
Delaware Register of Regulations

Issue Date: October 1, 2014

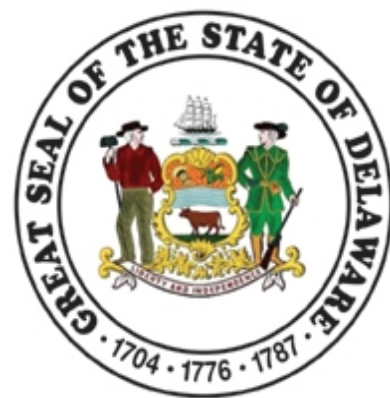
Volume 18 - Issue 4, Pages 249 - 330



IN THIS ISSUE:

Regulations:
Proposed
Final

Calendar of Events &
Hearing Notices



Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the *Register* contains all documents required to be published, and received, on or before September 15, 2014.

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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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

16 **DE Reg.** 1227 - 1230 (06/01/13)

Refers to Volume 16, pages 1227 - 1130 of the *Delaware Register* issued on June 1, 2013.

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other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

251

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evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its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

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

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

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

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

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

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
November 1	October 15	4:30 p.m.
December 1	November 17	4:30 p.m.
January 1	December 15	4:30 p.m.
February 1	January 15	4:30 p.m.
March 1	February 16	4:30 p.m.

DIVISION OF RESEARCH STAFF

Lori Christiansen, Director; **Mark J. Cutrona**, Deputy Director; **Tara Donofrio**, Administrative Specialist II; **Jeffrey W. Hague**, Registrar of Regulations; **Robert Lupo**, Printer; **Deborah J. Messina**, Print Shop Supervisor; **Kathleen Morris**, Executive Secretary; **Georgia Roman**, Unit Operations Support Specialist; **Victoria Schultes**, Administrative Specialist II; **Don Sellers**, Printer; **Yvette W. Smallwood**, Assistant Registrar of Regulations; **Holly Wagner**, Research Analyst; **Rochelle Yerkes**, Office Manager; **Sara Zimmerman**, Legislative Librarian.

TABLE OF CONTENTS

Cumulative Tables.....	254
------------------------	-----

PROPOSED

CASH MANAGEMENT POLICY BOARD	
Objectives and Guidelines for the Investment of State of Delaware Funds.....	257
DELAWARE CRIMINAL JUSTICE INFORMATION SYSTEM	
Delaware Criminal Justice Information System Regulations.....	265
DELAWARE ECONOMIC DEVELOPMENT OFFICE	
Office of the Director	
Guidelines Governing the Administration of the Neighborhood Building Blocks Fund.....	273
DEPARTMENT OF EDUCATION	
Office of the Secretary	
101 State Assessment System.....	279
923 Children with Disabilities Subpart B, General Duties and Eligibility of Agencies.....	280
925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs.....	281
DEPARTMENT OF HEALTH AND SOCIAL SERVICES	
Division of Long Term Care Residents Protection	
3315 Rest (Family) Care Homes.....	282
DEPARTMENT OF INSURANCE	
Office of the Commissioner	
403 Sale and Purchase of Options [Formerly Regulation 28], Repeal of.....	283
DEPARTMENT OF SAFETY AND HOMELAND SECURITY	
Division of State Police	
5500 Bail Enforcement Agents, Sections 3.0, 8.0, 9.0, 10.0 and 12.0.....	285
DEPARTMENT OF STATE	
Division of Professional Regulation	
200 Board of Landscape Architecture, Section 7.0 -Continuing Education as a Condition of Biennial Renewal.....	287
2600 Examining Board of Physical Therapists and Athletic Trainers.....	290
Office of the State Bank Commissioner	
1114 Alternative Franchise Tax.....	291
Notice of Proposed Amendments to Regulations 2101, 2102, 2104, 2201, 2202, 2701, 2901 and 2902.....	295
Public Service Commission	
4001 Rules for the Provision of Telecommunication Services (Docket Nos. 10 and 45).....	296
4003 Regulations Governing the Minimum Service Requirements for the Provision of Telephone Service for Public Use within the State of Delaware (Docket No. 20).....	296

FINAL

DEPARTMENT OF EDUCATION	
Office of the Secretary	
401 Major Capital Improvement Programs.....	300
415 Voluntary School Assessment.....	304

TABLE OF CONTENTS

253

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Division of Medicaid and Medical Assistance

Nursing Facility Services – Preadmission Screening and Resident Review.....	305
Standards for the Coverage of Organ Transplant Services.....	310

