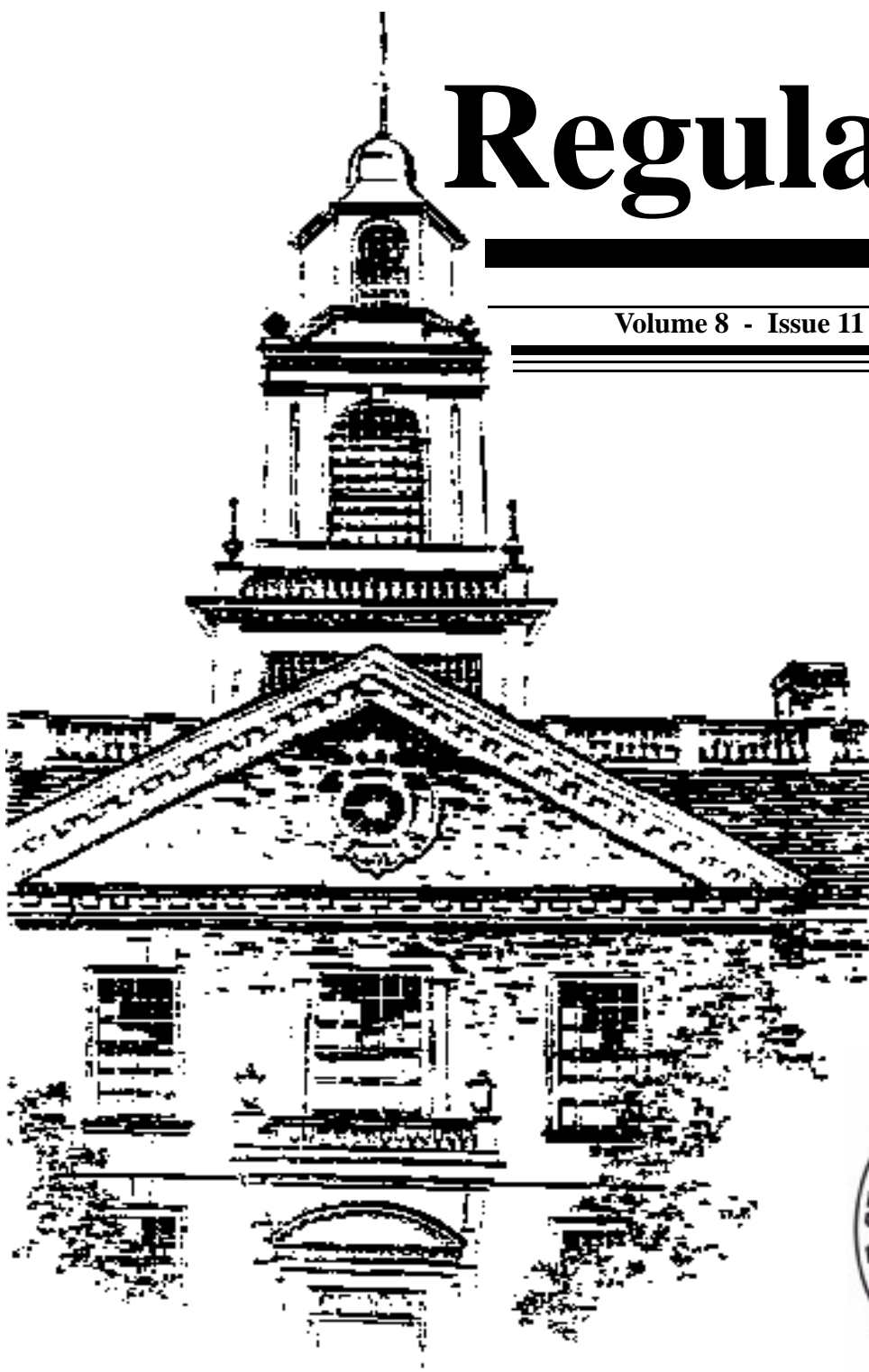

Delaware Register of Regulations



Issue Date: May 1, 2005

Volume 8 - Issue 11

Pages 1505 - 1635

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Pursuant to 29 Del. C. Chapter 11, Subchapter III, this issue of the Register contains all documents required to be published, and received, on or before April 15, 2005.

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

DELAWARE REGISTER OF REGULATIONS

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

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

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

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

CITATION TO THE DELAWARE REGISTER

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

8 DE Reg. 757-772 (12/01/04)

Refers to Volume 8, pages 757-772 of the *Delaware Register* issued on December 1, 2004.

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations*. At the conclusion of all hearings and after receipt, within the time allowed, of all written

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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*.

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

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

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

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Symbol Key

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

Proposed Regulations

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

DEPARTMENT OF ADMINISTRATIVE SERVICES

**DIVISION OF PROFESSIONAL REGULATION
3500 Board of Examiners of Psychologists
24 DE Admin. Code 3500**

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

PUBLIC NOTICE

The Delaware Board of Examiners of Psychologists in accordance with 24 **Del.C.** §3506(a)(1) has proposed changes to its rules and regulations as mandated by SB 229. The proposal identifies crimes that are substantially related to the provision of psychology services.

A public hearing was held on March 7, 2005, after which the Board decided to review its proposal. A revised list of related crimes was developed at a subsequent subcommittee meeting held on March 21, 2005. The Board approved and adopted the subcommittee's recommendations at a Board meeting held on April 4, 2005. The revised list of crimes includes substantive deletions and clarifications from the proposal originally published in the *Register of Regulations*, Vol. 8, Issue 6, on December 1, 2004.

A second public hearing will be held on June 6, 2005 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Examiners in Psychology, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to

submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

Proposed Rules and Regulations**17.0 Crimes substantially related to the practice of psychology:**

17.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of psychology in the State of Delaware without regard to the place of conviction:

17.1.1 Aggravated menacing. 11 Del. C. §602 (b)

17.1.2 Reckless endangering in the second degree. 11 Del.C. §603

17.1.3 Reckless endangering in the first degree. 11 Del.C. §604

17.1.4 Abuse of a pregnant female in the second degree. 11 Del.C. §605.

17.1.5 Abuse of a pregnant female in the first degree. 11 Del.C. §606.

17.1.6 Assault in the third degree. 11 Del.C. §611.

17.1.7 Assault in the second degree. 11 Del.C.

§612

17.1.8 Assault in the first degree. 11 Del.C. §613.

17.1.9 Abuse of a sports official; felony. 11 Del.C. §614.

- 17.1.10 Assault by abuse or neglect. 11 **Del.C.** §615.
- 17.1.11 Gang participation. 11 **Del.C.** §616.
- 17.1.12 Terroristic threatening. 11 **Del.C.** §621(a) and (b).
- 17.1.13 Unlawfully administering drugs. 11 **Del.C.** §625.
- 17.1.14 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626.
- 17.1.15 Prohibited acts as to substances releasing vapors or fumes. 11 **Del.C.** §627.
- 17.1.16 Vehicular assault in the first degree. 11 **Del.C.** §629.
- 17.1.17 Vehicular homicide in the second degree. 11 **Del.C.** §630.
- 17.1.18 Vehicular homicide in the first degree. 11 **Del.C.** §630A.
- 17.1.19 Criminally negligent homicide. 11 **Del.C.** §631.
- 17.1.20 Manslaughter. 11 **Del.C.** §632.
- 17.1.21 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633
- 17.1.22 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.
- 17.1.23 Murder in the second degree. 11 **Del.C.** §635.
- 17.1.24 Murder in the first degree. 11 **Del.C.** §636.
- 17.1.25 Promoting suicide. 11 **Del.C.** §645.
- 17.1.26 Abortion. 11 **Del.C.** §651.
- 17.1.27 Self abortion. 11 **Del.C.** §652.
- 17.1.28 Issuing abortifacient articles. 11 **Del.C.** §653.
- 17.1.29 Sexual harassment. 11 **Del.C.** §763.
- 17.1.30 Indecent exposure in the second degree. 11 **Del.C.** §764.
- 17.1.31 Indecent exposure in the first degree. 11 **Del.C.** §765.
- 17.1.32 Incest. 11 **Del.C.** §766.
- 17.1.33 Unlawful sexual contact in the third degree. 11 **Del.C.** §767.
- 17.1.34 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.
- 17.1.35 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.
- 17.1.36 Rape in the fourth degree. 11 **Del.C.** §770.
- 17.1.37 Rape in the third degree. 11 **Del.C.** §771.
- 17.1.38 Rape in the second degree. 11 **Del.C.** §772.
- 17.1.39 Rape in the first degree. 11 **Del.C.** §773.
- 17.1.40 Sexual extortion. 11 **Del.C.** §776.
- 17.1.41 Bestiality. 11 **Del.C.** §777.
- 17.1.42 Continuous sexual abuse of a child. 11 **Del.C.** §778.
- 17.1.43 Dangerous crime against a child. 11 **Del.C.** §779.
- 17.1.44 Female genital mutilation. 11 **Del.C.** §780.
- 17.1.45 Unlawful imprisonment in the second degree. 11 **Del.C.** §781.
- 17.1.46 Unlawful imprisonment in the first degree. 11 **Del.C.** §782.
- 17.1.47 Kidnapping in the second degree. 11 **Del.C.** §783.
- 17.1.48 Kidnapping in the first degree. 11 **Del.C.** §783A.
- 17.1.49 Interference with custody. 11 **Del.C.** §785.
- 17.1.50 Acts constituting coercion. 11 **Del.C.** §791.
- 17.1.51 Arson in the third degree. 11 **Del.C.** §801.
- 17.1.52 Arson in the second degree. 11 **Del.C.** §802.
- 17.1.53 Arson in the first degree. 11 **Del.C.** §803.
- 17.1.54 Cross or religious symbol burning. 11 **Del.C.** §805.
- 17.1.55 Criminal mischief. 11 **Del.C.** §811.
- 17.1.56 Trespassing with intent to peer or peep into a window of another. 11 **Del.C.** §820.
- 17.1.57 Burglary in the third degree. 11 **Del.C.** §824.
- 17.1.58 Burglary in the second degree. 11 **Del.C.** §825.
- 17.1.59 Burglary in the first degree. 11 **Del.C.** §826.
- 17.1.60 Possession of burglar's tools or instruments facilitating theft. 11 **Del.C.** §828.
- 17.1.61 Robbery in the second degree. 11 **Del.C.** §831.
- 17.1.62 Robbery in the first degree. 11 **Del.C.** §832.
- 17.1.63 Carjacking in the second degree. 11 **Del.C.** §835.
- 17.1.64 Carjacking in the first degree. 11 **Del.C.** §836.
- 17.1.65 Shoplifting; felony. 11 **Del.C.** §840.
- 17.1.66 Use of illegitimate retail sales receipt or Universal Product Code Label; felony. 11 **Del.C.** §840A.
- 17.1.67 Theft. 11 **Del.C.** §841.
- 17.1.68 Theft; false pretense. 11 **Del.C.** §843.
- 17.1.69 Theft; false promise. 11 **Del.C.** §844.
- 17.1.70 Theft of services. 11 **Del.C.** §845.
- 17.1.71 Extortion. 11 **Del.C.** §846.
- 17.1.72 Misapplication of property. 11 **Del.C.** §848.
- 17.1.73 Theft of rented property. 11 **Del.C.** §849.
- 17.1.74 Use, possession, manufacture, distribution and sale of unlawful telecommunication and access devices. 11 **Del.C.** §850.

- 17.1.75 Receiving stolen property. 11 **Del.C.** §851
- 17.1.76 Identity theft. 11 **Del.C.** §854.
- 17.1.77 Larceny of livestock. 11 **Del.C.** §859.
- 17.1.78 Possession of shoplifters tools or instruments facilitating theft. 11 **Del.C.** §860.
- 17.1.79 Forgery. 11 **Del.C.** §861.
- 17.1.80 Possession of forgery devices. 11 **Del.C.** §862.
- 17.1.81 Falsifying business records. 11 **Del.C.** §871.
- 17.1.82 Tampering with public records in the second degree 11 **Del.C.** §873.
- 17.1.83 Tampering with public records in the first degree. 11 **Del.C.** §876.
- 17.1.84 Offering a false instrument for filing. 11 **Del.C.** §877.
- 17.1.85 Issuing a false certificate. 11 **Del.C.** §878.
- 17.1.86 Bribery. 11 **Del.C.** §881.
- 17.1.87 Bribe receiving. 11 **Del.C.** §882.
- 17.1.88 Defrauding secured creditors. 11 **Del.C.** §891.
- 17.1.89 Fraud in insolvency. 11 **Del.C.** §892.
- 17.1.90 Interference with levied-upon property. 11 **Del.C.** §893.
- 17.1.91 Issuing a bad check. 11 **Del.C.** §900.
- 17.1.92 Unlawful use of credit card. 11 **Del.C.** §903.
- 17.1.93 Reencoder and scanning devices. 11 **Del.C.** §903A.
- 17.1.94 Deceptive business practices. 11 **Del.C.** §906.
- 17.1.95 Criminal impersonation. 11 **Del.C.** §907.
- 17.1.96 Criminal impersonation, accident related. 11 **Del.C.** §907A.
- 17.1.97 Criminal impersonation of a police officer. 11 **Del.C.** §907B.
- 17.1.98 Unlawfully concealing a will. 11 **Del.C.** §908.
- 17.1.99 Securing execution of documents by deception. 11 **Del.C.** §909.
- 17.1.100 Debt adjusting. 11 **Del.C.** §910.
- 17.1.101 Fraudulent conveyance of public lands. 11 **Del.C.** §911.
- 17.1.102 Fraudulent receipt of public lands. 11 **Del.C.** §912.
- 17.1.103 Insurance fraud. 11 **Del.C.** §913.
- 17.1.104 Health care fraud. 11 **Del.C.** §913A.
- 17.1.105 Home improvement fraud. 11 **Del.C.** §916.
- 17.1.106 New home construction fraud. 11 **Del.C.** §917.
- 17.1.107 Transfer of recorded sounds. 11 **Del.C.** §920.
- 17.1.108 Sale of transferred recorded sounds. 11 **Del.C.** §921.
- 17.1.109 Improper labeling. 11 **Del.C.** §922.
- 17.1.110 Unauthorized access. 11 **Del.C.** §932.
- 17.1.111 Theft of computer services. 11 **Del.C.** §933.
- 17.1.112 Interruption of computer services. 11 **Del.C.** §934.
- 17.1.113 Misuse of computer system information. 11 **Del.C.** §935.
- 17.1.114 Destruction of computer equipment. 11 **Del.C.** §936.
- 17.1.115 Unrequested or unauthorized electronic mail or use of network or software to cause same. 11 **Del.C.** §937.
- 17.1.116 Failure to promptly cease electronic communication upon request. 11 **Del.C.** §938.
- 17.1.117 Bigamy. 11 **Del.C.** §1001.
- 17.1.118 Bigamous marriage contracted outside of the State. 11 **Del.C.** §1002.
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- 17.1.120 Abandonment of child. 11 **Del.C.** §1101.
- 17.1.121 Endangering the welfare of a child. 11 **Del.C.** §1102.
- 17.1.122 Endangering the welfare of an incompetent person. 11 **Del.C.** §1105.
- 17.1.123 Unlawfully dealing with a child. 11 **Del.C.** §1106.
- 17.1.124 Sexual exploitation of a child. 11 **Del.C.** §1108.
- 17.1.125 Unlawfully dealing in child pornography. 11 **Del.C.** §1109.
- 17.1.126 Possession of child pornography. 11 **Del.C.** §1111.
- 17.1.127 Sexual offenders; prohibitions from school zones. 11 **Del.C.** §1112.
- 17.1.128 Sexual solicitation of a child. 11 **Del.C.** §1112A.
- 17.1.129 Criminal non-support and aggravated criminal non-support. 11 **Del.C.** §1113.
- 17.1.130 Body-piercing, tattooing or branding. 11 **Del.C.** §1114.
- 17.1.131 Tongue-splitting. 11 **Del.C.** §1114A.
- 17.1.132 Distribution of tobacco products. 11 **Del.C.** §1120.
- 17.1.133 Bribery. 11 **Del.C.** §1201
- 17.1.134 Receiving a bribe; felony. 11 **Del.C.** §1203.
- 17.1.135 Giving unlawful gratuities. 11 **Del.C.** §1205.
- 17.1.136 Receiving unlawful gratuities. 11 **Del.C.** §1206.
- 17.1.137 Improper influence. 11 **Del.C.** §1207.

<p><u>17.1.138</u> <u>Official misconduct.</u> 11 Del.C. §1211.</p> <p><u>17.1.139</u> <u>Profiteering.</u> 11 Del.C. §1212.</p> <p><u>17.1.140</u> <u>Perjury in the third degree.</u> 11 Del.C. §1221.</p> <p><u>17.1.141</u> <u>Perjury in the second degree.</u> 11 Del.C. §1222.</p> <p><u>17.1.142</u> <u>Perjury in the first degree.</u> 11 Del.C. §1223.</p> <p><u>17.1.143</u> <u>Making a false written statement.</u> 11 Del.C. §1233.</p> <p><u>17.1.144</u> <u>Wearing a disguise during the commission of a felony.</u> 11 Del.C. §1239.</p> <p><u>17.1.145</u> <u>Terroristic threatening of public officials or public servants.</u> 11 Del.C. §1240.</p> <p><u>17.1.146</u> <u>Obstructing fire-fighting operations.</u> 11 Del.C. §1243.</p> <p><u>17.1.147</u> <u>Hindering prosecution; felony.</u> 11 Del.C. §1244.</p> <p><u>17.1.148</u> <u>Falsely reporting an incident.</u> 11 Del.C. §1245.</p> <p><u>17.1.149</u> <u>Obstructing the control and suppression of rabies; felony.</u> 11 Del.C. §1248.</p> <p><u>17.1.150</u> <u>Abetting the violation of driver's license restrictions.</u> 11 Del.C. §1249.</p> <p><u>17.1.151</u> <u>Offenses against law-enforcement animals.</u> 11 Del.C. §1250.</p> <p><u>17.1.152</u> <u>Escape in the second degree.</u> 11 Del.C. §1252.</p> <p><u>17.1.153</u> <u>Escape after conviction.</u> 11 Del.C. §1253.</p> <p><u>17.1.154</u> <u>Assault in a detention facility.</u> 11 Del.C. § 1254.</p> <p><u>17.1.155</u> <u>Promoting prison contraband; felony.</u> 11 Del.C. §1256.</p> <p><u>17.1.156</u> <u>Use of an animal to avoid capture.</u> 11 Del.C. §1257A.</p> <p><u>17.1.157</u> <u>Sexual relations in a detention facility.</u> 11 Del.C. §1259.</p> <p><u>17.1.158</u> <u>Misuse of prisoner mail; felony.</u> 11 Del.C. §1260.</p> <p><u>17.1.159</u> <u>Bribing a witness.</u> 11 Del.C. §1261.</p> <p><u>17.1.160</u> <u>Bribe receiving by a witness.</u> 11 Del.C. §1262.</p> <p><u>17.1.161</u> <u>Tampering with a witness.</u> 11 Del.C. §1263.</p> <p><u>17.1.162</u> <u>Interfering with child witness.</u> 11 Del.C. §1263A.</p> <p><u>17.1.163</u> <u>Bribing a juror.</u> 11 Del.C. §1264.</p> <p><u>17.1.164</u> <u>Bribe receiving by a juror.</u> 11 Del.C. §1265.</p> <p><u>17.1.165</u> <u>Tampering with a juror.</u> 11 Del.C. §1266.</p> <p><u>17.1.166</u> <u>Misconduct by a juror.</u> 11 Del.C. §1267.</p>	<p><u>17.1.167</u> <u>Tampering with physical evidence.</u> 11 Del.C. §1269.</p> <p><u>17.1.168</u> <u>Criminal contempt of a domestic violence protective order.</u> 11 Del.C. §1271A.</p> <p><u>17.1.169</u> <u>Unlawful grand jury disclosure.</u> 11 Del.C. §1273.</p> <p><u>17.1.170</u> <u>Riot.</u> 11 Del.C. §1302.</p> <p><u>17.1.171</u> <u>Hate crimes.</u> 11 Del.C. §1304.</p> <p><u>17.1.172</u> <u>Aggravated harassment.</u> 11 Del.C. §1312.</p> <p><u>17.1.173</u> <u>Stalking.</u> 11 Del.C. §1312A.</p> <p><u>17.1.174</u> <u>Malicious interference with emergency communications.</u> 11 Del.C. §1313.</p> <p><u>17.1.175</u> <u>Criminal nuisance.</u> 11 Del.C. §1322.</p> <p><u>17.1.176</u> <u>Cruelty to animals.</u> 11 Del.C. §1325.</p> <p><u>17.1.177</u> <u>Unlawful trade in dog or cat by-products.</u> 11 Del.C. §1325A.</p> <p><u>17.1.178</u> <u>Animals; fighting and baiting prohibited; felony.</u> 11 Del.C. §1326.</p> <p><u>17.1.179</u> <u>Maintaining a dangerous animal; felony.</u> 11 Del.C. §1327.</p> <p><u>17.1.180</u> <u>Abusing a corpse.</u> 11 Del.C. §1332.</p> <p><u>17.1.181</u> <u>Trading in human remains and associated funerary objects.</u> 11 Del.C. §1333.</p> <p><u>17.1.182</u> <u>Violation of privacy.</u> 11 Del.C. §1335.</p> <p><u>17.1.183</u> <u>Bombs, incendiary devices, Molotov cocktails and explosive devices.</u> 11 Del.C. §1338.</p> <p><u>17.1.184</u> <u>Adulteration.</u> 11 Del.C. §1339.</p> <p><u>17.1.185</u> <u>Prostitution.</u> 11 Del.C. §1342.</p> <p><u>17.1.186</u> <u>Patronizing a prostitute prohibited.</u> 11 Del.C. §1343.</p> <p><u>17.1.187</u> <u>Promoting prostitution in the third degree.</u> 11 Del.C. §1351.</p> <p><u>17.1.188</u> <u>Promoting prostitution in the second degree.</u> 11 Del.C. §1352.</p> <p><u>17.1.189</u> <u>Promoting prostitution in the first degree.</u> 11 Del.C. §1353.</p> <p><u>17.1.190</u> <u>Permitting prostitution.</u> 11 Del.C. §1355.</p> <p><u>17.1.191</u> <u>Obscenity.</u> 11 Del.C. §1361.</p> <p><u>17.1.192</u> <u>Advancing gambling in the second degree.</u> 11 Del.C. §1401.</p> <p><u>17.1.193</u> <u>Foreign lotteries.</u> 11 Del.C. §1402.</p> <p><u>17.1.194</u> <u>Advancing gambling in the first degree.</u> 11 Del.C. §1403.</p> <p><u>17.1.195</u> <u>Carrying a concealed deadly weapon.</u> 11 Del.C. §1442.</p> <p><u>17.1.196</u> <u>Carrying a concealed dangerous instrument.</u> 11 Del.C. §1443.</p> <p><u>17.1.197</u> <u>Possessing a destructive weapon.</u> 11 Del.C. §1444.</p> <p><u>17.1.198</u> <u>Unlawfully dealing with a dangerous weapon.</u> 11 Del.C. §1445.</p>
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- 17.1.199 Possession of a deadly weapon during commission of a felony. 11 Del.C. §1447.
- 17.1.200 Possession of a firearm during commission of a felony. 11 Del.C. §1447A.
- 17.1.201 Possession and purchase of deadly weapons by persons prohibited. 11 Del.C. §1448.
- 17.1.202 Criminal history record checks for sales of firearms. 11 Del.C. §1448A.
- 17.1.203 Wearing body armor during commission of felony. 11 Del.C. §1449.
- 17.1.204 Receiving a stolen firearm. 11 Del.C. §1450.
- 17.1.205 Theft of a firearm. 11 Del.C. §1451.
- 17.1.206 Unlawfully dealing with knuckles-combination knife. 11 Del.C. §1452.
- 17.1.207 Unlawfully dealing with martial arts throwing star. 11 Del.C. §1453.
- 17.1.208 Giving a firearm to person prohibited. 11 Del.C. §1454.
- 17.1.209 Engaging in a firearms transaction on behalf of another. 11 Del.C. §1455.
- 17.1.210 Possession of a weapon in a Safe School and Recreation Zone. 11 Del.C. §1457.
- 17.1.211 Removing a firearm from the possession of a law enforcement officer. 11 Del.C. §1458.
- 17.1.212 Possession of a weapon with a removed, obliterated or altered serial number. 11 Del.C. §1459.
- 17.1.213 Prohibited acts. Cheating devices(a)-(e). 11 Del.C. §1471.
- 17.1.214 Organized Crime and Racketeering. 11 Del.C. §1504.
- 17.1.215 Victim or Witness Intimidation 11 Del.C. §3532 & 3533.
- 17.1.216 Abuse, neglect, mistreatment or financial exploitation of residents or patients. 16 Del.C. §1136(a), (b) and (c).
- 17.1.217 Prohibited acts A under the Uniform Controlled Substances Act. 16 Del.C. §4751(a), (b) and (c).
- 17.1.218 Prohibited acts B under the Uniform Controlled Substances Act. 16 Del.C. §4752(a) and (b).
- 17.1.219 Unlawful delivery of noncontrolled substance. 16 Del.C. §4752A.
- 17.1.220 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 Del.C. §4753A (a)(1)-(9).
- 17.1.221 Prohibited acts D under the Uniform Controlled Substances Act. 16 Del.C. §4754.
- 17.1.222 Possession and delivery of noncontrolled prescription drug; felony. 16 Del.C. §4754A(d).
- 17.1.223 Prohibited acts E under the Uniform Controlled Substances Act. 16 Del.C. §4755(a)(1) and (2).
- 17.1.224 Prohibited acts under the Uniform Controlled Substances Act. 16 Del.C. §4756(a)(1)-(5) and (b).
- 17.1.225 Hypodermic syringe or needle; delivering or possessing; disposal; felony. 16 Del.C. §4757.
- 17.1.226 Distribution to persons under 21 years of age. 16 Del.C. §4761.
- 17.1.227 Purchase of drugs from minors. 16 Del.C. §4761A.
- 17.1.228 Distribution, delivery, or possession of controlled substance within 1,000 feet of school property; penalties; defenses. 16 Del.C. §4767.
- 17.1.229 Distribution, delivery or possession of controlled substance in or within 300 feet of park, recreation area, church, synagogue or other place of worship. 16 Del.C. §4768.
- 17.1.230 Drug paraphernalia. 16 Del.C. §4771 (a) and (b).
- 17.1.231 Possession, manufacture and sale, delivery to a minor and advertising of drug paraphernalia; felony. 16 Del.C. §§4771 and 4774.
- 17.1.232 Operation of a vessel or boat while under the influence of intoxicating liquor and/or drugs; third and fourth offenses. 23 Del.C. §2302(a) and §2305 (3) and (4).
- 17.1.233 Attempt to evade or defeat tax. 30 Del.C. §571.
- 17.1.234 Failure to collect or pay over tax. 30 Del.C. §572.
- 17.1.235 Fraud and false statements. 30 Del.C. §574.
- 17.1.236 Obtaining benefit under false representation. 31 Del.C. §1003.
- 17.1.237 Reports, statements and documents. 31 Del.C. §1004.
- 17.1.238 Kickback schemes and solicitations. 31 Del.C. §1005.
- 17.1.239 Conversion of payment. 31 Del.C. §1006.
- 17.1.240 Unlawful possession or manufacture of proof of insurance. 21 Del.C. §2118A.
- 17.1.241 Temporary registration violations related to providing false information. 21 Del.C. §2133(a) (1)-(3).
- 17.1.242 False statements. 21 Del.C. §2315.
- 17.1.243 Altering or forging certificate of title, manufacturer's certificate of origin, registration card, vehicle warranty or certification sticker or vehicle identification plate. 21 Del.C. §2316.
- 17.1.244 Transfer to automotive recycler. 21 Del.C. §2505.

17.1.245 Endorsement and delivery of certificate of title upon transfer. 21 Del.C. §2510.

17.1.246 False statements; incorrect or incomplete information. 21 Del.C. §2620.

17.1.247 License to operate a motorcycle, motorbike, etc. 21 Del.C. §2703.

17.1.248 Issuance of a Level 1 Learner's Permit and Class D operator's license to persons under 18 years of age. 21 Del.C. §2710.

17.1.249 Unlawful application for or use of license or identification card. 21 Del.C. §2751.

17.1.250 False statements. 21 Del.C. §2752.

17.1.251 Duplication, reproduction, altering, or counterfeiting of driver's licenses or identification cards. 21 Del.C. §2760(a) and (b).

17.1.252 Driving after judgment prohibited. 21 Del.C. §2810.

17.1.253 False statements. 21 Del.C. §3107.

17.1.254 Driving a vehicle while under the influence or with a prohibited alcohol content; third and fourth offenses. 21 Del.C. §4177 (3) and (4).

17.1.255 Operating a commercial motor vehicle with a prohibited blood alcohol concentration or while impaired by drugs 21 Del.C. §4177M.

17.1.256 Duty of driver involved in accident resulting in property damage or injury. 21 Del.C. §4201.

17.1.257 Duty of driver involved in accident resulting in injury or death to any person. 21 Del.C. §4202.

17.1.258 Report of damaged vehicles; cars involved in fatal accidents. 21 Del.C. §4204.

17.1.259 Introduction, sale, distribution or advertisement to public of motor vehicle master keys. 21 Del.C. §4601.

17.1.260 Possession of motor vehicle master keys, manipulative keys, key-cutting devices, lock picks or lock picking devices and hot wires. 21 Del.C. §4604(a).

17.1.261 Odometer violations. 21 Del.C. §6420.

17.1.262 Receiving or transferring stolen vehicle. 21 Del.C. §6704.

17.1.263 Removed, falsified or unauthorized identification number on vehicle, bicycle or engine; removed or affixed license/registration plate with intent to misrepresent identity. 21 Del.C. §6705(a)-(e).

17.1.264 Possession of blank title; blank registration card; vehicle identification plate; warranty sticker and registration card. 21 Del.C. §6708(a) and (b).

17.1.265 Removal of warranty or certification stickers; vehicle identification plates; confidential vehicle identification numbers. 21 Del.C. §6709(a).

17.1.266 Unlawful possession of assigned titles, assigned registration cards, vehicle identification plates and warranty stickers. 21 Del.C. §6710(a).

17.1.267 Violations related to the requirements if licensing or maintenance of vehicle records for automotive recyclers. 21 Del.C. §7512.

17.1.268 Offenses [involving meat and poultry inspection including bribery or attempted bribery or assaulting or impeding any person in the performance of his duties] (felony). 3 Del.C. §8713.

17.1.269 Fraud or distribution or attempted distribution of adulterated article. 3 Del.C. §8715.

17.1.270 Fraudulent Written Statements. 3 Del.C. §10049.

17.1.271 Fraudulent Certificate of Registration or Eligibility Documents. 3 Del.C. §10050.

17.1.272 Prohibited trade practices against infirm or elderly. 6 Del.C. §2581.

17.1.273 Prohibition of intimidation [under the Fair Housing Act]; felony. 6 Del.C. §4619.

17.1.274 Auto Repair Fraud victimizing the infirm or elderly. 6 Del.C. §4909A.

17.1.275 Violations of the Securities Act. 6 Del.C. §7322.

17.1.276 Environmental Control Permits; felony. 7 Del.C. §6003.

17.1.277 Unauthorized Acts against a Service Guide or Seeing Eye Dog. 7 Del.C. §1717.

17.1.278 Interception of Communications Generally; Divulging Contents of Communications. 11 Del.C. §2402.

17.1.279 Manufacture, Possession or Sale of Intercepting Device. 11 Del.C. §2403.

17.1.280 Breaking and Entering, Etc. to Place or Remove Equipment. 11 Del.C. §2410.

17.1.281 Obstruction, Impediment or Prevention of Interception. 11 Del.C. §2412.

17.1.282 Obtaining, Altering or Preventing Authorized Access. 11 Del.C. §2421.

17.1.283 Divulging Contents of Communications. 11 Del.C. §2422.

17.1.284 Installation and Use Generally [of pen trace and trap and trace devices]. 11 Del.C. §243.

17.1.285 Attempt to Intimidate. 11 Del.C. §3534.

17.1.286 Disclosure of Expunged Records. 11 Del.C. §4374.

17.1.287 Violation of reporting provisions re: SBI.; felony 11 Del.C. §8523.

17.1.288 Failure of child-care provider to obtain information required under §8561 or for those providing false information. 11 Del.C. §8562.

17.1.289 Providing false information when seeking employment in a public school. 11 Del.C. §8572.

17.1.290 Filing False Claim [under Victims' Compensation Fund]. 11 Del.C. §9016.

17.1.291 Failure of Physician to file report of abuse of neglect pursuant to 16 Del.C. §903.

17.1.292 Coercion or intimidation involving health-care decisions and falsification, destruction of a document to create a false impression that measures to prolong life have been authorized; felony. 16 Del.C. §2513 (b).

17.1.293 Violations related to the sale, purchase, receipt, possession, transportation, use, safety and control of explosive materials other than 16 Del.C. §7103, 16 Del.C. §7112.

17.1.294 Operation of a Vessel or Boat while under the Influence of Intoxicating Liquor and/or Drugs. 23 Del.C. §2302 (3) and (4)

17.1.295 Sale to Persons under 21 or Intoxicated Persons. 24 Del.C. §903

17.1.296 Abuse, neglect, exploitation or mistreatment of infirm adult. 31 Del.C. §3913(a), (b) and (c)

17.2 Crimes substantially related to the practice of psychology shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

***Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Examiners of Psychologists is available at:**

<http://dpr.delaware.gov/boards/psychology/index.shtml>

DIVISION OF PROFESSIONAL REGULATION

**3900 Board of Clinical Social Work Examiners
24 DE Admin. Code 3900**

Statutory Authority: 24 Delaware Code,
Section 3906(1) (24 Del.C. §3906(1))

PUBLIC NOTICE

The Delaware Board of Clinical Social Work Examiners is proposing to revise its rules and regulations pursuant to 29 Del.C. Chapter 101 and 24 Del.C. §3906(1). The Board is proposing to amend Regulation 7.2.1.1 regarding the Definition and Scope of Continuing Education to add that the Board will accept for continuing education credit all courses designated for clinical social workers which are offered by the Clinical Social Work Federation (CSWF).

A public hearing will be held on June 20, 2005 at 9:30 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone

wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Clinical Social Work Examiners, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

7.0 Continuing Education

7.1 Required Continuing Education Hours:

7.1.1 Hours Required. All licensees must complete forty-five (45) hours of continuing education during each biennial license period. For license periods beginning January 1, 2005 and thereafter, documentation, as required by Rule 7.4, of all continuing education hours must be submitted to the Board for approval by October 31 of each biennial license period.

7.1.2 Proration. At the time of the initial license renewal, some individuals will have been licensed for less than two (2) years. Therefore, for these individuals only, the continuing education hours will be prorated as follows:

License Granted During First Year Of Licensing Period	Credit Hours Required
January 1 - June 30	35 hours
July 1 - December 31	25 hours

License Granted During Second Year Of Licensing Period	Credit Hours Required
January 1 - June 30	15 hours
July 1 - December 31	5 hours

7.1.3 Hardship. A candidate for license renewal may be granted an extension of time in which to complete continuing education hours upon a showing of good cause. "Good Cause" may include, but is not limited to, disability, illness, extended absence from the jurisdiction and exceptional family responsibilities. Requests for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period, along with payment of the appropriate renewal fee. No extension shall be granted for more than 120 days after the end of the licensing period. If the Board does not have sufficient time to consider and approve a request for hardship extension prior to the expiration of the license, the license will lapse upon the expiration date and be reinstated upon completion of continuing education pursuant to the hardship exception.

2 DE Reg 775 (11/1/98)

7.2 Definition and Scope of Continuing Education:

7.2.1 Continuing Education is defined to mean acceptable courses offered by colleges and universities,

televised and internet courses, independent study courses which have a final exam or paper, workshops, seminars, conferences and lectures oriented toward the enhancement of clinical social work practice, values, skills and knowledge, including self-directed activities as described herein. The following types of courses are NOT acceptable for credit: business, computer, financial, administrative or practice development courses or portions of courses.

7.2.1.1 The Board will accept for continuing education credit all courses designated for clinical social workers which are offered by the Association of Social Work Boards (ASWB), the National Association of Social Work (NASW), the Clinical Social Work Federation (CSWF) and the American Psychological Association (APA) approved providers. Other courses will be evaluated for acceptability at the time they are submitted for license renewal. The Board will no longer “pre-approve” continuing education courses.

7.2.1.2 Acceptable Courses, other than those approved pursuant to Rule 7.2.1.1, shall be courses which: increase the licensed clinical social worker’s knowledge about skill in diagnosing and assessing, skill in treating, and/or skill in preventing mental and emotional disorders, developmental disabilities and substance abuse; AND are instructed or presented by persons who have received specialized graduate-level training in the subject, or who have no less than two (2) years of practical application or research experience pertaining to the subject.

7.2.1.2.1 Mental and Emotional Disorders, Developmental Disabilities and Substance Abuse are those disorders enumerated and described in the most current Diagnostic and Statistical Manual including, but not limited to, the V Codes and the Criteria Sets and Axes provided for further study.

7.2.2 The Board may, upon request, review and approve credit for self-directed activities, to a maximum of 10 hours per biennial licensing period. A licensee must obtain pre-approval of the Board prior to undertaking the self-directed activity in order to assure continuing education credit for the activity. Any self-directed activity submitted for approval must include a written proposal outlining the scope of the activity, the number of continuing education hours requested, the anticipated completion date(s), the role of the licensee in the case of multiple participants (e.g. research) and whether any part of the self-directed activity has ever been previously approved or submitted for credit by the same licensee.

7.2.2.1 Self-Directed Activity shall include teaching, research, preparation and/or presentation of professional papers and articles, and other activities specifically approved by the Board, which may include one or more of the following. The Board shall require documentation of each activity as noted below:

7.2.2.1.1 Publication of a professional clinical social work-related book, or initial preparation/

presentation of a clinical social work-related college or university course (maximum of 10 hours);

7.2.2.1.1.1 Required documentation shall be proof of publication, or syllabus of course and verification that the course was presented.

7.2.2.1.2 Publication of a professional clinical social work-related article or chapter of a book (maximum of 5 hours);

7.2.2.1.2.1 Required documentation shall be reprint of publication(s).

7.2.2.1.3 Initial preparation/presentation of a professional clinical social work-related continuing education course/program (maximum of 2 hours, in addition to number of hours actually attended at the course/program) (Will only be accepted one time for any specific program);

7.2.2.1.3.1 Required documentation shall be outline, syllabus agenda and objectives for course and verification that the course was presented.

7.2.2.1.4 One year of Field instruction of graduate students in a Council on Social Work Education-accredited school program, in a clinical setting (maximum of 2 hours);

7.2.2.1.4.1 Required documentation shall be a letter of verification from school of social work.

7.2.2.1.5 Participation in formal clinical staffings at federal, state or local social service agencies, public school systems or licensed health facilities and licensed hospitals (maximum of 5 hours);

7.2.2.1.5.1 Required documentation shall be a signed statement from the agency, school system, facility or hospital, from a supervisor other than the licensee, including date and length of staffing.

7.2.3 Any program submitted for continuing education hours must have been attended during the biennial licensing period for which it is submitted. Excess credits may not be carried over to the next licensing period.

7.2.4 An “hour” for purposes of continuing education credit shall mean 50 (fifty) minutes of instruction or participation in an appropriate course or program. Meals and breaks shall be excluded from credit.

7.3 Continuing Education Hourly Requirements:

During each biennial licensing period, licensees shall complete a minimum of forty-five (45) hours of continuing education. At least three (3) of the 45 hours shall consist of courses acceptable to the Board in the area of ethics for mental health professionals.

7.4 Continuing Education Reporting and Documentation

7.4.1 Continuing Education Reporting Periods.

Licenses are valid for 2 year periods, renewing on January 31 of odd numbered years (e.g. January 31, 2005, 2007). Continuing education (CE) reporting periods run from November 1 to October 31 of the preceding two even-

numbered years. Beginning with the January 2005 license renewal, all required continuing education shall be completed within the previous two year November to October period (e.g. between November 1, 2002 and October 31, 2004 for January 2005 renewal). The Board shall continue to have the discretion, however, to grant extensions of time in which to complete continuing education in cases of hardship, pursuant to 24 **Del.C.** §3912 and Rule 7.1.3.

7.4.2 In order to assure receipt of continuing education credits, a licensee must complete and submit the appropriate continuing education form provided by the Division of Professional Regulation no later than October 31st preceding the start of the next biennial licensing period.

7.4.3 In addition to the form, each licensee must submit the following documentation as to each course attended: a certificate of attendance or completion signed by the presenter and attesting to the number of hours the licensee attended and identifying the date and location of the course.

7.4.4 Prior to the end of each renewal period, the Board shall conduct a random audit of licensees to verify compliance with continuing education for that renewal period. Upon request from the Board, an audited licensee will be required to submit, in addition to the documents noted above, copies of agenda, outline and brochure, for each course submitted for credit. Originals or photocopies will be accepted and retained by the Board. The Board reserves its right to request additional documentation to verify CE compliance.

7.4.5 In addition to licensees selected for random audit, the Board also may request additional supporting documentation from any licensee whose renewal materials, as required by Rules 7.4.2 and 7.4.3, raise questions as to the completion or acceptable content of the course(s).

2 DE Reg 1680 (6/1/00)

4 DE Reg 1815 (5/1/01)

7 DE Reg 1667 (6/1/04)

8 DE Reg 880 (12/1/04)

***Please Note:** As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Clinical Social Work Examiners is available at:

<http://dpr.delaware.gov/boards/socialworkers/index.shtml>

DIVISION OF PROFESSIONAL REGULATION

5200 Board of Nursing Home Administrators 24 **DE Admin. Code** 5200

Statutory Authority: 24 Delaware Code,
Section 5204(1) (24 **Del.C.** §5204(1))

PUBLIC NOTICE

The Delaware Board of Nursing Home Administrators in accordance with 24 **Del.C.** §5204(1) has proposed changes to its rules and regulations as mandated by SB 229. The proposal identifies crimes that are substantially related to the practice of nursing home administration.

A public hearing was held on January 11, 2005, after which the Board decided to review its proposal. A revised list of related crimes was developed at two subsequent Board meetings held on January 31, 2005 and February 11, 2005, which includes substantive deletions, additions and clarifications from the proposal originally published in the *Register of Regulations*, Vol. 8, Issue 6, on December 1, 2004.

A second public hearing will be held on June 14, 2005 at 2:00 p.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Nursing Home Administrators, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

Proposed Rules and Regulations

24.0 Crimes substantially related to the practice of nursing home administration:

24.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of nursing home administration in the State of Delaware without regard to the place of conviction:

24.1.1 Aggravated menacing. 11 **Del.C.** §602 (b)

24.1.2 Reckless endangering in the second degree. 11 **Del.C.** §603.

24.1.3 Reckless endangering in the first degree. 11 **Del.C.** §604

24.1.4 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605.

- 24.1.5 Abuse of a pregnant female in the first degree. 11 Del.C. §606.
- 24.1.6 Assault in the third degree. 11 Del.C. §611
- 24.1.7 Assault in the second degree. 11 Del.C. §612
- 24.1.8 Assault in the first degree. 11 Del.C. §613.
- 24.1.9 Abuse of a sports official. 11 Del.C. §614.
- 24.1.10 Assault by abuse or neglect. 11 Del.C. §615.
- 24.1.11 Gang participation. 11 Del.C. §616
- 24.1.12 Terroristic threatening; felony. 11 Del.C. §621.
- 24.1.13 Unlawfully administering drugs. 11 Del.C. §625.
- 24.1.14 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 Del.C. §626.
- 24.1.15 Vehicular assault in the first degree. 11 Del.C. §629.
- 24.1.16 Vehicular homicide in the second degree. 11 Del.C. §630.
- 24.1.17 Vehicular homicide in the first degree. 11 Del.C. §630A.
- 24.1.18 Criminally negligent homicide. 11 Del.C. §631.
- 24.1.19 Manslaughter. 11 Del.C. §632.
- 24.1.20 Murder by abuse or neglect in the second degree. 11 Del.C. §633
- 24.1.21 Murder by abuse or neglect in the first degree. 11 Del.C. §634.
- 24.1.22 Murder in the second degree; class A felony. 11 Del.C. §635.
- 24.1.23 Murder in the first degree. 11 Del.C. §636.
- 24.1.24 Promoting suicide. 11 Del.C. §645.
- 24.1.25 Abortion. 11 Del.C. §651.
- 24.1.26 Indecent exposure in the first degree. 11 Del.C. §765.
- 24.1.27 Incest. 11 Del.C. §766.
- 24.1.28 Unlawful sexual contact in the third degree. 11 Del.C. §767.
- 24.1.29 Unlawful sexual contact in the second degree. 11 Del.C. §768.
- 24.1.30 Unlawful sexual contact in the first degree. 11 Del.C. §769.
- 24.1.31 Rape in the fourth degree. 11 Del.C. §770.
- 24.1.32 Rape in the third degree. 11 Del.C. §771.
- 24.1.33 Rape in the second degree. 11 Del.C. §772
- 24.1.34 Rape in the first degree. 11 Del.C. §773.
- 24.1.35 Sexual extortion. 11 Del.C. §776.
- 24.1.36 Bestiality. 11 Del.C. §777.
- 24.1.37 Continuous sexual abuse of a child. 11 Del.C. §778.
- 24.1.38 Dangerous crime against a child. 11 Del.C. §779.
- 24.1.39 Female genital mutilation. 11 Del.C. §780.
- 24.1.40 Unlawful imprisonment in the first degree. 11 Del.C. §782.
- 24.1.41 Kidnapping in the second degree. 11 Del.C. §783.
- 24.1.42 Kidnapping in the first degree. 11 Del.C. §783A.
- 24.1.43 Interference with custody. 11 Del.C. §785.
- 24.1.44 Acts constituting coercion. 11 Del.C. §791.
- 24.1.45 Arson in the third degree. 11 Del.C. §801.
- 24.1.46 Arson in the second degree. 11 Del.C. §802.
- 24.1.47 Arson in the first degree. 11 Del.C. §803.
- 24.1.48 Reckless burning or exploding; felony. 11 Del.C. §804.
- 24.1.49 Criminal mischief; felony. 11 Del.C. §811.
- 24.1.50 Trespassing with intent to peep or peer. 11 Del.C. §820.
- 24.1.51 Burglary in the third degree. 11 Del.C. §824.
- 24.1.52 Burglary in the second degree. 11 Del.C. §825.
- 24.1.53 Burglary in the first degree. 11 Del.C. §826.
- 24.1.54 Possession of burglar's tools or instruments facilitating theft. 11 Del.C. §828.
- 24.1.55 Robbery in the second degree. 11 Del.C. §831.
- 24.1.56 Robbery in the first degree. 11 Del.C. §832.
- 24.1.57 Carjacking in the second degree. 11 Del.C. §835.
- 24.1.58 Carjacking in the first degree. 11 Del.C. §836.
- 24.1.59 Shoplifting. 11 Del.C. §840.
- 24.1.60 Use of illegitimate retail sales receipt or Universal Product Code Label. 11 Del.C. §840A.
- 24.1.61 Theft. 11 Del.C. §841.
- 24.1.62 Theft; lost or mislaid property. 11 Del.C. §842.
- 24.1.63 Theft; false pretense. 11 Del.C. §843.
- 24.1.64 Theft; false promise. 11 Del.C. §844.
- 24.1.65 Theft of services. 11 Del.C. §845.
- 24.1.66 Extortion. 11 Del.C. §846.
- 24.1.67 Misapplication of property. 11 Del.C. §848.
- 24.1.68 Theft of rented property. 11 Del.C. §849.
- 24.1.69 Use, possession, manufacture, distribution and sale of unlawful telecommunication and access devices; felony. 11 Del.C. §850.
- 24.1.70 Receiving stolen property; felony. 11 Del.C. §851
- 24.1.71 Identity theft. 11 Del.C. §854.

