide the Commission with comments in writing and by testimony on the proposed amendments to the Commission's Guidelines. There were no public comments provided to the Commission either in writing or during the public hearing.

Pursuant to 24 **Del.C.** § 2906(a)(1), the Commission has the statutory authority to promulgate rules and regulations.

Having received no public comments, the Commission finds no reason to amend the regulations as proposed.

#### Decision and Effective Date

The Commission hereby adopts the changes to the Guidelines as proposed, to be effective 10 days following publication of this Order in the *Register of Regulations*. The new Guidelines are attached hereto as Exhibit A.

**IT IS SO ORDERED** this 13th day of January 2022.

#### DELAWARE REAL ESTATE COMMISSION

/s/ Nora Martin, Professional Member, Chairperson

/s/ Deborah Cottrell, Public Member, Secretary

/s/ Lynette Scott, Professional Member

/s/ Lynn Rogers, Public Member

/s/ Jason Giles, Professional Member,  
Vice Chairperson

/s/ Nikki Lane, Professional Member

/s/ Randy Marvel, Professional Member

/s/ Beverly Zimmerman, Public Member



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# FINAL REGULATIONS

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

\*Please note that no changes were made to the regulation as originally proposed and published in the November 2021 issue of the *Register* at page 505 (25 DE Reg. 505). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

**2925 Real Estate Commission Education Committee**

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## DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Sections 210-218 (16 Del.C. §§210-218)

### NOTICE OF PUBLIC COMMENT

#### Birth to Three Early Intervention Program

##### Notice of Public Participation:

##### Public comment on the FFY 2022 (July 1, 2022-June 30, 2023) Annual Part C Grant Application Under Part C of the Individuals with Disabilities Education Act (IDEA)

The Department of Health and Social Services, Birth to Three Early Intervention Program (the Program) is announcing the publication of the draft FFY 2021-22 Annual Application. The Department is also announcing revisions to Section 13 of the Program's policy manual.

In order to meet the public participation requirements under §441 of the General Education Provisions Act (GEPA) at 20 USC 1232d(b)(7)(B) and Part C of the IDEA at 34 CFR §303.208, the Program, as lead agency for implementation of Part C of the IDEA in Delaware, is publishing the draft application, which includes the budget for the Part C federal funds. The draft application will be available for public review at <https://dhss.delaware.gov/dhss/dph/birthtothree/index.html> for 60 days beginning February 1 through April 2, 2022.

The purpose of the public participation period is to gather comments regarding the draft grant application and a draft revised policy prepared by the Program. The revised draft policy, *Section 13: Eligibility for Delaware's Birth to Three Early Intervention Program*.

#### SUMMARY OF PROPOSED REVISIONS TO SECTION 13 OF THE MANUAL

1. While the definition of "communication development" in Section 1 of the Birth to Three Early Intervention Program Policies and Procedures Manual expressly includes both receptive and expressive language, the state's eligibility criteria, in Section 13.C of the Manual, excludes expressive language unless the child also a developmental delay in another developmental area. This limitation on eligibility for children with a developmental delay in communication development is inconsistent with the federal definition of "infant or toddler with a disability" in 34 CFR §303.21 and the definition of "communication development" in Section 1 of the Manual.
2. Revisions are proposed to strengthen Sections 13.C.4 and C.5, and to ensure that family service coordinators (FSCs), early intervention service provider agencies, and parents fully understand that infants and toddlers with diagnosed established condition are eligible to receive early intervention services whether are not they also have a developmental delay, and that they have all of the same rights as children with developmental delays.
3. A revision to the standard deviation in Section 13.C.1.d. from 1.75 to 1.66 to better align with a 25% delay.

**The opportunity for public comment on the draft application is available for 30 days beginning March 4 through April 2, 2022.** Comments will be accepted from the general public during this time period, including parents of infants and toddlers with disabilities, providers of services, advocacy groups and organizations and other stakeholders in the state.