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Division of Watershed Stewardship

7401 Surface Water Quality Standards.....	312
7408 TMDLs for Nutrients for the Murderkill River Watershed.....	316

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Division of State Police

5500 Bail Enforcement Agents.....	318
-----------------------------------	-----

DEPARTMENT OF STATE

Division of Professional Regulation

100 Board of Accountancy.....	320
300 Board of Architects.....	321
1900 Board of Nursing, Section 6.0 Requirements and Procedures for Licensure.....	322
3500 Board of Examiners of Psychologists.....	323

CALENDAR OF EVENTS/HEARING NOTICES

Cash Management Policy Board, Notice of Public Comment Period.....	325
Delaware Criminal Justice Information System, Notice of Public Hearing and Comment Period.....	325
Delaware Economic Development Office, Notice of Public Comment Period.....	325
Dept. of Education, Notice of Monthly Meeting.....	326
Dept. of Health and Social Svcs., Div. of Long Term Care Residents Protection, Notice of Public Comment Period.....	326
Dept. of Insurance, Office of the Commissioner, Notice of Public Comment Period.....	326
Dept. of Safety and Homeland Security, Div. of State Police, Notice of Public Comment Period.....	327
Dept. of State, Div. of Professional Regulation; Office of the State Bank Commissioner; Public Service Commission, Notices of Public Comment Periods and Public Hearings.....	327 - 330

The table printed below lists the regulations that have been proposed, adopted, amended or repealed in the preceding issues of the current volume of the *Delaware Register of Regulations*.

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.).

DEPARTMENT OF AGRICULTURE

Harness Racing Commission

501 Harness Racing Rules and Regulations, Section 7.0..... 18 **DE Reg.** 6 (Prop.)

DEPARTMENT OF EDUCATION

Office of the Secretary

106A Teacher Appraisal Process Delaware Performance Appraisal System
(DPAS II) Revised..... 18 **DE Reg.** 31 (Final)

107A Specialist Appraisal Process Delaware Performance Appraisal System
(DPAS II) Revised..... 18 **DE Reg.** 40 (Final)

108A Administrator Appraisal Process Delaware Performance Appraisal
System (DPAS II) Revised..... 18 **DE Reg.** 48 (Final)

275 Charter Schools..... 18 **DE Reg.** 177 (Prop.)

290 Approval of Educator Preparation Programs..... 18 **DE Reg.** 57 (Final)

401 Major Capital Improvement Programs..... 18 **DE Reg.** 95 (Prop.)

405 Minor Capital Improvement Programs..... 18 **DE Reg.** 180 (Prop.)

415 Voluntary School Assessment..... 18 **DE Reg.** 100 (Prop.)

505 High School Graduation Requirements and Diplomas..... 18 **DE Reg.** 127 (Final)

610 Limitations on Use of Seclusion and Restraint..... 18 **DE Reg.** 130 (Final)

815 K to 12 Comprehensive Health Education Program..... 18 **DE Reg.** 104 (Prop.)

930 Supportive Instruction (Homebound)..... 18 **DE Reg.** 7 (Prop.)
18 **DE Reg.** 215 (Final)

Professional Standards Board

1510 Issuance of Initial License..... 18 **DE Reg.** 218 (Final)

1599 Delaware Educational Technology Standards..... 18 **DE Reg.** 224 (Final)

DEPARTMENT OF ELECTIONS

Kent County

1602 Policies and Procedures Regarding FOIA Requests..... 18 **DE Reg.** 58 (Final)

DEPARTMENT OF FINANCE

Office of the State Lottery

206 Internet Lottery Rules and Regulations..... 18 **DE Reg.** 182 (Prop.)

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Division of Medicaid and Medical Assistance

Diamond State Health Plan 1115 Demonstration Waiver Amendment –
Promoting Optimal Mental Health for Individuals through Supports and
Empowerment (P.R.O.M.I.S.E.)..... 18 **DE Reg.** 186 (Prop.)

Nursing Facility Services – Preadmission Screening and Resident Review 18 **DE Reg.** 106 (Prop.)

Standards for the Coverage of Organ Transplant Services..... 18 **DE Reg.** 115 (Prop.)

Title XIX Medicaid State Plan, Attachment 3.1-A, Introductory Page 2 -
Telemedicine..... 18 **DE Reg.** 9 (Prop.)
18 **DE Reg.** 227 (Final)

Title XIX Medicaid State Plan, Attachment 4.19B, Introduction - Page 4,
Increased Medicaid Payment for Primary Care Services..... 18 **DE Reg.** 11 (Prop.)