- 24.1.72 Possession of shoplifters tools or instruments facilitating theft. 11 **Del.C.** §860.
- 24.1.73 Forgery. 11 **Del.C.** §861.
- 24.1.74 Possession of forgery devices. 11 **Del.C.** §862.
- 24.1.75 Falsifying business records. 11 **Del.C.** §871.
- 24.1.76 Tampering with public records in the second degree 11 **Del.C.** §873.
- 24.1.77 Tampering with public records in the first degree. 11 **Del.C.** §876.
- 24.1.78 Offering a false instrument for filing. 11 **Del.C.** §877.
- 24.1.79 Issuing a false certificate. 11 **Del.C.** §878.
- 24.1.80 Bribery. 11 **Del.C.** §881.
- 24.1.81 Bribe receiving. 11 **Del.C.** §882.
- 24.1.82 Defrauding secured creditors. 11 **Del.C.** §891.
- 24.1.83 Fraud in insolvency. 11 **Del.C.** §892.
- 24.1.84 Interference with levied-upon property. 11 **Del.C.** §893.
- 24.1.85 Issuing a bad check. 11 **Del.C.** §900.
- 24.1.86 Unlawful use of credit card. 11 **Del.C.** §903.
- 24.1.87 Reencoder and scanning devices. 11 **Del.C.** §903A.
- 24.1.88 Deceptive business practices. 11 **Del.C.** §906.
- 24.1.89 Criminal impersonation. 11 **Del.C.** §907.
- 24.1.90 Criminal impersonation, accident related. 11 **Del.C.** §907A.
- 24.1.91 Criminal impersonation of a police officer. 11 **Del.C.** §907B.
- 24.1.92 Unlawfully concealing a will. 11 **Del.C.** §908.
- 24.1.93 Securing execution of documents by deception. 11 **Del.C.** §909.
- 24.1.94 Fraudulent conveyance of public lands. 11 **Del.C.** §911.
- 24.1.95 Fraudulent receipt of public lands. 11 **Del.C.** §912.
- 24.1.96 Insurance fraud. 11 **Del.C.** §913.
- 24.1.97 Health care fraud. 11 **Del.C.** §913A.
- 24.1.98 Home improvement fraud. 11 **Del.C.** §916.
- 24.1.99 New home construction fraud. 11 **Del.C.** §917.
- 24.1.100 Transfer of recorded sounds. 11 **Del.C.** §920.
- 24.1.101 Misuse of computer system information. 11 **Del.C.** §935.
- 24.1.102 Bigamy. 11 **Del.C.** §1001.
- 24.1.103 Dealing in children. 11 **Del.C.** §1100.
- 24.1.104 Endangering the welfare of a child. 11 **Del.C.** §1102.
- 24.1.105 Endangering the welfare of an incompetent person. 11 **Del.C.** §1105.
- 24.1.106 Sexual exploitation of a child. 11 **Del.C.** §1108.
- 24.1.107 Unlawfully dealing in child pornography. 11 **Del.C.** §1109.
- 24.1.108 Possession of child pornography. 11 **Del.C.** §1111.
- 24.1.109 Sexual offenders; prohibitions from school zones. 11 **Del.C.** §1112.
- 24.1.110 Sexual solicitation of a child. 11 **Del.C.** §1112A.
- 24.1.111 Tongue-splitting. 11 **Del.C.** §1114A.
- 24.1.112 Bribery. 11 **Del.C.** §1201.
- 24.1.113 Receiving a bribe; class E felony. 11 **Del.C.** §1203.
- 24.1.114 Improper influence. 11 **Del.C.** §1207.
- 24.1.115 Official misconduct. 11 **Del.C.** §1211.
- 24.1.116 Profiteering. 11 **Del.C.** §1212.
- 24.1.117 Perjury in the second degree. 11 **Del.C.** §1222.
- 24.1.118 Perjury in the first degree. 11 **Del.C.** §1223.
- 24.1.119 Making a false written statement. 11 **Del.C.** §1233.
- 24.1.120 Terroristic threatening of public officials or public servants. 21 **Del.C.** §1240.
- 24.1.121 Hindering prosecution; felony. 11 **Del.C.** §1244.
- 24.1.122 Falsely reporting an incident; felony. 11 **Del.C.** §1245.
- 24.1.123 Obstructing the control and suppression of rabies; felony. 11 **Del.C.** §1248.
- 24.1.124 Abetting the violation of driver's license restrictions; felony. 11 **Del.C.** §1249.
- 24.1.125 Offenses against law-enforcement animals; felony. 11 **Del.C.** §1250.
- 24.1.126 Escape in the second degree. 11 **Del.C.** §1252.
- 24.1.127 Escape after conviction. 11 **Del.C.** §1253.
- 24.1.128 Assault in a detention facility. 11 **Del.C.** §1254.
- 24.1.129 Promoting prison contraband; felony. 11 **Del.C.** §1256.
- 24.1.130 Use of an animal to avoid capture; felony. 11 **Del.C.** §1257A.
- 24.1.131 Sexual relations in detention facility. 11 **Del.C.** §1259.
- 24.1.132 Bribing a witness. 11 **Del.C.** §1261.
- 24.1.133 Bribe receiving by a witness. 11 **Del.C.** §1262.
- 24.1.134 Tampering with a witness. 11 **Del.C.** §1263.

- 24.1.135 Interfering with child witness. 11 **Del.C.** §1263A.
- 24.1.136 Bribing a juror. 11 **Del.C.** §1264.
- 24.1.137 Bribe receiving by a juror. 11 **Del.C.** §1265.
- 24.1.138 Tampering with a juror. 11 **Del.C.** §1266.
- 24.1.139 Misconduct by a juror. 11 **Del.C.** §1267.
- 24.1.140 Tampering with physical evidence. 11 **Del.C.** §1269.
- 24.1.141 Riot. 11 **Del.C.** §1302.
- 24.1.142 Hate crimes. 11 **Del.C.** §1304.
- 24.1.143 Aggravated harassment. 11 **Del.C.** §1312.
- 24.1.144 Stalking. 11 **Del.C.** §1312A.
- 24.1.145 Malicious interference with emergency communications. 11 **Del.C.** §1313.
- 24.1.146 Criminal nuisance. 11 **Del.C.** §1322.
- 24.1.147 Cruelty to animals; felony. 11 **Del.C.** §1325.
- 24.1.148 Animals; fighting and baiting prohibited; felony. 11 **Del.C.** §1326.
- 24.1.149 Maintaining a dangerous animal; felony. 11 **Del.C.** §1327.
- 24.1.150 Abusing a corpse. 11 **Del.C.** §1332.
- 24.1.151 Trading in human remains and associated funerary objects. 11 **Del.C.** §1333.
- 24.1.152 Violation of privacy. 11 **Del.C.** §1335.
- 24.1.153 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 **Del.C.** §1338.
- 24.1.154 Adulteration. 11 **Del.C.** §1339.
- 24.1.155 Promoting prostitution in the third degree. 11 **Del.C.** §1351.
- 24.1.156 Promoting prostitution in the second degree. 11 **Del.C.** §1352.
- 24.1.157 Promoting prostitution in the first degree. 11 **Del.C.** §1353.
- 24.1.158 Permitting prostitution. 11 **Del.C.** §1355.
- 24.1.159 Obscenity. 11 **Del.C.** §1361.
- 24.1.160 Carrying a concealed deadly weapon. 11 **Del.C.** §1442.
- 24.1.161 Possessing a destructive weapon. 11 **Del.C.** §1444.
- 24.1.162 Unlawfully dealing with a dangerous weapon; felony. 11 **Del.C.** §1445.
- 24.1.163 Possession of a deadly weapon during commission of a felony. 11 **Del.C.** §1447.
- 24.1.164 Possession of a firearm during commission of a felony. 11 **Del.C.** §1447A.
- 24.1.165 Possession and purchase of deadly weapons by persons prohibited. 11 **Del.C.** §1448.
- 24.1.166 Criminal history record checks for sales of firearms; felony. 11 **Del.C.** §1448A.
- 24.1.167 Receiving a stolen firearm. 11 **Del.C.** §1450.
- 24.1.168 Theft of a firearm. 11 **Del.C.** §1451.
- 24.1.169 Giving a firearm to person prohibited. 11 **Del.C.** §1454.
- 24.1.170 Engaging in a firearms transaction on behalf of another. 11 **Del.C.** §1455.
- 24.1.171 Possession of a weapon in a Safe School and Recreation Zone; felony. 11 **Del.C.** §1457.
- 24.1.172 Removing a firearm from the possession of a law enforcement officer. 11 **Del.C.** §1458.
- 24.1.173 Prohibited acts, cheating devices(a)-(e); felony. 11 **Del.C.** §1471.
- 24.1.174 Organized Crime and Racketeering. 11 **Del.C.** §1504.
- 24.1.175 Victim or Witness Intimidation. 11 **Del.C.** §3532 & 3533.
- 24.1.176 Abuse, neglect, mistreatment or financial exploitation of residents or patients 16 **Del.C.** §1136(a), (b) and (c).
- 24.1.177 Prohibited acts A under the Uniform Controlled Substances Act. 16 **Del.C.** §4751(a), (b) and (c).
- 24.1.178 Prohibited acts B under the Uniform Controlled Substances Act. 16 **Del.C.** §4752(a) and (b).
- 24.1.179 Unlawful delivery of noncontrolled substance. 16 **Del.C.** §4752A.
- 24.1.180 Prohibited acts C under the Uniform Controlled Substances Act. 16 **Del.C.** §4753.
- 24.1.181 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 **Del.C.** §4753A (a)(1)-(9).
- 24.1.182 Prohibited acts D under the Uniform Controlled Substances Act. 16 **Del.C.** §4754.
- 24.1.183 Possession and delivery of noncontrolled prescription drug. 16 **Del.C.** §4754A.
- 24.1.184 Prohibited acts E under the Uniform Controlled Substances Act. 16 **Del.C.** §4755.
- 24.1.185 Prohibited acts under the Uniform Controlled Substances Act. 16 **Del.C.** §4756(a)(1)-(7) and (b).
- 24.1.186 Hypodermic syringe or needle; delivering or possessing; disposal; 16 **Del.C.** §4757.
- 24.1.187 Keeping drugs in original containers. 16 **Del.C.** §4758.
- 24.1.188 Distribution to persons under 21 years of age. 16 **Del.C.** §4761.
- 24.1.189 Purchase of drugs from minors. 16 **Del.C.** §4761A.

24.1.190 Distribution, delivery, or possession of controlled substance within 1,000 feet of school property; penalties; defenses. 16 Del.C. §4767.

24.1.191 Distribution, delivery or possession of controlled substance in or within 300 feet of park, recreation area, church, synagogue or other place of worship. 16 Del.C. §4768.

24.1.192 Drug paraphernalia. 16 Del.C. §4771 (a) and (b).

24.1.193 Possession, manufacture and sale, delivery to a minor and advertising of drug paraphernalia. 16 Del.C. §4774(a), (b),(c) (d).

24.1.194 Operation of a vessel or boat while under the influence of intoxicating liquor and/or drugs; felony. 23 Del.C. §2302(a) and § 2305 (3) and (4).

24.1.195 Attempt to evade or defeat tax. 30 Del.C. §571.

24.1.196 Failure to collect or pay over tax. 30 Del.C. §572.

24.1.197 Fraud and false statements[taxes]. 30 Del.C. §574.

24.1.198 Understatement or evasion [taxes]. 30 Del.C. §576.

24.1.199 Obtaining benefit under false representation. 31 Del.C. §1003.

24.1.200 Reports, statements and documents. 31 Del.C. §1004(1), (2), (3), (4).

24.1.201 Kickback schemes and solicitations. 31 Del.C. §1005.

24.1.202 Conversion of payment. 31 Del.C. §1006.

24.1.203 Unlawful possession or manufacture of proof of insurance. 21 Del.C. §2118A.

24.1.204 Temporary registration violations related to providing false information. 21 Del.C. §2133(a) (1)-(3).

24.1.205 False statements. 21 Del.C. §2315.

24.1.206 Altering or forging certificate of title, manufacturer's certificate of origin, registration card, vehicle warranty or certification sticker or vehicle identification plate. 21 Del.C. §2316.

24.1.207 False statements; incorrect or incomplete information. 21 Del.C. §2620.

24.1.208 False statements. 21 Del.C. §2752.

24.1.209 Employment of unlicensed person. 21 Del.C. §2754.

24.1.210 Duplication, reproduction, altering, or counterfeiting of driver's licenses or identification cards. 21 Del.C. §2760(a) and (b).

24.1.211 Driving after judgment prohibited. 21 Del.C. §2810.

24.1.212 False statements. 21 Del.C. §3107.

24.1.213 Driving a vehicle while under the influence or with a prohibited alcohol content; felony. 21 Del.C. §4177 (3) and (4).

24.1.214 Duty of driver involved in accident resulting in injury or death to any person. 21 Del.C. §4202.

24.1.215 Possession of motor vehicle master keys, manipulative keys, key-cutting devices, lock picks or lock picking devices and hot wires. 21 Del.C. §4604(a).

24.1.216 Receiving or transferring stolen vehicle. 21 Del.C. §6704.

24.1.217 Removed, falsified or unauthorized identification number on vehicle, bicycle or engine; removed or affixed license/registration plate with intent to misrepresent identity; felony. 21 Del.C. §6705(b) and (d).

24.1.218 Possession of blank title; blank registration card; vehicle identification plate; warranty sticker and registration card. 21 Del.C. §6708(a) and (b).

24.1.219 Removal of warranty or certification stickers; vehicle identification plates; confidential vehicle identification numbers. 21 Del.C. §6709(a).

24.1.220 Unlawful possession of assigned titles, assigned registration cards, vehicle identification plates and warranty stickers. 21 Del.C. §6710(a).

24.1.221 Obstructing person in performance of duty. 3 Del.C. §1044.

24.1.222 Unlawful Acts. 3 Del.C. §1224.

24.1.223 Offenses [involving meat and poultry inspection including bribery or attempted bribery or assaulting or impeding any person in the performance of his duties] (felony) 3 Del.C. §8713.

24.1.224 Fraud or distribution or attempted distribution of adulterated article. 3 Del.C. §8715.

24.1.225 Fraudulent Written Statements. 3 Del.C. §10049.

24.1.226 Fraudulent Certificate of Registration or Eligibility Documents . 3 Del.C. §10050.

24.1.227 Interference with officer or inspector. 4 Del.C. §907.

24.1.228 Prohibited trade practices against infirm or elderly. 6 Del.C. §2581

24.1.229 Prohibition of intimidation [under the Fair Housing Act]; felony. 6 Del.C. §4619

24.1.230 Auto Repair Fraud victimizing the infirm or elderly. 6 Del.C. §4909A

24.1.231 Hindering or obstructing [DOA] officer. 6 Del.C. §5132.

24.1.232 Impersonation of [DOA] officer. 6 Del.C. §5133.

24.1.233 Violations of the Securities Act. 6 Del.C. §7322.

24.1.234 Unauthorized acts against a service guide or seeing eye dog. 7 Del.C. §1717.

24.1.235 Interference with department personnel. 7 Del.C. §6015.

24.1.236 Improper disposal of solid waste. 7 **Del.C.** §6025.

24.1.237 Failure to report discharge of pollutant or contaminant. 7 **Del.C.** §6028.

24.1.238 Prohibitions [relating to generation, storage, disposal, transportation, and treatment of hazardous waste]. 7 **Del.C.** §6304.

24.1.239 Interference with department [DNREC] personnel. 7 **Del.C.** §6315.

24.1.240 Interception of Communications Generally; Divulging Contents of Communications 11 **Del.C.** §2402.

24.1.241 Manufacture, Possession or Sale of Intercepting Device. 11 **Del.C.** §2403.

24.1.242 Breaking and Entering, Etc. to Place or Remove Equipment. 11 **Del.C.** §2410.

24.1.243 Obstruction, Impediment or Prevention of Interception. 11 **Del.C.** §2412.

24.1.244 Obtaining, Altering or Preventing Authorized Access. 11 **Del.C.** §242.1

24.1.245 Divulging Contents of Communications. 11 **Del.C.** §2422.

24.1.246 Installation and Use Generally [of pen trace and trap and trace devices]. 11 **Del.C.** §2431.

24.1.247 Attempt to Intimidate. 11 **Del.C.** §3534

24.1.248 Disclosure of Expunged Records. 11 **Del.C.** §4374

24.1.249 Violation of reporting provisions re: SBI.; felony. 11 **Del.C.** §8523.

24.1.250 Failure of child-care provider to obtain information required under §8561 or for those providing false information. 11 **Del.C.** §8562.

24.1.251 Providing false information when seeking employment in a public school. 11 **Del.C.** §8572.

24.1.252 Filing False Claim [under Victims' Compensation Fund]. 11 **Del.C.** §9016.

24.1.253 Alteration, theft or destruction of will. 12 **Del.C.** §210.

24.1.254 Failure of Physician to file report of abuse of neglect pursuant to 16 **Del.C.** §903.

24.1.255 Coercion or intimidation involving health-care decisions and falsification, destruction of a document to create a false impression that measures to prolong life have been authorized. 16 **Del.C.** §2513.

24.1.256 Treatment of meats with unlawful drugs and preparations [prior to sale]. 16 **Del.C.** §3317.

24.1.257 Violations related to the sale, purchase, receipt, possession, transportation, use, safety and control of explosive materials other than 16 **Del.C.** §7103. 16 **Del.C.** §7112.

24.1.258 Violation of contractor trust provision of §802 for Highway Construction Payments. 17 **Del.C.** §805.

24.1.259 Violation of deadly weapons dealers' license requirements. 24 **Del.C.** §901.

24.1.260 Sale [deadly weapons] to persons under 21 or intoxicated persons. 24 **Del.C.** §903.

24.1.261 [Failure to make] reports of persons who are subject to loss of consciousness. 24 **Del.C.** §1763.

24.1.262 False statements [State taxes motor fuel carriers]. 30 **Del.C.** §5215.

24.1.263 Abuse, neglect, exploitation or mistreatment of infirm adult. 31 **Del.C.** §3913(a), (b) and (c).

24.2 Crimes substantially related to the practice of nursing home administration shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

***Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Nursing Home Administrators is available at:**

<http://dpr.delaware.gov/boards/nursinghomeadmin/index.shtml>

DEPARTMENT OF EDUCATION

14 DE Admin. Code 364

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

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

364 Certification for Interpreter/Tutor for the Hearing Impaired

A. Type of Regulatory Action Required
Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 364 Certification Interpreter/Tutor for the Hearing Impaired. The amendments change Certification to a Permit and add sections on Definitions, Application Procedures, Criminal Conviction History and the Denial of and the Revocation of the Permit. The number of the regulation is changed to 764 and it will be included in the 700 Section of the 14 **DE Admin. Code of Regulations**. The title is also changed to Credentials for an Interpreter/Tutor for the Deaf and Hard of Hearing.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses Credentials for Interpreter/Tutor for the Deaf and Hard of Hearing not student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses Credentials for an Interpreter/Tutor for the Deaf and Hard of Hearing not equitable education issues.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses Credentials for an Interpreter/Tutor for the Deaf and Hard of Hearing not students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses Credentials for an Interpreter/Tutor for the Deaf and Hard of Hearing not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision making at the local board and school level.

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

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

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

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

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

~~364 Certification Interpreter/Tutor for the Hearing Impaired
Effective July 1, 1976~~

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

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

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

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

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

764 Credentials for an Interpreter/Tutor for the Deaf and Hard of Hearing

1.0 Content

1.1 This regulation shall apply to the requirements for a permit, pursuant to 14 Del.C. §1331(b), for Interpreter/Tutor for the Deaf and Hard of Hearing.

2.0 Definitions

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

"Permit" means a document issued by the Department of Education that verifies an individual's qualifications and training to serve as an Interpreter Tutor for the Deaf and Hard of Hearing.

"Department" means the Delaware Department of Education.

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

"NAD" means the National Association of the Deaf.

"RID" means the National Registry of Interpreters for the Deaf.

"Secretary" means the Secretary of the Delaware Department of Education

"Unfit" means lack of good moral character, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials.

3.0 The Department shall issue a Permit as an Interpreter/Tutor for the Deaf and Hard of Hearing to an individual who has:

3.1 A minimum of a Bachelor's degree in any field from a regionally accredited college or university; and is

nationally certified as an Interpreter for the Deaf and Hard of Hearing by either NAD or RID, or;

3.2 A current and valid license and is certified as a Teacher of the Hearing Impaired.

4.0 Application Procedures.

4.1 Applicants for a Permit as an Interpreter/Tutor for the Deaf and Hard of Hearing shall submit to the Department:

4.1.1 Official transcripts forwarded directly from the issuing institution or by the applicant in an unopened, unaltered envelope.

4.1.2 Evidence of national certification as an Interpreter for the Deaf and Hard of Hearing from either NAD or RID.

5.0 Criminal Conviction History

5.1 An applicant shall disclose his or her criminal conviction history upon application for the Permit. Failure to disclose a criminal conviction history is grounds for denial or revocation of a Permit.

6.0 An applicant may be denied a Permit for an Interpreter/Tutor for the Deaf and Hard of Hearing upon a finding that the applicant has failed to meet the requirements set forth herein or is unfit to be issued a permit in this State.

6.1 The Secretary shall give written notice to the applicant of the denial and the reasons therefore. The notice of denial shall be sent by certified mail and shall give notice that a full and fair hearing may be requested before the Secretary or his or her designee within 10 days of the receipt of the notice of denial. The Secretary's decision shall be final.

6.2 Notwithstanding any other provision stated herein, no Permit shall be issued to an applicant if:

6.2.1 There is legal evidence that the applicant is not of good moral character;

6.2.2 The applicant has had an educator Permit, certificate or license revoked in another jurisdiction for immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials.

7.0 A Permit issued under the provisions of this regulation may be revoked upon a finding of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials and must be revoked upon finding that the permit holder made a materially false or misleading statement in his or her permit application.

7.1 The Secretary shall give written notice to the permit holder of the proposed revocation and the reasons therefore. The notice of revocation shall be sent by certified mail and shall give notice that a full and fair hearing may be requested before the Secretary, or his or her designee, within 10 days of

the receipt of the notice of denial. The Secretary's decision shall be final.

8.0 This regulation shall be effective immediately. Notwithstanding this provision, the Department shall recognize a Certification Interpreter/Tutor for the Hearing Impaired that is otherwise valid if issued prior to July 11, 2005, provided that the Certificate holder is employed as an interpreter/tutor as of July 11, 2005. If a holder of a Certification Interpreter/Tutor for the Hearing Impaired issued prior to July 11, 2005, should leave employment as an interpreter/tutor, such individual shall meet the then-in-effect permit requirements upon reapplication.

DEPARTMENT OF EDUCATION

14 DE Admin. Code 365

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

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

365 Certification Resident Advisor (Houseparent)

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 365 Certification Resident Advisor (Houseparent). The amendments change Certification to a Permit and add sections on Definitions, Application Procedures, Criminal Conviction History, Denial and the Revocation of the Permit. The number of the regulation is changed to 765 and it will be in the 700 Section of the 14 **DE Admin. Code of Regulations**. The title is also changed to Credentials for a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses Credentials for a Resident Advisor (Houseparent) not student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses Credentials for a Resident Advisor (Houseparent) not equitable education issues.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses Credentials for a Resident Advisor (Houseparent) not students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses Credentials for Resident Advisor (Houseparent) not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision making at the local board and school level.

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

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

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

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

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

365 Certification Resident Advisor (Houseparent)

Effective July 1 1993

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

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

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

~~1.3 Professional Education~~

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

~~1.3.2 A Minimum of 18 semester hours from at least 4 of the following areas: Survey/Introduction/Psychology/Education of Exceptional Children Child Growth and Development/Human Development Behavior Problems/Behavior Management/Behavior Disorders/Behavior Modification Educational Psychology/Psychology of Learning/Learning Theory/Child Psychology/Psychology of Adolescence Interpersonal Relationships/Functioning Principles and Practices of Guidance/Guidance in the Classroom/Tools and Techniques of Counseling/Group Counseling Alternative Communications Audiology Manual Communications Course(s) in any specific disability of Exceptional Children~~

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

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

~~2.1.1 Requirements of 1.1 and;~~

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

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

765 Credentials for a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing

1.0 Content

1.1 This regulation shall apply to the requirements for a Permit for Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing

2.0 Definitions

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

"Permit" means a document issued by the Department of Education that verifies an individual's qualifications and training to serve as a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing.

"Department" means the Delaware Department of Education.

"Immorality" means conduct which is inconsistent with the rules and principals of morality expected of a resident advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing and may reasonably be found to impair an individual's effectiveness by reason of his or her unfitness or otherwise.

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

“Unfit” means lack of good moral character, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials.

3.0 The Department shall issue a Permit as a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing to an applicant who has a minimum of a Bachelor’s degree in any field from a regionally accredited college or university.

4.0 Application Procedures

4.1 Applicants for a Permit as a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing shall submit to the Department official transcripts forwarded directly from the issuing institution or by the applicant in an unopened, unaltered envelope.

5.0 Criminal Conviction History

5.1 An applicant shall disclose his or her criminal conviction history upon application for the Permit. Failure to disclose a criminal conviction history is grounds for denial or revocation of a Permit.

6.0 An applicant may be denied a permit for Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing upon a finding that the applicant has failed to meet the requirements set forth herein or is unfit to be issued a permit in this State.

6.1 The Secretary shall give written notice to the applicant of the denial and the reasons therefore. The notice of denial shall be sent by certified mail and shall give notice that a full and fair hearing may be requested before the Secretary or his or her designee within 10 days of receipt of the notice of denial. The Secretary’s decision shall be final.

6.2 Notwithstanding any other provision stated herein, no Permit shall be issued to an applicant if:

6.2.1 There is legal evidence that the applicant is not of good moral character;

6.2.2 The applicant has had an educator Permit, certificate or license revoked in another jurisdiction for immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials.

7.0 A Permit issued under the provisions of this regulation may be revoked upon a finding of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials and must be revoked upon a finding that the permit holder made a materially false or misleading statement in his or her permit application.

7.1 The Secretary shall give written notice to the permit holder of the proposed revocation and the reasons therefore. The notice of revocation shall be sent by certified mail and

shall give notice that a full and fair hearing may be requested before the Secretary, or his or her designee, within 10 days of the receipt of the notice of denial. The Secretary’s decision shall be final.

DEPARTMENT OF EDUCATION

14 DE Admin. Code 1006

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

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

1006 Delaware Interscholastic Athletic Association (DIAA)

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin Code** 1006 by changing 7.2.1 so that all protests involving game competition that are allowable as defined in the National Federation of High School Sports (NFHS) Rule Book, and deemed by the Executive Director to be the responsibility of DIAA, and not a local conference, shall be heard by a three person protest panel. The other amendment adds section 7.2.2 to say that all protests other than those involving game competition and complaints brought before DIAA shall be in writing and shall be acted on only after the administrative head of the school involved has been given an opportunity to appear before the Board of Directors.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses rules for interscholastic athletic contests not student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses rules for interscholastic athletic contests not equitable education issues.

3. Will the amended regulation help to ensure that all students’ health and safety are adequately protected? The amended regulation addresses rules for interscholastic athletic contests which may involve students’ health and safety.

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

addresses rules for interscholastic athletic contests which may involve students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision making at the local board and school level.

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

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

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

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

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

1006 Delaware Interscholastic Athletic Association (DIAA)

1.0 Organization Name and Purpose: The organization shall be known as the Delaware Interscholastic Athletic Association (DIAA) and shall function as the official designee of the Secretary of Education with the authority to implement the Department of Education's Rules and Regulations governing the conduct of interscholastic athletics.

2.0 Membership in DIAA

2.1 Full Member Schools: Any secondary school including private, public, vocational-technical, and charter schools, as authorized by 14 Del.C. Ch. 5, may become a full

member school of DIAA by payment of dues and a signed affirmation of the obligations of membership.

2.1.1 A full member school is a non-voting member of DIAA and does not participate in its day-to-day governance. A full-member school may at any time make appropriate recommendations for policy action to the DIAA Board of Directors for its consideration.

2.2 Associate Member School: Any school, not a full member school, located within the boundaries of the state of Delaware and containing grades 6 through 8, or 8 through 12, or any grouping of such grade levels, may apply for status as an associate member school provided the applicant sets forth good cause and sufficient justification why such school cannot become a full member school. The initial application may be submitted at any time but renewal applications shall be submitted to the DIAA office no later than May 1 of each year.

2.2.1 The membership application shall contain a statement that the school will abide by the Rules and Regulations of the Department of Education and the Delaware Interscholastic Athletic Association and in those cases wherein the school cannot comply, the application shall set forth the specific rule and regulation, and a sufficiently acceptable explanation of why the rule or regulation cannot be kept in force or why the school is incapable of compliance. Full compliance shall be made with all rules and regulations when an associate member school competes with a full member school of DIAA or a comparable state association; participates in DIAA sanctioned tournaments/meets in cross country, indoor track, wrestling (except dual-team tournaments), outdoor track, and golf involving the aforementioned full member schools; or participates in a state championship event.

2.2.2 Such associate member schools, after initial approval, shall be reviewed each year by the DIAA Board of Directors for the purpose of approving, rejecting, or modifying their application for renewal of associate member status.

2.3 Membership Dues Schedule: Yearly dues for full member and associate member schools shall be as follows:

2.3.1 \$400 for middle schools.

2.3.2 \$600 for high schools with enrollments of 499 or less.

2.3.3 \$800 for high schools with enrollments of 999 or less.

2.3.4 \$1,000 for high schools with enrollments of 1,499 or less.

2.3.5 \$1,200 for high schools with enrollments of 1,999 or less.

2.3.6 \$1,400 for high schools with enrollments of 2,000 or more.

2.3.7 Membership dues shall be paid each year by August 1. Full member and associate member schools

which fail to comply may be subject to penalties as determined by the DIAA Board of Directors.

2.4 Participation in State Championship Tournaments/ Meets: Any member high school in good standing, is sponsoring a team in a given sport, and is in compliance with all applicable DIAA Rules and Regulations shall be eligible for the DIAA approved state championship tournament/meet in that sport.

2.5 Member schools shall comply with the regulations of the Delaware Interscholastic Association and acceptance of membership shall be construed as an agreement to that effect.

3.0 DIAA Board of Directors

3.1 Conflict of Interest: Any member of the Board of Directors who may be directly affected or whose school or school district may be directly affected by a potential decision related to an appeal or waiver request shall recuse himself or herself from consideration of the matter and shall not vote on that appeal or waiver request. The Chairperson of the Board is responsible for maintaining the integrity of the decision making process.

3.2 Committees of the DIAA Board of Directors

3.2.1 DIAA Board standing committees include: Rules and Regulations, Officials, Sports Medicine; Sportsmanship and one for each DIAA recognized sport. The Chairperson of the DIAA Board may appoint additional short term committees with specific assignments when deemed necessary.

3.2.1.1 The committee for each DIAA recognized sport shall have, in writing, procedures for determining tournament berths and selecting tournament sites. Such procedures shall be on file with the Executive Director and sent to the administrative head of each member school.

3.3 Committee Membership

3.3.1 The Chairperson of the DIAA Board of Directors and the Executive Director shall be ex-officio members of all committees. Committee membership shall be geographically representative and committee membership may include administrators, athletic directors, coaches, local school board members, officials and public members.

3.3.2 The Chairperson of the DIAA Board of Directors shall appoint individuals to serve as committee chairpersons. The individuals appointed shall serve for an indefinite period of time. The Chairperson of the Board, however, with the advice of the Executive Director, in his or her discretion, may remove a committee chairperson.

3.3.3 The Committee Chairperson, with the advice and consent of the Executive Director, shall appoint individuals to serve on the committee. The individuals so appointed shall serve for an indefinite period of time. The Committee Chairperson, however, with the advice and

consent of the Executive Director, may, in his or her discretion, remove individuals from the committee.

4.0 Responsibilities of the Executive Director

4.1 Interpret the rules and regulations and grant waivers of rules and regulations: Any waiver granted shall be temporary and shall be subject to review and approval by the DIAA Board at a subsequent or special meeting. All decisions or actions as noted above shall be documented and shall be a part of any hearing or appeal procedure.

4.2 Decide issues between meetings of the Board of Directors. The Executive Director shall initiate a review of or fully investigate an alleged violation of the Rules and Regulations that he/she has seen, heard or read about, or which has been reported to him/her. Subsequent action by the Executive Director may include an official reprimand, placement on probation, a fine, the imposing of sanctions, or the suspension from participation for a designated period of time of a player, team, coach or official to ensure the necessary, orderly, and proper conduct of interscholastic competition.

4.3 Carry on the business of the DIAA Board and DIAA between meetings: Waiver requests decided by the Executive Director shall be temporary and shall be subject to review and final approval by the Board of Directors. No school or individual shall be penalized in any case in which the DIAA Board reverses an earlier ruling of the Executive Director. In addition, the Executive Director shall administer the day-to-day operation of the organization.

5.0 Responsibilities, Powers, and Duties of the Administrative Head of School

5.1 Responsibilities of Administrative Head of School

5.1.1 The administrative head of middle level and high school member schools shall be responsible for the conduct of the interscholastic athletic program in which representative teams participate including the organization and scheduling of individuals and teams. The administrative head may delegate his or her authority, but such delegation will not negate the responsibility for a violation of the DIAA Regulations by his/her school.

5.2 Powers and Duties of Administrative Head of School

5.2.1 The administrative head of each member school shall exercise general control over all of the interscholastic athletic matters of his/her school which include but are not limited to the following:

5.2.1.1 Sanctioning all interscholastic athletic contests in which his/her school participates.

5.2.1.2 Excluding any contestant because of improper conduct.

5.2.1.3 Excluding any contestant whose physical health would be jeopardized by such participation, because of illness or injury suffered, until such time as the

contestant is declared physically fit by the school or attending physician.

5.2.1.4 Protecting the well-being of all visitors and officials attending interscholastic athletic contests conducted by his/her school. Administrative heads of member schools shall be expected to provide adequate security and, in the absence of such provisions, penalties may be imposed.

5.2.1.4.1 When a contest is conducted at a neutral site, the administrative heads of the participating schools shall be held jointly responsible for the protection and well-being of all visitors and officials. In the absence of adequate security, penalties may be imposed upon either or both of the schools.

5.2.1.5 Protecting the well-being of the school's participants by providing them with safe and suitable uniforms and equipment.

5.2.1.6 Ensuring that all required contracts for athletic contests in which the school participates are in writing and bear the proper signatures.

5.2.1.7 Designating a staff member of the school as the faculty manager for the teams representing the school or to serve as the faculty manager.

5.2.1.8 Ensuring that an authorized representative accompanies the school's teams to all contests.

5.2.1.9 Certifying in writing the eligibility of his/her school's contestants in accordance with the Regulations of the Department of Education.

5.2.1.10 Exercising such other powers regarding the interscholastic athletic program of the school as are consistent with the needs of the school and with the provisions and spirit of the Regulations of the Department of Education.

5.2.1.11 Urging all students competing on the school's teams to obtain medical accident insurance which covers athletic participation.

6.0 Amendments to Department of Education Regulations

6.1 The DIAA Board, The Secretary of Education, the Executive Director of DIAA or any member school may propose changes, additions or deletions to the Department of Education regulations.

6.1.1 Proposed changes shall be submitted in writing by a member school(s) to the Executive Director and these proposed changes and any other changes submitted by the Secretary of Education or the Executive Director of DIAA or the DIAA Board of Directors shall be reviewed by the Rules and Regulations Committee.

6.1.2 Any proposed changes to the Regulations along with comments received from the Rules and Regulations Committee, shall be considered at a scheduled meeting of the DIAA Board. Proposed changes adopted by

the Board shall thereafter be submitted to the Secretary of Education who will place them on the State Board of Education agenda for review and final approval.

6.1.2.1 All member schools shall then be advised in writing of any proposed changes. The member schools and the public shall have an opportunity to review and comment on the proposed changes during the thirty day period that the regulations are advertised in the *Register of Regulations* (as per the Administrative Procedures Act).

7.0 Reporting Violations of Department of Education Regulations and Protests and Complaints to DIAA

7.1 Reporting violations of Department of Education regulations

7.1.1 If a school violates a provision of the Department of Education regulations the administrative head or his/her designee shall notify the Executive Director in writing of the violation. All violations shall be reviewed by the DIAA Board of Directors which may impose additional penalties.

7.1.1.1 Additional penalties may be imposed for repeat offences or as deemed necessary to assure proper conduct of interscholastic athletics.

7.2 Reporting Protests and Complaints

~~7.2.1 All protests and complaints brought before DIAA shall be in writing and shall be acted on only after the administrative head of the school involved has been given an opportunity to appear before the Board of Directors.~~

7.2.1 All protests involving game competition that are allowable as defined in the NFHS (name of sport) Rule Book, and deemed by the Executive Director to be the responsibility of DIAA, and not a local conference, shall be heard by a three person protest panel. This panel will include the DIAA Executive Director, the DIAA Chairman or Vice Chairman of the Board and the State Tournament Director of the given sport. Protests must be submitted in writing within 48 hours of the conclusion of the contest or earlier if required by NFHS rules. The decisions of the DIAA protest panel may not be appealed.

7.2.2 All protests other than those involving game competition and complaints brought before DIAA shall be in writing and shall be acted on only after the administrative head of the school involved has been given an opportunity to appear before the Board of Directors.

8.0 DIAA Board of Directors Investigative Procedure

8.1 The following investigative procedure shall be followed when the DIAA office receives information indicating that an incident has occurred which is not in the best interests of the interscholastic athletic programs of the member schools of DIAA.

8.1.1 The administrative head of the member school involved shall be notified by telephone and confirmed by letter of the pending investigation (copy to be forwarded

to the chief school officer). The notification shall contain an explanation of the nature of the investigation and identify the person(s) conducting the investigation.

8.1.2 Permission shall be obtained from the administrative head of the member school to interview students and/or staff members and each person interviewed shall be informed of the nature of the investigation.

8.1.3 Upon completion of the investigation, a written statement of charges shall be presented to the administrative head of the charged school (copy to be forwarded to the chief school officer).

8.1.4 When immediate punitive action by the Executive Director is necessary, the action taken shall be stated in writing.

8.1.5 When charges are to be presented to the DIAA Board of Directors, the charged school shall be advised of the meeting date, time, and location and shall be provided with an opportunity to respond to the charges.

9.0 Waiver of DIAA Rules and Regulation

9.1 General

9.1.1 The DIAA Board has the authority to set aside the effect of any athletic rule or regulation, subject to any limitations set forth in the specific rule or regulation, when the affected party establishes by the preponderance of the evidence, all of the following conditions:

9.1.1.1 In the case of eligibility waiver requests, there exists a hard ship as defined by 9.2.1;

9.1.1.2 Strict enforcement of the rule in the particular case will not serve to accomplish the purpose of the Rule;

9.1.1.3 The spirit of the rule being waived will not be offended or compromised;

9.1.1.4 The principle of educational balance over athletics will not be offended or compromised; and

9.1.1.5 The waiver will not result in a safety risk to teammates or competitors.

9.1.2 Waivers are exceptional and extraordinary relief from the athletic rules and regulations. Ignorance of any rule alone, whether by the student athlete, his/her family or school, shall not be sufficient reason for waiving a rule. The burden of proof rests on the applicant (the student, his/her parents or guardians, principal, headmaster or other affected party) to show extenuating circumstances warranting waiver.

9.1.3 The waiver request shall contain all facts pertaining to the case, including sufficient data to make it possible to reach a decision without further investigation. It is not the duty of the Executive Director or the DIAA Board to produce or collect information.

9.1.4 Waiver requests would be filed promptly when it becomes apparent to the student, principal, headmaster or other affected party, that a waiver will be required. In any event, all requests for a waiver of the rules,

with all documentation complete, must be received by the Executive Director at least 21 calendar days before the next regularly scheduled meeting of the DIAA Board in order to be placed on the agenda for that meeting.

9.1.4.1 Notwithstanding this requirement, the Chairperson of the DIAA Board may at his/her discretion add a waiver request to an agenda in an emergency situation. Failure to file a waiver request in a timely manner when all information is available shall not be considered an emergency situation.

9.1.5 The applicant is entitled to a hearing on his/her waiver request. Waiver hearings shall be conducted in an informal manner that affords all parties the opportunity to present all information and all relevant arguments.

9.1.5.1 The DIAA Board may administer oaths, take testimony, hear proofs and receive exhibits into evidence at any hearing. Testimony at any hearing shall be under oath or affirmation.

9.1.5.2 Any party to a proceeding before the DIAA Board may be represented by counsel. An attorney representing a party in a proceeding before the Board shall notify the Executive Director of the representation in writing as soon as practicable.

9.1.5.3 Strict rules of evidence do not apply. Evidence having probative value commonly accepted by reasonably prudent people in the conduct of their affairs may be admitted into evidence.

9.1.5.4 Any document introduced into evidence at the hearing shall be marked by the Board and shall be a part of the record of the hearing. The party offering the document into evidence shall provide a copy of the document to each of the other parties, if any, and to each of the Board members present for the hearing unless otherwise directed.

9.1.5.5 Any request by the DIAA Board for additional information pertaining to a waiver request shall be promptly supplied by the affected students, coaches, and member schools.

9.1.5.6 DIAA shall provide a stenographic reporter at a hearing at its own expense.

9.1.6 The DIAA Board shall consider the entire record of the case in reaching its final decision. Unless otherwise provided, a decision made on a waiver request shall be effective immediately.

9.1.7 The DIAA Board's decision shall be incorporated into a final order, which shall be signed and mailed to the parties within twenty (20) days of the hearing.

9.2 Eligibility Rule Waiver Request

9.2.1 Unless specifically defined in the eligibility rule in question, "hardship" means a hardship peculiar to the student athlete caused by unforeseen events beyond the election, control or creation of the student athlete, his/her family, or school, which deprive him or her of all or part of one of his or her opportunities to participate

in a particular sports season. Ignorance of any rule alone, whether by the student athlete, his/her family or school, shall not be sufficient reason for waiving a rule. The waiver provision is intended to restore eligibility that has been lost as a result of a hardship situation. Injury, illness or accidents, which cause a student to fail to meet the basic requirements, are possible causes for a hardship consideration.

9.2.2 All eligibility hardship waiver requests shall be processed on forms approved by the DIAA Board and in accordance with the following procedures:

9.2.2.1 A request for a waiver of the eligibility rules must be directed by the student to the involved member school's principal, headmaster or their designee who shall then file a written request stating the full particulars of the case and the reasons felt by the student or the administrator, or both, for granting the waiver.

9.2.2.1.1 All requests for eligibility rule waivers must be signed by the Principal or Headmaster of the school requesting the waiver and must include a letter from the Principle or Headmaster indicating whether the school supports the waiver request.

9.2.2.1.2 The school shall submit a waiver request form when requested by individual student athletes. The DIAA Board, however, may take into consideration the school's position on the waiver request when rendering its decision.

9.2.2.2 To aid the DIAA Board in making an informed decision, the waiver request shall include the student's:

9.2.2.2.1 Official transcripts from the sixth grade through the current school year and semester grades for the current school year;

9.2.2.2.2 Attendance records for the last two (2) years;

9.2.2.2.3 A letter from the Principal or Headmaster either supporting or not supporting the waiver request;

9.2.2.2.4 Medical records (if applicable);

9.2.2.2.5 Legal documentation (if applicable);

9.2.2.2.6 IEP's (if applicable); and

9.2.2.2.7 Any documentation/evidence to substantiate a hardship or extenuating circumstance exists.

9.2.3 An appearance by the student and his or her parent, guardian or Relative Caregiver before the DIAA Board is mandatory on requests for an eligibility waiver. An appearance by a school representative is strongly encouraged.

9.3 Waiver Requests of Non-eligibility Rules

9.3.1 The Principal or Headmaster of a member school, or any other individual may request a waiver of a rule, regulation, guideline, policy or procedure of DIAA not

directly related to student eligibility when special circumstances arise that, in the Principal or Headmaster's opinion, or in the opinion of the individual, call for relief from, or modification of the effects of the rule.

9.3.2 All requests for non-eligibility waivers must be in writing, signed by the Principal or Headmaster.

9.3.3 An appearance by the Principal or Headmaster or his/her designee or other individual requesting the non-eligibility waiver is optional. If the Principal or Headmaster or his/her designee or other individual requesting the non-eligibility waiver choose to appear before the DIAA Board he/she must notify the Executive Director of his/her intent to do so at the time the request for waiver is filed. Otherwise, the principal or his/her designee, or other individual, may attend the meeting but may not be permitted to address the DIAA Board.

9.3.4 If the waiver requested would affect more than one member school, the waiver applicant shall provide the position of the other affected member schools on the waiver request in their written application. The failure to provide this information may result in a delay in the Board's consideration of the waiver request.

10.0 Appeal Procedure to the DIAA Board of Directors

10.1 Decisions of the Executive Director, with the exception of those to uphold or rescind the suspension resulting from a game ejection, may be appealed de novo to the DIAA Board of Directors. The Board of Directors has been designated by the Secretary of Education to conduct fact finding hearings or conferences in matters regarding interscholastic athletics.

10.1.1 Initiation of an Appeal to the DIAA Board

10.1.1.1 Whenever a right of appeal of a decision to the DIAA Board of Directors is provided, an aggrieved person who is under the regulatory authority of DIAA and who has, in fact, suffered a direct injury due to the decision, may initiate an appeal by filing a Notice of Appeal with the Executive Director. The notice shall be in writing, shall be signed by the person making the request (or by the party's authorized representative), and shall be delivered to the Executive Director by certified mail.

10.1.1.2 The notice of appeal shall briefly state the decision from which the appeal is taken, the law, rule or regulation involved in the decision, the names of the parties, and the grounds for the appeal.