**Public hearings will be held virtually via Zoom on the following days and times:**

March 8, 2022; 5:00-6:00 pm ET  
<https://wested.zoom.us/j/98679501793>  
Meeting ID: 986 7950 1793 877-853-5247  
US Toll-free; or 877-369-0926 US Toll-free

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## GENERAL NOTICES

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March 11, 2022; 10:00-11:00 am ET  
<https://wested.zoom.us/j/95235025071>  
Meeting ID: 952 3502 5071 877-853-5247  
US Toll-free; or 877-369-0926 US Toll-free

Comments may also be provided to the Birth to Three Early Intervention Program via use of the [Comment Form](https://app.smartsheet.com/b/form/5fd32cbe43ef4d04b74766610a2be062) (<https://app.smartsheet.com/b/form/5fd32cbe43ef4d04b74766610a2be062>) or by mail or email to:

Birth to Three Early Intervention Program  
410 Federal St, 3rd Fl, Suite 7, Dover, DE 19901  
[DHSS\\_DPH\\_BirthToThree@delaware.gov](mailto:DHSS_DPH_BirthToThree@delaware.gov)

Responses to individual questions and comments will not be provided; however, the Birth to Three staff will review and consider all comments and make any modifications to the application that are deemed necessary. **The Birth to Three Program must receive your comments no later than April 2, 2022.**

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

The Delaware River Basin Commission will hold a public hearing on **Wednesday, February 9, 2022** beginning at **1:30 p.m.** The public hearing will be conducted virtually. Please check the Commission's website, [www.drbc.gov](http://www.drbc.gov), on or after January 26, 2022 for details regarding the draft docket decisions that will be subjects of the public hearing and for information on how to attend and participate in this virtual public hearing. The Commission's quarterly business meeting will be held the following month, on **Wednesday, March 9, 2022**, beginning at **10:30 a.m.** The business meeting will also be conducted virtually. Details about the meeting format and how to attend will be posted on the Commission's website, [www.drbc.gov](http://www.drbc.gov), no later than January 28, 2022. For additional information, please visit the DRBC website at [www.drbc.gov](http://www.drbc.gov) or contact Patricia Hausler at [patricia.hausler@drbc.gov](mailto:patricia.hausler@drbc.gov).

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

The State Board of Education meets monthly. These meetings are open to the public. The Board rotates locations of regular meetings among the three counties.

Meeting information can be accessed via the public meeting calendar.

Meeting materials available on the State Board of Education's eBoard site ([https://simbli.eboardsolutions.com/SB\\_Meetings/SB\\_MeetingListing.aspx?S=190001](https://simbli.eboardsolutions.com/SB_Meetings/SB_MeetingListing.aspx?S=190001)). (If you are having technical difficulties accessing the site, please try a different browser.)

The next meeting is scheduled for February 17, 2022.

Information regarding special meetings or Committee meetings of the State Board will be posted on the public meeting calendar.

Minutes from recent State Board of Education meetings can be found on the public meeting calendar.

Audio recordings are available after every Board meeting (<https://www.doe.k12.de.us/domain/225>).

Public meeting calendar: <https://publicmeetings.delaware.gov/#/search?anyall=any&agencyid=22&startdateinclusive=2019-01-01>

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**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**PUBLIC NOTICE****3500 Board of Examiners of Psychologists**

The Delaware Board of Examiners of Psychologists, pursuant to 24 **Del.C.** §3506(a)(1), proposes to add a requirement that all licensees complete three continuing education credits in cultural inclusion, equity, and diversity. Psychologists will still be required to complete 40 CEs per renewal period, and psychological assistants will still be required to complete 20 CEs per renewal period, but of those totals, three must be in cultural inclusion, equity, and diversity.

The original amendments were published on page 1051 of the June 1, 2021 issue of the *Delaware Register of Regulations* (24 **DE Reg.** 1051 (06/01/21)). The Board planned to hold a virtual public hearing on July 26, 2021 at 9:00 a.m., but that meeting was cancelled. The amendments were republished on page 622 of the December 1, 2021 issue of the *Delaware Register of Regulations* (25 **DE Reg.** 622 (12/01/21)). The Board planned to hold a virtual public hearing on January 3, 2022, but that meeting was cancelled due to inclement weather. As a result, the Board will now hold a virtual hearing on the re-proposed rule change on March 7, 2022. Written comments should be sent to Randall Clack, Administrator of the Delaware Board of Examiners of Psychologists, Cannon Building, 861 Silver Lake Blvd, Suite 203, Dover, DE 19904. Written comments will be accepted until March 22, 2022.