Title XIX Medicaid State Plan, Attachment 4.19B, Introduction - Page 4, Increased Medicaid Payment for Primary Care Services.....	18 DE Reg. 229 (Final)
Title XXI Delaware Healthy Children Program State Plan - Cost Sharing and Payment, Premium Requirements.....	18 DE Reg. 183 (Prop.)
Division of Public Health	
4201 Cancer Registry.....	18 DE Reg. 63 (Final)
4203 Cancer Treatment Program.....	18 DE Reg. 67 (Final)
4405 Free Standing Surgical Centers.....	18 DE Reg. 14 (Prop.)
4407 Hospital Standards (Construction, Maintenance, and Operation).....	18 DE Reg. 119 (Prop.)
4410 Skilled Home Health Agencies (Licensure).....	18 DE Reg. 133 (Final)
4454 Tanning Facilities Regulations.....	18 DE Reg. 191 (Prop.)
4468 Delivery of Hospice Services.....	18 DE Reg. 135 (Final)
Division of Social Services	
DSSM: 2000 Case Processing Procedures - Applications.....	18 DE Reg. 139 (Final)
2013 & 9037 Food Supplement Program - Income and EligibilityVerification System.....	18 DE Reg. 142 (Final)
3011 Delaware TANF Employment and Training Program Requirements.....	18 DE Reg. 143 (Final)
9013.1 Food Supplement Program - Household Definition.....	18 DE Reg. 147 (Final)
9060, Determining Income Deductions.....	18 DE Reg. 14 (Prop.)
	18 DE Reg. 231 (Final)
11003 Determining Technical Eligibility for Child Care.....	18 DE Reg. 148 (Final)
11004.3.1, Service Priorities.....	18 DE Reg. 9 (Prop.)
	18 DE Reg. 233 (Final)
 DEPARTMENT OF INSURANCE	
Office of the Commissioner	
404 Derivative Instruments.....	18 DE Reg. 195 (Prop.)
 DEPARTMENT OF JUSTICE	
Fraud and Consumer Protection Division	
Rules and Regulations Pursuant to the Delaware Securities Act.....	18 DE Reg. 202 (Prop.)
 DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL	
Division of Air Quality	
1124 Control of Volatile Organic Compound Emissions.....	18 DE Reg. 121 (Prop.)
Division of Fish and Wildlife	
3521 Weakfish Size Limits; Possession Limits; Seasons.....	18 DE Reg. 235 (Final)
3801 Shellfish Aquaculture.....	18 DE Reg. 151 (Final)
Division of Watershed Stewardship	
5101 Sediment and Stormwater Regulations.....	18 DE Reg. 204 (Prop.)
 DEPARTMENT OF SAFETY AND HOMELAND SECURITY	
Division of State Police	
1300 Board of Examiners of Private Investigators & Private Security Agencies	18 DE Reg. 154 (Final)
	18 DE Reg. 211 (Prop.)
5500 Bail Enforcement Agents.....	18 DE Reg. 21 (Prop.)
Officer of the Alcoholic Beverage Control Commissioner	
Alcoholic Beverage Control Regulations.....	18 DE Reg. 208 (Prop.)
1407 A Rule Pertaining to Movie Theaters.....	18 DE Reg. 209 (Prop.)
 DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES	
Division of Family Services, Office of Child Care Licensing	
105 Residential Child Care Facilities and Day Treatment Programs.....	18 DE Reg. 122 (Prop.)

DEPARTMENT OF STATE**Division of Historical and Cultural Affairs**

100 Historic Preservation Tax Credit Program.....	18 DE Reg.	24 (Prop.)
	18 DE Reg.	237 (Final)

Division of Professional Regulation**Controlled Substance Advisory Committee**

Uniform Controlled Substances Act Regulations.....	18 DE Reg.	92(Emer.)
100 Board of Accountancy.....	18 DE Reg.	155 (Final)
	18 DE Reg.	212 (Prop.)
103 Regulations Governing Charitable Gambling Other Than Raffles.....	18 DE Reg.	157 (Final)
500 Board of Podiatry.....	18 DE Reg.	124 (Prop.)
700 Board of Chiropractic.....	18 DE Reg.	213 (Prop.)
1000 Board of Pilot Commissioners.....	18 DE Reg.	238 (Final)
2700 Board of Professional Land Surveyors.....	18 DE Reg.	126 (Prop.)
4100 Board of Home Inspectors, Sections 4.0 and 18.0.....	18 DE Reg.	158 (Final)
5100 Board of Cosmetology and Barbering.....	18 DE Reg.	239 (Final)