10.1.1.3 The notice of appeal shall be filed within a reasonable time after the controversy arises, but in no event shall a notice be filed more than thirty (30) calendar days after the appellant's receipt of written notice that official action has been taken by the Executive Director or other authorized person or body.

10.1.1.3.1 Notwithstanding the above, the notice of appeal shall be served ten (10) calendar days

after appellant's receipt of written notice that official action has been taken by the Executive Director or the Sportsmanship Committee pursuant to 14 **DE Admin. Code** 1007.

10.1.1.4 A copy of the notice of appeal shall be delivered to all other parties to the proceeding at the same time it is sent to the Executive Director. A copy of any other paper or document filed with DIAA shall also be provided to all other parties to the proceeding. If a party is represented by legal counsel, delivery to legal counsel is sufficient.

10.1.1.5 Upon receipt of an adequately detailed notice of appeal, the Executive Director shall place the appeal on the on the next meeting agenda of DIAA.

10.1.2 Record of Prior Proceedings

10.1.2.1 If proceedings were previously held on the matters complained of in the notice, the committee which conducted those proceedings shall file a certified copy of the record of the proceedings with the Executive Director.

10.1.2.2 The record shall contain any written decision, a copy of the rule or regulation involved, any minutes of the meetings(s) at which a disputed action was taken, a verbatim transcript of the hearing conducted by the party below, and all exhibits presented at the agency.

10.1.2.3 The record shall be filed with the Executive Director within ten (10) days of the date the Executive Director notifies the committee that the notice was filed, unless directed otherwise. A copy of the record shall be sent to the appellant when it is submitted to the Executive Director.

10.1.3 DIAA Board Hearing Procedures for Appeals

10.1.3.1 Record Review

10.1.3.1.1 If a hearing was previously held on the matters complained of in the notice, the parties to the proceeding before the DIAA Board may agree to submit the matter to the Board on the existing record without the presentation of additional evidence. The parties shall inform the Executive Director in writing of their agreement to submit the matter to the Board on the existing record no later than ten (10) days after the notice was filed.

10.1.3.1.2 If the parties agree to submit the matter for decision on the existing record, they shall support their positions in written statements limited to matters in the existing record. The written statements shall be filed no later than ten (10) days before the consideration date, unless otherwise directed.

10.1.3.1.3 If the parties agree to submit the matter for decision on the existing record, they may nonetheless request oral argument be heard on the consideration date. A request for oral argument shall be submitted with the written statement of appeal. There will be no oral argument unless it is requested when the written statement of appeal is submitted. Oral argument shall be

limited to the matters raised in the written statements and shall be limited to fifteen (15) minutes per side with an additional five (5) minutes for rebuttal.

10.1.3.1.4 If the parties agree to submit the matter for decision on the existing record, the DIAA Board's decision shall be based on the existing record, the written statements and oral argument, if any.

10.1.3.2 Evidentiary Hearings

10.1.3.2.1 Evidentiary hearings will be held when there has not been a prior hearing, when the parties do not agree to rest on the existing record, or when the DIAA Board otherwise decides to receive additional evidence.

10.1.3.2.2 The Chairperson or his/her designated representative shall be the hearing officer. The hearing officer shall conduct the hearing and make rulings on the admissibility of evidence.

10.1.3.2.3 The DIAA Board of Directors may continue, adjourn, or postpone a hearing for good cause on motion of a party or upon its own motion.

10.1.3.2.4 Objections to the admission of evidence shall be brief and shall state the grounds for such objections. Objections with regard to the form of question will not be considered.

10.1.3.2.5 The hearing will proceed with the appellant first presenting its evidence and case. The responding party may then present its case. The appellant will have an opportunity to present rebuttal evidence.

10.1.3.2.6 Opening and closing arguments and post hearing submissions of briefs or legal memoranda will be permitted in the discretion of the DIAA Board.

10.1.3.2.7 Any person who testifies as a witness shall also be subject to cross examination by the other parties to the proceeding. Any witness is also subject to examination by the DIAA Board.

10.1.3.2.8 The Board may administer oaths, take testimony, hear proofs and receive exhibits into evidence at any hearing. Testimony at any hearing shall be under oath or affirmation.

10.1.3.2.9 Any party to a proceeding before the DIAA Board may be represented by counsel. An attorney representing a party in a proceeding before the Board shall notify the Executive Director of the representation in writing as soon as practicable.

10.1.3.2.10 Strict rules of evidence do not apply. Evidence having probative value commonly accepted by reasonably prudent people in the conduct of their affairs may be admitted into evidence.

10.1.3.2.11 Any document introduced into evidence at the hearing shall be marked by the DIAA Board and shall be a part of the record of the hearing. The party offering the document into evidence shall provide a copy of the document to each of the other parties, if any, and

to each of the DIAA Board members present for the hearing unless otherwise directed.

10.1.3.2.12 DIAA shall provide a stenographic reporter at a hearing at its own expense.

10.1.3.2.13 The Board's decision shall be incorporated into a final order, which shall be signed and mailed to the parties within twenty (20) days of the hearing.

11.0 Appeal to the State Board of Education: Any party to a controversy involving the athletic rules and regulations, including a waiver thereof, may appeal to the State Board of Education by setting forth such grievance in a petition. The petition or notice of appeal shall be served on the Secretary of Education no later than thirty (30) calendar days after receipt of the decision. In addition, a copy of the petition or notice of appeal shall be served on the Executive Director of DIAA by certified or registered mail. Any decision shall otherwise be final. All appeals to the State Board of Education shall be on the basis of the record. (See 14 Del.C. §312 and the State Board of Education Manual for the Conduct of Hearings Before the State Board of Education).

1 DE Reg. 725 (12/1/97)

6 DE Reg. 280 (9/1/02)

7 DE Reg. 1692 (6/1/2004)

DEPARTMENT OF EDUCATION

14 DE Admin. Code 1008

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

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

1008 DIAA Junior High/Middle School Interscholastic Athletics

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 1008 DIAA Junior High/Middle School Interscholastic Athletics in order to remove 4.3.1 the chart on Maximum Game Schedules and Designated Sports Seasons allowing the maximum game schedules and designated sports seasons to be designated by the DIAA Board of Directors.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses maximum

game schedules and designated sports seasons not student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses maximum game schedules and designated sports seasons not equitable education issues.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses maximum game schedules and designated sports seasons not health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses maximum game schedules and designated sports seasons not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision making at the local board and school level.

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

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

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

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

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

1008 DIAA Junior High/Middle School Interscholastic Athletics

4.0 Sports Seasons, Practice Sessions and Maximum Game Schedules and designated Sports Seasons

4.1 Sports Seasons

4.1.1 The fall sports season shall begin on August 25 and end not later than December 1. Practice for any fall sport shall not begin earlier than August 25.

4.1.1.1 The first three (3) days of football practice shall be primarily for the purpose of physical conditioning and shall be restricted to non-contact activities. Coaches may introduce offensive formations and defensive alignments, run plays on "air", practice non-contact phases of the kicking game, and teach non-contact positional skills. Protective equipment shall be restricted to helmets, mouth guards and shoes. The use of dummies, hand shields, and sleds in contact drills is prohibited. Blocking, tackling, and block protection drills which involve any contact between players are also prohibited.

4.1.1.2 No member school shall participate in spring football games nor shall a member school conduct football practice of any type outside of the regular fall sports season except when participating in the state tournament. "Organized football" or "organized football practice" shall be defined as any type of sport which is organized to promote efficiency in any of the various aspects of football. Touch football, featuring blocking, tackling, ball handling, signaling, etc. shall be considered "organized football" and shall be illegal under the intent of this rule

4.1.2 The winter sports season shall begin 21 days before the first Friday in December and end not later than March 1. Practice for any winter sport shall not begin earlier than 21 days before the first Friday in December

4.1.3 The spring sports season shall begin on March 1 and end not later than the last school day. Practice for any spring sport shall not begin earlier than March 1.

4.1.4 A school which conducts practice prior to the first allowable date shall pay a \$100.00 fine per each illegal practice day and a school which participates in a game prior to the first allowable date shall be required to forfeit the contest and pay a \$100.00 fine.

4.1.5 No member school shall participate in a post season contest without the written approval of the Executive Director.

4.2 Practice Sessions

4.2.1 A practice session shall be defined as any instructional or conditioning activity on the field, court, mat, or track or in the pool, weight room, or classroom such as team meetings, film reviews, chalkboard sessions, warm-up and cool down exercises, drills, and mandatory strength training, etc. Member schools shall conduct a minimum of 21 calendar days of practice under the supervision of the school's coaching staff prior to the first scheduled contest in all sports.

4.2.2 Practice sessions shall be limited to two (2) hours on official school days. Split sessions may be conducted, but practice time shall not exceed two (2) hours for any individual athlete. The two-hour practice limitation does not include time for non-instructional activities such as dressing, showering, transportation, or training room care.

4.2.3 Practicing on holidays and weekends shall be left to the individual schools and conferences. However, there shall be one day of no activity (practice, scrimmage or contests) during any seven day period.

4.2.4 A student shall be required to practice for a period of at least seven (7) calendar days prior to participating in a contest. However, if an eighth grade student has been participating in a state tournament during the preceding sports season and is unable to begin practicing at least seven (7) calendar days before his/her team's first contest, he/she shall be exempt from this requirement.

4.2.5 A school which exceeds the two-hour practice limitation shall pay a \$100.00 fine.

4.3 Maximum Game Schedules and Designated Sports Seasons:

4.3.1 The maximum number of regularly scheduled interscholastic contests/competition dates for each team and individual in the recognized sports and their ~~designated sports~~ season shall be as follows: designated by the DIAA Board of Directors.

~~Team Limitations~~

~~Individual Limitations~~

Sport	Season	Week	Week	Day
Fall				
Cross Country (boys and girls)	12 competition dates	+ 2 competition dates	+ 2 competition dates	
Field Hockey (girls)	12 contests	2 contests	2 competition dates	2 halves
Football (boys)	8 contests	1 contest	4 quarters	
Soccer (boys)	12 contests	2 contests	2 competition dates	2 halves

Volleyball (girls)	+2 competition dates	2 competition dates	2 competition dates	
	of which one date may			
	involve more than			
	2 teams			
Winter				
Basketball (boys and girls)	+4 contests	2 contests	2 competition dates	4 quarters
Wrestling (boys)	* 12 contests	2 competition dates	2 competition dates	5 matches
Spring				
Baseball (boys)	+2 contests	2 contests	2 contests	
Softball (girls)	+2 contests	2 contests	2 contests	
Outdoor Track (boys and girls)	+10 competition dates	+2 competition dates	+2 competition dates	
Tennis (boys and girls)	+2 contests	2 contests	2 contests	2 halves
Outdoor Track (boys and girls)	+10 competition dates +	2 competition dates	+2 competition dates	

+ A team may not participate in two different cross country or outdoor track meets on the same day.

*Participation in a triangular meet shall count as two contests and participation in a quadrangular meet shall count as three contests toward the seasonal limitation.

Participation in any part of a quarter/half shall count as a quarter/half toward the weekly and daily limitations in that sport. However, in the case of football, participation on a free kick or a play from a scrimmage kick formation shall not count as a quarter. Overtime periods shall be considered as part of the fourth quarter or second half.

4.3.2 The preceding game limitations, with the exception of the individual daily limitation, shall not prohibit the rescheduling of postponed games at the discretion and convenience of the member schools involved provided the game was postponed due to inclement weather, unplayable field conditions, failure of the assigned officials to appear for the game, breakdown of the bus or van carrying the visiting team, or any other circumstances beyond the control of site management which preclude playing the game. However, a team may not participate in more than three (3) contests/competition dates in a week.

4.3.3 A student shall participate in a particular sport for only one season during each academic year.

4.3.4 A school which participates in more than the allowable number of contests in a season shall be fined \$200.00.

4.3.5 A school which exceeds the weekly contest limitation shall forfeit the contest and pay a \$100.00 fine.

4.3.6 A student who exceeds the weekly or daily contest limitation shall be considered an ineligible athlete and the school subject to the penalties stipulated in 2.10.

***Please Note:** As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Department of Education are available at:

<http://www.state.de.us/research/AdminCode/title14/>

DEPARTMENT OF EDUCATION

14 DE Admin. Code 1009

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

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

1009 DIAA Senior High School Interscholastic Athletics

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 1009 DIAA Senior High School Interscholastic Athletics. The amendments include adding a phrase to 2.2.1.7 concerning students who reach the age of majority to read, shall be ineligible to participate in athletics for 90 school days commencing with the first day of official attendance "on or after their 18th birthday". The second amendment removes 4.3.1 the chart on Maximum Game Schedules and Designated Sports Seasons allowing the maximum game schedules and designated sports seasons to be designated by the DIAA Board of Directors.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses maximum game schedules and designated sports seasons and rules for students who reach the age of majority not student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses maximum game schedules and designated sports seasons and rules for students who reach the age of majority not equitable education issues.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses maximum game schedules and designated sports seasons and rules for students who reach the age of majority not health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses maximum game schedules and designated sports seasons and rules for students who reach the age of majority.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision making at the local board and school level.

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

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

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

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

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no

additional cost to the State and to the local school boards for compliance with the regulation.

1009 DIAA Senior High School Interscholastic Athletics

2.0 Eligibility: No student shall represent a school in an interscholastic scrimmage or contest if he/she does not meet the following requirements:

2.1 Eligibility, Age

2.1.1 Students who become 19 years of age on or after June 15 shall be eligible for all sports during the school year provided all other eligibility requirements are met. In determining the age of a contestant, the birth date as entered on the birth record of the Bureau of Vital Statistics shall be required and shall be so certified on all eligibility lists.

2.1.1.1 Requests for a waiver of the age requirement shall only be considered for participation on an unofficial, non-scoring basis in non-contact or non-collision sports

2.2 Eligibility, Residence

2.2.1 With the exception of boarding school students, a student must be living with his/her custodial parent(s), legal guardian(s), or Relative Caregiver in the attendance zone of the school which he/she attends, or be a student 18 years of age or older and living in the attendance zone of the school which he/she attends (see 2.2.1.7), in order to be eligible for interscholastic athletics in that school. In cases of joint custody, the custodial parent shall be the parent with actual physical placement as determined by court. In the case of shared custody the parents must commit to sending the student to a particular school for the year. Maintaining multiple residences in order to circumvent this requirement shall render the student ineligible.

2.2.1.1 A student who, pursuant to established school board policy or administrative procedure, remains in a school he/she has been attending after his/her legal residence changes to the attendance zone of a different school in the same school district, may exercise, prior to the first official student day of the subsequent academic year, a one time election to remain at his/her current school and thereby not lose athletic eligibility. If a student chooses to remain at his/her current school and then transfers to the school in his/her new attendance zone on or after the first official student day of the subsequent academic year, he/she shall be ineligible, for ninety (90) school days.

2.2.1.2 A student who changes residence to a different attendance zone after the start of the last marking period and, pursuant to established school board policy or administrative procedure, shall be granted permission to continue attending his/her present school, the student shall retain his/her athletic eligibility in that school for the remainder of the school year provided all other eligibility requirements are met.

2.2.1.3 A student shall be permitted to complete his/her senior year at the school he/she is attending and remain eligible even though a change of legal residence to the attendance zone of another school has occurred. This provision shall refer to any change of legal residence that occurs after the completion of the student's junior year.

2.2.1.4 A student may be residing outside of the attendance zone of the school which he/she attends if the student is participating in the Delaware School Choice Program as authorized by 14 **Del.C.**, Ch.4.

2.2.1.5 A student who is a non-resident of Delaware shall be eligible to attend a public school, charter school or career-technical school if, in accordance with 14 **Del.C.** §607, his/her custodial parent or court appointed legal guardian or Relative Caregiver is a full-time employee of that district.

2.2.1.6 Notwithstanding 2.2.1, a student shall be eligible at a public or vocational-technical school if he/she is enrolled in accordance with 14 **Del.C.** §202(f), the Caregivers School Authorization.

2.2.1.6.1 An exception would be a student whose Relative Caregiver does not provide the documentation required by the Relative Caregiver School Authorization (proof of relation and proof of full-time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the Relative Caregiver has provided the aforementioned required documentation or has received a signed court order designating him/her as the student's legal guardian.

2.2.1.7 A student who reaches the age of majority (18) and leaves his/her parents' place of residency and jurisdiction thereof, and moves to another attendance zone to continue his/her high school education shall be ineligible to participate in athletics for 90 school days commencing with the first day of official attendance on or after their 18th birthday. This provision shall not apply to a student participating in the Delaware School Choice Program, as authorized by 14 **Del.C.** Ch. 4, provided the student's choice application was properly submitted prior to his/her change of residence.

2.2.1.8 Notwithstanding 2.2.1, a student who is homeless as defined in the McKinney-Vento Act, 42 U.S.C. 11434a(2) shall be eligible to participate at the public school in which he/she is enrolled.

2.3 Eligibility, Enrollment and Attendance

2.3.1 A student must be legally enrolled in the high school which he/she represents in order to participate in a practice, scrimmage or contest.

2.3.2 A shared-time student who attends two (2) different schools during the regular school day shall be eligible to participate only at his/her home school. A

student's home school shall be the school at which he/she is receiving instruction in the core academic areas and at which he/she is satisfying the majority of his/her graduation requirements; not a school at which he/she is receiving only specialized educational instruction such as vocational training.

2.3.3 Students with disabilities who are placed in special schools or programs

2.3.3.1 Definitions:

“**Campus**” means a contiguous land area containing one or more school buildings.

“**Special School or Program**” means a school or program approved by the Department of Education with the approval of the State Board of Education to serve students with disabilities, but does not include alternative schools.

“**Student With a Disability**” means a “child with a disability” as that term is defined in the Administrative Manual for Special Education Services (AMSES), 14 **DE Admin. Code** 925.

2.3.3.2 A student with a disability who is placed in a special school or program shall be eligible to participate in interscholastic athletics as follows:

2.3.3.2.1 If the special school or program sponsors the interscholastic sport in question, the student shall be eligible to participate only at the school or program.

2.3.3.2.2 If the special school or program does not sponsor the interscholastic sport in question and the student is served in a regular high school for all or part of the school day, the student shall be eligible only at that regular high school.

2.3.3.2.3 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or program is located on the campus of a regular high school, the student shall be eligible only at the regular high school on the same campus.

2.3.3.2.4 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or program is not located on the campus of a regular high school, the student shall be eligible only at the regular high school designated to serve the special school's or program's students.

2.3.3.2.4.1 School districts or charter schools which administer special schools or programs and have multiple high schools shall decide which of its regular high schools shall be designated to serve special school or program students in these circumstances.

2.3.4 A student who is participating in the Delaware School Choice Program, as authorized by 14 **Del.C.** Ch. 4, is obligated to attend the choice school for a

minimum of two (2) years unless the students custodial parent(s), legal guardian(s) or Relative Caregiver relocate to a different school district or the student fails to meet the academic requirements of the choice school. If a student attends a choice school for less than two (2) years and subsequently returns to his/her home school, the student must receive a release from the "choice district" in order to legally enroll at his/her home school. Without a release, the student would not be eligible legally enrolled and consequently would be ineligible to participate in interscholastic athletics.

2.3.5 A student may not participate in a practice, scrimmage, or contest during the time a suspension, either in-school or out-of-school, is in effect or during the time he/she is assigned to an alternative school for disciplinary reasons.

2.3.6 A student who is not legally in attendance at school due to illness or injury shall not be permitted to participate in a practice, scrimmage, or contest on that day.

2.3.7 A student who fails to complete a semester or is absent for one or more semesters for reasons other than personal illness or injury shall be ineligible for ninety (90) school days from the date of his/her reentry to school.

2.3.8 An ineligible student who practices in violation of 2.2.2 through 2.2.5 shall, when he/she regains his/her eligibility, be prohibited from practicing, scrimmaging, or competing for an equivalent number of days.

2.4 Eligibility, Transfers

2.4.1 A student who has not previously participated in interscholastic athletics (previous participation is defined as having practiced, scrimmaged, or competed in grades 9 through 12) is released by a proper school authority from a sending school, has completed the registration process at the receiving school, and is pursuing an approved course of study shall be eligible immediately upon registration provided he/she meets all other DIAA eligibility requirements.

2.4.2 If a student has previously participated in interscholastic athletics, he/she shall be ineligible for a period of ninety (90) school days commencing with the first day of official attendance in the receiving school unless one of the following exceptions applies:

2.4.2.1 The transfer is within a school district and is approved by the district's superintendent pursuant to established school board policy or administrative procedure. This provision shall not apply to a student who transfers to his/her home school from a "choice school" within the district and who has not completed the two-year attendance requirement unless he/she satisfies the conditions stipulated in 2.4.2.5.1 through 2.4.2.5.4. This provision shall also not apply to a student who transfers from a "choice school" to another "choice school" within the district.

2.4.2.2 The transfer is caused by court action, court action being an order from a court of law affecting legally committed students. In the case of a transfer of guardianship/custody, the transfer shall be the result of a court order signed by a judge, commissioner, or master of a court of competent jurisdiction. A petition for the transfer of guardianship/custody, an affidavit, (except as permitted by 2.4.2.3), or a notarized statement signed by the affected parties shall not be sufficient to render the student eligible to participate in interscholastic athletics.

2.4.2.3 The transfer is in accordance with the student being placed with a Relative Caregiver as per 14 **Del.C.** §202(f), the Caregivers School Authorization.

2.4.2.3.1 An exception would be a student whose relative caregiver does not provide the documentation required by the Relative Caregiver School Authorization (proof of relation and proof of full-time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the relative caregiver has provided the aforementioned required documentation or has received a signed court order designating him/her as the student's legal guardian.

2.4.2.4 The transfer is the result of a change in residence by the custodial parent(s) legal guardian(s) or Relative Caregiver from the attendance zone of the sending school to the attendance zone of the receiving school. A change in residence has occurred when all occupancy of the previous residence has ended. A student who transfers shall be eligible in the receiving school immediately, when the custodial parent(s) legal guardian(s) or Relative Caregiver has established a new legal residence in another public school attendance zone.

2.4.2.5 The transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year provided that the following has occurred:

2.4.2.5.1 The student has completed the registration process at the receiving school prior to the first official student day of the academic year. The first official student day shall be defined as the first day on which students in any grade in that school are required to be in attendance.

2.4.2.5.2 The student has not attended class, excluding summer school, or participated in a scrimmage or contest at the sending school since the close of the previous academic year.

2.4.2.5.3 The student's legal residence is located in the attendance zone of the receiving school.

2.4.2.5.4 All other DIAA eligibility requirements have been met.

2.4.2.6 The transfer is the result of the student being homeless as defined in the McKinney - Vento Act, 42 U.S.C. 11434a(2).

2.4.2.6.1 Notwithstanding the above, the student shall be ineligible under the ninety (90) school day ineligibility clause where the student's homeless status is created by the student or his/her family for the primary reason of:

2.4.2.6.1.1 Seeking a superior team;

or

2.4.2.6.1.2 Seeking a team more compatible with the student's abilities; or

2.4.2.6.1.3 Dissatisfaction with the philosophy, policies, methods or actions of a coach or administrator pertaining to interscholastic athletics; or

2.4.2.6.1.4 Avoiding disciplinary action imposed by the school of origin related to or affecting interscholastic athletic participation.

2.4.3 Transfer Because of Promotion or Administrative Assignment: Transfer because of promotion or administrative assignment to the ninth grade from a school whose terminal point is the eighth grade, or to the tenth grade from a junior high school whose terminal point is the ninth grade, shall not constitute a transfer. Students so promoted or administratively assigned shall be eligible.

2.4.4 Transfer Because of a Change in the Program of Study or Financial Hardship: If a waiver of the ninety (90) school day ineligibility clause is requested due to a desired change in the program of study or financial hardship, the parent(s), legal guardian(s) or Relative Caregiver is responsible for providing documentation to the DIAA Board of Directors to support the request.

2.4.4.1 Documentation for change in the program of study (a multi-year, hierarchical sequence of courses with a common theme or subject matter leading to a specific outcome) shall include:

2.4.4.1.1 The student's schedule;

2.4.4.1.2 The student's transcript;

2.4.4.1.3 Current course descriptions from both the sending and receiving schools;

2.4.4.1.4 A statement from the principal of the sending school indicating that a significant part of the student's desired program of study will not be offered and that it will place the student at a definite disadvantage to delay transfer until the end of the current school year; and

2.4.4.1.5 A statement from the principals of both the sending and receiving schools that the student is not transferring for athletic advantage (see 2.4.6).

2.4.4.2 Documentation for Financial Hardship: Documentation for financial hardship shall include:

2.4.4.2.1 Proof of extreme financial hardship caused by significant and unexpected reduction in income and/or increase in expenses; and

2.4.4.2.2 A statement from the principals of both the sending and receiving schools that the student is not transferring for athletic advantage (see 2.4.6).

2.4.5 Transfer Because of Custody Change: In cases of joint or shared custody when a primary residence is established, a change in a student's primary residence without court action subjects the student to the ninety (90) school day ineligibility clause.

2.4.6 A change of custody or guardianship for athletic advantage shall render a student ineligible under the ninety (90) school day ineligibility clause if the reason for his/her transfer is one of the following: to seek a superior team, to seek a team more compatible with his/her abilities, dissatisfaction with the philosophy, policies, methods, or actions of a coach or administrator pertaining to interscholastic athletics or to avoid disciplinary action imposed by the sending school related to or affecting interscholastic athletic participation.

2.4.7 A student who transfers from a public, private, vocational-technical, or charter school to a school of choice, as authorized by 14 **Del.C.** Ch.4, shall be eligible immediately provided the transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year.

2.4.7.1 A student who transfers from a school of choice to another school of choice shall be ineligible to participate in interscholastic athletics during his/ her first year of attendance at the receiving school unless the receiving school sponsors a sport(s) not sponsored by the sending school in which case the student shall be eligible to participate in that sport(s) only.

2.4.8 A student who transfers from a school of choice to either a private school, career-technical school or, after completing his/her two-year commitment, to a public charter school shall be eligible immediately provided the transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year.

2.4.9 If a student transfers with fewer than ninety (90) school days left in the academic year, he/she shall be ineligible for the remainder of the school year but shall be eligible beginning with the subsequent fall sports season provided he/she is in compliance with all other eligibility requirements.

2.5 Eligibility, Amateur Status

2.5.1 A student may not participate in an interscholastic sport unless he/she is considered an amateur in that sport. A student forfeits his/her amateur status if he/she does any of the following:

2.5.1.1 Knowingly plays on or against a professional team which is defined as a team having one or

more members who have received or are receiving directly or indirectly monetary consideration for their athletic services.

2.5.1.2 Signs a professional contract, accepts reimbursement for expenses to attend a professional tryout, or receives financial assistance in any form from a professional sports organization.

2.5.1.3 Enters a competition under an assumed name. The surname and given name used by any player in his/her first game of interscholastic competition shall be used during the remainder of the student's interscholastic career. Any change in spelling or use of another name shall be regarded as an attempt to evade this rule unless the change has been properly certified by the player to the principal of the school.

2.5.1.4 Receives remuneration of any kind or accepts reimbursement for expenses in excess of the actual and necessary costs of transportation, meals, and lodging for participating in a team or individual competition or an instructional camp or clinic. Reimbursement for the aforementioned expenses is permitted only if all of the participants receive the same benefit.

2.5.1.5 Receives cash or a cash equivalent (savings bond, certificate of deposit, etc.), merchandise (except as permitted by 9.1.4) or a merchandise discount, (except for discount arranged by school for part of team uniform) a reduction or waiver of fees, a gift certificate, or other valuable consideration as a result of his/her participation in an organized competition or instructional camp/clinic. Accepting an event program and/or a complimentary item(s) (t-shirt, hat, equipment bag, etc.) that is inscribed with a reference to the event, has an aggregate retail value of no more than \$150.00, and is provided to all of the participants, shall not jeopardize his/ her amateur status.

2.5.1.6 Sells or pawns awards received.

2.5.1.7 Uses his/her athletic status to promote or endorse a commercial product or service in a newsprint, radio, or television advertisement or personal appearance.

2.5.2 Accepting compensation for teaching lessons, coaching, or officiating shall not jeopardize his/her amateur status.

2.5.3 A student who forfeits his/her amateur status under the provisions of this rule is ineligible to participate at the interscholastic level in the sport in which the violation occurred. He/she may be reinstated after a period of up to the number of days in the school year provided that during the suspension, he/she complies with all of the provisions of this rule. The suspension shall date from the time of the last offense.

2.6 Eligibility, Passing Work

2.6.1 In order to be eligible for participation in interscholastic athletics, including practices, a student must pursue a regular course of study or its equivalent as approved by the local governing body, and must be passing at least

five (5) credits. Two (2) of those credits must be in the areas of English, Mathematics, Science, or Social Studies.

2.6.1.1 A student who is receiving special education services and is precluded from meeting the aforementioned academic requirements due to modifications in the grading procedure or course of study, shall be adjudged eligible by the principal if he/she is making satisfactory progress in accordance with the requirements of his/her individualized education plan (IEP).

2.6.2 In the case of a student in the twelfth grade, he/she must be passing all courses necessary for graduation from high school in order to be eligible for participation. A course necessary for graduation shall be any course, whether taken during or outside the regular school day, that satisfies an unmet graduation requirement.

2.6.3 A student whose work in any regular marking period does not meet the above standards shall be ineligible to participate in interscholastic athletics, including practices, for the next marking period.

2.6.3.1 In the case of a conflict between the marking period grade and the final grade, the final grade shall determine eligibility.

2.6.3.2 The final accumulation of credits shall determine eligibility for the first marking period of the following school year. When a student makes up a failure or earns the required credit(s) during the summer, he/she shall become eligible provided he/she successfully completes the course work prior to the first official student day of the school year.

2.6.3.3 Written verification of the successful completion of a correspondence course must be received before a student shall regain his/her eligibility.

2.6.4 A student forfeits or regains his/her eligibility, in accordance with the provisions of this rule, on the day report cards are issued.

2.6.5 Local school boards and non-public schools may establish more stringent requirements for academic eligibility than the minimum standards herein prescribed.

2.6.6 An ineligible student who practices in violation of 2.6.1, 2.6.2, 2.6.3 or 2.6.4 shall, when he/she regains his/her eligibility, be prohibited from practicing, scrimmaging, or competing for an equivalent number of days.

2.7 Eligibility, Years of Participation

2.7.1 No student shall represent a school in athletics after four (4) consecutive years from the date of his/her first entrance into the ninth grade unless a waiver is granted for hardship reasons.

2.7.1.1 No student shall have more than four (4) opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.

2.7.1.2 **“Hardship”** shall be defined as extenuating circumstances peculiar to the student athlete caused by unforeseen events beyond the election, control or creation of the student athlete, his/her family, or school which (1) deprive him/her of all or part of one of his/her opportunities to participate in a particular sports season; (2) preclude him/her from completing the academic requirements for graduation within the normal period of eligibility; and (3) deprive him/her of all or part of one of his/her opportunities to participate in a particular sport. The waiver provision is intended to restore eligibility that has been lost as a result of a hardship situation. Injury, illness or accidents, which cause a student to fail to meet the basic requirements, are possible causes for a hardship consideration.

2.7.1.2.1 A waiver shall not be granted under this section where DIAA finds that the student was academically eligible pursuant to DIAA’s minimum passing work standards but was ineligible to participate under more stringent locally adopted academic standards and where the local school board has adopted its own waiver or exemption policy.

2.7.1.2.2 A clear and direct causal relationship must exist between the alleged hardship condition and the failure of the student to complete the academic requirements for graduation within the normal period of eligibility and the loss of all or part of one of his/her opportunities to participate in a particular sports season.

2.7.1.2.3 The burden of proof rests with the student in conjunction with the waiver process as described in 14 **DE Admin. Code** 1006.9. Claims of extended illness, debilitating injury, emotional stress, etc., must be accompanied by appropriate documentation. Evidence must be submitted to verify that the student or his/her parent(s) or court appointed legal guardian(s) sought assistance to ameliorate the effects of the hardship condition.

2.7.2 Satisfactory completion of studies in accordance with promotion policies established by the local governing body shall determine when a student is beyond the eighth grade. If the eighth grade is part of the same administrative unit as grades 9 through 12, participation on the part of an eighth-grade student toward five (5) years of eligibility shall be at the discretion of the individual school.

2.7.2.1 Eighth grade students who are enrolled or transfer to schools that meet the above criteria begin their five years of eligibility for senior high school athletic participation the first year they enter eighth grade.

2.7.3 Seventh-grade students shall not be permitted to participate on senior high school interscholastic teams.

2.7.4 Participation of Postgraduates

2.7.4.1 Participation shall be defined as taking part in a school sponsored practice, scrimmage or

contest on or after the first allowable date for practice in that sport.

2.7.4.2 Postgraduates shall not be eligible to participate in interscholastic athletics. All graduates of recognized senior high schools shall be considered postgraduates.

2.7.4.3 A regularly enrolled student taking courses in an institution of higher education shall be eligible provided he/she meets all other DIAA requirements.

2.7.4.4 Students whose commencement exercises are prior to the completion of the school’s regular season schedule and/or the state tournament shall be eligible to compete.

2.8 Eligibility of Foreign Exchange Students and International Students

2.8.1 Notwithstanding 2.2, 2.3, and 2.4, foreign exchange students and international students may be eligible to participate in interscholastic athletics upon arrival at their host school provided they have not attained the age of 19 prior to June 15 and are enrolled as participants in a recognized foreign exchange program.

2.8.1.1 All foreign exchange programs which are included on the Advisory List of International Educational Travel and Exchange Programs of the Council on Standards for International Educational Travel (CSIET) and are two (2) semesters in length shall be considered as recognized.

2.8.1.2 Students participating in programs not included on the CSIET list shall be required to present evidence that the program is a bona fide educational exchange program before it shall be considered as recognized.

2.8.2 International students who are not participating in a foreign exchange program are considered to be transfer students and are ineligible to compete in interscholastic athletics unless they are in compliance with all DIAA eligibility requirements including 2.2.

2.8.3 Once enrolled, foreign exchange and other international students must comply with all DIAA eligibility rules.

2.8.3.1 Athletic recruitment of foreign exchange students or other international students by a member school or any other entity is prohibited, and any such students recruited shall be ineligible.

2.9 Student Eligibility Report Forms

2.9.1 Member schools shall use eligibility forms approved by the Executive Director. A copy of the original eligibility report and subsequent addenda must be either received by the Executive Director or postmarked prior to the first contest for which the students listed are eligible. Failure to file an eligibility report as prescribed shall result in a \$15.00 fine against the school.

2.9.1.1 In the case of a student who met all DIAA eligibility requirements but was omitted from the

eligibility report due to administrative or clerical error, he/she shall be adjudged eligible and the school assessed a \$10.00 fine.

2.10 Use of an Ineligible Athlete:

2.10.1 If a school uses an ineligible athlete, the administrative head or his/her designee shall notify the opposing school(s) or event sponsor, in the case of a tournament or meet, and the Executive Director in writing of the violation and the forfeiture of the appropriate game(s), match(es), and/or point(s) won.

2.10.2 The deliberate or inadvertent use of an ineligible athlete in the sports of soccer, football, volleyball, field hockey, basketball, baseball, softball, and lacrosse shall require the offending school to forfeit the contest(s) in which the ineligible athlete participated.

2.10.2.1 If the infraction occurs during a tournament, including a state championship, the offending school shall be replaced by its most recently defeated opponent. Teams eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament, team and/or individual awards shall be returned to the event sponsor and team and/or individual records and performances shall be nullified.

2.10.2.2 The offending school may appeal to the DIAA Board of Directors for a waiver of the forfeiture penalty. If the forfeiture penalty is waived, the offending school shall be reprimanded and fined \$200.00 unless the athlete or his/her parent(s) or court appointed legal guardian(s) knowingly withheld information or provided false information that caused him/her to be eligible for interscholastic competition. The burden of proof, in both instances, rests entirely with the offending school. A forfeit shall constitute a loss for the offending school and a win for its opponent for purposes of standings and playoff eligibility and shall be automatic and not subject to refusal by the offending school's opponent.

2.10.3 The deliberate or inadvertent use of an ineligible athlete in the sports of cross country, wrestling, swimming, track, golf, and tennis shall require the offending school to forfeit the matches won and/or points earned by the ineligible athlete or by a relay team of which he/she was a member. The points contributed by an ineligible athlete to his/her team score shall be deleted and the contest score as well as the affected placements will be adjusted according to the rules of the sport.

2.10.3.1 If the infraction occurs during a tournament, including a state championship, the ineligible athlete shall be replaced by his/her most recently defeated opponent or the next highest finisher. Contestants eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament.

2.10.3.1.1 Individual awards earned by the ineligible athlete and team awards, if necessary because of adjustments in the standings, shall be returned to the event

sponsor. Individual records and performances by the ineligible athlete shall be nullified.

2.10.4 If an ineligible athlete participates in interscholastic competition contrary to DIAA rules but in accordance with a temporary restraining order or injunction against his/her school and/or DIAA, and the injunction is subsequently vacated, stayed, or reversed, or the courts determine that injunctive relief is not or was not justified, or the injunction expires without further judicial determination, the penalties stipulated in 2.10.1 and 2.10.2 shall be imposed.

2.10.5 The intentional use of an ineligible athlete by a member school or repeated indifference to its responsibility to determine the eligibility of its athletes will subject the school to additional penalties which may include suspension for the amount of days up to length of the school year from the date the charge is substantiated.

2.10.6 If a coach knowingly withholds information or provides false information that causes an athlete to be eligible for interscholastic competition, the coach shall be suspended from coaching in any sport at any DIAA member school for the amount of days up to length of the school year from the date the charge is substantiated.

2.10.7 If an athlete or his/her parent(s), legal guardian(s) or Relative Caregiver knowingly withholds information or provides false information that causes him/her to be eligible for interscholastic competition, the athlete shall be suspended from participation in any sport at any DIAA member school for up to the amount of days up to the length of the school year from the date the charge is substantiated.

2.11 Determination of Student Eligibility and the Appeal Procedures

2.11.1 In cases of uncertainty or disagreement, the eligibility of a student shall be determined initially by the Executive Director. If the Executive Director determines that the student is ineligible, the school and the student shall be notified and the student suspended immediately from participation in interscholastic athletics.

2.11.2 The school and the student shall be informed that the decision of the Executive Director may be appealed to the DIAA Board of Directors.

2.11.3 Decisions of the DIAA Board of Directors to affirm, modify, or reverse the eligibility rulings of the Executive Director may be appealed to the State Board of Education in accordance with 14 **DE Admin. Code** 1006.11.

4.0 Sports Seasons, Practices Sessions and Maximum Game Schedules and Designated Sports Seasons

4.1 Sports Seasons

4.1.1 The fall sports season shall begin with the first approved day for practice and end with the start of the state championship in that sport. Any regular season contest that was postponed must be rescheduled and played before

the beginning of the state tournament in that sport. A conference championship game must also be completed before the start of the state tournament in that sport and practice for any fall sport shall not begin earlier than 21 days before the first Friday after Labor Day.

4.1.1.1 The first three (3) days of football practice shall be primarily for the purpose of physical conditioning and shall be restricted to non-contact activities. Coaches may introduce offensive formations and defensive alignments, run plays "on air," practice non-contact phases of the kicking game, and teach non-contact positional skills. Protective equipment shall be restricted to helmets, mouth guards, and shoes. The use of dummies, hand shields, and sleds in contact drills is prohibited. Blocking, tackling, and block protection drills which involve any contact between players are also prohibited.

4.1.1.2 No member school shall participate in spring football games nor shall a member school conduct football practice of any type outside of the regular fall sports season except when participating in the state tournament. Organized football" or "organized football practice" shall be defined as any type of sport which is organized to promote efficiency in any of the various aspects of football. Touch football, featuring blocking, tackling, ball handling, signaling, etc. shall be considered "organized football" and shall be illegal under the intent of this rule

4.1.2 The winter sports season shall begin with the first approved day for practice and end with the start of the state championship in that sport. Any regular season contest that was postponed must be rescheduled and played before the beginning of the state tournament in that sport. Conference championships must also be completed before the start of the state tournament in that sport and practice for any winter sport shall not begin earlier than 21 days before the first Friday in December.

4.1.3 The spring sports season shall begin on March 1 and ends with the start of the state championship in that sport. Any regular season contest that was postponed must be rescheduled and played before the beginning of the state tournament in that sport. Conference championships must also be completed before the start of the state tournament in that sport and practice for any spring sport shall not begin earlier than March 1.

4.1.4 A school which participates in a game prior to the first allowable date or after the start of the state

championship shall be required to forfeit the contest and be assessed a \$100.00 fine.

4.1.5 A school which conducts practice prior to the first allowable date shall pay a fine of \$100.00 per illegal practice day.

4.1.6 No member school shall participate in a post-season contest without the written approval of the Executive Director.

4.2 Practice Sessions

4.2.1 A practice session shall be defined as any instructional activity on the field, court, mat, or track or in the pool, weight room, or classroom such as team meetings, film reviews, blackboard sessions, warmup and cool down exercises, drills or mandatory strength training. Member schools shall conduct a minimum of 21 calendar days of practice under the supervision of the school's certified, emergency and/or approved volunteer coaching staff prior to the first scheduled contest in all sports.

4.2.2 Practice sessions shall be limited to two (2) hours on official school days. Split sessions may be conducted but practice time shall not exceed two hours for any individual athlete. The two-hour practice limitation does not include time for non-instructional activities such as dressing, showering, transportation, or training room care.

4.2.3 Practicing on holidays and weekends shall be left to the discretion of the individual schools and conferences. However there should be one day of no activity (practice, scrimmage, or contest) during any seven day period.

4.2.4 A student shall be required to practice for a period of at least seven (7) calendar days prior to participating in a contest. However, if a student has been participating in a state tournament during the preceding sports season and is unable to begin practicing at least seven (7) calendar days before his/her team's first contest, he/she shall be exempt from this requirement.

4.2.5 A school which exceeds the two-hour practice limitation shall pay a \$100.00 fine.

4.3 Maximum Game Schedules and Designated Sports Seasons:

4.3.1 The maximum number of regularly scheduled interscholastic contests/competition dates for each team and individual in the recognized sports and their sports season shall be designated by the DIAA Board of Directors, and is as follows:

Team Limitations			Individual Limitations	
Sport	Season	Week	Week	Day
Fall				
Cross Country (boys and girls)	+6 competition dates	+3 competition dates	+3 competition dates	

PROPOSED REGULATIONS

Field Hockey (girls)	16 contests	3 contest	3 Competition dates	2 halves
Football (boys)	10 contests	1 contest	4 varsity quarters or any combination of 5 varsity and subvarsity quarters provided no more than 3 quarters are at the varsity level	
Soccer (boys)	16 Contests	3 contests	3 competition dates	2 halves
Volleyball (girls)	16 competition dates of which 1 date may involve more than 2 teams	3 competition dates	3 competition dates	
Winter				
Basketball (boys and girls)	22 contests	3 contests	3 competition dates	4 quarters
Swimming and Diving boys and girls)	0	3 contests	3 contests	
Indoor Track (boys and girls)	12 contests	+ 3 contests	+ 3 contests	
Wrestling (boys)	* 18 contests	3 competition dates	3 competition dates	5 matches
Spring				
Baseball (boys)	20 contests	3 contests	3 contests	
Softball (girls)	20 contests	3 contests	3 contests	
Golf (boys)	16 competition dates	3 competition dates	3 competition dates	
Tennis (boys and girls)	16 contests	3 contests	3 contests	
Outdoor Track (boys and girls)	18 competition dates	+ 3 competition dates	+ 3 competition dates	
Lacross (boys and girls)	16 contests	3 contests	3 competition dates	4 quarters (boys) or 2 halves (girls)
Soccer (girls)	16 contests	3 contests	3 competition dates	2 halves

~~The third contest/competition date in a week must be held on Friday (no early dismissal permitted), Saturday or Sunday. This requirement is waived when a school is closed for the entire week such as during winter or spring vacation.~~

~~A team may not participate in two different cross country, indoor track or outdoor track meets on the same day.~~

~~Participation in a triangular meet shall count as two contests and participation in a quadrangular meet shall count as three contests toward the seasonal limitation.~~

4.3.2 The third contest/competition date in a week shall be held on Friday (no early dismissal permitted), Saturday or Sunday. This requirement is waived when a school is closed for the entire week such as during winter or spring vacation.

4.3.2.1 A team shall not participate in two different cross country, indoor track or outdoor track meets on the same day.

4.3.2.2 Participation in a triangular meet shall count as two contests and participation in a quadrangular meet shall count as three contests toward the seasonal limitation.

4.3.2.3 Participation in any part of a quarter/half shall count as a quarter/half toward the weekly and daily limitations in that sport. However, in the case of football, participation on a free kick or a play from a scrimmage kick formation shall not count as a quarter. Overtime periods shall be considered as part of the fourth quarter or second half.

4.3.3 A week shall be designated as starting on Monday and ending on Sunday for all sports except football. A football week shall begin the day of the varsity game and end the day preceding the next varsity game or the following Friday.

4.3.3.1 The preceding game limitations, with the exception of the individual daily limitation, shall not prohibit the rescheduling of postponed games at the discretion and convenience of the member schools involved provided the game was postponed due to inclement weather, unplayable field conditions, failure of the assigned officials to appear for the game, breakdown of the bus or van carrying the visiting team, or any other circumstances beyond the control of site management which preclude playing the game. However, a team may not participate in more than four (4) contests/ competition dates in a week.

4.3.4 The maximum number of regularly scheduled contests for each of the recognized sports, except football, shall be exclusive of conference championships, playoffs to determine tournament state berths, and the state tournament/meet. The maximum number of regularly scheduled football contests shall be exclusive of the state tournament.

4.3.4.1 Any playoffs to determine state tournament berths shall be under the control and supervision of the DIAA tournament committee.

4.3.5 A student shall participate in a particular sport for only one season during each academic year.

4.3.6 A school which participates in more than the allowable number of contests in a season shall be suspended from the state playoffs or, if a non-qualifying team, fined \$200.00.

4.3.6.1 A school which exceeds the weekly contest limitation shall be required to forfeit the contest and pay a \$100.00 fine.

4.3.6.2 A student who exceeds the weekly or daily contest limitation shall be considered an ineligible athlete and the school subject to the process stipulated in 2.10.

***Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Department of Education are available at <http://www.state.de.us/research/AdminCode/title14/index.shtml#TopOfPage>**

PROFESSIONAL STANDARDS BOARD

14 DE Admin. Code 324

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

Educational Impact Analysis Pursuant To 14 Del.C. Section 122(D)

324 Certification Driver Education And Traffic Safety Teacher

A. Type of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis of Subject Matter of Regulation

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to amend 14 DE Admin. Code 324 Standard Certificate Driver Education and Traffic Safety Teacher. The regulation concerns the requirements for certification of educational personnel,

pursuant to 14 Del.C. §1220(a). It is necessary to amend this regulation to align it with changes in statute regarding the licensure and certification of educators, and to update the course requirements for the position. There are no approved educator preparation programs in Delaware for Driver Education teachers, and the programs previously offered in surrounding states have largely been eliminated. Therefore, reference to approved educator preparation program in Driver Education and Traffic Safety Teacher has been eliminated. The option of fulfilling the requirements for the position through DOE approved in-service programs has been added, to address the scarcity of course offerings at colleges and universities. The regulation will be renumbered 1564 to denote its movement to the Professional Standards Board portion of the Department of Education regulations. It will also be renamed Standard Certificate Driver Education and Traffic Safety Education Teacher to make it consistent with other regulations for standard certificates for educators.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses student achievement by establishing standards for the issuance of a standard certificate to educators who have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students to help ensure that students are instructed by educators who are highly qualified.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps to ensure that all teachers employed to teach students meet high standards and have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students.

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

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision makers at the local board and school level.

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

administrative requirements or mandates upon decision makers at the local board and school levels.

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

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

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

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

~~324 Certification Driver Education And Traffic Safety Education Teacher~~

Effective July 1, 1993

1.0 The following shall be required for the Standard License for grades 9-12

1.1 Bachelor's degree from an accredited college and;

1.2 Professional Education

1.2.1 Completion of an approved teacher preparation program in Driver Education and Traffic Safety Education or;

1.2.2 A Standard Delaware Teacher's License or;

1.2.3 A minimum of 24 semester hours to include Human Development, Methods of Teaching Driver Education, Identifying/Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and student teaching at the secondary (9-12) level and;

1.2.3.1 A valid Delaware driver's license or approval by the Delaware Department of Education and;

1.2.4 Specific Teaching Field

1.2.4.1 A College Major in Driver Education/Traffic Safety Education or;

1.2.4.2 Completion of an approved teacher preparation program in Driver Education and Traffic Safety Education or;

~~1.2.4.3 A minimum of 12 semester hours as indicated below:~~

~~1.2.4.3.1 Required: Driver Education — Methods and Materials — 3 semester hours, Driver Education — In-Car Training — 3 semester hours, General Safety Education — 3 semester hours.~~

~~1.2.4.3.2 Elective: 3 semester hours selected from the following:~~

~~1.2.4.3.2.1 Alcohol and/or Drug Education, * Motoreycle~~

~~1.2.4.3.2.2 Safety Education, Psychology of Accident Prevention;~~

~~1.2.4.3.2.3 Organization/Administration/Supervision of Safety, Driver, and/or Traffic Safety Education;~~

~~1.2.4.3.2.4 Problems in Driver/Safety Education, First Aid;~~

~~1.2.4.3.2.5 Research and Evaluation in Driver/Safety Education, Traffic Engineering, Traffic Law and Enforcement, Principles of Accident Prevention/Safety, * Driving Simulation~~

~~1.2.4.3.2.6 Instructional Methods. * Multiple Car and Driving Range Instructional Methods and School Transportation.~~

~~* If assigned to teach on driver education equipment designated above, 3 semester hours of course work will be required as preparation for doing so.~~

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

2.1 The Limited Standard License may be issued upon the request of a Delaware public school for a teacher employed for this position who needs only the 3-semester hour elective course required in 1.2.5.

1564 Standard Certificate Driver Education and Traffic Safety Education Teacher

1.0 Content:

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Driver Education and Traffic Safety Education Teacher.

2.0 Definitions:

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

“Department” means the Delaware Department of Education.

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

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill,

and/or education to practice in a particular area, teach a particular subject, or teach a category of students.

3.0 In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a Driver Education and Traffic Safety Education Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Professional Education.

3.1.1 A bachelor's degree in any field from a regionally accredited college or university; and

3.1.3.1 A minimum of twelve (12) semester hours of pedagogy courses, taken either as part of a degree program or in addition to it, from a regionally accredited college or university to include:

3.1.3.1.1 Human Development;-

3.1.3.1.2 Identifying/Treating

Exceptionalities;

3.1.3.1.3 Effective Teaching Strategies; and

3.1.3.1.4 Multicultural Education; and

3.1.3.2 A minimum of nine (9) semester hours, or equivalent in-service courses approved by the Department, as indicated below:

3.1.3.2.1 Driver Education - Methods and Materials -3 semester hours;

3.1.3.2.2 Driver Education - In-Car Training -3 semester hours; and

3.1.3.2.3 Three (3) semester hours selected from the following:

3.1.3.2.3.1 Alcohol and/or Drug Education;

3.1.3.2.3.2 Current Issues in Driver Education;

3.1.3.2.3.3 Organization/ Administration/Supervision of Safety, Driver, and/or Traffic Safety Education;

3.1.3.2.3.4 Problems in Driver/ Safety Education;

3.1.3.2.3.5 Research and Evaluation in Driver/Safety Education;

3.1.3.2.3.6 First Aid;

3.1.3.2.3.7 Teaching Mentally and

Physically Challenged Individuals; or

3.1.3.2.3.8 Education for Safe Living.

3.2 Other Requirements.

3.2.1 A valid driver's license.

PROFESSIONAL STANDARDS BOARD

14 DE Admin. Code 381

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

Educational Impact Analysis Pursuant To 14 Del.C. Section 122(D)

381 Standard Certificate School To Work Transition Teacher

A. Type of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis of Subject Matter of Regulation

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 381 Standard Certificate School to Work Transition Teacher. The regulation concerns the requirements for certification of educational personnel, pursuant to 14 **Del.C.** §1220(a). It is necessary to amend this regulation to align it with changes in statute regarding the licensure and certification of educators. The requirement for completion of an approved program in School to Work Transition Studies has been eliminated as there is no approved program in Delaware. Jobs for Delaware Graduate teachers have been removed from the requirements of this regulation, as these teachers are not employed by public school districts or charter schools. The regulation will be renumbered 1565 to reflect its movement to the Professional Standards Board section of the Department of Education regulations.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses student achievement by establishing standards for the issuance of a standard certificate to educators who have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students to help ensure that students are instructed by educators who are highly qualified.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps to ensure that all teachers employed to teach students meet high standards and have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The

amended regulation addresses educator certification, not students' health and safety.

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision makers at the local board and school level.

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

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

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

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

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

381 1565 Standard Certificate in School-To-Work Transition Teacher

Effective July 1, 1993

~~1.0 The following shall be required for the Standard License for grades 9-12 for individuals who provide work transition training, counseling and assistance to students who will be placed into full-time positions in the private sector upon graduation:~~

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

~~1.2 Professional Education~~

~~1.2.1 Eighteen (18) semester hours of course work in education, to include a one-semester course in each of the following areas:~~

~~1.2.1.1 Educational Psychology/ Human Growth and Development/Adolescent Psychology, Tools and~~

~~1.2.1.2 Techniques in Counseling, Methods of Teaching School-to-Work Transition Students, Job Development Training, Career Guidance and Information, Occupational and Educational Information or;~~

~~1.2.2 Completion of an approved program in School-to-Work Transition studies~~

~~1.2.3 Experience of a minimum of two years of continuous, full-time work experience in trade, business, or industry; or experience comparable to school-to-work transition.~~

1.0 Content

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for School to Work Transition Teacher. School to Work Transition Teachers, including Jobs for Delaware Graduates teachers, provide work transition training, counseling and assistance to students in grades 9-12.

2.0 Definitions

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

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

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

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

3.0 In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a School to Work Transition Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Educational Requirements.

3.1.1 Bachelor's degree from a regionally accredited college or university; and

3.1.2 Eighteen (18) semester hours of course work in education, to include three semester hours in each of the following areas:

3.1.2.1 Educational Psychology/ Human Growth and Development/Adolescent Psychology;

3.1.2.2 Tools and Techniques in Counseling;

3.1.2.3 Methods of Teaching School-to-Work

Transition Students;

3.1.2.4 Job Development Training;

3.1.2.5 Career Guidance and Information;

and

3.1.2.6 Occupational and Educational

Information.

3.2 Experience Requirements.

3.2.1 A minimum of two years of continuous, full-time work experience in trade, business, or industry; or experience comparable to school-to-work transition.

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

~~2.1 Bachelor's degree and,~~

~~2.2 A minimum of two years of work experience as stated in 1.2.3 and~~

~~2.3 Course work in the areas of Methods of Teaching School-to-Work Transition students, Educational Psychology/Human Growth and Development/Adolescent Psychology and Career Guidance Information.~~

~~3.0 Present Jobs for Delaware Graduates Employees~~

~~3.1 No "grandfathering" will be permitted. All individuals presently employed in these positions shall meet full certification requirements within three years of the approval of these standards, unless they hold a Standard Trade and Industry Introduction to Vocations License.~~

~~4.0 Licenses that may be issued for this position include Standard and Limited Standard.~~

PROFESSIONAL STANDARDS BOARD

14 DE Admin. Code 1513

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

Educational Impact Analysis Pursuant To
14 Del.C. Section 122 (D)

1513 Denial Of Licenses

A. Type of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis of Subject Matter of Regulation

The Professional Standards Board, in cooperation and collaboration with the Department of Education, seeks the approval of the State Board of Education to amend **DE Admin. Code 1513 Denial of Licenses**. This regulation

applies to the denial or revocation of licenses and certificates to educators, pursuant to 14 **Del.C.** §§1210-1217, and 1220-21. It is necessary to amend this regulation to add "Certificates" to the title and to the content of the regulation, as an educator must have both a license and a certificate to be employed in a Delaware public school. It is further necessary to amend the regulation to clarify that the Department may refuse to issue a license or certificate to an applicant who fails to meet the prerequisites for a license or certificate. The number of days an individual has to request a hearing has been reduced from thirty (30) to ten (10) to facilitate speedy resolution of disputes.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses the denial and revocation of educators' licenses and certificates, not student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses the denial and revocation of educators' licenses and certificates, not student achievement.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses the denial and revocation of licenses and certificates of educators which helps to protect students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses the denial and revocation of licenses and certificates of educators, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision makers at the local board and school level.

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

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

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic

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

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

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

1513 Denial of Licenses and Certificates

1.0 Content:

This regulation shall apply to the denial of an Initial License, Continuing License and/or Advanced License for educators pursuant to 14 **Del.C.** §1210, 1211, 1212, 1213, 1214, and 1217; and to the denial of a Standard or Emergency Certificate pursuant to 14 Del.C §§1220 and 1221.

2.0 Definitions:

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

“Advanced License” means a license issued as part of the three-tiered licensure system set forth in 14 **Del.C.** §1213 and §1214.

“Continuing License” means a license issued as part of the three-tiered licensure system set forth in 14 **Del.C.** §1211 and §1212.

“Department” means the Delaware Department of Education.

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

“Good Moral Character” means conduct which is consistent with the rules and principles of morality expected of an educator.

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

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

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

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

“Standards Board” means the Professional Standards Board established pursuant to 14 **Del.C.** §1205.

“State” means the State of Delaware.

“Unfit” means lack of good moral character, misconduct in office, incompetence, a pattern of ineffective teaching, wilful neglect of duty, disloyalty or falsification of credentials.

3.0 The Department may refuse to issue an Initial License, Continuing License, Advanced License or a Standard or Emergency Certificate to an applicant upon a finding that the applicant fails to meet the statutory or regulatory requirements for a license or certificate.

43.0 Upon a finding that an applicant is unfit to be licensed or certified in the State, the Department may refuse to issue an Initial License, Continuing License or an Advanced License or a Standard or Emergency Certificate to an applicant who otherwise meets the requirements set forth in 14 **DE Admin. Code** 1510, 1511, ~~and~~ 1512, 1515 and 1516.

5.0 4.0 Notwithstanding any other provisions stated herein or in 14 **DE Admin. Code** 1510, 1511, and 1512, no license or certificate shall be issued to an applicant for an Initial, Continuing or Advanced License or Standard or Emergency Certificate if:

5.1 ~~4.1~~ There is legal evidence that the applicant is not of good moral character; or

5.2 ~~4.2~~ The applicant has had a certificate or license revoked in another state for immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials.

6.0 3.1 The Secretary shall give written notice to the applicant of the denial and the reasons therefore. The notice of denial shall be sent by certified mail and shall give notice that a full and fair hearing may be requested before the Standards Board within ten (10) thirty (30) days.

6.1 3.2 An applicant who is denied an Initial, Continuing, or Advanced License or a Standard or Emergency Certificate may appeal the decision, and is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with the Standard Board’s Hearing Procedures and Rules.

7 DE Reg. 161 (8/1/03)

PROFESSIONAL STANDARDS BOARD

14 DE Admin. Code 1584

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

Educational Impact Analysis Pursuant To

14 Del.C. Section 122 (D)

1584 Permits Paraeducators

A. Type of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis of Subject Matter of Regulation

The Professional Standards Board in cooperation and collaboration with the Department of Education seeks the approval of the State Board of Education to amend 14 DE Admin. Code 1584 Permits Paraeducators. It is necessary to amend this regulation to remove bus aides from the paraeducator permit, as their qualifications are addressed in DE Admin. Code 1105. It is also necessary to amend this regulation to revise the denial and revocation procedures for paraeducators.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses student achievement by establishing standards for paraeducators.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps to ensure that all paraeducators employed by school districts meet high standards of performance.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses the credentialing and training requirements for paraeducators, not students' health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses the credentialing and training requirements for paraeducators, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision makers at the local board and school level.

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

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

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

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

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

1584 Permits Paraeducators

1.0 Content:

Pursuant to 14 Del.C. §1205(b) this regulation shall apply to the qualifications required of Title I Paraeducators, Instructional Paraeducators, and Service Paraeducators employed, either full-time or part-time, in support positions in public schools.

2.0 Definitions:

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

“**Associate’s or Higher Degree**” means that the degree is conferred by a regionally accredited institution of higher education or by a distance education institution that is regionally or nationally accredited through an agency recognized by the U.S. Secretary of Education.

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

successful completion of a minimum of 48 semester hours, and provides documentation of such definition.

“Department” means the Delaware Department of Education.

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

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

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

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

“Service Paraeducator” means a public school employee who provides support services other than instructional assistance to students, but does not include bus aides (See 14 **DE Admin. Code** 1105).

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

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

“Title I Paraeducator” means a public school employee who provides one-on-one or small group instruction; assists with classroom management; provides assistance in a computer laboratory; provides support in a library or media center; or provides instructional services to students under the direct supervision of a teacher. Additionally, Title I paraeducators are all instructional paraeducators who work with regular students and children with disabilities in Title I schoolwide schools and all Title I paraeducators who work with children receiving Title I services in Title I targeted assistance schools, except those whose duties are limited to acting as a translator or as a home-school liaison.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.3.1 Accordingly, Title I paraeducators hired before January 8, 2002 who do not meet the requirements set forth in 3.1 above, with the exception of the high school diploma or its recognized equivalent, shall be issued a Title I paraeducator permit which shall expire on January 8, 2006 unless evidence of meeting the requirements set forth in 3.1 above is provided prior thereto. If such evidence is provided to the Department prior to January 8, 2006, the permit shall expire five years from the date of issuance and may be renewed pursuant to 5.0.

3.4 Application Procedures.

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

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

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

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

4.1 Notwithstanding the above, instructional paraeducators and service paraeducators hired before February 11, 2004 and who do not have a high school diploma may be issued the applicable permit which shall expire January 8, 2006 unless evidence of a high school diploma or its recognized equivalent is provided prior thereto. If such evidence is provided prior to January 8, 2006, the permit shall expire five years from the date of issuance and may be renewed pursuant to section 5.0

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

5.1 Fifteen clock hours of professional development is required to be completed during the term of validity of the paraeducator permit.

5.2 Options for Renewal: The following professional development activities are approved options for the renewal of a paraeducator permit. Unless otherwise stated, there is

no limit to the number of hours that may be taken in any of the options listed below:

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

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

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

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

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

7.0 A Paraeducator Permit may be denied an applicant upon a finding that an applicant has failed to meet the requirements set forth herein or is unfit to be issued a permit in the State. ~~In accordance with 14 DE Admin. Code 1514~~ ~~or A Paraeducator Permit may be~~ revoked upon the dismissal of the permit holder for immorality, misconduct in office, incompetence, willful neglect of duty or disloyalty, and must be revoked upon a finding that the permit holder made a materially false or misleading statement in his or her permit application ~~in accordance with 14 DE Admin. Code 1514.~~ A Paraeducator whose Permit has been denied or revoked may file a request for a hearing with the Secretary within ten (10) days of receipt of the notice of denial or revocation. The Secretary's decision shall be final.

DEPARTMENT OF FINANCE DIVISION OF REVENUE

Statutory Authority: 12 Delaware Code,
Section 1154 (12 **Del.C.** §1154)

PUBLIC NOTICE

Abandoned or Unclaimed Property Voluntary Disclosure Agreement and Audit Programs

The Division of Revenue proposes to adopt the following regulation concerning **Abandoned or Unclaimed**

Property Voluntary Disclosure Agreement and Audit Programs Pursuant to 12 Del.C. §1154. Written comments or other written materials concerning the proposed regulation must be received by the Division of Revenue no later than 4:30 p.m., Wednesday, June 1, 2005, and should be addressed to Deputy Attorney General J. Patrick Hurley, Esquire, c/o Department of Finance, Division of Revenue, 820 North French Street, Wilmington, DE 19899-8911 or sent by fax to (302)577-8656 or Email to pat.hurley@state.de.us.

Authority

These regulations are issued pursuant to the authority given to the State Escheator pursuant to Title 12 of the **Delaware Code** relating to Abandoned or Unclaimed Property.

Abandoned or Unclaimed Property Voluntary Disclosure Agreement Program

Policy:

The State of Delaware Division of Revenue is committed to promoting Holder compliance. In an effort to accomplish this objective, a **Voluntary Disclosure Agreement (VDA)** process is available to Holders who are not presently in compliance but want to comply with the Abandoned or Unclaimed Property Law. The VDA program allows Holders to come forward to report their abandoned property liability for a limited reporting period. The agreement releases the Holder from all claims, demands, interest, penalties, actions or causes of action related to all property reported properly under the term of the VDA.

In our commitment to fairness in the administration of Delaware's Abandoned or Unclaimed Property Law, we adhere to the following general guidelines:

- Any Holder who wishes to comply with the Delaware Abandoned or Unclaimed Property Law may file a VDA.
- Holders, which includes any subsidiary and all related entities, who have received an audit letter or are currently under audit by the State of Delaware may **not** file a VDA.
- The Holder shall complete a review of its books and records and file reports beginning with calendar year 1991, report year 1996, as well as for all other report years, and pay over all abandoned property due the State of Delaware for those years.
- The State of Delaware reserves the right for three years to audit a VDA. Interest and penalty may be assessed pursuant to §1159 of the Abandoned or Unclaimed Property Law on all abandoned property due for all reporting years, if it is

determined that the property reported on a VDA is materially under-reported. In such a case, the VDA is voided and the State of Delaware reserves the right to fully audit the Holder.

Process:

Initial Holder Contact

The Holder's representative initiates the process by sending a completed Form AP DE-1, **Disclosure and Notice of Intent to Voluntarily Comply with Abandoned or Unclaimed Property Law**, to the following address:

Delaware Division of Revenue
Attn: Abandoned Property Audit Manager
820 North French Street
Wilmington, DE 19801
Fax: 302-577-8982

The following information must be provided:

- Completed Form AP DE-1
- Holder's name and address
- List of all subsidiaries and all related entities participating in VDA
- Federal Employer Identification Number for each entity participating
- Holder representative's contact information

Processing the VDA

Upon acceptance of the Form AP DE-1 by the State of Delaware, the Holder shall complete a review of its books and records and file reports beginning with calendar year 1991, report year 1996, as well as for all other report years and pay all abandoned property due the State for those years within six months from the date of this disclosure.

- After the review of its books and records, the Holder is required to file a Form AP DE-2, **Voluntary Self Disclosure Agreement**. The Form AP DE -2 must be signed and sent along with the audit report outlining the Holder's potential liability.
- The State reserves the right to assess interest on any liability being reported under the VDA, if the VDA has not been received or an extension has not been granted within the six-month period.
- The State of Delaware will review the report submitted by the Holder and either contact the Holder for additional information, or request payment of their liability.

General Information:

- The State of Delaware reserves the right to deny or void the Agreement if a Holder does not

- adhere to the Program policies and procedures.
- The State of Delaware reserves the right to audit a VDA for three years after a Holder has filed Form AP DE-2.
 - The VDA forms may **not** be altered without written consent of the State.

For more information on abandoned property Voluntary Disclosure Agreements, please contact Mark Udinski, Abandoned Property Audit Manager at 302-577-8260 or mark.udinski@state.de.us or write to:

Delaware Division of Revenue
Attn: Mark Udinski, Abandoned Property Audit
Manager
820 North French Street
Wilmington, DE 19801
Fax: 302-577-8982

Abandoned or Unclaimed Property Audit Guidelines

Authority to Conduct Abandoned Property Audits:

Section 1155 of Title 12, **Delaware Code** provides the State Escheator with the authority to examine the records of any person or business association or organization to determine whether the person has complied with any provision of the Abandoned or Unclaimed Property Law of Delaware.

Section 123 of House Bill 400 from the 140th General Assembly of the State of Delaware originally granted the Director of Revenue the authority, approved annually, to enter into an agreement with organizations to identify abandoned property to be escheated to the State by means of audit or otherwise.

Auditing of Holders:

As allowed by law, the State of Delaware will examine selected Holders' books and records for compliance with the Abandoned Property Law. The audit will be assigned to an auditor in the Division of Revenue or to a third-party auditing firm that the State has retained for such purposes.

Notification of Audit:

An official letter from the Abandoned Property Audit Manager will be issued to Holders selected for audit. The letter will outline the State's intention to examine the books and records of the Holder and identify the assigned auditor or third-party auditing firm. Third-party auditors are not authorized to engage in any examination or audit without prior written consent from the State of Delaware Division of Revenue. Receipt of an intent to audit letter terminates the

Holder's ability to enter into a Voluntary Disclosure Agreement (VDA).

Opening Conference:

Once an audit is assigned, an opening conference will be scheduled with the auditor and representatives of the Holder. During the opening conference, the auditor will:

- Advise the Holder of the reporting requirements of the Delaware Abandoned or Unclaimed Property Law.
- Identify the time period to be covered by the examination.
- Schedule a time period for field work to be commenced, and
- Request records and materials necessary to initiate the audit.

The State anticipates that with the Holder's cooperation the time to complete a typical audit should not exceed twelve (12) months. If an audit lasts longer than 12-months, the Abandoned Property Audit Manager will meet with the Holder to facilitate completion of the audit. Interest and penalty may be assessed pursuant to §1159 of the Abandoned or Unclaimed Property Law on all abandoned property due for all reporting years under audit.

Examination:

The auditor may conduct the examination on-site or remotely if records are available electronically or can be shipped. On-site work may last a few days to several weeks depending on the size and complexity of the Holder and the availability of records. During the examination, the auditor will review all necessary books and records, interview key personnel and review relevant policies and procedures related to abandoned property. During the examination, the auditor may make subsequent requests to the Holder for additional books and records to complete the audit.

At the end of the examination, the auditor will present the preliminary findings to the Holder at an exit conference. These findings are not final. The auditor will allow the Holder reasonable time to complete required research and gather more records if needed.

Third-Party Advocates:

Holdes may retain third party advocates (Advocate) to assist them in the audit process. The retention of an Advocate is no basis to delay the commencement of the State's audit and the State will not delay the audit so that the Advocate may conduct a review or it's own audit of the Holder's books and records in advance of the State's audit. The State will cooperate with the Holder and its Advocate and keep both of them apprised of the records requests, interviews and the progress of the audit in general. It is understood that the State will not audit or be limited to a

review of work papers, compilations or record summaries prepared by the Holder or the Advocate but shall have access to such of the Holder's original books and records that are necessary to ascertain the Holder's compliance with the law. The State shall direct all requests and communications directly to the Holder and, if requested by the Holder, will also direct copies to the Advocate.

Final Report:

At the close of the audit, the Holder will receive a statement of findings letter from the Delaware's Abandoned Property Audit Manager. This letter will outline the findings of the audit and make a formal demand for the property under question (if applicable). The Holder has thirty (30) days to directly remit to the State of Delaware any abandoned property identified during the examination as owed to the State of Delaware.

General Information:

For more information on abandoned property audits, please contact Mark Udinski, Audit Manager at 302-577-8260 or mark.udinski@state.de.us or write to:

Delaware Division of Revenue
Attn: Mark Udinski, Abandoned Property Audit
Manager
820 North French Street
Wilmington, DE 19801
Fax: 302-577-8982

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

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

PUBLIC NOTICE**Long Term Care Program**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend the Division of Social Services Manual (DSSM) regarding the Long Term Care Program. This proposal gives direction for the eligibility process on German Reparation payments received by institutionalized individuals.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy & Program Development Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720-0906 by May 31, 2005.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

Summary of the Proposed New Rule**Citations**

- The Medicaid Act 1902 (r) (1) (A): Reparation Payments, Federal Republic of Germany
- Social Security Transmittal 91 ADM -23: Treatment of German Reparation Payments Received by Institutionalized Individuals
- POMS SI 01130.610: Payments to Victims of Nazi Persecution
- POMS SI 00830.710: Payments to Victims of Nazi Persecution

Rules are expanded in DSSM 20310.10 and DSSM 20200.2 that exclude German Reparation payments as income and resources for eligibility and post eligibility calculations.

**DSS PROPOSED REGULATION #05-20
REVISIONS:****DSSM 20200.2 Excluded income**

Excluded income is ~~an amount~~ money which is income by definition but does not count in determining eligibility. Some income is excluded when determining eligibility, but ~~must~~ may be included when calculating patient pay amount. The following items are excluded income:

(a) Victims compensation payments from a State established fund.

(b) German reparations payments. These payments are not counted in the eligibility nor post eligibility process.

(c) Effective 9/1/91 Austrian social insurance payments specifically based on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act.

(d) Japanese-American, Japanese-Canadian and Aleutian restitution payments.

(e) Agent orange settlement payments.

(f) Impairment-related work expenses.

(g) Radiation Exposure Compensation Trust Fund payments.

(h) Cash or other assistance received under a Federal statute because the President has declared a major disaster.

(i) Payments made under the Netherlands' Act on Benefits for Victims of Persecution 1940-1945 (acronym WUV).

(j) Income of Native Americans income derived from tribal trust lands; and effective 1/1/94, up to \$2,000 per year in payments derived from individual interests in Indian trust or restricted land.

(Break in Continuity of Sections)

DSSM 20310.10 Reparations

~~Unspent German or Austrian reparations payments may be excluded only if including them in resources would affect eligibility.~~

German Reparation payments must not be considered available in the eligibility or post eligibility treatment of income and resources. They can no longer be applied toward the personal needs allowance, community spouse income allowance, family member allowance nor cost of care. If German reparations payments are retained beyond the month of receipt, they must be considered exempt resources whether received while the person was in the community or after becoming institutionalized. These funds should be kept separate from other income and resources. Interest earned on these resources must be considered available income.

DIVISION OF SOCIAL SERVICES

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

PUBLIC NOTICE

Long Term Care Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend the Division of Social Services Manual (DSSM) regarding the Long Term Care Program. This proposal gives direction on *Couples Cases* for the eligibility process.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy & Program Development Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720-0906 by May 31, 2005.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

Summary of the Proposed New Rule

Citation

- State Medicaid Manual, Section 3597
- DSSM 20810 - Treatment of Couples in Medical Institutions: Adds a new rule that clarifies when a couple is considered a *Couples Case* and gives direction for the eligibility process. This action incorporates current policy into a rule.

DSS PROPOSED REGULATION #05-19 NEW:

DSSM 20810 Treatment of Couples in Medical Assistance

A legally married husband and wife who have continuously shared a room in a hospital, nursing home, skilled nursing facility or intermediate care facility for a period of at least 6 months, may be considered a Couples Case and the Couples Case income and resource limits would apply to them. Should a married couple be determined a Couples Case, then spousal rules will not apply. The decision to treat a married couple as a Couples Case or as 2 individuals should be based on the couple's best interests in regard to the income and resource limits. See DSSM 20100.5.5 and 20300.

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code,
Sections 311(a) and 2304(1)
(18 Del.C. §§311(a) and 2304(1))
18 DE Admin. Code 702

NOTICE OF PUBLIC HEARING

INSURANCE COMMISSIONER MATTHEW DENN hereby gives notice that a PUBLIC HEARING will be held on Wednesday, May 25, 2005 at 10:00 a.m. in the Consumer Services Conference Room of the Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, Delaware. The hearing is to receive public comment on proposed **Regulation 702** relating to **REQUIRED DISCLOSURES FOR RESIDENTIAL HOMEOWNERS POLICIES**.

The purpose for proposing Regulation 702 is to require insurance companies to deliver a separate form to

policyholders on an annual basis explaining information about coverage limitations. That form would, among other things: explain that Delaware homeowners insurance does not cover flood damage, and will explain to the homeowner how flood insurance can be obtained; explain how to assure replacement coverage; explain limitations on reimbursement for theft from the home and how to obtain additional coverage for theft; and to require explanations for an insurer's decision not to renew a homeowner's policy at the end of the term.

The hearing will be conducted in accordance with 18 Del.C. §311 and the Delaware Administrative Procedures Act, 29 Del.C. Chapter 101. Comments are being solicited from any interested party. Comments may be in writing or may be presented orally at the hearing. Written comments, testimony or other written materials concerning the proposed change to the regulation must be received by the Department of Insurance no later than 4:30 p.m., Tuesday, May 24, 2005, and should be addressed to Deputy Attorney General Michael J. Rich, c/o Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, or sent by fax to 302.739.5566 or email to michael.rich@state.de.us.

Regulation 702 Required Disclosures For Residential Homeowners Policies

1.0 Authority

This regulation is adopted by the Commissioner pursuant to 18 Del.C. §§ 311(a) and 2304(1). It is promulgated in accordance with 29 Del.C. Chapter 101.

2.0 Purpose

The purpose of this regulation is to ensure that homeowners insurance policyholders are aware that they are not insured for certain types risks or claims, to the extent that they do not have such coverage. This regulation does not mandate any coverage by any carrier issuing homeowners insurance in the State of Delaware.

3.0 Applicability

This regulation shall apply to homeowners insurance policies. A homeowners insurance policy for purposes of this regulation means a property or casualty contract of insurance covering residential properties as defined by 18 Del. C. § 4120.

4.0 Requirement of Disclosure

Insurers, upon initial delivery of a homeowners policy terms and declaration page, and not less than once annually after delivery, shall provide a form to the policyholder entitled "Important Information About Your Homeowners Insurance." The title of the document shall be in at least 30 point type.

5.0 Content of Disclosure

5.1 Each form presented pursuant to Section 4.0 of this Regulation shall make the following disclosures:

5.1.1 Disclosure that the policy does not cover damage caused by flooding, and sufficient information to allow the policyholder to contact the National Flood Insurance Program in order to purchase flood insurance if so desired. The following language shall be sufficient to ensure compliance with this subsection 5.1: "This policy does not cover damage to your property caused by flooding. Flood insurance is available for communities and property that participate in the National Flood Insurance Program ("NFIP"). Not all communities participate in the NFIP. Flood insurance may be available even if you do not live in a flood hazard area as defined by the NFIP. Please call the NFIP at 1-800-427-4661 to see if your community and property are eligible for coverage. If your community does not participate in the NFIP, you may contact your insurance agent or broker to see if there is other flood insurance coverage available to you." The disclosure may also inform the policyholder that the insurer offers flood insurance as a participant in the NFIP's "Write Your Own" program. The disclosure required by this subsection shall be entitled "Flood Insurance," and the subsection title shall be in at least 18 point type.

5.1.2 Disclosure that the policy does not cover the full cost of replacement without depreciation of the property, and sufficient information to allow the policyholder to purchase such coverage from the carrier if it is offered by the carrier. The following language shall be sufficient to ensure compliance with this subsection 5.2: "This policy will not cover the full cost of replacing your home if your home should be destroyed in an event otherwise covered by this policy. You may purchase additional coverage from us sufficient to cover the full cost of replacing your home, at an additional cost." The disclosure required by this subsection shall be entitled "Replacing Your Home," and the subsection title shall be in at least 18 point type.

5.1.3 Disclosure of any limitations in the policy regarding reimbursement for items stolen from the property, including but not limited to jewelry, furs, fine art, etc. and sufficient information to allow the policyholder to purchase insurance which would not contain such limitation if such coverage is offered by the insurer. The following language shall be sufficient to ensure compliance with this subsection 5.3: "This policy does not cover the value of all items stolen from your home. Please carefully review your policy to determine which items stolen from your home are not covered by this policy." The disclosure required by this subsection shall be entitled "Reimbursement for Stolen Items," and the subsection title shall be in at least 18 point type.

5.1.4 Disclosure of any formal practice followed by the insurer regarding non-renewal of the policy on the occurrence of certain factors or on the basis of claims asserted by the policyholder. The following language shall be sufficient to ensure compliance with this subsection 5.4: "We have a policy of declining to renew homeowners insurance policies under the following circumstances: (list the claim activities or occurrences that are likely to cause non-renewal of a policyholder's policy)." The disclosure required by this subsection shall be entitled "Non-Renewal of Your Policy," and the subsection title shall be in at least 18 point type.

5.2 Where a policy provides full coverage for any of the items required by sections 5.1.1 through 5.1.3, the insurer may indicate that the disclosure, as to each such item, is not applicable or "N/A."

6.0 Review and Approval of Forms

All forms required by this regulation shall be submitted to and approved by the Commissioner, or his representative, pursuant to 18 Del. C. § 2712 et seq.

7.0 Separability

If any provision of this regulation, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of such provisions, and the application of such provisions to any person or circumstance other than those as to which it is held invalid, shall not be affected.

8.0 Causes of Action

This regulation shall not create, nor form the basis for, a cause of action for any person or entity, other than the Delaware Department of Insurance, against any insurer for violation of the provisions hereof.

9.0 Effective Date

The effective date of this regulation shall be January 1, 2006.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL DIVISION OF AIR AND WASTE MANAGEMENT

Statutory Authority: 7 Delaware Code,
Chapter 60 (70 Del.C. Ch. 60)

REGISTER NOTICE

SAN #2003-09

1. Title of the Regulation:

Amendment to Regulation 1125 "Requirements for Preconstruction Review", Section 4 "Minor New Source Review."

2. Brief Synopsis of the Subject, Substance and Issues:

Under regulation 1125, new, major stationary sources may be required to install emission controls, depending upon pollutant and the area classification (attainment or non-attainment), for emission levels of 25 to 100 tons per year or more. There is no requirement for such controls below these threshold limits. Delaware is in non-attainment under the 8-hour ground-level ozone National Ambient Air Quality Standards (NAAQS) and the PM_{2.5} NAAQS and it seems incongruous to allow sources to emit non-attainment pollutants and precursors below these thresholds without requiring some controls. This new amendment to Regulation 25, Section 4 Minor New Source Review (MNSR), requires up-to-date air pollution control devices in many cases for new sources emitting certain pollutants at or above 5 tons per year.

3. Possible Terms of the Agency Action:

None.

4. Statutory Basis or Legal Authority to Act:

7 Delaware Code, Chapter 60.

5. Other Regulations that may be affected by the Proposal:

None.

6. Notice of Public Comment:

There will be a hearing on these proposed regulations held on Thursday, May 26, 2005 beginning at 6pm in the DNREC auditorium at the Richardson & Robbins Building, 89 Kings Highway, Dover, Delaware. Interested parties may submit comments in writing to Gene Pettingill, Air Quality Management Section, 715 Grantham Lane, New Castle, DE 19720 and/or statements and testimony may be presented either orally or in writing at the public hearing.

7. Prepared By:

Gene Pettingill (302)323-4542.
April 13, 2005

**Proposed Amendment to Regulation No. 1125
"Requirements for Preconstruction Review"**

[5/11/99]

4/12/05

1.0 General Provisions

1.1 Requirements of this regulation are in addition to any other requirements of the State of Delaware Regulations Governing the Control of Air Pollution.

1.2 Any stationary source which will impact an attainment area or an unclassifiable area as designated by the U.S. Environmental Protection Agency (EPA) pursuant to Section 107 of the Clean Air Act Amendments of 1990 (CAA), is subject to the regulations of Section 3, Prevention of Significant Deterioration (PSD).

1.3 Any stationary source which will impact a non-attainment area as designated by the EPA pursuant to Section 107 of the CAA is subject to the regulations of Section 2, Emission Offset Provisions (EOP).

1.4 A source may be subject to PSD for one pollutant and to EOP for another pollutant, or may affect both attainment or unclassifiable areas and a non-attainment area for the same pollutant.

1.5 Any emission limitation represented by Lowest Achievable Emission Rate (LAER) may be imposed by the Department pursuant to regulations adopted under Section 2 herein notwithstanding any emission limit specified elsewhere in the State of Delaware Regulations Governing the Control of Air Pollution.

1.6 Any emission limitation represented by Best Available Control Technology (BACT) may be imposed by the Department pursuant to regulations adopted under Section 3 herein notwithstanding any emission limit specified elsewhere in the State of Delaware Regulations Governing the Control of Air Pollution.

1.7 No stationary source shall be constructed unless the applicant can substantiate to the Department that the source will comply with any applicable emission limit or New Source Performance Standard or Emission Standard for a Hazardous Air Pollutant as set forth in the State of Delaware Regulations Governing the Control of Air Pollution.

1.8 Any stationary source that implements, for the purpose of gaining relief from Regulation 1125, Section 3, by any physical or operational limitation on the capacity of the source to emit a pollutant, including (but not limited to) air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design and the limitation or the effect it would have on emissions is

enforceable, notwithstanding any emission limit specified elsewhere in the State of Delaware Regulations Governing the Control of Air Pollution. If a source petitions the Department for relief from any resulting limitation described above, the source is subject to review under Regulation 1125, Sections 2 and 3 as though construction had not yet commenced on the source or modification.

**1.9 Definitions - For the purposes of this regulation
"Actual Emissions"**

- Actual emissions means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with subparagraphs (2) through (4) below.
- In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.
- The Department may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
- For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Allowable Emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- The applicable standards as set forth in Regulations 20 and 21;
- Other applicable Delaware State Implementation Plan emissions limitations, including those with a future compliance date; or
- The emissions rate specified as an enforceable permit condition, including those with a future compliance date.

"Baseline Area"

- Baseline area means any intrastate area (and every part thereof) designated as

attainment or unclassifiable in which the major source or major modification establishing the baseline date would construct or would have an air quality impact equal to or greater than $1 \mu\text{g}/\text{m}^3$ (annual average) of the pollutant for which the baseline date is established.

- Area redesignations cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:
 - Establishes a baseline date, or
 - Is subject to this section.

"Baseline Concentration"

- Baseline concentration means that ambient concentration level which exists in the baseline area at the time of the applicable baseline date. A baseline concentration is determined for each pollutant for which a baseline date is established and shall include:
 - The actual emissions representative of sources in existence on the applicable baseline date, except as provided in paragraph 1.9M(2);
 - The allowable emissions of major stationary sources which commenced construction before January 6, 1975, but were not in operation by the applicable baseline date.
- The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):
 - Actual emissions from any major stationary source on which construction commenced after January 6, 1975; and
 - Actual emissions increases and decreases at any stationary source occurring after the baseline date.

"Baseline Date"

- Baseline date means the earliest date after August 7, 1977, on which the first complete application is submitted by a major stationary source or major modification subject to the requirements of Regulation 1125, Section 3.
- Baseline date means the earliest date after August 7, 1977, but before the effective date of this regulation, on which the first

complete application by a major stationary source or major modification which would have been subject to the requirements of Regulation 25, Section 3 if application were submitted after the effective date of this regulation.

- The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:
 - The area in which the proposed source or modification would construct is designated as attainment or unclassifiable for the pollutant on the date of its complete application under this section; and
 - In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

"Begin Actual Construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction or permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

"Best Available Control Technology" means an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under CAA which would be emitted from any proposed major stationary source or major modification which the Department, on a case-by-case basis, takes into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under Regulation 1120 and 1121. If the Department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead

to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Building, Structure, Facility, or Installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same first two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively). For purposes of Section 2, this definition shall apply only to the "Building, Structure or Facility".

"Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

- Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
- Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition or modification of an emissions unit) which would result in a change in actual emissions.

"Emissions Unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the CAA.

"Enforceable" means any standard, requirement, limitation or condition established by an applicable federal or state regulation or specified in a permit issued or order entered thereunder, or contained in a SIP approved by the Administrator of the U.S. Environmental Protection Agency (EPA), and which can be enforced by the Department and the Administrator of the EPA.

"Fugitive Emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Fixed capital cost" means the capital needed to provide all the depreciable components.

"Innovative Control Technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy economics, or non-air quality environmental impacts.

"Lowest Achievable Emission Rate" (LAER) means the same as defined in Regulation No. 1, "Definitions and Administrative Principles".

"Major Stationary Source" - See Sections 2.2 and 3.0

"Major Modification"

- Major modification means any physical change or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the CAA.
- Any net emissions increase that is significant for either volatile organic compounds or nitrogen oxides shall be considered significant for ozone.
- A physical change or change in the method of operation shall not include:
 - Routine maintenance, repair and replacement;
 - Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
 - Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA;
 - Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
 - Use of an alternative fuel or raw material by a stationary source which:
 - The source was capable of

accommodating before January 6, 1975, unless such change would be prohibited under any previously issued permit condition which was established after January 6, 1975.

- The source is approved to use under any previously issued PSD permit or under Regulation 1125, Section 3.
- An increase in the hours of operation or in the production rate, unless such change would be prohibited under any previously issued permit condition which was established after January 6, 1975;
- Any change in ownership at a stationary source.

"Necessary Preconstruction Approvals or Permits" means those permits or approvals required under Delaware air quality control laws and regulations.

"Net Emissions Increase"

- Net emissions increase means the amount by which the sum of the following exceeds zero:
 - Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and
 - Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.
- An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:
 - The date five years before construction on the particular change commences; and
 - The date that the increase from the particular change occurs.
- An increase or decrease in actual emissions is creditable only if the Department has not relied on it in issuing a permit for the source under this section, which permit is in effect when the increase in actual emissions from the particular change occurs.

- An increase or decrease in actual emissions of sulfur dioxide or particulate matter which occurs before the applicable baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.
- An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- A decrease in actual emissions is creditable only to the extent that:
 - The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
 - It is enforceable at and after the time that actual construction on the particular change begins; and
 - It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
 - It has not been adopted by the Department as a required reduction to be made part of the SIP or it is not required by the Department pursuant to an existing requirement of the SIP.
- An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Ozone Transport Region" means the region designated by section 184 of the federal *Clean Air Act* and comprised of the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia and northern Virginia.

"Permanent" (Reductions) means that the actual emission reductions submitted to the Department for certification have been incorporated in a permit or a permit condition or, in the case of a shutdown, the permit to operate for the emission unit(s) has been voided.

"Potential to Emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Quantifiable" (Reductions) means that the amount, rate and characteristics of emission reductions can be determined by methods that are considered reliable by the Department and the Administrator of the EPA.

"Real" (Reductions) means reductions in actual emissions released into the atmosphere.

"Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceed 50 percent of the fixed capital cost of a comparable entirely new stationary source. Any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f)(1)-(3). A reconstructed stationary source will be treated as a new stationary source for purposes of this regulation. In determining lowest achievable emission rate (LAER) for a reconstructed stationary source, the provisions of 40 CFR 60.15(f)(4) shall be taken into account in assessing whether a new source performance standard is applicable to such stationary source.

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

- Emissions from ships, trains, or other vehicles coming to or from the new or modified stationary source; and
- Emissions from any offsite support facility(s) which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

"Significant"

- Significant means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:
 - Pollutant and Emissions Rate

- Carbon monoxide: 100 tons per year (TPY)
- Sulfur dioxide: 40 TPY
- Particulate matter: 25 TPY
- Ozone:
 - New Castle and Kent Counties - 25 TPY of either volatile organic compounds or nitrogen oxides *
 - Sussex County - 40 TPY of either volatile organic compounds or nitrogen oxides *
- Lead: 0.6 TPY
- Asbestos: 0.007 TPY
- Beryllium: 0.0004 TPY
- Mercury: 0.1 TPY
- Vinyl chloride: 1 TPY
- Fluorides: 3 TPY
- Sulfuric acid mist: 7 TPY
- Hydrogen sulfide (H₂S): 10 TPY
- Total reduced sulfur (including H₂S): 10 TPY
- Reduced sulfur compounds (including H₂S): 10 TPY
- PM₁₀ particulate: 15 TPY

*Note: Increases in net emissions shall not exceed 25 tons per year in New Castle and Kent Counties, or 40 tons per year in Sussex, when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years which includes the calendar year in which such increases occur. No part of the five consecutive years shall extend before January 1, 1991.

"Significant" means, in reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the CAA that paragraph 1.9 V.(1) does not list, any emissions rate.

Notwithstanding paragraph 1.9 V.(1), "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within ten kilometers of a Class I area, and have an impact on such area equal to or greater than 1 µg/m³, (24-hour average).

"Stationary Source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the CAA.

"Surplus" (Reductions) means actual emission reductions below the baseline (see Section 2.5(B)) not required by regulations or proposed regulations, and not used by the source to meet any state or federal regulatory requirements.

2.0 Emission Offset Provisions (EOP)

2.1 Applicability - The provisions of this Section shall apply to any person responsible for any proposed new major stationary source or any proposed major modification.

2.2 For purposes of Section 2, "major stationary source" means

2.2.1 Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Clean Air Act, except for either volatile organic compound or nitrogen oxides, or

2.2.2 Any stationary source of air pollutants which emits, or has the potential to emit either volatile organic compounds or nitrogen oxides in the following amounts:

2.2.2.1 For areas in ozone attainment, ozone marginal, or ozone moderate nonattainment areas and located in the ozone transport region - 50 tons per year volatile organic compounds or 100 tons per year of oxides of nitrogen, or

2.2.2.2 For serious ozone nonattainment areas - 50 tons per year of either volatile organic compounds or oxides of nitrogen, or

2.2.2.3 For severe ozone nonattainment areas - 25 tons per year of either volatile organic compounds or oxides of nitrogen, or

2.2.2.4 For extreme ozone nonattainment areas - 10 tons per year of either volatile organic compounds or oxides of nitrogen.

2.2.3 Any physical change that would occur at a stationary source not qualifying under paragraph 2.2.1 or 2.2.2 as a major stationary source, if the change would constitute a major stationary source by itself, or

2.2.4 A major stationary source that is major for either volatile organic compounds or nitrogen oxides shall be considered major for ozone, and "installation" means an identifiable piece of process, combustion or incineration equipment.

2.3 For the purposes of Sections 2.4 and 2.5 of this regulation, emission units located in areas designated as attainment or marginal nonattainment areas that are located within the ozone transport region shall be considered located in a moderate ozone nonattainment area.

2.4 Conditions for Approval - No person subject to the provisions of subsection 2.1 shall install a major stationary source of volatile organic compounds or of nitrogen oxides, or make a major modification to a source which will cause or contribute to any violation of the national ambient air quality standards for ozone within an area of non-attainment for that pollutant unless the following conditions are met:

2.4.1 The new major source or the major modification is controlled by the application of lowest achievable emission rate (LAER) control technology.

2.4.2 All existing sources in the State owned or controlled by the owner of the proposed new or modified source are in compliance with the applicable local, State and federal regulations or are in compliance with a consent order specifying a schedule and timetable for compliance.

2.4.3 For the purposes of satisfying offset requirements, the ratio of total actual emissions reductions of volatile organic compounds or nitrogen oxides to total allowable increased emissions of volatile organic compounds or nitrogen oxides shall be:

2.4.3.1 For New Castle & Kent Counties, 1.3 to 1, or

The new or modified source must satisfy the following offset requirements:

2.4.3.1.1 The ratio of total actual emissions reductions of volatile organic compounds or nitrogen oxides to total allowable increased emissions of volatile organic compounds or nitrogen oxides shall be:

2.4.3.1.1.1 For moderate ozone nonattainment areas, 1.15 to 1, or

2.4.3.1.1.2 For serious ozone nonattainment areas, 1.2 to 1, or

2.4.3.1.1.3 For severe ozone nonattainment areas, 1.3 to 1, or

2.4.3.1.1.4 For extreme ozone nonattainment areas, 1.5 to 1.

2.4.3.2 All offsets shall be federally enforceable at the time of application to construct and shall be in effect by the time the new or modified source commences operation.

2.4.4

2.4.4.1 The application for construction permit pursuant to Regulation No. 2 shall include an analysis of alternative sites, sizes, production processes and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

2.4.4.2 Public participation for the construction permit shall be pursuant to Regulation No. 2, Section 12.3 or 12.4 and 12.5.

2.5 Criteria for Emission Reductions Used as Offsets

2.5.1 All emission reductions claimed as offset credits shall be real, surplus, quantifiable, and federally enforceable;

2.5.2 The baseline for determining credit for emissions reductions shall be the lower of actual or allowable emissions. The offset credit shall only be allowed for emission reductions made below the baseline;

2.5.3 Emission reductions claimed as offsets shall have occurred on or after January 1, 1991;

2.5.4 Credit for an emission reduction may be claimed for use as an offset to the extent that the Department

has not relied on it in issuing any permit under this regulation and has not relied on it for demonstration of attainment or reasonable further progress;

2.5.5 Emission reductions shall not be used as offsets in an area with a higher nonattainment classification than the one in which they were generated.

2.5.6 Emission reductions claimed as offsets by a source must be generated from within the same nonattainment area or from any other area that contributes to a violation of the ozone National Ambient Air Quality Standard in the nonattainment area which the source is located.

2.6 Emission reductions generated in a state other than Delaware and which are placed in the emissions bank established pursuant to Regulation No. 34 of the State of Delaware "Regulations Governing the Control of Air Pollution" may be used as offsets provided they are federally enforceable and meet, at a minimum, all the provisions of Regulation No. 1134 and Sections 2.5.5, and 2.5.6 of this regulation.

03/29/88

3.0 Prevention of Significant Deterioration of Air Quality

3.1 Definitions - For purposes of this Section 3 "Major Stationary Source"

- Major stationary source means:
 - Any of the following stationary sources of air pollutants which emits or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the CAA: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combinations thereof) totaling more than 250 million British

thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

- Notwithstanding the stationary source size specified in paragraph 3.0 A.(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the CAA; or
- Any physical change that would occur at a stationary source not otherwise qualifying under paragraph 3.0 as a major stationary source, if the change would constitute a major stationary source by itself.
- A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

3.2 Ambient Air Increments. In areas designated as Class I, II or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

Maximum allowable increase
(Micrograms per cubic meter)
Class I

Pollutant

Total suspended particulates:
Annual geometric mean 5
24-hour maximum 10

Sulfur dioxide:

Annual arithmetic mean 2
24-hour maximum 5
3-hour maximum 25

Class II

Pollutant

Total suspended particulates:
Annual geometric mean 19
24-hour maximum 37

Sulfur dioxide:

Annual arithmetic mean 20
24-hour maximum 91
3-hour maximum 512

Class III

Total suspended particulates:
Annual geometric mean 37
24-hour maximum 75

Sulfur dioxide:

Annual arithmetic mean	40
24-hour maximum	182
3-hour maximum	700

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

3.3 Ambient Air Ceilings. No concentration of a pollutant shall exceed:

3.3.1 The concentration permitted under the national secondary ambient air quality standard, or

3.3.2 The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

3.4 Restrictions on Area Classification.

3.4.1 All Areas in the State of Delaware are designated Class II, but may be redesignated as provided in 40 CFR 52.51(g).

3.4.2 The following areas may be redesignated only as Class I:

3.4.2.1 Bombay Hook National Wildlife Refuge; and

3.4.2.2 A national park or national wilderness area established after August 7, 1977 which exceeds 10,000 acres in size.

3.5 Exclusions from Increment Consumption

3.5.1 Upon written request of the governor, made after notice and opportunity for at least one public hearing to be held in accordance with procedures established by the State of Delaware, the Department shall exclude the following concentrations in determining compliance with a maximum allowable increase:

3.5.1.1 Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under sections 2.1 and 2.2 of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order;

3.5.1.2 Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

3.5.1.3 Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

3.5.2 No exclusion of such concentrations shall apply more than five years after the effective date of the order to which section 3.5.1.1 refers or the plan to which section 3.5.1.2 refers, whichever is applicable. If both such

order and plan are applicable, no such exclusion shall apply more than five years after the later of such effective dates.

3.6 Stack Heights

The provisions of Regulation 27 - STACK HEIGHTS, are applicable to this section.

3.7 Review of Major Stationary Sources and Major Modifications - Source Applicability and Exemptions.

3.7.1 No stationary source or modification to which the requirements of sections 3.8 through 3.15 apply shall begin actual construction without a permit which states that the stationary source or modification would meet those requirements. The Department has authority to issue any such permit.

3.7.2 The requirements of sections 3.8 through 3.15 shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the CAA that it would emit, except as this section otherwise provides.

3.7.3 The requirements of sections 3.8 through 3.15 apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassifiable.

3.7.4 The requirements of sections 3.8 through 3.15 shall not apply to a particular major stationary source or major modification, if:

3.7.4.1 The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the governor requests that it be exempt from those requirements; or

3.7.4.2 The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

- | | |
|------------|--|
| 3.7.4.2.1 | Coal cleaning plants (with thermal dryers); |
| 3.7.4.2.2 | Kraft pulp mills; |
| 3.7.4.2.3 | Portland cement plants; |
| 3.7.4.2.4 | Primary zinc smelters; |
| 3.7.4.2.5 | Iron and steel mills; |
| 3.7.4.2.6 | Primary aluminum ore reduction plants; |
| 3.7.4.2.7 | Primary copper smelters; |
| 3.7.4.2.8 | Municipal incinerators capable of charging more than 250 tons of refuse per day; |
| 3.7.4.2.9 | Hydrofluoric, sulfuric, or nitric acid plants; |
| 3.7.4.2.10 | Petroleum refineries; |
| 3.7.4.2.11 | Lime plants; |
| 3.7.4.2.12 | Phosphate rock processing plants; |
| 3.7.4.2.13 | Coke oven batteries; |

3.7.4.2.14 Sulfur recovery plants;
 3.7.4.2.15 Carbon black plants (furnace process);
 3.7.4.2.16 Primary lead smelters;
 3.7.4.2.17 Fuel conversion plants;
 3.7.4.2.18 Sintering plants;
 3.7.4.2.19 Secondary metal production plants;
 3.7.4.2.20 Chemical process plants;
 3.7.4.2.21 Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 3.7.4.2.22 Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 3.7.4.2.23 Taconite ore processing plants;
 3.7.4.2.24 Glass fiber processing plants;
 3.7.4.2.25 Charcoal production plants;
 3.7.4.2.26 Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
 3.7.4.2.27 Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the CAA; or
 3.7.4.3 The source is a portable stationary source which has previously received a permit under this section, and
 3.7.4.3.1 The owner or operator proposal to relocate the source and emissions of the source at the new location would be temporary; and
 3.7.4.3.2 The emissions from the source would not exceed its allowable emissions; and
 3.7.4.3.3 The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and
 3.7.4.3.4 Reasonable notice is given to the Department prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Department not less than ten days in advance of the proposed relocation unless a different time duration is previously approved by the Department.

3.7.5 The requirements of sections 3.8 through 3.15 shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as non-attainment.

3.7.6 The requirements of sections 3.9, 3.11, and 3.13 shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the

net emissions increase of that pollutant from the modification:

3.7.6.1 Would impact no Class I area and no area where an applicable increment is known to be violated, and

3.7.6.2 Would be temporary.

3.7.7 The Department may exempt a stationary source or modification from the requirements of section 3.11 with respect to monitoring for a particular pollutant if:

3.7.7.1 The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide: 575 ug/m³, 8-hour average;

Nitrogen dioxide: 14 ug/m³, annual average;

Total suspended particulate: 10 ug/m³, 24-hour average;

Sulfur dioxide: 13 ug/m³, 24-hour average;

Ozone (Note 1)

Lead: 0.1 ug/m³, 24-hour average;

Mercury: 0.25 ug/m³, 24-hour average;

Beryllium: 0.0005 ug/m³, 24-hour average;

Fluorides: 0.25 ug/m³, 24-hour average;

Vinyl chloride: 15 ug/m³, 24-hour average;

Total reduced sulfur: 10 ug/m³, 1-hour

average;

Hydrogen sulfide: 0.04 ug/m³, 1-hour

average;

Reduced sulfur compounds: 10 ug/m³, 1-hour average;

PM₁₀ particulate: 10 ug/m³, 24-hour average

3.7.7.2 The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in section 3.7.7.1, or the pollutant is not listed in paragraph 3.7.7.1.

3.8 Control Technology Review

3.8.1 A major stationary source or major modification shall meet each applicable emissions limitation of the State of Delaware's Air Pollution Control Regulations.

3.8.2 A new major stationary source shall apply best available control technology for each pollutant subject to regulation under the CAA that it would have the potential to emit in significant amounts.

3.8.3 A major modification shall apply best available control technology for each pollutant subject to

regulation under the CAA for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

3.8.4 For phase construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

Note 1: No de minimus air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

3.9 Source Impact Analysis. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

3.9.1 Any national ambient air quality standard in any air quality control region; or

3.9.2 Any applicable maximum allowable increase over the baseline concentration in any area.

3.10 Air Quality Models.

3.10.1 All estimates of ambient concentrations required under this section shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models" (OA-QPS 1.2-080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April, 1978 or its subsequent revisions). This document is incorporated by reference.

3.10.2 When an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted. Such a change must be subject to the notice and opportunity for public comment under section 3.15. Written approval of the Department must be obtained for any modification or substitution. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models" (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 17711, May, 1978 or its subsequent revisions) should be used to determine the comparability of air quality models.

3.11 Air Quality Analysis

3.11.1 Preapplication Analysis.

3.11.1.1 Any application for a permit under this section shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

3.11.1.1.1 For the source, each pollutant that it would have the potential to emit in a significant amount;

3.11.1.1.2 For the modification, each pollutant for which it would result in a significant net emissions increase.

3.11.1.2 With respect to any such pollutant for which no National Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as the Department determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

3.11.1.3 With respect to any such pollutant (other than non-methane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

3.11.1.4 In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceeding receipt of the application, except that, if the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

3.11.1.5 The owner or operator of a proposed stationary source or modification of volatile organic compounds who satisfies all of the following conditions may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under paragraph 3.9.1.

Condition 1: The new source is required to meet an emission limitation which specifies the lowest achievable emission rate for such source.

Condition 2: The applicant must certify that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in Delaware are in compliance with all applicable emission limitations and standards under the CAA (or are in compliance with an expeditious schedule approved by the Department).

Condition 3: Emission reductions ("offsets") from existing sources in the area of the proposed source (whether or not under the same ownership) are required such that there will be reasonable progress toward attainment of the applicable NAAQS. Only intrapollutant emission offsets

will be acceptable (e.g., hydrocarbon increases may not be offset against SO_x reductions)).

Condition 4: The emission offsets will provide a positive net air quality benefit in the affected area (see 40 CFR Part 51 App. S). Atmospheric simulation modeling is not necessary for volatile organic compounds and NO_x. Fulfillment of Condition 3 will be considered adequate to meet this condition for volatile organic compounds and NO_x.

3.11.2 Post-construction monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification conduct such ambient monitoring as the Department determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

3.11.3 Operations of monitoring stations. The owner or operator of a major stationary source or major modification shall meet the Quality Assurance Requirements for PSD Air Monitoring as preapproved by the Department during the operation of monitoring stations for purposes of satisfying section 3.11.

3.12 Source Information. The owner or operator of proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this section.

3.12.1 With respect to a source or modification to which sections 3.9, 3.11, and 3.13 apply, such information shall include but not be limited to:

3.12.1.1 A description of the nature, location, design capacity and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

3.12.1.2 A detailed schedule for construction of the source or modification;

3.12.1.3 A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied

3.12.2 Upon request of the Department, the owner or operator shall also provide information on:

3.12.2.1 The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

3.12.2.2 The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977 or the applicable baseline date(s), in the area the source or modification would affect.

3.13 Additional Impact Analyses.

3.13.1 The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and

general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

3.13.2 The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

3.14 Public Participation

3.14.1 Within 30 days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this section, the date on which the Department received all required information.

3.14.2 Within one year after receipt of a complete application, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner:

3.14.2.1 Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

3.14.2.2 Make available a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

3.14.2.3 Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at public hearing as well as written public comment.

3.14.2.4 Send a copy of the notice of public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: the chief executives of the city and county where the source or modification would be located and any comprehensive regional land use planning agency whose lands may be affected by emissions from the source or modification. Additionally, if the proposed source would have significant interstate impact, the Governor of that impacted state would be notified.

3.14.2.5 Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

3.14.2.6 Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s)

in making a final decision on the approvability of the application. No later than ten days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification.

3.14.2.7 Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.

3.14.2.8 Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.

3.15 Source Obligation.

3.15.1 Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

3.15.2 Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

3.15.3 Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of any other requirements under local or Federal law.

3.15.4 At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements or sections 3.7 through 3.14 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

3.16 Innovative Control Technology.

3.16.1 An owner or operator of a proposed major stationary source or major modification may request the Department in writing no later than 30 days after the close of the public comment hearing to approve a system of innovative control technology.

3.16.2 The Department shall, with the consent of the Governor of Delaware, determine that the source or modification may employ a system of innovative control technology, if:

3.16.2.1 The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

3.16.2.2 The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under paragraph 3.8.2 by a date specified by the Department. Such date shall not be later than four years from the time of startup or seven years from permit issuance;

3.16.2.3 The source or modification would meet the requirements of sections 3.8 and 3.9 based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Department;

3.16.2.4 The source or modification would not be before the date specified by the Department:

3.16.2.4.1 Cause or contribute to a violation of an applicable national ambient air quality standard; or

3.16.2.4.2 Impact any Class I area; or

3.16.2.4.3 Impact any area where an applicable increment is known to be violated; and

3.16.2.5 All other applicable requirements including those for public participation have been met.

3.16.3 The Department shall withdraw any approval to employ a system of innovative control technology made under this section, if:

3.16.3.1 The proposed system fails before the specified date to achieve the required continuous emissions reduction rate; or

3.16.3.2 The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

3.16.3.3 The Department decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

3.16.4 If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with section 3.16.3, the Department may allow the source or modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

4.0 Minor New Source Review (MNSR)

4.1 Applicability. The requirements of Section 4.3 of this Regulation shall apply to any person responsible for any proposed new stationary source, the construction of which:

4.1.1 was applied for, pursuant to Regulation 2, Section 11, after *[insert effective date of this Section 4]*, and

4.1.2 is subject to the construction, installation, or alteration requirements of Regulation No. 2, Section 2.1(c), and

4.1.3 is not subject to the requirements of Section 2 or Section 3 of this regulation, and

4.1.4 has a potential to emit of equal to or greater than five (5) tons per year of volatile organic compounds (VOC's) or, nitrogen oxides (NO_x), or sulfur dioxide (SO₂) and/or sulfur trioxide (SO₃) [also termed sulfur oxides (SO_x)] or, fine particulate matter (PM_{2.5}), or, in the aggregate, any of the hazardous air pollutants (HAP's) listed in Section 112(b) of the federal Clean Air Act.

4.1.5 Reserved.

4.2 Record keeping. Any person exempted from the requirements of Section 4.3 of this Regulation because the proposed source has emissions below the thresholds provided for in Section 4.1.4 shall include with the application submitted pursuant to Regulation No. 2, Section 11.1, documentation that shows the proposed source is exempted.

4.3 Conditions for Approval. Any person subject to the provisions of this Section 4.3 shall meet the appropriate requirements of 4.3.1 and 4.3.2:

4.3.1 The new stationary source shall, relative to each pollutant identified in Section 4.1.4, be controlled by installing and operating emission control technology that limits emissions to the atmosphere as follows. The Department will assist in the development of appropriate emission control technology determinations if requested by the applicant.

4.3.1.1 emission control technology that meets the LAER requirements of Section 2 of this Regulation, or

4.3.1.2 emission control technology that meets the BACT requirements of Section 3 of this Regulation, or

4.3.1.3 emission control technology approved in advance by the Department for the source type being constructed (a listing and description of the approved technologies is available from the Department), or

4.3.1.4 emission control technology approved by the Department, on a case-by-case basis, pursuant to the following process:

4.3.1.4.1 Identify and evaluate air pollution control technologies that may be applied to the source. The control alternatives need not be limited to existing controls for the source category. Consider controls

applied to similar type of sources, innovative control technologies, modification of the process or process equipment, other pollution prevention measures, and combinations of these measures.

4.3.1.4.2 List the control technologies identified in 4.3.1.4.1 in descending order of air pollution control effectiveness.

4.3.1.4.3 Either propose the most effective technology on the list generated under 4.3.1.4.2 for approval by the Department, or demonstrate, based on the criteria in a. through d. below, that the most effective technology is infeasible or unreasonable. This process for evaluation shall be repeated relative to each emission control technology on the list generated under 4.3.1.4.2 until an emission control technology is reached that is not eliminated.

4.3.1.4.3.1 Technological Feasibility Assessment: A demonstration that the control technology is technically infeasible, based on physical, chemical, or engineering principles, that it is unproven technology, and/or that technical difficulties would prevent its successful application, or

4.3.1.4.3.2 Environmental Impacts Assessment: A demonstration that the control technology should be eliminated from consideration based on its environmental impacts. The demonstration must show that the adverse environmental effects of the control technology (for example, effects on water or land, HAP emissions, or increased environmental hazards), when compared with its air contaminant emission reduction benefits, would make use of the technology unreasonable, or

4.3.1.4.3.3 Economic Impacts Assessment: A demonstration that the technology should be eliminated from consideration based on its calculated economic impacts using the techniques in the latest edition of EPA's Control Cost Manual. The justification must show that the total and incremental costs of the control technology are greater than the total and incremental costs of the next less effective technology on the list generated under 4.2(A)(4)(ii); and that the extra costs, when compared with the air contaminant emission reduction benefits resulting from the control technology, would make that measure unreasonable, or

4.3.1.4.3.4 Energy Impacts Assessment: A demonstration that the control technology should be eliminated from consideration based on its energy impacts. The demonstration must show that this technology uses fuels that are not reliably available; or that the energy consumed by this technology is greater than the proposed technology(s), and that the extra energy used, when compared with the air contaminant emission reduction benefits resulting from this technology, would make use of this technology unreasonable;

4.3.2 All of the following information shall be submitted to the Department as part of the application submitted to the Department pursuant to Regulation No. 2, Section 11.1:

4.3.2.1 control technology proposed to be installed and operated to meet the requirements of Section 4.3.1 of this Regulation, and

4.3.2.2 the list, if this method was chosen, generated pursuant to Section 4.3.1.4.2 of this Regulation and

4.3.2.3 any demonstration(s) performed pursuant to Section 4.3.1.4.3 of this Regulation.

Symbol Key

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

Final Regulations

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

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

**DEPARTMENT OF
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
100 BOARD OF ACCOUNTANCY
Statutory Authority: 24 Delaware Code,
Section 105(a)(1) (24 Del.C. §105(a)(1))
24 DE Admin. Code 100**

ORDER

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on April 20, 2005 at a scheduled meeting of the Delaware Board of Accountancy to receive comments regarding proposed amendments to Regulation 10.8: *Composition of Continuing Professional Education*. The regulation as amended converts the stated requirements from percentages to credit hours and adds a provision that four (4) of the required credit hours shall be in a Delaware specific ethics course approved by the Board. The regulation does not change the total number of required continuing education credit hours. The proposed regulation was published in the *Register of Regulations*, Vol. 8, Issue 9, March 1, 2005.

Summary of the Evidence and Information Submitted

No written comments were received. No public comment was received at the April 20, 2005 hearing.

Findings of Fact with Respect to the Evidence and Information Submitted

There was no public comment received at the public hearing concerning the proposed amendments to the regulation. The Board finds that the amendments to the regulation clarify requirements for continuing education making it easier for licensees to calculate the hours. The regulation does not change the total number of required continuing education credit hours.

The Board further finds that the practice of accountancy requires the highest ethical standards. The Board is persuaded that requiring four (4) of the required credit hours to be in a Delaware specific ethics course approved by the Board meets the primary objective of the Board as set forth in the statute. Specifically, the "primary objective of the Board of Accountancy, to which all other objectives and purposes are secondary, is to protect the general public (specifically those persons who are the direct recipients of services regulated by this chapter) from unsafe practices, including incompetent auditing, accounting and tax services rendered by certificate and permit holders, and from occupational practices which tend to reduce competition or fix the price of services rendered." 24 Del.C. §101.

In summary, the Board finds that adopting the amendments to regulation 10.8 as proposed is in the best interest of the citizens of the State of Delaware and is necessary to protect the general public, particularly the recipients of accountancy services. It is also in the best interests of those individuals regulated by the Board.

The Law

The Board's rulemaking authority is provided by 24 Del.C. §105 (a)(1).

Decision and Effective Date

The Board hereby adopts the changes to Regulation 10.8 be effective 10 days following publication of this order in the *Register of Regulations*.

Text and Citation

The text of the revised rule remains as published in *Register of Regulations*, Vol. 8, Issue 9, March 1, 2005, and as attached hereto as Exhibit A.

SO ORDERED this 20th day of April, 2005.

BOARD OF ACCOUNTANCY

James R. Zdimal, President, CPA Member
Sandra S. Gullede, Secretary, CPA Member
Joyce Dyer, Public Member
James Horty, CPA Member
Diane Marky, Public Member
John A. McManus, PA Member
Norma Rohleder, CPA Member
Paul Sunshine, Esquire, Attorney Member
Cathel Tanner, PA Member

100 Board of Accountancy

10.0 Continuing Education

10.1 Hours Required: Each permit holder must have completed at least 80 hours of acceptable continuing professional education each biennial reporting period of each year ending with an odd number. The eighty hours of acceptable continuing professional education submitted must have been completed in the immediately preceding two-year period.

10.2 Reporting Requirements: The Board will mail permit renewal forms which provide for continuing professional education reporting to all permit holders. Each candidate for renewal shall submit a summary of their continuing education hours, along with any supporting documentation requested by the Board, to the Board at least 60 days prior to the permit renewal date set by the Division of Professional Regulation.

10.3 Proration: Prorated continuing professional education regulations consisting of less than eighty hours shall only apply to the first permit renewal, thereafter all permit holders are required to complete at least eighty hours of acceptable continuing professional education biennially.

10.3.1 If the initial permit was issued less than

one year prior to the renewal date, there shall be no continuing education requirement for that period.

10.3.2 If the initial permit was issued at least one year, but less than two years prior to the renewal date, the continuing education requirement shall be 40 hours for that period.

10.4 Exceptions: The Board has the authority to make exceptions to the continuing professional education requirements for reasons including, but not limited to, health, military service, foreign residency, and retirement.

10.5 Qualified Programs.

10.5.1 General Determination: The overriding consideration in determining if a specific program qualifies as a continuing professional education program is whether it is a formal program of learning which contributes directly to the professional competence of the permit holder.

10.5.2 Formal Programs: Formal programs requiring class attendance will qualify only if:

10.5.2.1 An outline is prepared in advance and the plan sponsor agrees to preserve a copy for five years or the outline is provided to the participant or both.

10.5.2.2 The program is at least an hour (a fifty-minute period) in length.

10.5.2.3 The program is conducted by a qualified instructor or discussion leader.

10.5.2.4 A record of registration or attendance is maintained for five years or the participant is furnished with a statement of attendance, or both.

10.5.3 Programs deemed approved: Provided the criteria in Sections 10.5.1 and 10.5.2 of these Rules and Regulations are met, the following are deemed to qualify for continuing professional education:

10.5.3.1 Programs approved by National Association of State Boards of Accountancy (NASBA);

10.5.3.2 Professional development programs of national, state and local accounting organizations;

10.5.3.3 Technical sessions at meeting of national, state and local accounting organizations and their chapters;

10.5.3.4 University or college courses:

10.5.3.4.1 Credit courses: each semester hour credit shall equal 5 hours of continuing professional education.

10.5.3.4.2 Non-credit courses: each classroom hour shall equal one hour of continuing professional education;

10.5.3.5 Programs of other organizations (accounting, industrial, professional, etc.);

10.5.3.6 Other organized educational programs on technical and other practice subjects including "in-house" training programs of public accounting firms.

10.5.4 Correspondence and Individual Study Programs: Formal correspondence or other individual study

programs which provide evidence of satisfactory completion will qualify, with the amount of credit to be determined by the Board. The Board will not approve any program of learning that does not offer sufficient evidence that the work has actually been accomplished. The maximum credit toward meeting the continuing professional education requirement with formal correspondence or other individual study programs shall not exceed 30% of the total requirement.

10.5.5 Instructors and Discussion Leaders: Credit for one hour of continuing professional education will be awarded for each hour completed as an instructor or discussion leader plus two additional hours of credit for each classroom hour for research and preparation to the extent that the activity contributes to the professional competence of the registrant as determined by the Board. No credit will be awarded for repeated offerings of the same subject matter. The maximum credit toward meeting the continuing professional education requirement as an instructor or discussion leader shall not exceed 50% of the total requirement.

10.5.6 Published Articles and Books: One hour credit will be granted for each 50 minute period of preparation time on a self-declaration basis to a maximum of 20 hours in each biennial reporting period. A copy of the published article must be submitted to the Board upon request.

10.5.7 Committee, Dinner, Luncheon and Firm Meetings. One hour credit will be granted for each 50 minutes of participation. Credit will only be granted for those meetings which are structured as a continuing education program.

10.6 Control and Reporting

10.6.1 Each applicant for permit renewal shall provide a signed statement under penalty of perjury, disclosing the following information pertaining to the educational programs submitted in satisfaction of the continuing education requirements:

10.6.1.1 school, firm or organization conducting course;

10.6.1.2 location of course;

10.6.1.3 title of course or description of content;

10.6.1.4 dates attended; and

10.6.1.5 hours claimed.

10.6.2 The Board may verify information submitted by applicants by requesting submission of the documentation to be retained by the applicant and/or sponsor and may revoke permits for which deficiencies exist. If a Continuing Professional Education Statement submitted by an applicant for permit renewal is not approved, or if upon verification, revocation is being considered, the applicant will be notified and may be granted a period of time in which to correct the deficiencies. Any license revocation or denial

of application for license renewal will proceed in accordance with the provisions of the Administrative Procedures Act, 29 Del.C. §10101, *et. seq.*

10.7 Evidence of Completion - Retention

10.7.1 Primary responsibility for documenting the requirements rest with the applicant. Evidence in support of the requirements should be retained for a period of five years after completion of the educational activity.

10.7.2 Sufficiency of evidence includes retention of course outlines and such signed statements of attendance as may be furnished by the sponsor.

10.7.3 For courses taken for scholastic credit in accredited universities or colleges, evidence of satisfactory completion of the course will satisfy the course outline and attendance record.

10.7.4 For non-credit courses at accredited universities or colleges, a statement of the hours of attendance signed by the instructor or an authorized official of the sponsoring institution, must be obtained and retained by the applicant. Course outlines may be retained by the sponsoring institution for a period of five years in lieu of retention of the outlines by the applicant.

10.8 Composition of Continuing Professional Education: The biennial continuing professional education requirement shall include a minimum of ~~20 percent~~ sixteen (16) credit hours in accounting and/or auditing and a minimum of ~~20 percent~~ sixteen (16) credit hours in taxation and four (4) credit hours in a Delaware specific ethics course approved by the Board. The remaining ~~forty-four (44) credit hours~~ may be satisfied by general subject matters so long as they contribute to the professional competence of the individual practitioner. Such general subject matters include, but are not limited to, the following areas:

Accounting

Administrative Practice

Auditing

Business Law

Communication Arts

Computer Science

Economics

Finance, Production and Marketing

Management Services Mathematics, Statistics,

Probability, and Quantitative

Applications in Business

Personnel Relations, Business Management and Organization

Social Environment of Business

Specialized Areas of Industry

Taxation

***Please Note:** As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Accountancy is available at:

<http://dpr.delaware.gov/boards/accountancy/index.shtml>

DIVISION OF PROFESSIONAL REGULATION

700 BOARD OF CHIROPRACTIC

Statutory Authority: 24 Delaware Code,
Section 706(a)(1) (24 Del.C. §706(a)(1))
24 DE Admin. Code 700

ORDER

After due notice in the Register of Regulations and two Delaware newspapers, a public hearing was held on April 20, 2005 at a scheduled meeting of the Delaware Board of Chiropractic to receive comments regarding proposed amendments to Regulation 4.2.1. The proposal amends rule 4.2.1 *Continuing Education for Licensees Other Than New Licensees* to provide that the maximum allowable online continuing education credits permissible in each full reporting period for renewal is twelve (12) of the twenty-four (24) required hours. The regulation does not change the total number of required continuing education credit hours and does not affect those licensees who have been licensed for less than two (2) years. The proposed regulation was published in the Register of Regulations, Vol. 8, Issue 9, March 1, 2005.

Summary of the Evidence and Information Submitted

No written comments were received. No members of the public attended the hearing.

Findings of Fact with Respect to the Evidence and Information Submitted

There was no public comment received at the public hearing concerning the proposed amendments to the regulation. The Board finds that the amendments to the regulation are necessary to clarify the number of credit hours that may be obtained through online courses. The Board finds that actual classroom instruction is beneficial to licensees and, therefore, finds that no more than twelve (12) of the twenty-four (24) required credit hours required may be fulfilled through participation in online courses. The regulation does not change the total number of required continuing education credit hours.

The “primary objective of the Board of Chiropractic, to which all other objectives and purposes are secondary, is to protect the general public, specifically those persons who are the direct recipients of the services regulated by this chapter, from unsafe practices and from occupational practices which tend to reduce competition or fix the price of services rendered. The secondary objectives of the Board are to maintain minimum standards of practitioner competency and to maintain certain standards in the delivery of services to the public. In meeting its objectives, the Board shall develop standards assuring professional competence.” 24 Del.C. §700.

In summary, the Board finds that adopting the amendments to regulation 4.2.1 meets both objectives and is in the best interest of the citizens of the State of Delaware. The Board finds the proposed amendments to Regulation 4.2.1 are necessary to protect the general public, particularly the recipients of chiropractic services and are in the best interests of those individuals regulated by the Board with regard to maintaining minimum standards of competency.

The Law

The Board’s rulemaking authority is provided by 24 Del.C. §706 (a)(1).

Decision and Effective Date

The Board hereby adopts the changes to Regulation 4.2.1 to be effective 10 days following publication of this order in the Register of Regulations.

Text and Citation

The text of the revised rules remains as published in Register of Regulations, Vol. 8, Issue 9, March 1, 2005, without any changes.

SO ORDERED this 21st day of April, 2005.

STATE BOARD OF CHIROPRACTIC

William Cowan, D.C., Chairman, Professional Member
Gary Morgan, D.C., Professional Member
Terry Jackson, Public Member
Pramela Kaza, Public Member
Michael P. Kelman, D.C., Professional Member

700 Board of Chiropractic

4.0 Continuing Education

4.1 Continuing Education for New Licensees:

4.1.1 At the time of the initial license renewal, some individuals will have been licensed for less than two

(2) years. Therefore, for these individuals only, the continuing education hours will be pro-rated as follows:

License Granted During First Year:	Credit Hours
	Required:
July 1 - December 31	24 hours
January 1 - June 30	18 hours

License Granted During Second Year:	Credit Hours
	Required:
July 1 - December 31	12 hours
January 1 - June 30	0 hours

4.2 Continuing Education for Licensees other than new licensees:

4.2.1 Unless otherwise excused by the Board for good cause such as illness, extended absence from the country, or unique personal hardship which is not the result of professional negligence or inadvertence, all Chiropractors seeking renewal more than two (2) years from initial licensure or reinstatement of a lapsed license must provide to the Board adequate proof of the satisfactory completion of twenty four (24) credit hours of Board approved continuing education within the immediately preceding two (2) year period. Of the required twenty four (24) credit hours of Board approved continuing education, a maximum of twelve (12) credit hours may be fulfilled by participating in online courses.

4.2.2 Proof of continuing education shall be received at the Division of Professional Regulation, Dover, Delaware, no later than April 30th of the reporting year and shall be received every 2 years after such date. Continuing education completed before April 30th of the reporting year shall not be carried over to the next renewal period. The Board has the right to conduct an audit of the proof of continuing education submitted by licensees.

4 DE Reg. 1940 (6/1/01)

***Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Chiropractic is available at:**

<http://dpr.delaware.gov/boards/chiropractic/index.shtml>

**DIVISION OF PROFESSIONAL REGULATION
BOARD OF MEDICAL PRACTICE
1770 Respiratory Care Practice Advisory
Council**

Statutory Authority: 24 Delaware Code,
Section 1770(b) (24 Del.C. §1770(b))
24 DE Admin. Code 1770

ORDER

Pursuant to 29 Del.C. Ch. 101 and 24 Del.C. §1770B (e)(5), the Respiratory Care Practice Advisory Council ("Council") which functions under the auspices of the Delaware Board of Medical Practice ("Board") gave notice of its intent to consider adoption of regulations to address and govern the administration of sedation and analgesia by licensed respiratory care practitioners in the State of Delaware. The same Rulemaking proceedings and hearing also involved the proposal of the Council to delete Regulation Section 8.5.2.6 which limited the number of credit hours for continuing education for certain programs to a maximum of two credit hours. See *Delaware Register of Regulations*, Vol. 8, Issue 5, pages 635 to 638, published November 1, 2004.

A public hearing was held upon due public notice by the Council beginning at 1:00 P.M. on January 18, 2005 to receive oral public comment and consider any written comments which had been filed concerning the proposed regulations as set forth in the version of the Regulations published for public review and comment in the *Delaware Register of Regulations*. The proposed Regulation changes were ultimately approved by the Council and sent forward to the Board of Medical Practice.

On March 1, 2005, the Board of Medical Practice considered and rejected the proposed Regulations addressing the administration of conscious sedation and analgesia by Respiratory Care Practitioners pending legislative review.

The Board of Medical Practice did not expressly review or reject the proposed deletion of Respiratory Care Practitioner Regulation 8.5.2.6. There were no comments on this proposed deletion at the hearing before the Council and no comments concerning it were received by the Board of Medical Practice.

REGULATION 8.5.2.6 (PROPOSED FOR REPEAL)

This Regulation currently provides:

8.5.2.6. Presentation or participation in review or recertification in American Heart Association or Red Cross provider or instructor programs, such as Advanced Cardiac Life Support, Basic Life Support, Pediatric Advanced Life Support, or CPR, to a maximum of two contact hours per program.

Finding of Fact and Conclusions

The Council finds, and recommends to the Board of Medical Practice, that it is reasonable and proper to eliminate Regulation 8.5.2.6.

Regulation 8.5.2 is a list of limitations of the contact hours which will be permitted for certain types of programs. Item 6 on the list limits participation in certain very critical programs (presentation or participation in review or recertification in American Heart Association or Red Cross provider or instructor programs, such as Advanced Cardiac Life Support, Basic Life Support, Pediatric Advanced Life Support, or CPR) to a maximum credit of two hours. These programs have increased significantly in content since the enactment of the two hour limitation and the Respiratory Care Practice Advisory Council unanimously concluded that the two hour limitation should be repealed. Individuals will still receive credit for completion of such programs however the limitation of such credit to a maximum of two hours will be deleted.

Recommendation to the Board of Medical Practice

The Respiratory Care Practice Advisory Council, by the affirmative vote of the undersigned members, hereby readopts the repeal of Regulation 8.5.2.6 and recommends approval of such repeal to the Board of Medical Practice.

The Repeal of Regulation 8.5.2.6 should be published in the *Delaware Register of Regulations* after approval by the Board of Medical Practice to be effective ten (10) days after such publication. A form of Order for the Board's consideration is attached.

APPROVED AND RECOMMENDED BY THE UNANIMOUS VOTE OF THE RESPIRATORY CARE PRACTICE ADVISORY COUNCIL THIS 15th day of March, 2005.

Paul W. Ford, Jr., M.D.
John D'Angelo, RRT
Patricia Resnik, RRT-NPS
Dawn Selhorst, RRT-NPS
Billie Speakman, RRT
Amy Thomas, RRT
Latrina Clark, RRT

AND NOW, this 5th day of **April**, 2005, the Board of Medical Practice having considered the hereto attached Recommendation of the Respiratory Care Practice Advisory Council which commends to the Board approval of the repeal of Regulation 8.5.2.6 of the Rules and Regulations of the Respiratory Care Practice Advisory Council pursuant to 24 **Del.C.** § 1770B;

AND, the Board of Medical Practice after consideration having determined to approve the aforesaid repeal of Regulation 8.5.2.6 as proposed by the Respiratory Care Practice Advisory Council;

NOW, THEREFORE, IT IS ORDERED:

1. That Regulation 8.5.2.6 of the Rules and Regulations of the Respiratory Care Practice Advisory Council is repealed and the remaining Regulations shall be renumbered accordingly.

2. That this Order shall be hereafter published in the *Delaware Register of Regulations* and the repeal of Regulation 8.5.2.6 shall be deemed to be effective ten (10) days after such publication.

BY ORDER OF THE BOARD OF MEDICAL PRACTICE:

Garrett Colmorgen, M.D.
Karl McIntosh, M.D.
Francis Marro, M.D.
Mr. John W. Banks
Mr. Vance Daniels
Roberto Villasenor, M.D.
Paul W. Ford, M.D.
Mr. George Brown
Ray A. Blackwell, M.D.
Galicano Inguito, M.D.
James Salva, M.D.
Vincent Lobo, D.O.
Anthony M. Policastro, M.D.
Oluseyi N. Senu-Oke, M.D.

1770 Respiratory Care Practice Advisory Council

8.0 Continuing Education

8.1 Contact Hours Required for Renewal

8.1.1 The respiratory care practitioner shall be required to complete (20) twenty contact hours biennially and to retain all certificates and other documented evidence of participation in an approved/accredited continuing education program for a period of at least (3) three years. Upon request, such documentation shall be made available to the Council for random audit and verification purposes. All contact hours must be completed at least sixty (60) days prior to the end of the renewal year.

8.1.2 Contact hours shall be prorated for new licensees in accordance with the following schedule:

Two years remaining in the licensing cycle requires -	20 hours
One year remaining in the licensing cycle requires -	10 hours
Less than one year remaining in the licensing cycle -	exempt

8.2 Exemptions

8.2.1 A licensee who because of a physical or

mental illness during the license period could not complete the continuing education requirement may apply through the Council to the Board of Medical Practice for a waiver. A waiver would provide for an extension of time or exemption from some or all of the continuing education requirements for one (1) renewal period. Should the illness extend beyond one (1) renewal period, a new request must be submitted.

8.2.2 A request for a waiver must be submitted sixty (60) days prior to the license renewal date.

8.3 Criteria for Qualification of Continuing Education Program Offerings

The following criteria are given to guide respiratory care practitioners in selecting an appropriate activity/program and to guide the provider in planning and implementing continuing education activities/programs. The overriding consideration in determining whether a specific activity/program qualifies as acceptable continuing education shall be that it is a planned program of learning which contributes directly to the professional competence of the respiratory care practitioner.

8.3.1 Definition of Contact Hours

8.3.1.1 Fifty consecutive minutes of academic course work, correspondence course, or seminar/workshop shall be equivalent to one (1) contact hour. A fraction of a contact hour may be computed by dividing the minutes of an activity by 50 and expressed as a decimal.

8.3.1.2 Recredentialing examination for certified respiratory therapy technician, (CRTT), and registered respiratory therapist, (RRT), shall be equivalent to five (5) contact hours.

8.3.1.3 Successful completion of advanced specialty exams administered by the National Board for Respiratory Care, (NBRC), shall be equal to five (5) contact hours for each exam.

8.3.1.4 One (1) semester hour shall be equal to fifteen (15) contact hours.

8.3.1.5 One (1) quarter hour shall be equal to ten (10) contact hours.

8.3.1.6 Two (2) hours (120 minutes) of clinical educational experience shall be equal to one (1) contact hour.

8.3.1.7 Fifty (50) consecutive minutes of presentation of lectures, seminars or workshops in respiratory care or health care subjects shall be equivalent to one (1) contact hour.

8.3.1.8 Preparing original lectures, seminars, or workshops in respiratory care or health care subjects shall be granted no more than two (2) contact hours for each contact hour of presentation.

8.3.1.9 Performing clinical or laboratory research in health care shall be reviewed and may be granted an appropriate number of contact hour(s) at the Council's discretion.

8.3.2 Learner Objectives

8.3.2.1 Objectives shall be written and be the basis for determining content, learning experience, teaching methodologies, and evaluation.

8.3.2.2 Objectives shall be specific, attainable, measurable, and describe expected outcomes for the learner.

8.3.3 Subject Matter

Appropriate subject matter for continuing education shall include the following:

8.3.3.1 Respiratory care science and practice and other scientific topics related thereto

8.3.3.2 Respiratory care education

8.3.3.3 Research in respiratory care and health care

8.3.3.4 Management, administration and supervision in health care delivery

8.3.3.5 Social, economic, political, legal aspects of health care

8.3.3.6 Teaching health care and consumer health education

8.3.3.7 Professional requirements for a formal respiratory care program or a related field beyond those that were completed for the issuance of the original license

8.3.4 Description

Subject matter shall be described in outline form and shall include learner objectives, content, time allotment, teaching methods, faculty, and evaluation format.

8.3.5 Types of Activities/Programs

8.3.5.1 An academic course shall be an activity that is approved and presented by an accredited post-secondary educational institution which carries academic credit. The course may be within the framework of a curriculum that leads to an academic degree in respiratory care beyond that required for the original license, or relevant to respiratory care, or any course that shall be necessary to a respiratory care practitioner's professional growth and development.

8.3.5.2 A correspondence course contains the following elements:

8.3.5.2.1 developed by a professional group, such as an education corporation or professional association.

8.3.5.2.2 follows a logical sequence.

8.3.5.2.3 involves the learner by requiring active response to module materials and provides feedback.

8.3.5.2.4 contains a test to indicate progress and to verify completion of module.

8.3.5.2.5 supplies a bibliography for continued study.

8.3.5.3 A workshop contains the following elements:

8.3.5.3.1 developed by a knowledgeable individual or group in the subject matter.

8.3.5.3.2 follows a logical sequence.

8.3.5.3.3 involves the learner by requiring active response, demonstration and feedback.

8.3.5.3.4 requires hands-on experience.

8.3.5.3.5 supplies a bibliography for continued study.

8.3.5.4 Advanced and specialty examinations offered by the NBRC or other examinations as approved by the Council including:

Recredentialing exam

Pediatric/perinatal specialty exam

Pulmonary function credentialing exams

Advanced practitioner exam

8.3.5.5 Course preparation

8.3.5.6 Clinical education experience must

be:

8.3.5.6.1 Planned and supervised.

8.3.5.6.2 Extended beyond the basic level of preparation of the individual who is licensed.

8.3.5.6.3 Based on a planned program of study.

8.3.5.6.4 Instructed and supervised by individual(s) who possess the appropriate credentials related to the discipline being taught.

8.3.5.6.5 Conducted in a clinical setting.

8.4 Educational Providers

8.4.1 Continuing education contact hours awarded for activities/programs approved by the following are appropriate for fulfilling the continuing education requirements pursuant to these regulations:

American Association for Respiratory Care.

American Medical Association under Physician Category I.

American Thoracic Society

American Association of Cardiovascular and Pulmonary Rehabilitation

American Heart Association

American Nurses Association

American College of Chest Physicians

American Society of Anesthesiologists

American Sleep Disorders Association

Other professional or educational organizations as approved periodically by the Council.

8.5 Accumulation of Continuing Education

8.5.1 When a licensee applies for license renewal, a minimum of twenty (20) contact hours in activities that update skills and knowledge levels in respiratory care theory, practice and science is required. The total of twenty (20) contact hours per renewal period shall include the following categories:

4 DE Reg. 694 (10/1/00)

8.5.1.1 A minimum of 12 contact hours of continuing education required for renewal must be acquired in a field related to the science and practice of respiratory care as set forth in Subsection 8.3.3, Subject Matter, 8.3.3.1, 8.3.3.2, or 8.3.3.3.

8.5.1.2 The remaining 8 contact hours of the continuing education required for renewal may be selected from Subsection 8.3.3, Subject Matter.

8.5.2 Contact hours, accumulated through preparation for, presentation of, or participation in activities/programs as defined are limited to application in meeting the required number of contact hours per renewal period as follows:

8.5.2.1 Presentation of respiratory care education programs, including preparation time, to a maximum of four contact hours.

8.5.2.2 Presentation of a new respiratory care curriculum, including preparation, to a respiratory care education program, to a maximum of four contact hours.

8.5.2.3 Preparation and publication of respiratory care theory, practice or science, to a maximum of four contact hours.

8.5.2.4 Research projects in health care, respiratory care theory, practice or science, to a maximum of four contact hours.

8.5.2.5 Infection control programs from facility or agency to a maximum of one contact hour.

~~8.5.2.6 Presentation or participation in review or recertification in American Heart Association or Red Cross provider or instructor programs, such as Advanced Cardiac Life Support, Basic Life Support, Pediatric Advanced Life Support, or CPR, to a maximum of two contact hours per program.~~

8.5.2.7 Academic course work, related to health care or health care administration, to a maximum of four contact hours.

8.6 Review/Approval of Continuing Education Contact Hours

8.6.1 The Council may review the documentation of any respiratory care practitioner's continuing education.

8.6.2 The Council may determine whether the activity/program documentation submitted meets all criteria for continuing education as specified in these regulations.

8.6.3 Any continuing education not meeting all provisions of these rules shall be rejected in part or in whole by the Council.

8.6.4 Any incomplete or inaccurate documentation of continuing education may be rejected in part or in whole by the Council.