Office of the State Bank Commissioner

2207 Exemption of Licensed Lenders; 2302 Exemptions; 3401 Regulations Governing Revocable and Irrevocable Trust Agreements; and 3402 Surety Bond or Irrevocable Letter of Credit.....	18 DE Reg.	159 (Final)
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------	-------------

Public Service Commission

1001 Rules of Practice and Procedure of the Delaware Public Service Commission.....	18 DE Reg.	160 (Final)
----------------------------------------------------------------------------------------	------------	-------------

DEPARTMENT OF TRANSPORTATION**Division of Planning and Policy**

2309 Standards and Regulations for Subdivision Streets and State Highway Access	18 DE Reg.	240 (Final)
------------------------------------------------------------------------------------------	------------	-------------

DIVISION OF RESEARCH**Office of the Registrar of Regulations**

Regulation Governing Administrative Rulemaking Procedures.....	18 DE Reg.	161 (Final)
----------------------------------------------------------------	------------	-------------

EXECUTIVE DEPARTMENT**Office of Management and Budget****State Employees Benefits Committee**

2001 Group Health Care Insurance Eligibility and Coverage Rules.....	18 DE Reg.	79 (Final)
----------------------------------------------------------------------	------------	------------

Statewide Benefits Office

2007 Disability Insurance Program Rules and Regulations.....	18 DE Reg.	79 (Final)
--------------------------------------------------------------	------------	------------

Symbol Key

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

Proposed Regulations

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

CASH MANAGEMENT POLICY BOARD

Statutory Authority: 29 Delaware Code, Section 2716 (29 **Del.C.** §2716)

PUBLIC NOTICE

Objectives and Guidelines for the Investment of State of Delaware Funds

NATURE OF PROCEEDINGS; SYNOPSIS OF THE SUBJECT AND SUBSTANCE OF THE PROPOSED REGULATION

In accordance with procedures set forth in 29 **Del.C.** Ch. 11, Subch. III and 29 **Del.C.** Ch. 101, the Cash Management Policy Board of the State of Delaware is proposing to adopt a regulation on objectives and guidelines for the investment of State funds as described in 29 **Del.C.** §2716. The proposed regulation sets forth the rules governing practices for those investments.

STATUTORY BASIS AND LEGAL AUTHORITY TO ACT

29 **Del.C.** §2716.

OTHER REGULATIONS AFFECTED

None.

HOW TO COMMENT ON THE PROPOSED REGULATION

Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing or calling Ms. Angela Moffett-Batty, Secretary, Delaware Department of Finance, Carvel State Building, 820 North French Street, Wilmington, Delaware 19899-8763, phone (302) 577-8522, or facsimile at (302) 577-8565. Members of the public may present written comments on the proposed regulation by submitting such written comments to Ms. Moffett-Batty at the address of the Delaware Department of Finance as set forth above. Written comments must be received on or before October 31, 2014.

SUMMARY OF PROPOSED REGULATION

The Cash Management Policy Board (hereinafter the "Board") was created by 63 **Del. Laws**, Ch. 142, to establish policies (a) for the investment of all money belonging to the State or on deposit from its political subdivisions, except money deposited in any State Pension Fund or the State Deferred Compensation Program, and (b) to determine the terms, conditions, and other matters relating to those investments including the designation of permissible investments. (29 **Del.C.** §2716(a)). This regulation was adopted by the Board on January 18, 1982, but it has not previously been through the process of adoption established by the Administrative Procedures Act. The Board has determined that certain amendments to the original regulation are desirable. Those amendments are included as a part of this proposed regulation.

Objectives and Guidelines for the Investment of State of Delaware Funds**1.0 Statutory Authorization**