8.6.5 Any continuing education that is rejected must be replaced by acceptable continuing education within a reasonable period of time established by the Council. This

continuing education will not be counted towards the next renewal period.

8.6.6 Each license not renewed in accordance with this section shall expire, but may within a period of three years thereafter be reinstated upon payment of all fees as set by the Division of Professional Regulation of the State of Delaware.

8.6.7 An applicant wishing to reinstate an expired license shall provide documentation establishing completion of the required 20 hours of continuing education during the two-year period preceding the application for renewal.

4 DE Reg. 694 (10/1/00)

***Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Respiratory Care Practice Advisory Council is available at: <http://www.state.de.us/research/AdminCode/title24/1770RespiratoryCarePracticeAdvisoryCouncil.shtml>**

**DIVISION OF PROFESSIONAL REGULATION
2600 BOARD OF PHYSICAL THERAPISTS AND
ATHLETIC TRAINERS**

Statutory Authority: 24 Delaware Code,
Section 2604(1) (24 Del.C. §2604(1))
24 DE Admin. Code 2600

ORDER

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on April 19, 2005 at a scheduled meeting of the Delaware Examining Board of Physical Therapists and Athletic Trainers to receive comments regarding proposed amendments to its rules and regulations due to the enactment of House Bill 292 enacted by the 142nd General Assembly. The proposed amendments clarify provisions in the rules and regulations related to the practice of athletic training. The proposed regulation was published in the *Register of Regulations*, Vol. 8, Issue 9, March 1, 2005.

Summary of the Evidence and Information Submitted

No written comments were received. No public comment was received at the April 19, 2005 hearing.

Findings of Fact with Respect to the Evidence and Information Submitted

The Board carefully reviewed and considered its rules and regulations with respect to the current practice of athletic training following the enactment of House Bill 292. The Board established a subcommittee which held several meetings and received input from representatives of the Delaware Athletic Trainers Association (DATA) and the Delaware Physical Therapy Association (DPTA). The subcommittee reported its recommendations to the Board. The amendments reflect those recommendations adopted by the Board for publication.

The “primary objective of the Examining Board of Physical Therapists and Athletic Trainers, which all other objectives and purposes are secondary, is to protect the general public (especially those persons who are direct recipients of services regulated by this chapter) from unsafe practices and from occupational practices which tend to reduce competition or to fix the price of services rendered.” 24 Del.C. §2601.

The Board finds that the amendments to its rules and regulations meet the primary objective of the Board by clarifying the rules and regulations related to the practice of athletic training. The amendments clarify supervisory provisions related to athletic trainers, treatment of athletic and non-athletic injuries and exceptions, continuing education, licensure by reciprocity, temporary licensure, reactivation and reinstatement related to an inactive license. In summary, the Board finds that adopting the amendments to its rules and regulations as proposed is in the best interest of the citizens of the State of Delaware and is necessary to protect the health and safety of the general public, particularly the recipients of athletic training services.

The Law

The Board’s rulemaking authority is provided by 24 Del.C. §2604(a)(1).

Decision and Effective Date

The Board hereby adopts the proposed amendments to its rules and regulations to be effective 10 days following publication of this Order in the *Register of Regulations*.

Text and Citation

The text of the rule remains as published in *Register of Regulations*, Vol. 8, Issue 9, March 1, 2005, and as attached hereto as Exhibit A.

SO ORDERED this 19th day of April, 2005.

EXAMINING BOARD OF PHYSICAL THERAPISTS AND ATHLETIC TRAINERS

Gary T. Nowell, President, Professional Member

Patrick McKenzie, Vice-Chairperson,
Professional Member

Katherine Daniello, Professional Member

Vincent De Leo, Professional Member

Sharon Harris, Public Member

Steven Kotrch, Public Member

Ruth Ann Messick, Public Member

Denise Smith, Professional Member

John R. Smith, Professional Member

Kristen Whiteman, Professional Member

1.0 Definitions

1.1 Consultation (24 Del.C. §2612)

1.1.1 Consultation in direct access. A licensed health practitioner who has been granted prescriptive authority must be consulted if a patient is still receiving physical therapy after 30 calendar days have lapsed from the date of the initial assessment. This consultation must be documented and could take place at any time during the initial thirty day period. The consultation can be made by telephone, fax, in writing, or in person. There is nothing in these rules and regulations or in the Physical Therapy Law that limits the number of consultations the Physical Therapist can make on the patient's behalf. The consult should be with the patient's personal licensed health practitioner. If the patient does not have a personal licensed health practitioner, the Physical Therapist is to offer the patient at least three licensed health practitioner from which to choose. The referral to a licensed health practitioner after the initial thirty day period must not be in conflict with 24 Del.C. §2616(a)(8) which deals with referral for profit. If no licensed health practitioner consult has been made in this initial thirty day period, treatment must be terminated and no treatment may be resumed without a licensed health practitioner consult.

1.1.2 Consultation with written prescription from a licensed health practitioner. A prescription accompanying a patient must not be substantially modified without documented consultation with the referring practitioner. The consultation can be made by telephone, fax, in writing, or in person.

1.2 Direct Supervision (24 Del.C. §2611(a))

1.2.1 Direct supervision in connection with a Physical Therapist or Athletic Trainer practicing under a temporary license means:

1.2.1.1 a licensed Physical Therapist or Athletic Trainer supervisor shall be on the premises when the individual with a temporary license is practicing and

1.2.1.2 evaluations and progress notes written by the individual with a temporary license shall be co-signed by the licensed Physical Therapist supervisor.

1.2.2 Direct supervision in relation to a Physical Therapist Assistant with less than one (1) year experience means a Physical Therapist shall be on the premises at all times and see each patient.

1.2.3 Direct supervision in relation to a Physical Therapist Assistant with one (1) year or more experience means that a Physical Therapist Assistant must receive on-site, face to face supervision at least once every fifth treatment day or once every three weeks, whichever occurs first. The supervising Physical Therapist must have at least one (1) year clinical experience. The Physical Therapist must be available and accessible by telecommunications to the Physical Therapist Assistant during all working hours of the Physical Therapist Assistant.

1.2.4 The Physical Therapist is responsible for the actions of the Physical Therapist Assistant or the Athletic Trainer when under his/ her supervision. All supervision must be documented.

1.2.5 ~~Direct supervision in connection with an athletic trainer in a non-clinical setting means that the supervising athletic trainer should be personally present and immediately available to the treatment area.~~ Direct supervision in connection with an Athletic Trainer treating an injury not defined as an 'athletic injury', which must be a musculoskeletal disorder if seen for physical therapy when the athletic trainer has one (1) year or more of continuous experience means that an Athletic Trainer must receive on-site, face to face supervision at least once every fifth treatment day or once every three weeks, whichever occurs first. The supervising Physical Therapist must have at least one (1) year clinical experience. The Physical Therapist must be accessible by telecommunications to the Athletic Trainer during all work hours of the Athletic Trainer.

Direct supervision in connection with an Athletic Trainer treating an injury not defined as an 'athletic injury' which must be a musculoskeletal disorder if seen for physical therapy, when the Athletic Trainer has less than one (1) year of continuous experience means a Physical Therapist shall be on the premises at all times and see each patient.

1.2.6 Direct supervision in connection with an Athletic Trainer with a temporary license treating an 'athletic injury' is that the licensed Athletic Trainer supervisor shall be on the premises when the individual with a temporary license is practicing and all evaluations and progress notes shall be co-signed by the Athletic Trainer supervisor.

1.2.67 ~~Direct supervision in connection with an Athletic Trainer means a Physical Therapist shall be on the premises at all times in a clinical setting and see every patient. in relation to an Athletic Trainer with one (1) year or more experience means that an Athletic Trainer must receive on-site, face to face supervision at least once every fifth treatment day or once every three weeks, whichever occurs first. The Supervising Athletic Trainer must have at least one~~

(1) year experience. The Supervising Athletic Trainer must be available and accessible by telecommunications to the Athletic Trainer during all working hours.

1.2.7 ~~8~~ At no time may a Physical Therapist supervise more than 2 Physical Therapist Assistants, 2 Athletic Trainers or 1 Physical Therapist Assistant and 1 Athletic Trainer. A Physical Therapist may only supervise 1 Physical Therapist Assistant off site. ~~Athletic Trainers must be supervised on site.~~

1.2.8 ~~9~~ Direct supervision in connection with support personnel means a licensed Physical Therapist, ~~or Physical Therapist Assistant or Athletic Trainer~~ shall be personally present and immediately available within the treatment area to give aid, direction, and instruction when procedures are performed. On site or on premises (24 Del.C. §2602(5)), ~~in connection with supervision of a Physical Therapist Assistant or Athletic Trainer,~~ means that the ~~Physical Therapist Assistant or Athletic Trainer~~ supervising professional ~~must be in the same physical building as the supervising Physical Therapist. On site or on premises does not refer to attached buildings is located on the same physical property where the supervision is occurring.~~

1.3 ~~On site or on premises (24 Del.C. §2602(5)), in connection with supervision of a Physical Therapist Assistant or Athletic Trainer, means that the Physical Therapist Assistant or Athletic Trainer must be in the same physical building as the supervising Physical Therapist. On site or on premises does not refer to attached buildings.~~

1.4 ~~3~~ Support personnel (24 Del.C. §2615) means a person(s) who performs certain routine, designated physical therapy tasks, or athletic training tasks, under the direct supervision of a licensed Physical Therapist or Physical Therapist Assistant- or Athletic Trainer. There shall be documented evidence of sufficient in-service training to assure safe performance of the duties assigned to the support personnel.

1.5 ~~4~~ Unprofessional Conduct (24 Del.C. §2616(7)). Unprofessional conduct shall include departure from or the failure to conform to the minimal standards of acceptable and prevailing physical therapy practice or athletic training practice, in which proceeding actual injury to a patient need not be established 24 Del.C. §2616(7). Such unprofessional conduct shall include, but not be limited to, the following:

1.54.1 Assuming duties within the practice of physical therapy or athletic training without adequate preparation or supervision or when competency has not been maintained.

1.54.2 The Physical Therapist or Athletic Trainer who knowingly allows a Physical Therapist Assistant or Athletic Trainer to perform prohibited activities is guilty of unprofessional conduct.

1.54.3 The Physical Therapist, Physical Therapist Assistant, or Athletic Trainer who knowingly performs prohibited activities is guilty of unprofessional conduct.

1.54.4 The Physical Therapist, Athletic Trainer, or Physical Therapist Assistant who knowingly allows support personnel to perform prohibited activities is guilty of unprofessional conduct.

1.54.5 Performing new physical therapy or athletic training techniques or procedures without proper education and practice or without proper supervision.

1.54.6 Failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient.

1.54.7 Inaccurately recording, falsifying, or altering a patient or facility record.

1.54.8 Committing any act of verbal, physical, mental or sexual abuse of patients.

1.54.9 Assigning untrained persons to perform functions which are detrimental to patient safety, for which they are not adequately trained or supervised, or which are not authorized under these rules and regulations.

1.54.10 Failing to supervise individuals to whom physical therapy or athletic training tasks have been delegated.

1.54.11 Failing to safeguard the patient's dignity and right to privacy in providing services regardless of race, color, creed and status.

1.54.12 Violating the confidentiality of information concerning the patient.

1.54.13 Failing to take appropriate action in safeguarding the patient from incompetent health care practice.

1.54.14 Practicing physical therapy as a Physical Therapist or Physical Therapist Assistant or athletic training as an Athletic Trainer when unfit to perform procedures or unable to make decisions because of physical, psychological, or mental impairment.

1.54.15 Practicing as a Physical Therapist, Physical Therapist Assistant or Athletic Trainer when physical or mental ability to practice is impaired by alcohol or drugs.

1.54.16 Diverting drugs, supplies or property of a patient or a facility.

1.54.17 Allowing another person to use his/her license.

1.54.18 Resorting to fraud, misrepresentation, or deceit in taking the licensing examination or obtaining a license as a Physical Therapist, Physical Therapist Assistant or Athletic Trainer.

1.54.19 Impersonating any applicant or acting as proxy for the applicant in a Physical Therapist, Physical Therapist Assistant, or Athletic Trainer licensing examination.

1.54.20 A Physical Therapist, who initiated a physical therapy plan of care without a referral. ~~Continuing to treat a patient, who initiated treatment without a formal referral,~~ for longer than thirty days without a licensed health

practitioner consult. An Athletic Trainer continuing to treat a patient, who initiated treatment for a minor strain, sprain, or contusion for longer than thirty days without a licensed health practitioner consult; preventative taping, padding, bandaging, icing and conditioning excluded.

1.54.21 Substantially modifying a treatment prescription without consulting the referring licensed health practitioner.

1.54.22 Failing to comply with the mandatory continuing education requirements of 24 Del.C. §2607(a) and Section 7 of these rules and regulations.

4 DE Reg. 1114 (1/1/01)

5 DE Reg. 2101 (5/1/02)

2.0 Board

2.1 Specific duties of the officers:

2.1.1 The Chairperson:

2.1.1.1 Shall call meetings of the Board at least twice a year.

2.1.1.2 Shall represent the Board in all official functions and act as Board spokesperson.

2.1.2 The Vice-Chairperson:

2.1.2.1 Shall substitute for the Chairperson during the officer's absence.

2.1.3 The Secretary:

2.1.3.1 Shall preside when the Chairperson and Vice-Chairperson are absent.

3.0 Physical Therapist Assistants (24 Del.C. §2602(3))

The Physical Therapist Assistant may treat patients only under the direction of a Physical Therapist as defined in Sections 1.2.2 and 1.2.3. The Physical Therapist Assistant may perform physical therapy procedures and related tasks that have been selected and delegated by the supervising Physical Therapist. The Physical Therapist Assistant may administer treatment with therapeutic exercise, massage, mechanical devices, and therapeutic agents that use the properties of air, water, electricity, sound or light. The Physical Therapist Assistant may make minor modifications to treatment plans within the predetermined plan of care, assist the Physical Therapist with evaluations, and document treatment progress. The ability of the Physical Therapist Assistant to perform the selected and delegated tasks shall be assessed by the supervising Physical Therapist. The Physical Therapist Assistant shall not perform interpretation of referrals, physical therapy evaluation and reevaluation, major modification of the treatment plan, final discharge of the patient, or therapeutic techniques beyond the skill and knowledge of the Physical Therapist Assistant or without proper supervision.

4.0 Athletic Trainers (24 Del.C. §2602)

~~The Athletic Trainer in a clinical setting — 24 Del.C. §2602(5)-~~

~~The Athletic Trainer in a nonclinical setting — 24 Del.C. §2602(5)-~~

4.1 Athletic injuries:

4.1.1 Athletic trainers may treat athletic injuries. Athletic injuries shall be considered musculoskeletal injuries to athletes that occur while currently participating in, or currently training for, scholastic, professional, or sanctioned amateur athletics, where such injury limits the athlete's ability to participate or train for their sport. Athletic Trainers may also treat musculoskeletal injuries received by athletes that occur while currently participating in recreational activities, where such recreational activities are recognized by the Amateur Athletic Union (see website for list of activities within the AAU). All Athletic injuries must be documented by the Athletic Trainer as interfering with participation in or training for such athletic activities. Nothing prohibits the Athletic Trainer from treating minor sprains, strains, and contusions to athletes currently participating in professional, scholastic, recreational, or sanctioned amateur athletic activities.

4.2 Non-athletic injuries:

4.2.1 Athletic Trainers may treat musculoskeletal injuries as part of a physical therapy plan of care only under the direction and supervision of a Physical Therapist as defined in sections 1.2.5 and 1.2.6. The Athletic Trainer may perform physical therapy and athletic training procedures and related tasks that have been selected and delegated by the supervising physical therapist. The Athletic Trainer may administer treatment with therapeutic exercises and modalities such as heat, cold, light air water, sound, electricity, massage and non-thrust mobilization. The Athletic Trainer may document treatment progress. The ability of the Athletic Trainer to perform selected and delegated tasks shall be assessed by the supervising Physical Therapist. The Athletic Trainer shall not perform interpretation of referrals, physical therapy evaluation and reevaluation, modification of the treatment plan, final discharge of the patient, or therapeutic techniques beyond the skill and knowledge of the athletic trainer without proper supervision. The supervising Physical Therapist must be contacted for approval to make any modification of the treatment plan within the physical therapy plan of care.

4.3 Exceptions:

4.3.1 Nothing in this regulation shall limit an Athletic Trainer's ability to provide preventative care procedures of conditioning, taping, protective bandaging, padding and icing. Nothing in this regulation shall limit an Athletic Trainer's ability to provide emergency treatment to injuries, or to provide immediate care to athletes who are currently participating in scholastic, professional, or sanctioned amateur athletics, within the scope of their training, so long as the immediate care does not last longer than 5 days.

5.0 Support Personnel (24 Del.C. §2615)

5.1 Treatments which may be performed by support personnel under direct supervision are:

- 5.1.1 ambulation
- 5.1.2 functional activities
- 5.1.3 transfers
- 5.1.4 routine follow-up of specific exercises
- 5.1.5 hot or cold packs
- 5.1.6 whirlpool/Hubbard tank
- 5.1.7 contrast bath
- 5.1.8 infrared
- 5.1.9 paraffin bath
- 5.1.10 ultra sound

5.2 Exceptions - A support person may perform:

5.2.1 patient related activities that do not involve treatment, including transporting patients, undressing and dressing patients, and applying assistive and supportive devices without direct supervision, and

5.2.2 set up and preparation of patients requiring treatment using ~~Physical Therapist~~ modalities.

5.3 Prohibited Activities - support personnel may not perform:

- 5.3.1 evaluation, or
- 5.3.2 treatments other than those listed in Section 5.1.

4 DE Reg. 1114 (1/1/01)**6.0 Qualifications of Applicant (24 Del.C. §2606)**

6.1 Applications, copies of the rules and regulations, and copies of the Practice Act are available from the Division of Professional Regulation.

6.2 Applicants for Physical Therapist or Physical Therapist Assistant licensure shall not be admitted to the examination without the submission of the following documents:

6.2.1 Professional Qualifications - proof of graduation (official transcript) from an educational program for the Physical Therapist or Physical Therapist Assistant which is accredited by the appropriate accrediting agency as set forth in the Practice Act.

6.2.2 A fee in check or money order payable to the State of Delaware.

6.2.3 A completed application form.

6.3 The Board may use the Physical Therapist and Physical Therapist Assistant examination endorsed by the Federation of State Boards of Physical Therapy and the APTA, respectively.

6.4 All applicants for licensure as a Physical Therapist or Physical Therapist Assistant must successfully pass the examination described in Section 6.3 in order to become eligible for licensure. The Board will adopt the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy.

6.5 Applicants for licensure as an Athletic Trainer must submit to the Board the following:

6.5.1 Professional Qualifications - proof of graduation (official transcript) from an educational program described in 24 Del.C. §2606(a)(1), whether an accredited program or National Athletic Trainers Association Board of Certification (NATA BOC) internship.

6.5.2 Official letter of Athletic Trainer certification from NATABOC.

6.5.3 A check or money order made payable to the State of Delaware.

6.5.4 The completed application form.

6.6 Licenses shall expire biennially on every odd numbered year. The following items shall be submitted upon application for renewal:

6.6.1 completed renewal application form,

6.6.2 applicable fee, and

6.6.3 for individuals seeking renewal, evidence of continuing education courses as provided by Section 7.

7.0 Mandatory Continuing Education Units (CEU's) (24 Del.C. §2607 (a))

7.1 Three CEU's are required for every biennial license renewal for Physical Therapists, Physical Therapist Assistants, and Athletic Trainers. The Continuing Education Unit Activity Record (CEUAR) credits shall be received at the Division of Professional Regulation, Dover, Delaware, no later than November 30th of every even numbered year and shall be received every 2 years after such date.

7.2 Individuals shall maintain the following items in order to receive credit for CEU's:

7.2.1 name of applicant seeking renewal

7.2.2 license classification (Physical Therapist, Physical Therapist Assistant, Athletic Trainer)

7.2.3 license number of applicant

7.2.4 proof of attendance at CEU course

7.2.5 date of CEU course

7.2.6 instructor(s) of CEU course

7.2.7 sponsor of CEU course

7.2.8 title of CEU course

7.2.9 number of hours of CEU course

7.3 Continuing Education Regulations, (24 Del.C. §2607(a)). Each licensed Physical Therapist, Physical Therapist Assistant and Athletic Trainer is responsible for continuing his/her education so that professional skills are maintained in accordance with the advancement of the profession. The purpose of this is to help Physical Therapists, Physical Therapist Assistants, and Athletic Trainers become more efficient in achieving their objectives.

7.3.1 For a licensee to renew a license, the licensee must complete three continuing education units over the two year period immediately preceding November 30th of each even year. CEU's completed before November 30th

of the even year shall not be carried over to the next renewal period. Any continuing education completed in the December or January preceding renewal will apply to the next renewal period. CEU requirements shall be prorated for new licensees. If the license is granted during the six month period shown below, the following will be required for renewal:

Odd Numbered Year	Even Numbered Year
1/1- 6/30 2.5 CEUs	1/1- 6/30 1.5 CEUs
7/1-12/31 2.0 CEUs	7/1-12/31 .5 CEUs

7.3.2 One CEU will be given for every 10 hours of an approved continuing education course. (1 contact hour = .1 CEU). Each course must include topics relevant to the field of health care as it pertains to Physical Therapy or Athletic Training. Approval of CEU's shall be within the discretion of the State Examining Board of Physical Therapists. Continuing education units that have been previously approved during the current licensing period by another agency such as a national governing body or a fellow state licensing board shall be acceptable to the Examining Board for the State of Delaware as appropriate CEU's. Any sponsors or licensees wishing to receive prior written approval of CEU courses from the Examining Board must complete a CEU Application Form. CEU's may not be carried over from one biennial period to the next one.

7.3.3 At the time of license renewal, the appropriate forms will be supplied by the Board. Proof of attendance shall be enclosed by the licensee when requested by the Board. While course brochures may be used to verify contact hours, they are not considered to be acceptable proof for use of verification of course attendance. All licensees must complete and submit to the Board the CEUAR. If randomly selected, the licensee must submit documentation of the CEU's. The CEUAR is due November 30th of the even year. All questionable CEUAR's will be re-evaluated.

7.3.4 In the event a licensee shall fail to complete the required credits by November 30, 2000, the Board may withhold issuance of a permanent license unless the CEUAR required by Section 7.3.3 is accompanied by a specific plan for making up the deficiency of necessary credits by March 31, 2001. The plan shall be deemed accepted by the Board unless within 60 days after the receipt of the CEUAR the Board notifies the licensee to the contrary. Full completion of the licensee's plan shall be reported by CEUAR not later April 15, 2001. Failure to complete the specific plan may result in the Board suspending the license issued, following a hearing pursuant to the Administrative Procedures Act, for unprofessional conduct as defined by Section 1.5.22. This provision no longer applies effective with the 2003 renewal.

7.3.5 The Board has the power to waive any part of the entire CEU requirement. Exemptions to the CEU requirement may be granted due to prolonged illness or other

incapacity. Application for exemption shall be made in writing to the Board by the applicant for renewal and must be received by the Board no later than November 30th of the end of the respective CEU term.

7.3.6 CEU's may be earned through Board approved courses in colleges and universities, extension courses, independent study courses, workshops, seminars, conferences, lectures, videotapes, professional presentations and publications, and in-services oriented toward the enhancement of their respective professional's practice. CEU programs shall be conducted under responsible sponsorship, capable direction and qualified instruction. The program may include staff development activities of agencies and cross-disciplinary offerings.

7.3.7 The following are examples of acceptable continuing education which the Board may approve. The Board will determine the appropriate number of contact hours for these categories of continuing education, subject to any limitation shown below.

7.3.7.1 professional meetings including national, state, chapter, and state board meetings

7.3.7.2 seminars/workshops

7.3.7.3 staff/faculty in-services

7.3.7.4 first time presentation of professionally oriented course/lecture (0.3 CEU/hour per presentation)

7.3.7.5 approved self studies including:

- videotapes, if:

- there is a sponsoring agency

- there is a facilitator or program official

present

- the program official is not the only

attendee

- correspondence course, if a sponsoring agency provides a certificate of completion

7.3.8 The following are also examples of acceptable continuing education in the amount of CEU's shown.

7.3.8.1 university/college courses:

1.0 CEU for semester

0.8 CEU for trimester

0.7 CEU for quarter

7.3.8.2 passing of licensing examination (1.5 CEU's)

7.3.8.3 original publication in peer reviewed publication (0.3 CEU)

7.3.8.4 original publication in non-peer reviewed publication (0.1 CEU)

7.3.8.5 holding of an office (0.3 CEU), to include:

- executive officer's position for the

national or state professional associations (President, Vice-President, Secretary, Treasurer)

- member, Examining Board of Physical Therapists

7.3.8.6 acting as the direct clinical instructor providing supervision to a Physical Therapist, Physical Therapist Assistant or Athletic Trainer student officially enrolled in an accredited ~~institution~~ program during an internship (40 contact hours = 0.1 CEU).

7.3.8.7 acting as the direct clinical instructor providing supervision to an Athletic Training student officially enrolled in an accredited Athletic Training Education Program (40 contact hours = 0.1 CEU).

8.0 Admission to Practice, Licensure by Reciprocity (24 Del.C. §2610)

Definition - The granting of a license to an applicant who meets all the requirements set forth in this section and 24 Del.C. §2610.

8.1 The reciprocity applicant shall submit the documentation listed in rules 6.2 or 6.5.

8.2 An applicant shall be deemed to have satisfied this section upon evidence satisfactory to the Board that he/she has complied with the standards set forth below:

8.2.1 The Physical Therapist or Physical Therapist Assistant applicant has passed the examination in the state, territory, or the District of Columbia in which he/she was originally licensed/registered. The passing score shall be 1.5 standard deviation below the national norm for those Physical Therapists and Physical Therapist Assistants having taken the examination prior to 1990.

8.2.2 All Physical Therapist/Physical Therapy Assistant reciprocity applicants shall supply his/her examination scores to the Board. The applicant may obtain his/her scores from the regulatory body of the state, territory, or the District of Columbia in which he/she was originally licensed/registered or from the FSBPT Score Transfer Service. From Physical Therapist applicants who were licensed/registered by a state, territory, or the District of Columbia only prior to 1963, the Board shall accept the following:

8.2.2.1 Professional Examination Service-American Physical Therapy Association (PES-APTA) examination scores with a passing grade of 1.5 standard deviation below the national norm on all sections, or

8.2.2.2 other examining mechanisms which in the judgment of the Board were substantially equal to the mechanisms of the State of Delaware at the time of examination.

8.2.3 For the Athletic Trainer candidate, the passing score shall be that which was established at time of examination. All sections of the examination shall be passed. The reciprocity applicant shall ~~supply his/her examination scores to the Board.~~ have their National Athletic Trainer Association Board of Certification (NATABOC)

[verification of certification] forwarded directly to the Board office.

9.0 Temporary Licensure (24 Del.C. §2611)

9.1 The Board may issue a temporary license to all applicants who have submitted to the Board the documents listed in Rule 6.2 and Rule 6.5, respectively, and who have been determined to be eligible to take the examination. The Board shall accept a letter signed by the Physical Therapist or Physical Therapist Assistant applicant's school official stating that the applicant has completed all requirements for graduation; provided, however, that the applicant shall submit to the Board an official transcript as soon as it becomes available. The Board will determine the Physical Therapist or Physical Therapist Assistant applicant's eligibility to take the examination. In the case of Athletic Trainer applicants for temporary license, a letter from NATA stating the applicant's eligibility to take the NATA examination will be required. Physical Therapist and Physical Therapist Assistant applicants may practice only under the direct supervision of a licensed Physical Therapist. Athletic Trainer applicants may practice only under the direct supervision of a licensed Athletic Trainer ~~in a non-clinical setting. In a clinical setting, Athletic Trainer applicants may practice only under the direct supervision of a licensed or Physical Therapist; as that supervision is defined in regulation 1.2 above.~~ A temporary license shall expire upon notice to the applicant of his/her failure to pass the license examination and may not be renewed. In all other cases, a temporary license may be renewed only once.

9.2 Applicants requesting reciprocity as a Physical Therapist, Physical Therapist Assistant, and Athletic Trainer. The Board may issue a temporary license to an applicant upon the applicant's submission of letters of good standing from all jurisdictions in which the applicant is or has ever been licensed. The temporary licensee may practice only under the direct supervision of an applicable licensed professional.

9.3 Applicants engaged in a special project, teaching assignment, or medical emergency as described in 24 Del.C. §2611(b) must submit letters of good standing from all jurisdictions in which the applicant is or has ever been licensed.

5 DE Reg. 2101 (5/1/02)

10.0 Foreign Trained Applicant for Licensure (24 Del.C. §2606 (b))

10.1 Applicants for licensure who are graduates of a Physical Therapist, Physical Therapist Assistant school or Athletic Trainer program located in a foreign country shall complete all of the following requirements before being admitted to the examination.

10.1.1 The applicant shall submit proof satisfactory to the Board of graduation from an education

program appropriate to their profession in a foreign country. Each foreign applicant must demonstrate that they have met the minimum education requirements as presented by the Federation of State Boards in the Course Work Evaluation Tool for Persons Who Received Their Physical Therapy Education Outside the United States. The applicant shall arrange and pay for a credential evaluation of such foreign school's program to be completed by one of four independent agencies:

International Educational Research Foundation, Inc.
P.O. Box 3665
Culver City, CA 90231
(Address change 2/1/01)

International Consultants of Delaware, Inc.
109 Barksdale Professional Center
Newark, DE 19711

Educational Credential Evaluators, Inc.
P.O. Box 92970
Milwaukee, WI 53202-0970

Foreign Credentialing Commission for Physical
Therapists
P.O. Box 25827
Alexandria VA 22313-9998

10.1.2 The applicant shall complete the requirements of rules 6.2 or 6.5.

10.1.3 The applicant shall pass the examination described in rules 6.3 and 6.4.

11.0 Reactivation and Reinstatement (24 Del.C. §2607)

11.1 Any person who has been registered in the State and is not actively engaged in the practice of physical therapy or athletic training in the State may, upon request, be placed on the inactive register for the remainder of the biennial licensure period. Subsequent requests for extensions of inactive status should be submitted biennially. The Board may reactivate an inactive license if the Physical Therapist, Physical Therapist Assistant or Athletic Trainer:

11.1.1 files a written request for reactivation;

11.1.2 has been actively engaged in the practice for the past five years. If the licensee has not met this condition, the following requirements shall be completed:

11.1.2.1 The Physical Therapist, ~~or Physical Therapist Assistant, or Athletic Trainer~~ working in a clinical setting shall work under the direct supervision of a Physical Therapist/~~Athletic Trainer~~ in Delaware for a minimum of six months.

11.1.2.2 The Athletic Trainer ~~working in a nonclinical setting~~ shall work under the direct supervision of

an Athletic Trainer in Delaware for a minimum of six months.

11.1.2.3 At the end of the period, the supervising Physical Therapist/Athletic Trainer shall certify to the applicant's clinical competence on forms supplied by the Board;

11.1.3 submits proof of completion of 1.5 CEU's during the previous 12 months.

11.2 Provided reinstatement is requested within 5 years of the expiration date, the Board may reinstate the license of a Physical Therapist, Physical Therapist Assistant, or Athletic Trainer who allowed their license to lapse without requesting placement on the inactive register if the Physical Therapist, Physical Therapist Assistant, or Athletic Trainer:

11.2.1 completes a form supplied by the Board

11.2.2 provides proof of completion of 3.0 CEU's during the previous 24 months

11.3 If the license has been expired over five years, the Physical Therapist/Physical Therapist Assistant/Athletic Trainer must file a new application and provide proof of completion of 3.0 DEU's when reapplying under the provisions which govern reciprocity.

5 DE Reg. 2101 (5/1/02)

6 DE Reg. 189 (8/1/02)

12.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

12.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

12.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

12.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

12.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's

designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

12.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection (h) of this section.

12.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

12.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

12.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

12.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

12.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and

treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

12.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

12.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

12.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

12.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

12.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

12.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

12.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

12.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

DIVISION OF PROFESSIONAL REGULATION

3900 Board of Clinical Social Work Examiners

Statutory Authority: 24 Delaware Code,
Section 3906(1) (24 Del.C. §3906(a)(1))
24 DE Admin. Code 3900

ORDER

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on February 14, 2005 at a scheduled meeting of the Delaware Board Clinical Social Work Examiners to receive comments regarding proposed Regulation 11.0. The proposed regulation identifies crimes substantially related to the practice of clinical social work as mandated by SB 229 enacted by the 142nd General Assembly. The proposed regulation was published in the *Register of Regulations*, Vol. 8, Issue 7, January 1, 2005.

Background

Under Title 24, Chapter 39, one of the qualifications for licensure is that the applicant shall submit evidence that the applicant "has not engaged in any of the acts or offenses that would be grounds for disciplinary action under this chapter; has no disciplinary proceedings or unresolved complaints pending against that person in any jurisdiction where the applicant previously has been, or currently is, licensed to practice clinical social work." 24 Del.C. §3907(a)(2). 24 Del.C. §3915 (a)(4), as amended by SB 229, provides that practitioners shall be subject to those disciplinary actions set forth in §3916 of this title if, after a hearing, the Board finds that the practitioner "has been convicted of a crime that is substantially related to clinical social work or any offense which would limit the ability of the practitioner to carry out the practitioner's professional duties with due regard for the health and safety of clients."

"Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to clinical social work." 24 Del.C. §3902(5).

The Board's authority to promulgate rules and regulations implementing or clarifying specific sections of Chapter 39 is set forth in 24 Del.C. §3906(a)(1). The specific mandate for this rule is set forth in 24 Del.C. §3906(b). The proposed regulation specifically identifies those crimes which are substantially related to the practice of clinical social work.

Summary of the Evidence and Information Submitted

No written comments were received.

Gail Levinson, LSCW, and President of the Delaware Clinical Social Work Society inquired as to whether the age or circumstance of the person who is convicted of one of the crimes on the list would be factored into considering that person for licensure. Counsel for the Board responded that statute as written does not allow the Board to consider time frame or context of a particular offense. If the conviction is on the Board's list it is a basis for denial of licensure. If a person is already licensed and reports a conviction during their next renewal, the conviction could be a basis for discipline. Ms. Levinson also inquired as to the number of other States that have a similar law. Counsel for the Board responded that she was unaware of any other States that have an identical law. Dr. Carroll stated that she attended the Association of Social Workers in Virginia and brought up what was happening in Delaware and people around the country and in Canada were very surprised. Mr. Toole responded that the sponsor of the bill was establishing Delaware as a model for other jurisdictions. Mr. Carter added the Board was concerned about offenses committed when individuals were 18 or 19 and thought long and hard to determine the offenses selected as pertinent to social workers.

Ms. Levinson commented that she thought the Board did a good job compared to other professions. She also sent the list to the Executive Director of the Clinical Social Work Federation and to the person in charge of legislative affairs and they did not see any thing particularly out of line. She commended the Board on its choices.

Finally, she commented that she had concerns about the State going in this direction when she is not seeing aggressive action on unlicensed practice but stated that that was another matter for later.

Findings of Fact with Respect to the Evidence and Information Submitted

The Board carefully reviewed and considered the crimes presented as a compilation of crimes extracted from the **Delaware Code**. The overarching concern of the Board was the safety of the public since the licensed practitioners work with individuals who are in situations that make them vulnerable to abuse and undue influence and include

children and the elderly. The clinical social worker also has access to confidential client information concerning health, family issues and financial information.

The "primary objective of the Board of Clinical Social Work Examiners, to which all other objectives and purposes are secondary, is to protect the general public (specifically those persons who are direct recipients of services regulated by this chapter) from unsafe practices, and from occupational practices which tend to reduce competition or fix the price of services rendered." 24 Del.C. §3901.

The Board appreciates Ms. Levinson's comments but finds no basis to make changes to the proposed rule based upon the substance of her public comment.

The Board finds that the crimes identified in the proposed rule are substantially related to fitness or ability to perform 1 or more of the duties and responsibilities of a clinical social worker in that they involve: the use of physical violence or force, or the threat thereof, toward or upon the person of another; sexual abuse or inappropriate sexual conduct; violation of privacy; dishonesty, or false or fraudulent conduct; mistreatment or abuse of children, the elderly or animals; offenses involving the illegal possession or the misuse or abuse of narcotics, or other addictive substances and those non-addictive substances with a substantial capacity to impair reason or judgment and call in to question the ability of the practitioner to carry out the practitioner's professional duties with due regard for the health and safety of clients; and offenses which call into question the judgment of the practitioner as it relates to the ability to aid others.

In summary, the Board finds that adopting regulation 11.0 as proposed is in the best interest of the citizens of the State of Delaware and is necessary to protect the health and safety of the general public, particularly the recipients of clinical social work services.

Decision and Effective Date

The Board hereby adopts the Regulation 11.0 to be effective 10 days following publication of this order in the *Register of Regulations*.

Text and Citation

The text of the rule remains as published in *Register of Regulations*, Vol. 8, Issue 7, January 1, 2005, and as attached hereto as Exhibit A.

SO ORDERED this 21st day of March, 2005.

BOARD OF CLINICAL SOCIAL WORK EXAMINERS

Dr. Maria Carroll, Professional Member, President

Gloria Ho- Ruggerio, Professional Member, Vice President

Robert Carter, Public Member

Winnie Lewis, Public Member

Traci McDowell, Public Member

Ralph Robinson, Jr., Professional Member

Timothy J. Toole, Professional Member

11.0 Crimes substantially related to the practice of social work:

11.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of social work in the State of Delaware without regard to the place of conviction:

11.1.1 Aggravated menacing. 11 Del.C. §602(b).

11.1.2 Reckless endangering in the first degree.

11 Del.C. §604.

11.1.3 Abuse of a pregnant female in the second degree. 11 Del.C. §605.

11.1.4 Abuse of a pregnant female in the first degree. 11 Del.C. §606.

11.1.5 Assault in the second degree. 11 Del.C. §612.

11.1.6 Assault in the first degree. 11 Del.C. §613.

11.1.7 Abuse of a sports official; felony. 11 Del.C. §614.

11.1.8 Assault by abuse or neglect. 11 Del.C. §615.

11.1.9 Terroristic threatening; felony. 11 Del.C. §621.

11.1.10 Unlawfully administering drugs. 11 Del.C. §625.

11.1.11 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 Del.C. §626.

11.1.12 Manslaughter. 11 Del.C. §632.

11.1.13 Murder by abuse or neglect in the second degree. 11 Del.C. §633.

11.1.14 Murder by abuse or neglect in the first degree. 11 Del.C. §634.

11.1.15 Murder in the second degree. 11 Del.C. §635.

11.1.16 Murder in the first degree. 11 Del.C. §636.

11.1.17 Promoting suicide. 11 Del.C. §645.

11.1.18 Abortion. 11 Del.C. §651.

11.1.19 Incest. 11 Del.C. §766.

11.1.20 Unlawful sexual contact in the third degree. 11 Del.C. §767.

11.1.21 Unlawful sexual contact in the second degree. 11 Del.C. §768.

11.1.22 Unlawful sexual contact in the first degree.

- 11 Del.C. §769.
11.1.23 Rape in the fourth degree. 11 Del.C. §770.
11.1.24 Rape in the third degree. 11 Del.C. §771.
11.1.25 Rape in the second degree. 11 Del.C. §772.
11.1.26 Rape in the first degree. 11 Del.C. §773.
11.1.27 Sexual extortion. 11 Del.C. §776.
11.1.28 Bestiality. 11 Del.C. §777.
11.1.29 Continuous sexual abuse of a child. 11 Del.C. §778.
11.1.30 Dangerous crime against a child. 11 Del.C. §779.
11.1.31 Female genital mutilation. 11 Del.C. §780.
11.1.32 Unlawful imprisonment in the first degree. 11 Del.C. §782.
11.1.33 Kidnapping in the second degree. 11 Del.C. §783.
11.1.34 Kidnapping in the first degree. 11 Del.C. §783A.
11.1.35 Acts constituting coercion. 11 Del.C. §791.
11.1.36 Arson in the first degree. 11 Del.C. §803.
11.1.37 Burglary in the third degree. 11 Del.C. §824.
11.1.38 Burglary in the second degree. 11 Del.C. §825.
11.1.39 Burglary in the first degree. 11 Del.C. §826.
11.1.40 Possession of burglar's tools or instruments facilitating theft. 11 Del.C. §828.
11.1.41 Robbery in the second degree. 11 Del.C. §831.
11.1.42 Robbery in the first degree. 11 Del.C. §832.
11.1.43 Carjacking in the second degree. 11 Del.C. §835.
11.1.44 Carjacking in the first degree. 11 Del.C. §836.
11.1.45 Extortion. 11 Del.C. §846.
11.1.46 Identity theft. 11 Del.C. §854.
11.1.47 Forgery. 11 Del.C. §861.
11.1.48 Falsifying business records. 11 Del.C. §871.
11.1.49 Tampering with public records in the second degree 11 Del.C. §873.
11.1.50 Tampering with public records in the first degree. 11 Del.C. §876.
11.1.51 Issuing a false certificate. 11 Del.C. §878.
11.1.52 Criminal impersonation. 11 Del.C. §907.
11.1.53 Criminal impersonation, accident related. 11 Del.C. §907A.
11.1.54 Criminal impersonation of a police officer. 11 Del.C. §907B.
11.1.55 Insurance fraud. 11 Del.C. §913.
11.1.56 Health care fraud. 11 Del.C. §913A.
11.1.57 Misuse of computer system information. 11 Del.C. §935.
11.1.58 Dealing in children. 11 Del.C. §1100.
11.1.59 Endangering the welfare of a child. 11 Del.C. §1102.
11.1.60 Endangering the welfare of an incompetent person. 11 Del.C. §1105.
11.1.61 Sexual exploitation of a child. 11 Del.C. §1108.
11.1.62 Unlawfully dealing in child pornography. 11 Del.C. §1109.
11.1.63 Possession of child pornography. 11 Del.C. §1111.
11.1.64 Sexual offenders; prohibitions from school zones. 11 Del.C. §1112.
11.1.65 Sexual solicitation of a child. 11 Del.C. §1112A.
11.1.66 Perjury in the second degree. 11 Del.C. §1222.
11.1.67 Perjury in the first degree. 11 Del.C. §1223.
11.1.68 Making a false written statement. 11 Del.C. §1233.
11.1.69 Terroristic threatening of public officials or public servants. 11 Del.C. §1240.
11.1.70 Assault in a detention facility; Class B felony. 11 Del.C. §1254.
11.1.71 Sexual relations in a detention facility. 11 Del.C. §1259.
11.1.72 Bribing a witness. 11 Del.C. §1261.
11.1.73 Bribe receiving by a witness. 11 Del.C. §1262.
11.1.74 Tampering with a witness. 11 Del.C. §1263.
11.1.75 Interfering with child witness. 11 Del.C. §1263A.
11.1.76 Bribing a juror. 11 Del.C. §1264.
11.1.77 Bribe receiving by a juror. 11 Del.C. §1265.
11.1.78 Tampering with physical evidence. 11 Del.C. §1269.
11.1.79 Criminal contempt of a domestic violence protective order. 11 Del.C. §1271A.
11.1.80 Hate crimes. 11 Del.C. §1304.
11.1.81 Aggravated harassment. 11 Del.C. §1312.
11.1.82 Stalking; felony 11 Del.C. §1312A.
11.1.83 Cruelty to animals; felony. 11 Del.C. §1325.
11.1.84 Violation of privacy. 11 Del.C. §1335.
11.1.85 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 Del.C. §1338.
11.1.86 Adulteration. 11 Del.C. §1339.
11.1.87 Promoting prostitution in the first degree.

11 Del.C. §1353.

11.1.88 Possessing a destructive weapon. 11 Del.C. §1444.

11.1.89 Unlawfully dealing with a dangerous weapon; felony. 11 Del.C. §1445.

11.1.90 Organized Crime and Racketeering. 11 Del.C. §1504.

11.1.91 Victim or Witness Intimidation 11 Del.C. §3532 & 3533.

11.1.92 Abuse, neglect, mistreatment or financial exploitation of residents or patients. 16 Del.C. §1136(a), (b) and (c).

11.1.93 Prohibited acts A under the Uniform Controlled Substances Act. 16 Del.C. §4751(a), (b) and (c).

11.1.94 Prohibited acts B under the Uniform Controlled Substances Act. 16 Del.C. §4752(a) and (b).

11.1.95 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 Del.C. §4753A (a)(1)-(9).

11.1.96 Distribution to persons under 21 years of age. 16 Del.C. §4761.

11.1.97 Purchase of drugs from minors. 16 Del.C. § 4761A.

11.1.98 Drug paraphernalia; delivery to a minor 16 Del.C. §4774 (c).

11.1.99 Obtaining benefit under false representation. 31 Del.C. §1003.

11.1.100 Reports, statements and documents. 31 Del.C. §1004.

11.1.101 Kickback schemes and solicitations. 31 Del.C. §1005.

11.1.102 Conversion of payment. 31 Del.C. §1006.

11.1.103 Driving a vehicle while under the influence or with a prohibited alcohol content; third and fourth offenses. 21 Del.C. §4177 (3) and (4).

11.1.104 Prohibited trade practices against infirm or elderly. 6 Del.C. §2581.

11.1.105 Prohibition of intimidation [under the Fair Housing Act]; felony. 6 Del.C. §4619.

11.1.106 Auto Repair Fraud victimizing the infirm or elderly. 6 Del.C. §4909A.

11.1.107 Interception of Communications Generally; Divulging Contents of Communications 11 Del.C. §2402.

11.1.108 Manufacture, Possession or Sale of Intercepting Device. 11 Del.C. §2403.

11.1.109 Breaking and Entering, Etc. to Place or Remove Equipment 11 Del.C. §2410.

11.1.110 Obstruction, Impediment or Prevention of Interception. 11 Del.C. §2412.

11.1.111 Obtaining, Altering or Preventing

Authorized Access. 11 Del.C. §2421.

11.1.112 Divulging Contents of Communications. 11 Del.C. §2422.

11.1.113 Installation and Use Generally [of pen trace and trap and trace devices]. 11 Del.C. §243.

11.1.114 Attempt to Intimidate. 11 Del.C. §3534.

11.1.115 Disclosure of Expunged Records. 11 Del. C. § 4374.

11.1.116 Providing false information when seeking employment in a public school. 11 Del.C. §8572.

11.1.117 Failure of Physician to file report of abuse of neglect pursuant to 16 Del.C. §903.

11.1.118 Coercion or intimidation involving health-care decisions and falsification, destruction of a document to create a false impression that measures to prolong life have been authorized; felony. 16 Del.C. §2513 (b).

11.1.119 Failure of Physician to report persons subject to loss of consciousness. 24 Del.C. §1763.

11.1.120 Abuse, neglect, exploitation or mistreatment of infirm adult. 31 Del.C. §3913(a), (b) and (c).

11.2 Crimes substantially related to the practice of social work shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

***Please Note: As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Board of Clinical Social Work Examiners is available at:**

<http://www.professionallicensing.state.de.us/boards/socialworkers/index.shtml>

DEPARTMENT OF EDUCATION

14 DE Admin. Code 525

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

REGULATORY IMPLEMENTING ORDER

525 Requirements for Career-Technical Education Programs

I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 525 Requirements for Career-Technical Education Programs

in order to add the Jobs for Delaware Graduates (JDG) student organization to 2.9 and to correct a number of punctuation errors in sections 3.0 and 4.0.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on February 18, 2005, in the form hereto attached as *Exhibit "A"*. No comments were received.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code 525** in order to add the Jobs for Delaware Graduates (JDG) student organization to 2.9 and to correct a number of punctuation errors in sections 3.0 and 4.0.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code 525**. Therefore, pursuant to 14 **Del.C. §122**, 14 **DE Admin. Code 525** attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C. §122(e)**, 14 **DE Admin. Code 525** 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 525** amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code 525** 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 April 21, 2005. 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 21st day of April 2005.

DEPARTMENT OF EDUCATION

Valerie A. Woodruff, Secretary of Education

Approved this 21st day of April 2005

STATE BOARD OF EDUCATION

Dr. Joseph A. Pika, President

Jean W. Allen, Vice President

Richard M. Farmer, Jr.

Mary B. Graham, Esquire

Valarie Pepper

Dennis J. Savage

Dr. Claibourne D. Smith

525 Requirements for Career-Technical Education Programs

1.0 All Career-Technical Education Programs shall meet the provisions of Delaware's State Plan for Career and Technical Education and meet the provisions of the content standards approved by the Department of Education or, if there are no approved state content standards, meet local program standards approved by the Department of Education.

6 DE Reg. 955 (2/1/03)

2.0 All Local School Districts and Charter Schools that Offer State Approved Career-technical Education Programs Shall:

2.1 Have the approval of the Department of Education before implementing new programs.

2.2 Have adequate funding to support and sustain the instructional program.

2.3 Employ teachers certified in Career-Technical Education Program areas.

2.4 Make provisions for meeting the unique needs of all students.

2.5 Establish and maintain an active advisory committee which includes labor and management personnel to assist in the development and operation of the program.

2.6 Use present and projected labor market information, available from the Delaware Occupational Information Coordinating Committee, to determine the need for new and continuing Career-Technical Education Programs.

2.7 Survey local business and industry to determine their occupational needs and the availability of placement and employment opportunities for program completers.

2.8 Survey the student population to determine their occupational interests and needs.

2.9 Organize and financially support career-technical student organizations as integral components of Career-Technical Education Programs in public schools that complement and enrich instruction. The following career-technical student organizations are affiliated in Delaware:

2.9.1 Business Professionals of America (BPA)

2.9.2 Technology Student Association (TSA)

2.9.3 Distributive Education Clubs of America (DECA), an association of marketing students

2.9.4 Family, Career and Community Leaders of America (FCCLA)

2.9.5 The National FFA Organization

2.9.6 Skills USA/VICA

2.9.7 The Delaware Career Association (DCA)

2.10 Integrate related academic content into individual career-technical education courses, and guide students through a course selection process that supports the necessary academic preparation required by the student's career path and educational goals.

2.11 Schedule trade and industrial education programs, when offered, for a minimum of two consecutive periods a day or the equivalent, five days a week for two or more years.

2.12 Establish no rules practices or regulations that interfere with, prohibit or otherwise prevent students from having the opportunity to learn about, enroll in and complete a Career-Technical Education Program in a career-technical school district.

2.13 Use equipment and facilities comparable to that used by local business and industry for which the Career-Technical Education Program is preparing students.

2.14 Schedule Department of Education and Delaware Advisory Council on Career Education program review and monitoring visits upon request.

1 DE Reg. 1196 (2/1/98)

6 DE Reg. 955 (2/1/03)

3.0 Cooperative Education Programs.

Cooperative Education Programs provide senior Career-Technical Education Program students with coordinated on-the-job training not ordinarily available in the classroom. During the student's senior year, employers may provide this on-the-job training in occupations directly related to the Career-Technical-Education Program in which the student is enrolled. For the purpose of granting credit during the school year two hours of Cooperative Education Work Experience shall equal one hour of instructional time. In a summer Cooperative Education Work Experience Program one-half unit of credit shall be granted and shall be counted toward the units of credit necessary for graduation.

3.1 In order to qualify for Career-Technical Education funding units the Career-Technical Education Program Teacher or Career Guidance Counselor shall be provided with a full class period; each day; for every fifteen (15) students enrolled in the Cooperative Education Work Experience Program in order to make quarterly visits to the student's place of employment to ensure coordination between the classroom and the on-the-job experience.

3.2 In order to qualify for Career-Technical Education funding units the students shall; possess minimum occupational competencies specified by the Career-Technical Education Teacher Coordinator before being placed in cooperative employment, be in their senior year and be in a Cooperative Education Work Experience Program that relates directly to the student's current or completed career-technical education pathway and be supervised through on-site visits by an assigned Career-

Technical Education Program Teacher Coordinator or Career Guidance Counselor.

3.3 In order to qualify for Career-Technical Education funding units the school shall have on file; for each student; a training agreement that includes training objectives and is signed by a parent or guardian, the employer, the student and a representative of the district. A State Work Permit for Minors in accordance with State Department of Labor regulations shall also be on file.

3.4 For an IDEA eligible student; the student's IEP team; in consultation with the Career Technical Education Teacher Coordinator, may authorize the student's participation in this program irrespective of lack of senior year status, if necessary, to provide the student a free, appropriate public education.

2 DE Reg. 111 (7/1/98)

6 DE Reg. 955 (2/1/03)

4.0 Diversified Occupations Programs.

Diversified Occupations Programs provide students with coordinated on-the-job training not ordinarily available in the classroom. During the student's junior and senior year; employers provide this on-the-job training. For the purpose of granting credit during the school year; two hours of work experience in a Diversified Occupations Work Experience Program shall equal one hour of instructional time. In a summer Diversified Occupations Work Experience Program one-half unit of credit shall be granted and that credit shall be counted toward the units of credit necessary for graduation.

4.1 In order to qualify for Career-Technical Education funding units a Career-Technical Education Program Teacher or Career Guidance Counselor shall be provided with a full class period; each day; for every fifteen (15) students enrolled in the Diversified Occupations Work Experience Program in order to make on-site visits to the student's place of employment to ensure coordination between the classroom and the on-the-job experience.

4.2 In order to qualify for Career-Technical Education funding units the students shall; possess minimum readiness competencies as specified by the Career-Technical Education Program Teacher Coordinator before being placed in a Diversified Occupations Work Experience Program employment situation, be in their junior or senior year and be actively enrolled in a Diversified Occupations Work Experience Program that meets for at least one class period per week.

4.3 In order to qualify for Career-Technical Education funding units the school shall have on file, for each student; a training agreement that includes training objectives and is signed by a parent or guardian, the employer, the student and a representative of the district. A State Work Permit for Minors in accordance with State Department of Labor regulations shall also be on file.

4.4 For an IDEA eligible student, the student's IEP team, in consultation with the Career Technical Education Teacher Coordinator, may authorize the student's participation in this program irrespective of lack of junior or senior year status, if necessary, to provide the student a free, appropriate public education.

2 DE Reg. 111 (7/1/98)

6 DE Reg. 955 (2/1/03)

DEPARTMENT OF EDUCATION

14 DE Admin. Code 545

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

REGULATORY IMPLEMENTING ORDER

545 K-12 School Counseling Program

I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 545 K-12 School Counseling Program. The amendments add "K-12" before the word "plan" in Section 1.0 and add the phrase "and implemented by a State certified school counselor" at the end of Section 1.4.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on March 28, 2005, in the form hereto attached as *Exhibit "A"*. No comments were received.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 DE Admin. Code 545 in order to add "K-12" before the word "plan" in Section 1.0 and add the phrase "and implemented by a State certified school counselor" at the end of Section 1.4.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 DE Admin. Code 545. Therefore, pursuant to 14 Del.C. §122, 14 DE Admin. Code 545 attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 Del.C. §122(e), 14 DE Admin. Code 545 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 545 amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 DE Admin. Code 545 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 April 21, 2005. 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 21st day of April 2005.

DEPARTMENT OF EDUCATION

Valerie A. Woodruff, Secretary of Education

Approved this 21st day of April 2005

STATE BOARD OF EDUCATION

Dr. Joseph A. Pika, President

Jean W. Allen, Vice President

Richard M. Farmer, Jr.

Mary B. Graham, Esquire

Valarie Pepper

Dennis J. Savage

Dr. Claibourne D. Smith

545 K-12 School Counseling Programs

1.0 Each local school district shall have a written K-12 plan for the district's school counseling program. The Plan shall:

1.1 Include the American School Counselors Association's National Standards for School Counseling Programs in the areas of Academic Development, Career Development and Personal/Social Development.

1.2 Be on file in the district office.

1.3 Be reviewed and updated by the local school district every three (3) years.

1.4 Be incorporated in the individual school improvement plans that are reviewed as part of the Quality Review process and be implemented by a State certified school counselor.

DEPARTMENT OF EDUCATION

14 DE Admin. Code 727

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

REGULATORY IMPLEMENTING ORDER

727 Credit for Experience for Administrators, Teachers and Specialists

I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin Code 727** Credit for Experience for Administrators, Teachers and Specialists. The amended regulation has been renamed as Credit for Experience for Educators and for Secretarial Staff. As amended it includes the experience credit of one year granted to a graduate of a five year pre-service program or a graduate of a four year pre-service program who graduates with a GPA of 3.75 or higher on a 4.0 scale pursuant to 14 **Del. C.**§1312(a).

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on February 18, 2005, in the form hereto attached as *Exhibit "A"*. Comments were received from Governor's Advisory Council for Exceptional Children concerning the cost to the school districts and state for implementing this regulation. The requirement to give credit in these circumstances is in the **Delaware Code** and hence must be implemented but the law only requires that the State share be paid. The statement in the Impact Analysis was in error, there will be some cost to the state and also to the local school districts if the local school districts choose to provide payment on the local scale for the additional year of experience as described in 14 **Del.C.**§1312(a).

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code 727** in order to implement 14 **Del.C.** §1312(a).

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code 727**. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code 727** attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code 727** 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 727** amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code 727** 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 April 8, 2005. 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 8th day of April 2005.

DEPARTMENT OF EDUCATION

Valerie A. Woodruff, Secretary of Education

727 Credit for Experience for ~~Administrators, Teachers and Specialists~~ Educators and for Secretarial Staff

~~1.0 Administrators: No credit shall be given for part time employment in Administrative and Supervisory positions.~~

~~2.0 Teachers: Days taught as a substitute or as a teacher's aide may not be used toward credit for experience; however, employment as a teacher on a regular part time basis may be used toward credit for experience.~~

~~2.1 As used in this instance, a "regular part time" employee is one who is employed in a position which requires at least 50 hours per month for at least 9 months during a period of 12 consecutive months.~~

~~3.0 Secretaries: Secretaries may be granted one (1) year's experience for each creditable year of experience as a secretary in private business, public school, or other governmental agency.~~

~~4.0 Creditable experience includes experience obtained while working outside of Delaware. 4.1 This regulation applies to the determination of creditable experience for salary purposes only, and does not apply to the determination of creditable experience for pension purposes which is specified in 29 Del.C. Ch. 55. Laws on employment and salary for administrators, teachers, and secretaries are found in 14 Del.C. Ch. 13.~~

~~3-DE Reg. 1542 (5/1/00)~~

1.0 Educators Graduating from a 5-Year or 4-Year Preservice Program**1.1 Definitions**

1.1.1 The following words and terms when used in this subsection shall have the following meaning unless the context clearly indicates otherwise:

“Four Year Preservice Program” means a regionally accredited college or university four year preservice undergraduate bachelor degree program.

“Five Year Preservice Program” means a regionally accredited college or university five year planned degree program which includes an extensive clinical component or internship in the fifth year.

“Grade Point Average (GPA)” means the grade point average (GPA) stated on the official transcript of the regionally accredited college or university granting the bachelor’s degree in the Four Year Preservice Program.

1.2 Pursuant to 14 Del.C. §1312(a), a graduate of a five year preservice program, or a graduate of a four year preservice program who graduates with a GPA of 3.75 or higher on a 4.0 scale or the equivalent, shall be granted one year of experience on the applicable state salary schedule.

1.3 Eligible employees for the one year credit of experience shall include any employee paid in accordance with 14 Del.C. §1305, who meets the requirements in 1.2 and was hired after July 1, 2001. Eligible employees include, but are not limited to, teachers, nurses, librarians, psychologists, therapists, counselors, and school and district level administrators.

2.0 Administrators

2.1 No credit for experience shall be given for part time employment in administrative or supervisory positions.

3.0 Teachers

3.1 Days taught as a substitute or as a paraeducator may not be used toward credit for experience; however, employment as a teacher on a regular part time basis may be used toward credit for experience.

3.1.1 A "regular part time" employee is one who is employed in a position which requires at least 50 hours per month for at least 9 months during any 12 consecutive month period.

4.0 Secretarial Staff

4.1 Secretaries may be granted one (1) year's experience for each creditable year of experience as a secretary in private business, public or private school, or other governmental agency.

5.0 Creditable experience includes experience obtained while working outside of Delaware.

6.0 This regulation applies to the determination of creditable experience for salary purposes only, and does not apply to the determination of creditable experience for pension purposes which is specified in 29 Del.C. Ch. 55. Laws on employment and salary for administrators, teachers, and secretaries are found in 14 Del.C. Ch. 13.

3 DE Reg. 1542 (5/1/00)

DEPARTMENT OF EDUCATION

14 DE Admin. Code 731

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

REGULATORY IMPLEMENTING ORDER**731 School Food Service Employees****I. Summary of the Evidence and Information Submitted**

The Secretary of Education intends to amend 14 DE Admin. Code 731 School Food Service Employees. The amendments are for the purpose of clarity and include moving the words “state funded” in front of the word “positions”, changing “will” to “shall” in 3.1.3.1 and 3.3 and changing the word “employees” to “managers” in the second line of 3.0.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on February 18, 2005, in the form hereto attached as *Exhibit “A”*. No Comments were received.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 DE Admin. Code 731 in order to add clarity by moving the words “state funded” to the front of the word “positions”, changing “will” to “shall” in 3.1.3.1 and 3.3 and changing the word “employees” to “managers” in the second line of 3.0.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 DE Admin. Code 731. Therefore, pursuant to 14 Del.C. §122, 14 DE Admin. Code 731 attached hereto as *Exhibit “B”* is hereby amended. Pursuant to the provision of 14 Del.C. §122(e), 14 DE Admin. Code 731 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** 731 amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 731 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 April 8, 2005. 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 8th day of April 2005.

DEPARTMENT OF EDUCATION

Valerie A. Woodruff, Secretary of Education

731 School Food Service Employees

1.0 Experience: School food service employees may be granted one (1) year's experience for each creditable year of experience in similar employment.

2.0 Determination of Employee Staffing and Formula

2.1 School districts shall determine the salaries paid to cafeteria workers as follows:

2.1.1 Of the total number of full time workers assigned to a food-preparing cafeteria, a maximum of two may be paid as a cook/baker. Satellite schools are eligible for state funded positions as set forth in 14 **Del.C.** §1322 (c), ~~state funded~~.

3.0 The salaries prescribed in 14 **Del.C.** §1322(e) for general workers, and cooks/bakers shall be paid by the State from funds not derived from local food service operations as determined by the formula:

3.1 Seven (7) hours of labor per 100 meals determined as follows:

3.1.1 Total number of reimbursable lunches served in the base month; plus

3.1.2 Total number of reimbursable breakfasts served in the base month; plus

3.1.3 Total of all other meals served in the base month determined by aggregating all income.

3.1.3.1 The number of meals prepared and served ~~will~~ shall be based on the average reported for the month of October on the monthly reimbursement claim.

3.2 Each school district will submit to the Department of Education a computation sheet for cafeteria workers with

data showing hourly rate and hours worked not to exceed the maximum allowed under state formula.

3.3 Each school district ~~will~~ shall submit a roster of cafeteria managers to the Department of Education showing names of the ~~employees~~ managers and the salaries prescribed in 14 **Del.C.** §1322(a). Each district shall also submit a computation sheet as prescribed by the Department to determine the number of meals served according to the state formula.

DEPARTMENT OF EDUCATION**14 DE Admin. Code 733**

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

REGULATORY IMPLEMENTING ORDER**733 Substitutes****I. Summary of the Evidence and Information Submitted**

The Secretary of Education intends to amend 14 **DE Admin. Code** 733 Substitutes by inserting the word "shall" in lieu of "are to" in 1.4, 1.5, 1.6, and 1.7. The language in 1.1, 1.2.1, 1.3, 1.6 and 1.7 has also been clarified and the title has been changed to "Payment of Substitutes for Teachers" to reflect that the content of the regulation only refers to teachers.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on February 18, 2005, in the form hereto attached as *Exhibit "A"*. No comments were received.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 733 in order to insert the word "shall" in lieu of "are to" in 1.4, 1.5, 1.6, and 1.7. The language in 1.1, 1.2.1, 1.3, 1.6 and 1.7 has also been clarified and the title has been changed to "Payment of Substitutes for Teachers" to reflect that the content of the regulation only refers to teachers.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 733. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 733 attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 733 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** 733 amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 733 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 April 8, 2005. 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 8th day of April 2005.

DEPARTMENT OF EDUCATION

Valerie A. Woodruff, Secretary of Education

733 Payment of Substitutes for Teachers

~~1.0 Payment of Teacher and Other School Employee Substitutes~~

~~1.1 Substitutes for State funded teachers may be paid from State substitute teacher funds under the provisions of 14 **Del.C.** §1318, Sick leave and absences for other reasons (only specified reasons allowable), 29 **Del.C.** §5524, Eligibility for disability pension and 29 **Del.C.** §5933, Leaves (sick leave not counted for absence for work related disease or accident).~~

~~1.2 Substitutes for state funded teachers may also be paid from State substitute teacher funds for:~~

~~1.2.1 Military leave (training or duty not in excess of 15 days).~~

~~1.2.2 Kindergarten Teachers on Abbreviated Days. In order to allow kindergarten teachers additional time for parent conferences, substitute teachers may be hired using state substitute teacher funding for ½ day on abbreviated days when kindergarten is scheduled.~~

~~1.2.3 Teachers participating in Department of Education initiated committee work and project assignments.~~

~~1.3 Substitutes for teachers absent under the provisions of 14 **Del.C.** §1320, Deduction for Unexcused Absence (or on approved leave without pay) may be charged to the Division I teacher salary line.~~

~~1.4 Substitutes for teachers who are paid from federal funds are to be paid from federal funds from the federal program involved or local funds.~~

~~1.5 Substitutes for teachers who are paid from local funds are to be paid from local funds.~~

~~1.6 Substitutes for teachers who are paid from State funds for a fractional part of a State teacher unit and a fractional part from other funds are to be paid on the same proportional basis from State substitute teacher funds.~~

~~1.7 Substitutes are to be paid from State substitute teacher funds the amounts authorized for the various classes of substitutes as provided for in 14 **Del.C.** §1326. School districts paying more for teacher substitutes than prescribed in 14 **Del.C.** §1326 shall do so from local or federal funds.~~

~~3 DE Reg. 1542 (5/1/00)~~

1.0 Payment of Substitutes for Teachers

1.1 State substitute teacher funds may be used to pay substitutes for State funded teachers when the state funded teachers are unavailable for duty under the provisions of 14 **Del.C.** §1318, 29 **Del.C.** §5524 and 29 **Del.C.** §5933 (for sick leave calculations for teachers qualifying for workers' compensation).

1.2 Substitutes for state funded teachers may also be paid from State substitute teacher funds for:

1.2.1 Military leave for training or duty not in excess of 15 working days per year.

1.2.2 Kindergarten Teachers on Abbreviated Days. In order to allow kindergarten teachers additional time for parent conferences, substitute teachers may be hired using state substitute teacher funding for ½ day on abbreviated days when kindergarten is scheduled.

1.2.3 Teachers participating in Department of Education initiated committee work and project assignments.

1.3 Substitutes for teachers who are absent without pay may be charged to the Division I teacher salary line.

1.4 Substitutes for teachers who are paid from federal funds shall be paid from federal funds from the federal program involved or local funds.

1.5 Substitutes for teachers who are paid from local funds shall be paid from local funds.

1.6 Substitutes for teachers who are paid from State funds for a fractional part of a State teacher unit and a fractional part from other funds shall be paid on the same proportional basis.

1.7 Substitutes shall be paid from State substitute teacher funds the amounts authorized for the various classes of substitutes as provided for in 14 **Del.C.** §1326. School districts paying more for teacher substitutes than prescribed in 14 **Del.C.** §1326 shall do so from local or federal funds. Federal funds may be used only if the federal program permits that use.

3 DE Reg. 1542 (5/1/00)

PROFESSIONAL STANDARDS BOARD**14 DE Admin. Code 334**

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

REGULATORY IMPLEMENTING ORDER**Regulation 334 Certification Marketing Education
Teacher****I. Summary of the Evidence and Information Submitted**

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 334 Certification Marketing Education Teacher. This regulation applies to the certification of educators, as established by 14 **Del.C.** §1220(a). It is necessary to amend this regulation to align it with changes in statute regarding educator certification, and to update toe course and other requirements for the position. The requirement for prior work experience has been eliminated. The regulation will be renumbered 1560 to denote its movement to the Professional Standards portion of the Department of Education regulations. It will also be renamed Standard Certificate Marketing Education Teacher to make it consistent with other regulations for standard certificates for educators.

Notice of the proposed amendment of the regulation was published in the *News Journal* and the *Delaware State News* on February 23, 2005, in the form hereto attached as Exhibit "A". The notice invited written comments. No written comments were received.

II. Findings of Facts

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

III. Decision to Adopt the Regulation

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is appropriate to amend the regulation. Therefore, pursuant to 14 **Del.C.** §1205(b), the regulation attached hereto as Exhibit "B" is hereby adopted. Pursuant to the provision of 14 **Del.C.** §122(e), the regulation hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. Text and Citation

The text of the regulation amended shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 1560 of the *Administrative Code of Regulations* of the Department of Education.

V. Effective Date of Order

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

**APPROVED BY THE PROFESSIONAL
STANDARDS BOARD THE 7TH DAY OF APRIL, 2005**

Harold Roberts, Chair	Bruce Harter
Sharon Brittingham	Valerie Hoffmann
Norman Brown	Leslie Holden
Heath Chasanov	Carla Lawson
Edward Czerwinski	Mary Mirabeau
Angela Dunmore	Gretchen Pikus
Karen Gordon	Karen Schilling Ross
Barbara Grogg	Carol Vukelich

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

Valerie A. Woodruff, Secretary of Education

IT IS SO ORDERED THIS 21st DAY OF APRIL, 2005.

STATE BOARD OF EDUCATION

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

**1560 ~~334~~ Standard Certificate Marketing Education
Teacher Effective July 1, 1993**

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

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

~~1.2 Professional Education~~

~~1.2.1 Completion of an approved teacher preparation program in the area of Marketing Education or;~~

~~1.2.2 A minimum of 27 semester hours to include Human Development, Organization/Administration of Marketing Education, Methods of Teaching Marketing Education, Identifying/Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and student teaching at the secondary (7-12) level and;~~

1.3 Technical Education

1.3.1 Major in Marketing or;

1.3.2 A minimum of 18 semester hours selected from the following areas: Visual Merchandising, Textiles, Advertising, Basic Economics (3 semester hours maximum), Color, Line and Design, Display, Store Organization, Management, Retailing, Business Law, Real Estate, Wholesaling, Fashion and Design, Visual Aids, Salesmanship, Marketing, Insurance, Investments, Supermarket Operation, Service Station Operation and;

1.4 Work Experience in Marketing Occupations

1.4.1 A minimum of 2,000 hours of work experience is required in organizations which market goods or services. The work experience may consist of prior full-time and/or part-time work in different organizations.

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

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

1.0 Content

1.1 This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Marketing Education Teacher.

2.0 Definitions

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

“Department” means the Delaware Department of Education

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

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

3.0 In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a Marketing Education Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 A bachelor's degree from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university with a major in marketing education; or

3.2 A bachelor's degree from a state approved educator preparation program offered by a regionally accredited college or university, with a major in marketing education, where the state approval body employed the appropriate NASDTEC standards or NCATE specialty organization standards; or

3.3 A bachelor's degree from a regionally accredited college or university with a major in marketing; and

3.3.1 A minimum of twenty-seven four (274) semester hours of pedagogy courses from a regionally accredited college or university to include at least three (3) credits in each of the following:

3.3.1.1 Human Development;

3.3.1.2 Methods of Teaching Marketing/
Business Education;

3.3.1.3 Identifying/Treating Exceptionalities;

3.3.1.4 Effective Teaching Strategies; and

3.3.1.5 Multicultural Education; or

3.4 A bachelor's degree in any field and completion of the semester hours indicated below from a regionally accredited college or university, taken either as part of a degree program or in addition to it, and completion of the course work set forth in 3.3.1:

3.4.1 A minimum of eighteen (18) semester hours in marketing, selected from the following areas:

3.4.1.1 Visual Merchandising and Display;

3.4.1.2 Advertising/Promotional Strategies;

3.4.1.3 Economics

3.4.1.4 Management;

3.4.1.5 Retailing;

3.4.1.6 Business Law;

3.4.1.7 Fashion and Design;

3.4.1.8 Salesmanship;

3.4.1.9 Marketing;

3.4.1.10 E-marketing/Website Design;

3.4.1.11 Business Ethics;

3.4.1.12 Human Resource Management; or

3.4.1.13 Entrepreneurship.

PROFESSIONAL STANDARDS BOARD

14 DE Admin. Code 1555

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

REGULATORY IMPLEMENTING ORDER

**Regulation 1555 Standard Certificate Early Care and
Education Teacher**

I. Summary of the Evidence and Information Submitted

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 1555 Standard Certificate Early Care and Education Teacher. This regulation applies to the certification of educators, as established by 14 **Del.C.** §1220(a). It is necessary to amend this regulation to change the age range and grade levels covered by the regulation from Age 0 to Kindergarten to Age 0 to Grade 2. Additional changes in required content have been made to reflect the greater content needs of teachers in the early grades of school. The name of the regulation has been changed to Standard Certificate Early Childhood Teacher (Birth – Grade 2) to make it more descriptive of its content.

Notice of the proposed amendment of the regulation was published in the News Journal and the Delaware State News on February 23, 2005, in the form hereto attached as Exhibit “A”. The notice invited written comments. Written comments were received from the Governor’s Advisory Council for Exceptional Citizens, but no suggestions for changes were included in the comments. Questions raised in the comments were addressed.

II. Findings of Facts

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

III. Decision to Adopt the Regulation

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is appropriate to amend the regulation. Therefore, pursuant to 14 **Del.C.** §1205(b), the regulation attached hereto as Exhibit “B” is hereby adopted. Pursuant to the provision of 14 **Del.C.** §122(e), the regulation hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. Text and Citation

The text of the regulation amended shall be in the form attached hereto as Exhibit “B”, and said regulation shall be cited as 14 **DE Admin. Code** 1555 of the *Administrative Code of Regulations* of the Department of Education.

V. Effective Date of Order

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

APPROVED BY THE PROFESSIONAL STANDARDS BOARD THE 7TH DAY OF APRIL, 2005

Harold Roberts, Chair	Bruce Harter
Sharon Brittingham	Valerie Hoffmann
Norman Brown	Leslie Holden
Heath Chasanov	Carla Lawson
Edward Czerwinski	Mary Mirabeau
Angela Dunmore	Gretchen Pikus
Karen Gordon	Karen Schilling Ross
Barbara Grogg	Carol Vukelich

FOR IMPLEMENTATION BY THE DEPARTMENT OF EDUCATION:

Valerie A. Woodruff, Secretary of Education

IT IS SO ORDERED THIS 21st DAY OF APRIL, 2005.

STATE BOARD OF EDUCATION

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

~~**1555 Standard Certificate Early Care And Education Teacher (Ages 0 – K)**~~

~~**1.0 Content:** This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Early Care and Education Teacher (ages 0-K).~~

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

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

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

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

~~3.0 In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as an Early Care and Education Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

~~3.1 Degree Requirement~~

~~3.1.1 Bachelor's degree from a regionally accredited college or university in any field and 45 semester hours of general content courses. These courses may be part of the Bachelor's degree, but if not, then the courses shall be taken in addition to the degree.~~

~~3.1.1.1 Nine semester hours of English including an upper level composition course and a literature course~~

~~3.1.1.2 Twelve semester hours of science including one course each in Life/Environmental, Earth/Space and Physical Sciences~~

~~3.1.1.3 Nine semester hours of social sciences including World History, American History and Geography.~~

~~3.1.1.4 Nine semester hours of Mathematics~~

~~3.1.1.6 Six semester hours of Fine Arts, or~~

~~3.1.2 A Bachelor's degree from a regionally accredited college in the field of Education and;~~

~~3.2 Professional Education~~

~~3.2.1 An approved program in Early Care and Education, Birth to Kindergarten or;~~

~~3.2.2 An approved program in Primary Education which includes 15 semester hours of coursework, or the equivalent thereof, specific to the birth to kindergarten child and including instruction in each of the following areas:~~

~~3.2.2.1 Children's Growth, Development and Learning (ages 0-3 years);~~

~~3.2.2.2 Assessment of Young Children;~~

~~3.2.2.3 Language Development and Early Literacy in Young children;~~

~~3.2.2.4 Family Development and Service Systems for Children and Families;~~

~~3.2.2.5 Three additional semester hours taken in one of the four areas above or in another area specifically related to care giving for children ages 0-3 or;~~

~~3.2.3 A minimum of 60 semester hours of coursework to include a total of 45 semester hours of specific courses to be taken in addition to the degree if not a part of the degree program and to include the following courses as specified:~~

~~3.2.3.1 Children's Growth, Development, and Learning (6 semester hours);~~

~~3.2.3.2 Identifying and Teaching Children with Exceptional Needs (6 semester hours);~~

~~3.2.3.3 Parent, Family Community Interactions (3 semester hours);~~

~~3.2.3.4 Early Childhood Curriculum Development, Content, and Implementation (15 semester hours);~~

~~3.2.3.5 Professional Issues in Early Childhood Education (3 semester hours);~~

~~3.2.3.6 Fifteen semester hours to include 3 semester hours in each of the following areas dealing with children from birth to kindergarten: Children's Growth, Development and learning (ages 0-3 years), Assessment of Young Children, Language Development and Early Literacy in Young Children, and Family Development and Service Systems for Children and Families. Three additional semester hours taken in one of the four areas above or in another area specifically related to care giving for children ages 0-3.~~

~~4.0 This regulation shall be effective through June 30, 2006 only. Applicants who apply for a standard certificate as an early care and education teacher after that date must comply with the requirements set forth in 14 DE Admin. Code 1516.~~

1555 Standard Certificate Early Childhood Teacher (Birth - Grade 2)

1.0 Content:

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Early Childhood Teacher (Birth - Grade 2).

2.0 Definitions

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

"Department" means the Delaware Department of Education.

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

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

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

"State Board" means the State Board of Education of the State of Delaware established pursuant to 14 Del.C. §104.

3.0 In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as an Early Childhood Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department

prior to August 31, 2003, and who meets the following requirements:

3.1 A bachelor's degree from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university, with a major in Early Childhood Education; or

3.2 A bachelor's degree from a state approved educator preparation program offered by a regionally accredited college or university, with a major in Early Childhood Education, where the state approval body employed the appropriate NCATE specialty organization standards for early childhood teacher education; or

3.3 Passage of the appropriate PRAXIS™II test approved by the Standards Board and the State Board; or

3.4 A bachelor's degree from an NCATE or state approved program, where the state approval body employed the appropriate [NASDTEC standards or] NCATE specialty organization standards, offered by a regionally accredited college or university, with a major in Primary or Elementary Education; and

3.4.1 At least eighteen (18) semester hours of course work, specific to This now totals 21 credits. Do you want to change the requirement to 18 or allow some flexibility for folks to choose from among the stated courses? the birth to age five (5) child, taken either as part of the degree program or in addition to it, as follows:

3.4.1.1 Children's Growth, Development and Learning (birth – age five (5)) (3 credits);

3.4.1.2 Early Childhood Curriculum Development, Assessment, Content, and Implementation (6 credits);

3.4.1.3 Language Development and Early Literacy in Young Children (3 credits);

3.4.1.4 Family Development and Service Systems for Children and Families (3 credits); and

3.4.1.5 Development and Programming for Young Children with Special Needs (3 credits); or

3.5 A bachelor's degree from a regionally accredited college or university in any field, and

3.5.1 A minimum of forty-five (45) semester hours of general content course work, taken either as part of the degree program or in addition to it, as follows:

3.5.1.1 English, including an upper level composition course and a literature course (9 semester hours);

3.5.1.2 A total of twelve (12) semester hours of science, including one course each in Life/Environmental, Earth/Space and Physical Sciences;

3.5.1.3 Social sciences, including world history, American history, political science, economics and geography (9 semester hours);

3.5.1.4 Mathematics (9 semester hours); and

3.5.1.5 Fine Arts or Humanities (6 semester hours); and

3.5.2 A minimum of thirty-nine (39) semester hours of course work, taken either as part of the degree program or in addition to it, as follows:

3.5.2.1 Children's Growth, Development, and Learning (Birth – age 8) (6 semester hours);

3.5.2.2 Identifying and Teaching Children with Exceptional Needs (6 semester hours);

3.5.2.3 Early Childhood Curriculum Development, Assessment, Content, and Implementation, including a practicum of no less than 50 hours (Birth – age 8) (9 semester hours);

3.5.2.4 Professional Issues in Early Childhood Education (3 semester hours);

3.5.2.5 Language Development, Early Literacy and Reading in Young Children (9 semester hours);

3.5.2.6 Parent, Family Community Interactions (3 semester hours); and

3.5.2.7 Family Development and Service Systems for Children and Families (3 semester hours).

Will it be necessary to retain the course count option after 2006?

4.0 This regulation shall be effective through June 30, 2006 only. Applicants who apply for a standard certificate as an Early Childhood Teacher after that date must comply with the requirements set forth in 14 DE Admin. Code 1516.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code,
Section 122 (1) & (3) a, f & j
(16 Del.C. §§122 (1) & (3) a, f & j)

ORDER

Nature of the Proceedings:

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt the State of Delaware Regulations Governing the Production and Sale of Milk and Milk Products. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 122 (1) & (3) a, f & j.

On March 1, 2005 (Volume 8, Issue 9), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 Delaware Code Section 10115. It requested that written materials and suggestions from the public concerning the proposed

regulations be delivered to DHSS by March 31, 2005, or be presented at a public hearing on March 23, 2005, after which time DHSS would review information, factual evidence and public comment to the said proposed regulations.

One written comment in favor of the proposed regulations was received. No other comments (verbal or written) were received at the public hearing or during the official public comment period (March 1-31, 2005).

Findings of Fact:

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

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations Governing Production and Sale of Milk and Milk Products are adopted and shall become effective May 10, 2005, after publication of the final regulation in the *Delaware Register of Regulations*.

Vincent P. Meconi, Secretary, 4/15/05

461 Regulations Governing the Production and Sale of Milk and Milk Products

1.0 General Provisions

1.2 Purpose

It is hereby declared that the purpose of this Regulation is to protect, preserve and promote the public health and wellbeing of the people, to minimize the incidence of communicable diseases and to regulate the inspection of dairy farms, milk and milk product plants and provide for the examination, labeling, pasteurization, distribution and sale of milk and milk products. It is hereby further declared that the purpose of this Regulation is to establish minimum chemical, bacteriological and temperature standards for milk and milk products and an adequate level of operation and maintenance and provision for the administrative and enforcement thereof.

1.3 Definitions

Regulatory Agency: as defined in the PMO, Section 1, Definition II, shall mean the Secretary, Delaware Health and Social Services or his official designee.

1.4 Application and Scope

The requirements of this section shall apply to the construction, alteration, addition, establishment maintenance and or the operation of all dairy farms, milk and milk product plants in the State of Delaware, and also to any milk and milk products from outside the boundaries of the state that are sold in Delaware.

The Regulatory Agency may grant a variance by modifying or waiving the requirements of these Regulations

if in the opinion of the Regulatory Agency a health hazard or nuisance will not result from the variance or waiver.

Enforcement: It shall be the duty of the Regulatory Agency to enforce the provisions of these Regulations

Repeal and Date of Effect: All current or previous regulations or parts of regulations in conflict with these Regulations are hereby repealed; and these Regulations shall be in full force and effective on _____[**May 10, 2005**].

Severability: Should any section, paragraph, sentence, clause or phrase of these Regulations be declared unconstitutional or invalid for any reason, the remainder of the Regulation shall not be affected in any way.

1.5 Imminent Danger to Public Health: Suspension of Permit

If some condition(s) is/are determined to exist which present(s) an imminent health hazard to the public, the Regulatory Agency may suspend the operating permit of the facility, without hearing, for a period not to exceed ten (10) government business days. The suspension shall be effective upon receipt of written notice by the permit holder or another reasonably responsible employee. A suspension statement recorded on an inspection report by the inspecting Regulatory Agency representative constitutes written notice. The permit shall not be suspended for a period longer than ten (10) government business days without a hearing. Failure to hold a hearing within ten (10) government business days shall automatically terminate the suspension.

The permit holder of the Facility may request, in writing, a hearing before the Regulatory Agency at any time during the period of suspension, for the purpose of demonstrating the imminent health hazard(s) no longer exist. The request for hearing shall not stay the suspension.

1.6 Unsanitary Conditions: Suspension, Revocation or Refusal to Reissue Permit

The Regulatory Agency, may after providing an opportunity for a hearing, suspend, for a period not to exceed ninety (90) days, revoke, or recommend non-reissuance of a permit to operate a Facility for serious or repeated violations of any requirements of these Regulations or refusing access to representatives of the Regulatory Agency.

This section is not intended to preclude enforcement of this Regulation through the institution of court action by the Regulatory Agency.

1.7 Global Footnote Clarification

Whereas indicated in the PMO as footnote 2, page v, of the introduction and footnote 1, pages 1, 8, 9 and 113 of the body, insert "the State of Delaware".

2.0 Grade "A" Pasteurized Milk Ordinance 2003 Revision

This section incorporates by reference the U.S. Public Health Service/Food and Drug Administration's Grade "A" Pasteurized Milk Ordinance, 2003 Revision. For copies

contact the Division of Public Health or the Registrar of Regulations.

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code,
Chapter 5, Section 512 (31 Del.C. Ch. 5, §512)

ORDER

Nature of the Proceedings:

Delaware Health and Social Services (“Department”) / Division of Social Services initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding the Long Term Care Program. The proposal gives direction on counting annuities and their stream of income for the eligibility process. The Department’s proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the March 2005 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 31, 2005 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Summary of Proposed Change

Citation

20 CFR §416.1201(a) - Resources

Summary Of Proposed Change

DSSM 20330.4.1: Adds a new rule that addresses annuities and how they count towards the eligibility process.

Summary of Comments Received with Agency Response with Explanation of Changes

The following public comments were received on the current proposal to amend the Division of Social Services Manual that addresses annuities and how they count towards the eligibility process. DSS received comments on the policy from the State Council for Persons with Disabilities and JNM Financial. DSS considered each comment and respond as follows:

- This regulation would force individuals to try to liquidate an irrevocable and non-assignable investment/annuity at a substantial loss. The State

could consider placing a look-back period on purchases of annuities.

Agency Response: While it is true that Delaware is trying to find ways to save money on program expenditures, that is not the reasoning behind the adoption of this rule. Delaware has discovered that estate planners have exploited a loop hole which allows people to shelter their assets in annuities rather than private pay for the services they need. Medicaid is a medical assistance program for the needy. We have determined there is a secondary market for the purchase of annuities. There are dozens of web sites that will purchase the stream of income generated by an annuity.

We are aware that other states are placing a longer look back period for transfer of assets. Most annuities are purchased immediately before application for Medicaid. They are not subject to a transfer of assets penalty period.

- The Federal regulation which DSS references to support this regulation [20 CFR §416.1201(a)] does not explicitly mention annuities.

Agency Response: This is true this is not a quote from the CFR - rather a direction on how DSS arrived at the summation that the stream of income is a resource.

- The calculation of the annuity’s value is somewhat counterintuitive.

Agency Response: The example given in the comment would leave the individual with a zero value for the annuity. This would only benefit the individual at the State’s expense.

- Some revocable annuities may include a “hefty” penalty for “cashing in” or termination as well as other administrative or processing fees. This should be included in any calculation of resource value.

Agency Response: DSS allows the sale of resources at the Fair Market Value which would take into account the penalties.

- The last paragraph requires a spouse claiming that an income allowance is inadequate to request a fair hearing. This may lead to unnecessary fair hearings. DSS may wish to allow reconsideration outside the context of fair hearings.

Agency Response: In order to be consistent DSS believes that the only fair and equitable way to decide who should be allowed to protect additional money for the spouse is through the fair hearing process.

Additional comments were received from Roger Waters, DSS Hearing Officer. His suggested changes are intended to make the language of the rules simpler and easier to understand. As a result of the suggestions, DSS made non-substantive grammatical and clarifying language changes throughout the final order regulation indicated by [bracketed bold type].

Findings of Fact:

The Department finds that the proposed changes as set forth in the March 2005 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the policies for the Long Term Care Program regarding annuities is adopted and shall be final effective May 10, 2005.

Vincent P. Meconi, Secretary, DHSS , 4/15/05

DSS FINAL ORDER REGULATION #05-21 NEW:

DSSM 20330.4.1 Annuities

An annuity is a financial device that conveys a right to receive periodic payments for life or a fixed number of months or years. While the annuity itself may or may not be an available resource, the stream of income generated by the annuity is a countable asset. [If DSS will determine if there is a market to purchase the annuity stream of income.] [If there is a market, DSS it is considered will consider it] to be available for the applicant's or spouse's support and maintenance. See 20 CFR 416.1201 (a)

To calculate the value of the annuity's stream of income[, DSS will] use the amount at which the annuity was originally purchased and subtract all payments received to date. The remainder is the value of the annuity's income stream. [The DSS will require the annuity income stream [must] be sold at Fair Market Value [as a condition of eligibility]. See DSSM 20350.1.7.

[An] DSS will not count the value of an] annuity purchased by a third party, e.g., the applicant's employer, as a retirement benefit to the applicant is not counted as an available resource. However, [the DSS will count the value of the] income generated from a third party annuity [is counted as income].

An annuity that is revocable is always a countable resource. Revocable annuities are able to be converted to cash.

Spouses that claim the income allowance is inadequate to meet the needs of the Community Spouse may request additional resources be set aside to bring their income up to the minimum maintenance needs allowance. These requests

MUST go through the fair hearing process in order to retain excess resources for their protected income share. See DSSM 20970 and 42 USC 1396r-5(e). In these cases, at the death of the annuity's owner, the beneficiary of the annuity must be the estate of the Medicaid recipient.

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code,
Chapter 5, Section 512 (31 Del.C. Ch. 5, §512)

ORDER

Nature of the Proceedings:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding changes to Delaware's Temporary Assistance for Needy Families (TANF) and Food Stamp Employment and Training policies. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the March 2005 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 31, 2005 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Summary of Proposed Changes

TANF

1. TANF sections 3002.1, 3002.2, 3002.3, 3002.9, 3006.2, 3006.6, 3030 and 3031.5 have been changed to reflect an increase from 20 hours per week to 25 hours per week in the required amount of participation hours for workfare, education, and work hours. This change now requires participants to work, participate in workfare, or education for 25 hours per week in order to meet participation requirements. The change in the participation requirement is also reflected in the time limited TANF programs' monthly time count. The hours of participation required to stop the TANF month from counting towards the participant's time limit has increased from 20 to 25.

These changes will prepare Delaware Division of Social Services (DSS) for TANF reauthorization and increase the number of participants DSS can count towards the mandated participation rate.

2. TANF sections 3007 Supportive Services and Transitional Benefits and 3007.6 Transportation Assistance.

Transportation benefits will now be automatically generated by DCIS II for TANF recipients who are referred to a Workfare Vendor. New Castle County (NCC) participants will receive \$5.00 per referral, Kent and Sussex (K/S) participants will receive \$10.00 per referral. This is not a new practice; the existing practice will now be automated. This will allow for state wide consistency of Transportation services.

Food Stamp Employment and Training

1. Section 10007 Participation Reimbursement has been re-designed to accommodate Transportation Reimbursement, section 10007.1, Dependent Care Reimbursement, section 10007.2, and Supportive Services Reimbursement, section 10007.3. Supportive Services Reimbursement is a new addition to policy. Transportation and Dependent Care Reimbursement sections have been modified to accommodate the changes due to automating and consolidating the Employment and Training (E&T) system into the DCIS II system. All of the above outlined reimbursements were, or are currently, practiced in the field. The consolidation of the computer systems has provided the opportunity to automate the majority of these procedures. This will provide consistent application of Transportation and Supportive Services participant reimbursement throughout the state. Participant reimbursement for E&T related expenses is mandated in the Code of Federal Regulations.

2. Section 10007.1 Transportation

Transportation allowances have been automated. New Castle County (NCC) participants will receive \$5.00 allowances and Kent and Sussex (K/S) participants will receive \$10.00. This maintains consistency between the FS and TANF transportation services.

Transportation allowances will be automatically issued upon successful completion of the Independent Job Search (IJS) Log and verified monthly attendance at a One Stop facility.

The FS E&T participants will have the ability to request more Transportation funds in addition to the initial \$5.00 or \$10.00 allowances when the additional expense is verified.

3. Section 10007.3 Supportive Services

Supportive Services are identified in our current state plan as other costs. For consistency, the TANF Supportive Services categories and limits have been used to estimate the FS E&T and work related participant expenses. These funds are a 50/50 State/Federal match.

Summary of Comments Received with Agency Response and Explanation of Change(s)

No public comments were received.

Findings of Fact:

The Department finds that the proposed changes as set forth in the March 2005 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual regarding changes to Delaware's Temporary Assistance for Needy Families (TANF) and Food Stamp Employment and Training policies are adopted and shall be final effective May 10, 2005.

Vincent P. Meconi, Secretary, DHSS , 4/15/05

DSS FINAL ORDER REGULATION #05-23 REVISIONS:

3002.1 Two-Parent Families - Time Limit, Temporary Welfare Program

A.) Delaware's Temporary Assistance for Needy Families Program (TANF), cash benefits are time-limited for households headed by two employable adults age 18 or older who are included in the grant. For households applying on or after 01/01/2000, the lifetime time limit will be thirty-six (36) cumulative months. Families will receive these benefits only through participation in a pay-after-performance work experience position or if the adults are working at least ~~20~~ 25 hours per week and the family has countable income ~~is~~ below the need standard.

Time limits apply when three conditions are met:

- the caretaker is included in the grant,
- the caretaker is age 19 or older,
- the caretaker is employable, and

When one or more of the conditions listed above is not met, the family receives benefits in the non-time limited program known as the Children's Program.

3002.2 Single Parent / Non-Parent Caretaker Families

Delaware's Temporary Assistance for Needy Families Program (TANF), cash benefits are time-limited for households headed by an employable adult age 18 or older who is included in the grant. For households applying on or after 01/01/2000, the lifetime time limit will be thirty-six (36) cumulative months. Families will receive benefits only through participation in a pay-after-performance work experience position or if the adult is working at least ~~20~~ 25

hours per week and the family has countable income ~~is~~ below the need standard.

Time limits apply when four conditions are met:

- the caretaker is included in the grant;
- the caretaker is age 19 or older;
- the caretaker is employable; and

When one or more of the conditions listed above is not met, the family receives benefits in the non-time-limited program known as the Children's Program.

3002.3 Time Limits For Single Parent and Two Parent Families on Assistance prior to 01/01/2000

If a family was headed by an employable adult age 18 or older who was included in the grant and received Delaware's Temporary Assistance for Needy Families Program (TANF) cash benefits prior to 01/01/2000 they had a forty-eight (48) cumulative month time limit. This lifetime limit will still apply for those families. After twenty-four (24) cumulative months these families can only receive benefits if the adult is working at least ~~twenty~~ twenty-five hours per week or through participation in a pay-after-performance work experience position. The family must still have countable income that is below the need standard. Families with a forty-eight (48) month cumulative time limit who reapply for assistance on or after 01/01/2000 can only receive benefits if the adult is working at least ~~twenty~~ twenty-five hours per week or if through participation in a pay-after-performance work experience position.

Here are some examples:

1. Example:

A family initially began receiving TANF on 08/01/97. The TANF case was closed 06/30/1998. The family applied for and received TANF benefits while the time limit was forty-eight months. The family used eleven (11) months of time limited TANF benefits. The family reapplies for benefits 02/01/2000. The family can receive up to thirty-seven (37) more cumulative months of TANF benefits in the time-limited program if and only if:

- the employable adult is working at least ~~twenty~~ twenty-five hours per week; or
- by participating in a pay-after-performance work experience position; and
- the family still has countable income that is below the need standard.

2. Example:

A family had not received TANF benefits prior to 01/01/2000. The family applies for and it opened in TANF 03/01/2000. The family can only receive TANF benefits for up to thirty-six (36) cumulative months and only if:

- the employable adult is working at least ~~twenty~~ twenty-five hours per week; or
- by participating in a pay-after-performance work experience position; and
- the family still has countable income that is below the need standard.

See 3002.3 Time Limits For Those On Assistance Prior To 01/01/2000 - History

3002.9 Exceptions to the Time Limit Counter

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 calls for a maximum sixty (60) month lifetime limit on the receipt of Temporary Assistance For Needy Families (TANF) benefits. A family that has an employable adult will be able to receive cash benefits that do not count to the State's thirty-six (36) month or forty-eight (48) month time limit if:

- The adult is working for ~~twenty (20) hours~~ twenty-five (25) or more hours per week; and
- The countable income of the family is still below the need standard.

The Federal time limit does not apply in these cases.

3006.2 TANF Employment and Training Participation Rates

Under the Temporary Assistance For Needy Families Block Grant, DSS is required to meet the following work participation rates with respect to all families that include an adult or minor child head of household receiving assistance:

ALL FAMILIES		TWO-PARENT FAMILIES	
Fiscal Year	Minimum Participation Rate	Fiscal Year	Minimum Participation Rate
1997	25	1997	75
1998	30	1998	75
1999	35	1999 and after	90
2000	- - 40		
2001	- - 45		
2002 and after	50		

DSS may face a lower work participation rate if it experiences a net caseload reduction compared to FY 1995.

Example: If it is determined that DSS' average monthly caseload in FY 1997 was 4 percentage points lower than average monthly caseloads in FY 1996, then, rather than having to meet at 30% work participation rate requirement in FY 1998, the rate would be lowered by 4 percentage points to 26%.

To be counted toward meeting the work participation rate, each individual must meet the minimum number of

hours averaged over a month. This differs from the old JOBS requirement in which the hours were averaged among participants, and where participants only had to meet at least 75% of the scheduled hours.

Example: Under JOBS, if Ms. Jones was scheduled for 20 hours and attended 15, she was counted as having participated for 20 hours. Under TANF, Ms. Jones would fail to meet her 20 hours requirement, and DSS could not count her as participating. In addition, under JOBS, you could pair participants and combine their hours to get more participants to the 20 hour level. For instance, one participant working 25 hours could be paired with one participant working 15 hours to get two participants. Under TANF, only one participant could count as having met the 20 25 hour rule.

The monthly participation rate is calculated as follows:

Numerator: # of families receiving assistance that include adult or minor head of household who is engaged in work for the requisite hours

divided by

Denominator: # of families that include an adult or a minor child head of household receiving assistance, less # of families sanctioned in that month for failure to participate in work (for up to 3 months in preceding 12 month period), less the number of non-needy caretaker households, less the number of temporarily incapacitated households, less the number of mothers with a child under 13 weeks old.

3006.6 Senate Bill 101-1997 and Employment & Training Activities

Under Senate Bill 101-1997, persons who must participate in Delaware's Temporary Assistance for Needy Families Program, can qualify for participation purposes if they are engaged in secondary education, post-secondary education up to the baccalaureate level, adult basic education or vocational training. Participants must meet the following Senate Bill 101-1997 requirements in order to meet participation rates.

(a) Persons who qualify for assistance under Delaware's Temporary Assistance for Needy Families program shall be eligible to participate in adult basic education, secondary education, post-secondary education up to the baccalaureate level, adult basic education or vocational training, as an approved work activity provided each of the following requirements are met:

1. The person does not hold a baccalaureate degree.
2. The secondary, post-secondary education up to the baccalaureate level, or vocational training is pursued through an accredited or approved school program.
3. The person is enrolled with enough credit hours to have full-time student status and is in good standing

as it relates to attendance and achievement as defined by the program the person is attending.

4. If the person attending school would otherwise be subject to a work requirement in order to receive assistance under TANF, the combination of credit hours and work hours shall equal at least 25 hours per week while the program is in session. This work requirement may be met through work-study, internships, externships, or through work as a research assistant. If possible, during scheduled breaks, the work requirement will be the same as for other program participants, with work experience related to the field of study. However, if the student is enrolled full-time for the next semester and work activity placement cannot be arranged for the duration of the break in classes, it may be excused.

For every 1 credit hour count 1.5 hours of study as part of the fulfillment of the required work participation hours. Therefore if a persons full-time status is 12 credit hours count the 12 hours plus an additional 18 hours (12 x 1.5 = 18) for a total of 30 hours of weekly participation.

(b) Loans, scholarships, grants and work-study received by the recipient to pay for tuition and materials are excluded in determination of eligibility for assistance under TANF or the amount of assistance received by the recipient.

(c) The Department of Health and Social Services shall advise all persons of this section at application interviews and, at a minimum, at each recertification appointment.

(d) Persons attending education and training programs under this section shall receive support services, such as assistance with transportation and child care, while they attend the educational or vocational training program on the same basis as support services are provided other persons who are receiving assistance under TANF.

(e) If program completion will occur within one semester or quarter after the time limit expires, an extension may be granted for that semester or quarter.

(f) Persons sanctioned while attending educational or vocational programs shall be afforded the same due process as provided other persons under TANF.

3007 TANF Supportive Services and Transitional Benefits

The Division will ensure that Supportive Services are available. The Division will ensure the availability of these services, to the extent it determines they are necessary for a recipient to participate.

Currently child care is provided in accordance with child care policy in DSSM 11000. Transportation assistance is provided in accordance with DSSM 3007.6. All other supportive services are included and provided by the vendors as specified in the employment contracts.

~~Support services based on the actual cost of services. The limit is imposed when the cost exceeds the maximum~~

~~allowed. Participants are not automatically entitled to the maximum cost. Support services are paid or reimbursed to the participant based on the verified actual amount and the participant's need.~~

All other Supportive Services are included and provided by the vendor as specified in the employment contracts.

3007.6 Transportation Assistance

Transportation assistance will be paid to participants who are referred to the TANF E&T Workfare Vendor to assist with the transportation costs incurred during the initial contact with the Workfare Vendor.

Participants residing in New Castle County will receive a \$5.00 Transportation assistance check.

Participants residing in Kent and Sussex Counties will receive a \$10.00 Transportation assistance check.

The Transportation checks will be sent automatically by DICS II after Confirmation. Replacement checks can be issued by the supervisor after the completion of the affidavit.

3031 Work for your Welfare

All two-parent households, who are without employment, must enter a Work For Your Welfare activity to qualify for benefits. Single-parent adult recipients who reach their 22nd month of benefit and are without employment, and all eligible applicants on or after 01/01/2000, must enter a Work For Your Welfare activity to qualify for benefits. Additionally, all TANF recipients who are employed must have regular earnings of the current federal minimum wage at twenty-five hours per week. (The current federal minimum wage is \$5.15 per hour, which at 25 hours per week equals \$128.75 per week earnings.) A person who is employed but not earning at least the equivalent of the current federal minimum wage at twenty-five hours per week will be considered mandatory for Work for Your Welfare. A contracted worker must receive his or her wages on a regular basis to be exempted from this requirement.

Work for Your Welfare is defined as a work experience program in which participants work to earn their benefits. In addition, DSS requires each participant to complete 10 hours of job search activity per week. The failure to complete job search as required will result in a progressive 1/3 sanction. For two parent households, one parent must participate in the Work For Your Welfare program in order to earn benefits. The second parent, unless exempt, must also participate in required employment related activities as defined by DSS and the DSS contractor.

3031.5 Ending a Work for Welfare Placement

Work for welfare placements will end when any of the following circumstances occur:

- The participant secures a full-time, non-subsidized job or a part-time, non-subsidized job of ~~20~~ 25

hours or more.

- The participant becomes exempt. Exemptions, however, can only occur if DSS declares participants unemployable, using the standard TANF definition for unemployable. In this case, DSS will transfer the participants to the Children's Program under TANF.
- The participant requests an end to benefits payments.
- When the time limit has been reached.

NOTE: Participants in either one parent or two parent households are exempt from work for your welfare participation if a parent is working ~~20~~ 25 or more hours per week in a non-subsidized job.

10007 E&T Non ABAWD Participant Reimbursement

Participants are reimbursed for necessary expenses incurred ~~in~~ while fulfilling Food Stamp Employment and Training requirements or obtaining/maintaining employment, as follows Reimbursements are available in the following areas:

A. ~~up to \$30 per participant, per month, for transportation and~~ Transportation as defined in 10007.1.

B. up to \$496.65 per month for dependents under age 2; or \$521.60 per month for dependents with special needs under the age of 2; and

~~up to \$370.88 per month for dependents over 2, or \$389.36 per month for dependents with special needs over 2.~~ Dependent care expenses as defined in 10007.2.

C. Support Services as defined in 10007.3.

~~The amounts noted represent the statewide limits DSS has set for its TANF Child Care programs. DSS elects to set its Food Stamp Employment and Training dependent care rates comparable to its TANF child care rates. The federal share of these statewide limits does not exceed half of the amounts noted.~~

~~DSS provides dependent care services through licensed care and exempt facilities. The types of care provided include: full-time care, before/after school care, and extended child care in either a family/group home or child care center.~~

~~When a Food Stamp Employment and Training work registrant needs dependent care to participate or continue participating in a component activity, offer the work registrant an option of using a child care facility with a contract with DSS or any other licensed or exempt facility a registrant might choose. Monthly child care providers submit attendance reports to the Division of Management Services, Payment Section. The Payment Section enters the attendance data in the Child Care Management Information System which makes payment to providers based on attendance and the prescribed Food Stamp Employment and Training dependent care formula.~~

Transportation, Dependent Care and Supportive Services payments are for all E&T mandatory or voluntary Non ABAWD participants.

10007.1 Method of Reimbursement for ~~Non-Dependent Care Costs~~ Transportation

The State agency elects to reimburse participants for transportation and costs other than dependent care based on an initial allowance plus actual verified expenses incurred beyond the initial allowance.

The total cost per participant per month is a reimbursement amount equal to the initial allowance plus actual costs documented by the participant that are above the initial allowance, but not exceeding the standard amount of \$30: \$30.00. Transportation reimbursement is given for those participants residing beyond a ten block radius from the place of work for urban areas, and 1/4 mile radius for rural areas, except in extenuating circumstances such as physical impairment. Contract providers and Case Managers are responsible for providing payments to participants.

Upon successful completion of the IJS log the participant will automatically receive a system generated transportation allowance. The allowance is \$5.00 for New Castle County (NCC) and \$10.00 for Kent and Sussex (K/S).

Upon computer verified participation at a DOL One Stop Service Center the participant will automatically receive a system generated transportation allowance. The allowance is \$5.00 for NCC and \$10.00 for K/S.

Participants can receive only one transportation allowance check per month to attend the One Stop Service Center regardless of the number of times they go to the One Stop Service Center. Participants can only receive one transportation allowance check per month. If the participant completes an IJS log and goes to the One Stop Service Center in the same month they will only receive one allowance check.

A participant may be reimbursed additional monies if the participant brings in verification of the actual expenses that were above the initial \$5.00 or \$10.00 allowance. The total monthly reimbursement should not exceed \$30.00.

Any monthly total exceeding \$30.00 must be verified and approved by a supervisor.

Depending on the individual's circumstances, an advance allowance or reimbursement after incurred expenses is provided. All records are maintained by contract providers and DSS. Providers attach supporting documentation to their monthly expenditure report to justify participant reimbursement expense. Reimbursement of participant expenses may not exceed \$30 per month per participant.

10007.2 Dependent Care Reimbursement

Dependent Care reimbursement can be authorized when a Food Stamp Employment and Training participant needs dependent care to participate in an E&T component or employment.

Dependent Care expenses are determined by the approved Purchase of Care program fee scale.

DSS provides dependent care services through licensed and exempt facilities. The types of care provided include: full-time care, before/after school care, and extended child care in either a family/group home or child care center.

Offer the participant an option of using a child care facility with a contract with DSS or any other licensed or exempt facility a registrant might choose. Monthly Child care providers submit monthly attendance reports to the Division of Management Services, Payment Section. The Payment Section enters the attendance data in the Child Care Management Information System which makes payment to providers based on attendance and the prescribed Food Stamp Employment and Training dependent care formula.

Dependent Care can be authorized to a voluntary participant.

Example:

An 18 year old High School graduate with a 3 year old child can volunteer for the E&T program and receive child care for either work hours or school hours.

10007.3 Supportive Services Reimbursements

All Supportive Services reimbursements/payments must be actual costs that are necessary for Employment and Training participation or obtaining employment. They must be verified and documented.

Supportive Services reimbursements /payments can be provided under the following categories;

A. Fees

These services can include licenses such as Commercial Drivers License and Nurses licenses, testing for employment or education (this includes GED test fees), or other fees directly related to training or employment.

Monetary Limit of Service / Expense: Verified actual cost up to \$200.00 per individual, per month as determined by need.

B. Clothing

These services can include clothes that are appropriate for interviewing or the first few days of employment.

Monetary Limit of Service / Expense: Verified actual cost up to \$150.00 per individual. This is a one time only service.

C. Accessories for Work or Training

These services can include purchase of safety equipment, uniforms, shoes, or tools required to participate in training or work. The need in some cases can be verified

by Office of Safety and Health Administration (OSHA) regulations.

Monetary Limit of Service / Expense: Verified actual cost up to \$150.00 per individual, per month as determined by need.

D. Physical Exam

This service can be authorized when a participant is required to undergo a physical exam to participate in training or accept employment and such exam is not available through a public health facility or covered by Medicaid.

Monetary Limit of Service / Expense: Verified actual cost up to \$100.00 per individual, per month as determined by need.

E. Dental Services

This service is only necessary when a participant's dental condition poses a significant barrier to employment.

Monetary Limit of Service / Expense: Verified actual cost up to \$400.00 per individual, per month as determined by need.

F. Eye exams and eyeglasses

When the assessment indicates the participant's vision is impaired, or when the individual needs glasses to continue in a component or job. This does not include contact lenses unless they are medically necessary.

Monetary Limit of Service / Expense: Verified actual cost up to \$200.00 per individual, per month as determined by need.

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code,
Chapter 5, Section 512 (31 Del.C. Ch. 5, §512)

ORDER

Nature of the Proceedings:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding the Attendant Services Waiver Program (ASWP). The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the March 2005 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 31, 2005 at which time the Department would receive

information, factual evidence and public comment to the said proposed changes to the regulations.

Summary of Proposed Change

The Attendant Services Waiver Program (ASWP) is a community-based services program funded by the Division of Social Services (DSS), Delaware Medical Assistance Program (DMAP) and operated by the Division of Services for Aging and Adults with Physical Disabilities (DSAAPD).

The proposed set forth the rules and regulations governing the administration of the ASWP, and describe the types of services available under the program. The regulations being proposed would also define the eligibility criteria that must be met by applicants for the services and the scope of services available to eligible applicants.

The earliest effective date for the ASWP is December 1, 2004.

Summary of Comments Received with Agency Response and Explanation of Changes

The State Council for Persons with Disabilities (SCPD) offered the following observations and recommendations summarized below:

First, the menu of covered services appears to have many of the same services as the elderly and disabled (E & D) waiver while adding attendant services and supports brokerage. However, the menu of services does not include "personal care" which was included in the E & D waiver and "fiscal agent" services which was to be included in the Attendant Services waiver. SCPD respectfully requests clarification on this issue.

Agency Response: The menu of services in the final regulation shows the following inadvertently omitted services: personal care, fiscal agent and case management.

Second, Section 20700.6.1 requires a waiver candidate to meet "nursing facility admission standards". This is essentially the same standard applicable to the E & D waiver. SCPD recommends inclusion of assisted living facility level of care as well.

Agency Response: The waiver request submitted and approved by CMS included this standard, as written. There is no change.

Third, in the same Section 20700.6.1, SCPD recommends to at least amend the reference to read "nursing facility (including skilled and intermediate care) admission standards. A nursing facility includes an intermediate care facility.

Agency Response: DSS accepts the requested change. The final order regulation shows the amended reference.

Fourth, Sections 20700.6.4 and 20700.6.5 refer to "patient pay amount". Unless required by the waiver, it would be preferable to refer to "participant pay amount" since this program is not based on a medical model.

Agency Response: "Patient pay amount" is the terminology used by staff. There is no change.

Fifth, the reference to meeting the "financial...and medical criteria for DSS Long Term Care Medicaid Program" in Section 20700.6.1 generally equates to countable income of 250% of the SSI standard and countable resources up to \$2,000. SCPD respectfully requests that DSS clarify the circumstances under which a participant would ever have to contribute a "patient pay amount" and how it would be calculated.

Agency Response: The final order regulation shows that the following sentence is added to Section 20700.6.4: "Only individuals with a Miller Trust may be subject to a patient pay. See Section 20720."

Additional comments were received from Roger Waters, DSS Hearing Officer. His suggested changes are intended to make the language of the rules simpler and easier to understand. As a result of the suggestions, DSS made non-substantive grammatical and clarifying language changes throughout the regulation indicated by [bracketed bold type].

Findings of Fact:

The Department finds that the proposed changes as set forth in the March 2005 Register of Regulations should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual regarding the Attendant Services Waiver Program (ASWP) is adopted and shall be final effective May 10, 2005.

Vincent P. Meconi, Secretary, DHSS, 4/15/05

DSS FINAL ORDER #05-22
NEW:

20700.6 Attendant Services Waiver

The Attendant Services Waiver (ASW) is a home and community based services program ~~[that will be]~~ managed by the Division of Services for Aging and Adults with Physical Disabilities (DSAAPD). The purpose of the ~~[Waiver waiver]~~ is to minimize the likelihood of institutionalization and maximize the potential for independent living for adults with physical disabilities. This program is a consumer directed support program. Participants ~~[will]~~ have ~~[the an]~~ opportunity to hire and train

their own attendants and serve as the employer of record for these attendants. DSAAPD staff ~~[will]~~ provide[s] initial intake, assessment, service authorization, and [a] wavier service plan. The Division of Social Services (DSS) ~~[will be is]~~ responsible for determining financial eligibility for the ~~[Waiver waiver. The effective date is October 1, 2004.]~~

20700.6.1 Eligibility Criteria

To be eligible for this program, [an] individual~~[s]~~ must:

- Be a resident of the ~~[state State]~~ of Delaware
- Be 18 years of age or older
- Meet the financial and medical criteria for [the] DSS Long Term Care Medicaid Program
- ~~[Medical criteria must meet]~~ Have a medical condition that meets] nursing facility [(including skilled and intermediate care)] admission standards
- Meet the ASW criteria as determined by DSAAPD
 - Financial eligibility is determined by DSS
 - Medical eligibility is determined by the Pre-Admission Screening Unit of DSAAPD
 - Program eligibility is determined by DSAAPD.

An individual must meet ALL of the following criteria:

- have an anatomical/physical deficit anticipated to last 12 months or more
- be medically stable
- have ability to self-direct or have a surrogate who can support the client in making decisions

Priority ~~[will be is given to]~~ applicants who are:

- persons who with an attendant can complete an education[al plan], or can attain or retain gainful employment;
- persons with greater environmental, social supportive and financial capacity constraints, especially those with constraints in all three areas;
- persons [who are] living in costly, congregate living facilities ~~[who live but could be living]~~ independently and more cost effectively if they had attendants.

20700.6.2 Number of Recipients

There ~~[are is]~~ a maximum number of recipients who may be served under the ASW each fiscal year. The total unduplicated number of recipients served under the program cannot exceed the maximum number approved by the Centers for Medicare and Medicaid Services (CMS). DSAAPD will monitor the number of individuals receiving ASW so the maximum number ~~[will is]~~ not ~~[be]~~ exceeded.

20700.6.3 Cost Effective Requirement

In order for an applicant to be eligible for the ASW, the applicant's cost of care cannot exceed the cost if the same applicant were institutionalized. This determination is made on an aggregate basis which considers all ASW recipients. A DSAAPD worker determines cost effectiveness.

20700.6.4 Approval

Upon approval, DSS will send a notice of approval to the applicant or his representative. The notice will include the effective date of coverage and the patient pay amount if any. The client's [eligibility] start date is determined by DSAAPD staff. [Only individuals with a Miller Trust may be subject to a patient pay amount. See Section 20720.]

20700.6.5 Post Eligibility Budgeting

For recipients in the ASW the personal needs allowance is equal to 250% of the Federal SSI Benefit Rate. Collection of the patient pay amount from the recipient or the recipient's representative is the responsibility of the provider who is administering the most costly service.

20700.6.6 Hospitalization Or Illness

Waiver services will terminate [upon] the 31st consecutive day of hospitalization. There are no Medicaid bed hold days for hospitalization. DSS will [periodically] redetermine eligibility for continued Medicaid coverage. Waiver services may restart after hospital discharge as determined by DSAAPD staff.

20700.6.7 ASW Services

The Attendant Services Waiver [will] include(s) the following:

- Attendant Services
- Adult Day Health
- Respite
- Equipment/Supplies
- Emergency Response Systems
- Supports Brokerage
- **[Personal Care**
- **Fiscal Agent**
- **Case Management]**

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

BAIL ENFORCEMENT AGENTS

Statutory Authority: 24 Delaware Code,
Section 5404(a) (24 Del.C. §5404(a))

ORDER

Pursuant to the Guidelines in 29 Del.C. Section 10118(a)(1)-(7), the Secretary of Safety and Homeland Security ("Secretary") hereby issues this Order. Following public notice held open until February 1, 2005 on the proposed amendment of promulgated rules and regulations 1.0 Licensing, the Secretary makes the following Findings and Conclusions:

Summary of Evidence and Information Submitted

1. The Secretary did not receive written evidence or information pertaining to the proposed amendment.
2. The Secretary expressed his intent to amend the rule to clarify items and fees that a Bail Enforcement Agent will incur when applying for or renewing their license.

Findings of Fact

3. The public was given notice and the opportunity to provide the Secretary with comments, in writing, on the amendment of the rule. The written comments received are described in paragraph 1.
4. The Secretary finds that the amendment of this rule will clarify items and fees that a Bail Enforcement Agent will incur when applying for or renewing their license.
5. The Secretary finds that the amendment will have no adverse impact on the public.
6. The Secretary finds that the amendment is well written and describes its intent to clarify items and fees that a Bail Enforcement Agent will incur when applying for or renewing their license.

Conclusion

7. The proposed rule amendment was promulgated by the Secretary in accord with the statutory duties and authorities as set forth in 24 Del.C. Section 5504 et seq. and, in particular, 24 Del.C. Section 5504(a).
8. The Secretary deems this amendment necessary and expedient to the full and official performance of his duties under 24 Del.C. Section 5504 et. seq.
9. The Secretary concludes that the amendment of this rule will be in the best interests of the citizens of the State of Delaware.

10. The Secretary therefore adopts the amendment of this rule pursuant to 24 **Del.C.** Section 5504(a) and guidelines of 29 **Del.C.** Section 10118 of the Administrative Procedures Act. See, *Strauss v. Silverman*, Del. Supr., 339 A.2d 192 (1979).

11. This amended rule replaces 1.0 (1.1, 1.2, 1.3, 1.4, 1.4.1, 1.5, 1.6, 1.8, & 1.9), in its entirety, and any former rule or regulation heretofore promulgated by the Secretary.

12. The effective date of this Order shall be May 10, 2005.

13. Attached hereto and incorporated herein this order is the amended rule marked as exhibit A and executed simultaneously by the Secretary on the 14th day of February 2005.

David B. Mitchell J.D., Secretary
Department of Safety and Homeland Security

APPROVED AS TO FORM:
Patricia D. Murphy, Esquire
Deputy Attorney General
February 14, 2005

Bounty Hunter/Bail Enforcement Agents

1.0 Licensing

1.1 Any individual applying for a bail enforcement agent ID card under 24 **Del.C.** Ch. 55 must meet and maintain the following qualifications:

1.1.1 Must not be convicted of any felony; and

1.1.2 Must not have been convicted, within the last seven (7) years, of any two (2) of the following misdemeanors: theft, drug offenses, offensive touching, or assault III; and

1.1.3 Must not have been convicted of any charge or been involved in any conduct that may impair the performance of the bail enforcement agent and endanger public safety as determined by the Detective Licensing Section and

1.1.4 Must not have been, as a juvenile, adjudicated as delinquent for conduct which, if committed by an adult, would constitute a felony, unless and until that person has reached their 25th birthday.

1.2 An individual bail enforcement agent ID card will not be issued if there is a pending charge as listed in Section 1.1.1 or a pending charge as listed in Section 1.1.2 for an applicant with one (1) conviction of specified misdemeanor listed in Section 1.1.2.

1.3 The individual bail enforcement agent applying for an ID card under Title 24 Chapter 55 must also meet the following qualifications:

1.3.1 Must be at least 21 years of age; and

1.3.2 Must complete the training qualifications set forth in Section 6.0; and

1.3.3 If carrying a weapon, must meet and maintain the qualifications set forth in Section 4.0.

1.4 The individual bail enforcement agent applying for an ID card under Title 24 Chapter 55 must submit the following for approval:

1.4.1 A fee of ~~\$25~~ \$75 for a four (4) year ID card which shall expire and be renewable on the 4th anniversary date of the birth of the applicant next following the date of its issuance unless the birth date is February 29, in which event the license shall expire and be renewable on February 28 every 4th year; and

1.4.2 Any and all applications required by the Detective Licensing Section; and

1.4.3 Submit two (2) sets of fingerprints for a Delaware (CHRI) and Federal (FBI) criminal history record check. The Director of the State Bureau of Identification (SBI) determines the fee for this process. This subsection 1.4.3 does not apply to the renewal of ID cards, unless required by the Director of Detective Licensing.

1.5 The ID cards are the property of the Delaware State Police and must be returned to the Detective Licensing Section upon expiration of the ID card or at the request of the Detective Licensing Section.

1.6 A bail enforcement agent that has been issued an ID card by the Detective Licensing Section shall be required to have such card in their possession while in the performance of his or her duties.

1.7 A bail enforcement agent must not be a member or employee of any Delaware Law Enforcement Organization, as defined by the Council on Police Training, or a member or employee of a law enforcement organization of any other local, state or federal jurisdiction.

1.8 There will be no reciprocity with any other state regarding the issuing of an ID card to a bail enforcement agent.

1.9 A fee of \$50 shall be for the renewal of the ID card and license, which shall be valid for another four (4) years.

7 DE Reg. 1782 (6/1/04)

2.0 Badges, Patches, Advertisements

2.1 No individual licensed under 24 **Del.C.** Ch. 55 shall use any type of uniform or other clothing items displaying logos, badges, patches, or any other type of writing without first being approved by the Detective Licensing Section. Under no circumstances shall any item contain the seal or crest of the State of Delaware, any state of the United States, the seal or crest of any county or local sub division, or any facsimile of the aforementioned seals or crests.

2.2 All advertisements or other forms of publication, subsequent to their use, are subject to review by the Detective Licensing Section for potential misrepresentation. If the Detective Licensing Section does not approve the advertisement or publication, it will forward its concerns to

the licensee. Failure to correct the advertisement or publication will be considered a violation of these Rules & Regulations.

2.3 The use of auxiliary lights, sirens, or any markings on vehicles is prohibited.

3.0 Use of Animals

3.1 The use of animals is prohibited in the performance of any bail enforcement agent activity.

4.0 Firearms Policy

4.1 No person shall carry a firearm under this chapter unless the individual first completed and passed an approved 40-hour firearm course, instructed by a certified firearm instructor, recognized by the Detective Licensing Section.

4.2 All persons licensed to carry a firearm under this chapter must be re-certified yearly, by an instructor as described in Section 4.1, by shooting a minimum of three (3) qualifying shoots a year. The shoots must be scheduled on at least two (2) separate days, with a recommended 90 days between scheduled shoots. Of the three (3) shoots, there will be one mandatory "low light" shoot. Simulation is permitted and it may be combined with a daylight shoot. All individuals must qualify with the same type of weapon that he/she will carry. The minimum passing score is 75%.

4.2.1 All renewal shoot sheets must be submitted by January 31st of each year for the previous calendar year.

4.3 All handguns must be either a revolver or semi-automatic and be maintained to factory specifications. Only the handguns with the following calibers are permitted:

- 4.3.1 9mm
- 4.3.2 .357
- 4.3.3 .38
- 4.3.4 .40
- 4.3.5 .45

4.4 All ammunition will be factory fresh (no re-loads).

4.5 Any person requesting to carry any shotgun, rifle, any type of weapon or apprehension device must first provide proof of training to the Detective Licensing Section for approval.

5.0 Nightstick, PR24, Mace, Peppergas, Chemical Spray, and Handcuffs

5.1 To carry the above weapons/items a bail enforcement agent must have completed training by a Detective Licensing Section approved instructor, on each and every weapon/item carried. Proof of training, and any renewal training, must be provided to the Detective Licensing Section. Under no circumstances would a person be permitted to carry any other type weapon/item, unless first approved by the Detective Licensing Section.

7 DE Reg. 1782 (6/1/04)

6.0 Training

6.1 All bail enforcement agents licensed under Title 24 Chapter 55 must complete training in the following courses: Constitution/Bill of Rights, Laws of Arrest, Laws of Search & Seizure of Persons Wanted, Police Jurisdiction, Use of Deadly Force, and the Rules & Regulations of Bounty Hunters/Bail Enforcement Agents.

6.2 The training must be completed prior to obtaining a license.

7 DE Reg. 1782 (6/1/04)

7.0 Notification of Apprehensions

7.1 All bail enforcement agents licensed under 24 **Del.C.** Ch. 55 are required to notify the police emergency 911 dispatch center (i.e., Recom, Kentcom, Suscom) of the appropriate police agency in which the apprehension will be attempted.

8.0 Notification of Arrest

8.1 Anyone licensed under 24 **Del.C.** Ch. 55 shall, excluding weekends and State holidays, notify the Detective Licensing Section within five (5) days of being arrested for a misdemeanor or felony crime. Failure to do so may result in the suspension or revocation of any individual.

9.0 Suspensions and Revocations

9.1 The Detective Licensing Section shall have the power to suspend or revoke any individual, licensed under 24 **Del.C.** Ch. 55, that violates the Chapter or the promulgated Rules & Regulations.

9.2 The Detective Licensing Section may suspend or revoke any individual, licensed under 24 **Del.C.** Ch. 55, that has been arrested and that arrest could result in the conviction of any misdemeanor or felony as described in Section 1.0.

9.3 Anyone whose license has been suspended, revoked, rejected, or denied is entitled to a hearing before the Secretary of Safety and Homeland Security.

9.3.1 Anyone requesting a hearing shall notify the Detective Licensing Section, in writing, within 30 days from the suspension, revocation, rejection, or denial and the hearing shall be scheduled at the earliest possible time.

5 DE Reg. 1523 (1/1/02)

7 DE Reg. 1782 (6/1/04)

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER SIXTY-SIX

**RE: Establishing the Veterans Home Oversight
Committee**

WHEREAS, the State of Delaware is committed to establishing a dedicated long term care facility to serve the State's veterans; and

WHEREAS, in April 2004, the General Assembly passed legislation to expedite funding and construction of a State veterans home, in cooperation with the United States Department of Veterans Affairs; and

WHEREAS, a special steering committee formed in 2004 has been working to organize, oversee and guide the significant decisions relating to the development, siting, design and construction of the Veterans Home; and

WHEREAS, the special steering committee has included representation by, among others, the Office of the Governor, members of the General Assembly, the State Budget Office, the Controller General's office, the Secretary of State, and the Commission on Veterans Affairs; and

WHEREAS, it is desirable that the steering committee continue in existence past the construction of the Veterans Home, in order to provide planning, advice, recommendations and oversight concerning the operations of the Veterans Home when it is completed, and such a committee will ensure broad and balanced input concerning the ongoing operations of the facility.

NOW, THEREFORE, I, RUTH ANN MINNER, by virtue of the powers vested in me as the Governor of the State of Delaware, DO HEREBY ORDER AND DECLARE, this 22nd day of March 2005, as follows:

1. The Veterans Home Oversight Committee (the "Committee") is established.

2. The Committee will consist of not less than eleven (11) members. The Committee shall include the following persons, or their designees:

- a. The Secretary of State;
- b. The Secretary of the Department of Health and Social Services;
- c. The Chairperson of the Senate Committee on Veterans Affairs;
- d. The Chairperson of the House Committee on Veterans Affairs;
- e. The Chairperson of the Delaware Commission on Veterans Affairs;
- f. The Executive Director of the Delaware Commission on Veterans Affairs;
- g. The State Budget Director;

- h. The Controller General;
- i. A representative of the Governor's Office;
- j. A representative of the State Division of Facilities Management.

Additional members may be appointed to serve at the pleasure of the Governor. Chairs or Co-Chairs of the Committee shall be designated by the Governor.

3. The Veterans Home Oversight Committee shall meet at least quarterly. The Committee shall serve as an advisory group for the management of the State Veterans Home, and shall make recommendations concerning management, staff, policies and procedures for the operations of the Veterans Home.

Ruth Ann Minner,
Governor

ATTEST:
Harriet Smith Windsor, Secretary of State

GOVERNOR'S APPOINTMENTS

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Board of Accountancy	Ms. Cathel R. Tanner	3/31/08
Board of Dental Examiners	Ms. Angela Beranek	3/31/08
Board of Geologists	Mr. Dana A. Long Mr. Stephen N. Williams	3/31/08 3/31/08
Board of Medical Practice	Mr. John W. Banks	3/31/08
Child Placement Review Board	Ms. Janice K. Baly	3/31/08
Community Involvement Advisory Council	Ms. Juana Fuentes-Bowles Mr. William E. Pelham Mr. Donald E. Scholfield Mr. Marvin P. Thomas	3/31/08 3/31/08 3/31/08 3/31/08
Council on Apprenticeship and Training	Mr. Albert F. Bradbury Mr. Donato R. Buccini Ms. Patricia D. Creedon Mr. R. Joseph Johnson Mr. David G. Kitto Mr. Andrew S. Nowell	1/8/06 3/31/08 3/31/08 3/31/08 3/31/08 3/31/08
Council on Banking	Mr. Joseph E. Chippie Mr. Robert E. Dickerson Mr. Robert V.A. Harra, Jr. Mr. Walter E. Kee, Jr. Mr. Edward Reznick Ms. Kathleen M. Roberts	3/31/08 3/31/08 3/31/08 3/31/08 3/31/08 3/31/08
Council on Boiler Safety	Mr. Carl D. Kinney Mr. Theobald P. Omlor, Jr.	3/31/08 3/31/08
Council on Correction	Ms. Virginia S. Thogersen	3/31/08
Council on Shell Fisheries	Mr. Steven Copp Mr. Lawrence S. Foley Mr. Patrick M. Gaffney Mr. Virgilio Pacelli Mr. Leonard Voss, Jr.	3/31/08 3/31/08 3/31/05 3/31/08 3/31/08
Council on the Blind	Mr. David L. Whitt	3/31/08

GOVERNOR'S APPOINTMENTS

1631

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Delaware Commission on Intalian Heritage and Culture	Mr. Robert E. Buccini	2/28/07
	Mr. Ciro Poppiti	2/28/08
	Mr. Christopher J. Tigani	2/28/06
Delaware Institute of Medical Education and Research, Board of Directors	Michael A. Alexander, M.D.	10/8/06
	Kim L. Carpenter, M.D.	3/31/08
	John A. Forest, Jr., M.D.	3/31/08
Delaware Interagency Council on Homelessness	Ms. Marian L. Harris	Pleasure of the Governor
	Ms. Sheera M. Lipshitz	Pleasure of the Governor
	Mr. Richard Pokorny	Pleasure of the Governor
Delaware Interagency Council on Homelessness, Chair	The Honorable Saundra R. Johnson	Pleasure of the Governor
Delaware Interagency Council on Homelessness, Co-Chair	Ms. Catherine Delvaney McKay	Pleasure of the Governor
Delaware Interscholastic Athletic Association	Jeffrey E. Hawtof, M.D.	3/24/08
	Garrett B. Lyons, Jr., D.D.S.	3/24/08
Delaware Natural Areas Advisory Council	Mr. Peter S. Martin	3/24/09
Delaware Solid Waste Authority, Director	Ms. Tonda L. Parks	3/24/08
	Mr. Theodore W. Ryan	3/24/08
	Mr. Timothy P. Sheldon	3/24/08
Department of Labor, Secretary	The Honorable Thomas B. Sharp	Pleasure of the Governor
Developmental Disabilities Council	Mr. Raymond P. Beaudry	3/31/2011
Enhanced 911 Emergency Reporting System Service Board	The Honorable Thomas M. Jarrett	3/24/08
	Mr. James E. Turner, III	3/24/08
Governor's Advisory Council for Exceptional Citizens	Ms. A. Jane Donovan	Pleasure of the Governor
Governor's Commission on Community and Volunteer Service	Ms. Iwana Smith	3/31/08
Industrial Accident Review Board	Mr. Lowell L. Groundland	3/16/11

GOVERNOR'S APPOINTMENTS

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Merit Employees Relations Board	Ms. Bernice M. Edwards	3/16/08
Parks and Recreation Council	Mr. Lloyd H. Hickman	3/31/08
Public Service Commission	The Honorable Dallas Winslow	5/1/10
Recycling Public Advisory Council	Mr. George C. Wright, Jr.	3/31/08
State Coastal Zone Industrial Control Board	Ms. Christine W. Waisanen	3/16/10
University of Delaware Board of Trustees	Mr. Scott A. Green	3/16/11
Wastewater Facilities Advisory Council	Mr. Jeffrey M. Bross Mr. Josef A. Burger	3/16/08 3/16/08

**DELAWARE RIVER BASIN
COMMISSION**

The Delaware River Basin Commission will hold a public hearing and business meeting on Wednesday, May 18, 2005 at 10:00 a.m. at the Shawnee Inn, Shawnee-on-the-Delaware, Pennsylvania. For more informations contact Pamela M. Bush, Esq., Commission Secretary and Assistant General Counsel, at 609-883-9500 extension 203.

**DEPARTMENT OF ADMINISTRATIVE
SERVICES****DIVISION OF PROFESSIONAL REGULATION
BOARD OF EXAMINERS OF PSYCHOLOGISTS****NOTICE OF PUBLIC HEARING**

The Delaware Board of Examiners of Psychologists in accordance with 24 **Del.C.** §3506(a)(1) has proposed changes to its rules and regulations as mandated by SB 229. The proposal identifies crimes that are substantially related to the provision of psychology services.

A public hearing was held on March 7, 2005, after which the Board decided to review its proposal. A revised list of related crimes was developed at a subsequent subcommittee meeting held on March 21, 2005. The Board approved and adopted the subcommittee's recommendations at a Board meeting held on April 4, 2005. The revised list of crimes includes substantive deletions and clarifications from the proposal originally published in the *Register of Regulations*, Vol. 8, Issue 6, on December 1, 2004.

A second public hearing will be held on June 6, 2005 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Examiners in Psychology, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

**DIVISION OF PROFESSIONAL REGULATION
Board of Clinical Social Work Examiners****NOTICE OF PUBLIC HEARING**

The Delaware Board of Clinical Social Work Examiners is proposing to revise its rules and regulations pursuant to 29 **Del.C.** Chapter 101 and 24 **Del.C.** §3906(1). The Board is proposing to amend Regulation 7.2.1.1 regarding the Definition and Scope of Continuing Education to add that the Board will accept for continuing education credit all courses designated for clinical social workers which are offered by the Clinical Social Work Federation (CSWF).

A public hearing will be held on June 20, 2005 at 9:30 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Clinical Social Work Examiners, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

**DIVISION OF PROFESSIONAL REGULATION
Board of Nursing Home Administrators****NOTICE OF PUBLIC HEARING**

The Delaware Board of Nursing Home Administrators in accordance with 24 **Del.C.** §5204(1) has proposed changes to its rules and regulations as mandated by SB 229. The proposal identifies crimes that are substantially related to the practice of nursing home administration.

A public hearing was held on January 11, 2005, after which the Board decided to review its proposal. A revised list of related crimes was developed at two subsequent Board meetings held on January 31, 2005 and February 11, 2005, which includes substantive deletions, additions and clarifications from the proposal originally published in the *Register of Regulations*, Vol. 8, Issue 6, on December 1, 2004.

A second public hearing will be held on June 14, 2005 at 2:00 p.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and

regulations may obtain a copy from the Delaware Board of Nursing Home Administrators, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

DEPARTMENT OF FINANCE
DIVISION OF REVENUE

PUBLIC NOTICE

Abandoned or Unclaimed Property Voluntary Disclosure Agreement and Audit Programs

The Division of Revenue proposes to adopt the following regulation concerning **Abandoned or Unclaimed Property Voluntary Disclosure Agreement and Audit Programs Pursuant to 12 Del.C. §1154**. Written comments or other written materials concerning the proposed regulation must be received by the Division of Revenue no later than 4:30 p.m., Wednesday, June 1, 2005, and should be addressed to Deputy Attorney General J. Patrick Hurley, Esquire, c/o Department of Finance, Division of Revenue, 820 North French Street, Wilmington, DE 19899-8911 or sent by fax to (302)577-8656 or Email to pat.hurley@state.de.us.

DEPARTMENT OF EDUCATION

The State Board of Education will hold its monthly meeting on Thursday, May 19, 2005 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES

PUBLIC NOTICE

Long Term Care Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the

Delaware Code) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend the Division of Social Services Manual (DSSM) regarding the Long Term Care Program. This proposal gives direction for the eligibility process on German Reparation payments received by institutionalized individuals.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy & Program Development Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720-0906 by May 31, 2005.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

DIVISION OF SOCIAL SERVICES
PUBLIC NOTICE

Long Term Care Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend the Division of Social Services Manual (DSSM) regarding the Long Term Care Program. This proposal gives direction on *Couples Cases* for the eligibility process.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy & Program Development Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720-0906 by May 31, 2005.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

DEPARTMENT OF INSURANCE**NOTICE OF PUBLIC HEARING**

INSURANCE COMMISSIONER MATTHEW DENN hereby gives notice that a PUBLIC HEARING will be held on Wednesday, May 25, 2005 at 10:00 a.m. in the Consumer Services Conference Room of the Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, Delaware. The hearing is to receive public comment on proposed **Regulation 702** relating to **REQUIRED DISCLOSURES FOR RESIDENTIAL HOMEOWNERS POLICIES**.

The purpose for proposing Regulation 702 is to require insurance companies to deliver a separate form to policyholders on an annual basis explaining information about coverage limitations. That form would, among other things: explain that Delaware homeowners insurance does not cover flood damage, and will explain to the homeowner how flood insurance can be obtained; explain how to assure replacement coverage; explain limitations on reimbursement for theft from the home and how to obtain additional coverage for theft; and to require explanations for an insurer's decision not to renew a homeowner's policy at the end of the term.

The hearing will be conducted in accordance with 18 Del.C. §311 and the Delaware Administrative Procedures Act, 29 Del.C. Chapter 101. Comments are being solicited from any interested party. Comments may be in writing or may be presented orally at the hearing. Written comments, testimony or other written materials concerning the proposed change to the regulation must be received by the Department of Insurance no later than 4:30 p.m., Tuesday, May 24, 2005, and should be addressed to Deputy Attorney General Michael J. Rich, c/o Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, or sent by fax to 302.739.5566 or email to michael.rich@state.de.us.

**DEPARTMENT OF NATURAL
RESOURCES AND
ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT****NOTICE OF PUBLIC HEARING****Title of the Regulation:**

Amendment to Regulation 25 "Requirements for Preconstruction Review", Section 4 "Minor New Source Review (MNSR) ."

Brief Synopsis of the Subject, Substance and Issues:

Under regulation 25, new, major stationary sources may be required to install emission controls, depending upon pollutant and the area classification (attainment or non-attainment), for emission levels of 25 to 100 tons per year or more. There is no requirement for such controls below these threshold limits. Delaware is in non-attainment under the 8-hour ground-level ozone National Ambient Air Quality Standards (NAAQS) and the PM_{2.5} NAAQS and it seems incongruous to allow sources to emit non-attainment pollutants and precursors below these thresholds without requiring some controls. This new amendment to Regulation 25, Section 4 Minor New Source Review (MNSR), requires up-to-date air pollution control devices in many cases for new sources emitting certain pollutants at or above 5 tons per year.

Notice of Public Comment:

There will be a hearing on these proposed regulations held on Thursday, May 26, 2005 beginning at 6pm in the DNREC auditorium at the Richardson & Robbins Building, 89 Kings Highway, Dover, Delaware. Interested parties may submit comments in writing to Gene Pettingill, Air Quality Management Section, 715 Grantham Lane, New Castle, DE 19720 and/or statements and testimony may be presented either orally or in writing at the public hearing.

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