- 1.1 The Cash Management Policy Board (hereinafter the "Board") was created by 63 **Del. Laws** Ch. 142, to establish policies (a) for the investment of all money belonging to the State or on deposit from its political subdivisions, except money deposited in any State Pension Fund or the State Deferred Compensation Program, and (b) to determine the terms, conditions, and other matters relating to those investments including the designation of permissible investments. (29 **Del.C.** §2716(a)).
- 1.2 The objectives and guidelines, as outlined herein, apply to all cash and special purpose funds for which the State is financially accountable (the "State's Fund"). These funds are categorized as outlined below.
 - 1.2.1 Cash Accounts. The State's available cash divided into three parts:
 - 1.2.1.1 Collection and Disbursement Accounts: The State maintains an amount of cash in its general collection and disbursement accounts sufficient to meet its outstanding obligations.
 - 1.2.1.2 Cash and Liquidity Accounts: The majority of the State's cash balance available for investment is maintained in the cash and liquidity accounts. These accounts will be managed and invested by investment managers, selected by the Board through competitive bid, in order to maximize the return to the State while, at the same time, providing for safety of principal and sufficient liquidity for the State to meet its cash needs. The State will manage its short-term (12- to 18-month) investments to ensure sufficient liquidity and prevent their premature sale for the purpose of covering expenditures. Short-term investments should mature at face value in sufficient amounts to meet any needs.
 - 1.2.1.3 Reserve Cash (Intermediate) Account: To the extent cash is not expected to be needed on short notice, the Board will direct the funding of a third part. This fund shall be managed and invested by an investment manager or managers, selected by the Board after a competitive bid, in order to maximize the return on said money to the State while providing for the safety of principal. The State will manage its intermediate investments to ensure they are made under circumstances and in amounts in which the State would not be forced to liquidate them at a loss.
 - 1.2.2 Special Purpose Accounts. There are two primary types of Special Purpose accounts:
 - 1.2.2.1 Endowment Accounts: Endowment accounts consist of funds set-aside for specified purposes.
 - 1.2.2.2 Authority Accounts: The State's Authorities maintain a variety of fund types, including various operating funds, bond funds and debt service reserve funds.

2.0 Prudent Person Standard

As mandated by 29 **Del.C.** §2716, the State's funds shall be invested pursuant to the prudent person standard under the guidelines set forth below. The Board will review regularly its investment policies and strategies in light of the State's experience as well as economic and financial conditions. Any modifications to these guidelines shall be promptly communicated in writing to the investment managers acting pursuant thereto. The Board will consider

special exceptions to these guidelines on a case-by-case basis. To the extent certain funds are subject to additional restrictions, the most limiting of the guidelines will apply to those funds.

3.0 List of Accounts

Appendix A hereto lists the accounts within the State's Fund and the investment managers currently responsible for them.

4.0 Investment Objectives and Maturity Restrictions

4.1 Each of the accounts within the State's Fund shall be invested consistent with the primary objective for the account and the following general guidelines:

4.1.1 Where appropriate, the manager shall maintain a pool of liquid funds that is considered sufficient to meet the uncertainty of cash demands.

4.1.2 The remainder of the assets will be managed to produce the highest return available, consistent with liquidity and quality constraints, given the investment manager's outlook for interest rates and the economic environment.

4.1.3 Purchases in Violation of Guidelines

4.1.3.1 In the event that an investment manager purchases any security that violates the guidelines at the time of purchase, the Board expects the investment manager to remove the security from the State's portfolio as soon as possible. The Board will not require the investment manager to sell such securities at a loss. The investment manager will, however, absorb any investment losses or extraordinary costs associated with the purchase and sale of the security.

4.1.3.2 In case of such purchases, the Board expects an investment manager to ignore the book gains and losses and sell the security. An investment manager will inform the Delaware State Treasury about these transactions immediately.

4.1.4 Holding Securities in Violation of Guidelines

4.1.4.1 In the event that an investment manager holds any security that violates the guidelines after the time of purchase, as the result of a downgrade to below the specified purchase criteria, the Board requires the investment manager to remove the security from the State's portfolio immediately.

4.1.4.2 In such downgrade of currently held investments, the Board expects an investment manager to sell the securities without any consideration to the book gains and losses. An investment manager will inform the Delaware State Treasury about these transactions immediately.

4.2 The objectives and maturity restrictions for each of the investable account types are outlined below.

4.2.1 Cash Account Investment Objectives:

4.2.1.1 The funds in the Cash Account must be available to support State governmental programs and activities. Since the amount of assets available for investment will fluctuate, the investment program adopted must allow the State to meet both anticipated and unanticipated cash demands. The primary objective of this account is, therefore, to be invested so as to provide sufficient liquidity to meet the State's needs for funds as they arise. (In this respect, liquidity is defined as the ability to realize, when required, the amount originally invested).

4.2.1.2 In order to facilitate the management of the Cash Account, each week the Cash Management Unit of the State Treasurer's Office will provide its best estimate of revenue receipts and expected expenditures to the investment manager for the succeeding one, two, three, and four-week periods. The investment manager shall recognize that it must allow for daily variations in cash demands by maintaining a portion of the account in overnight investments.

4.2.2 Maturity Restrictions: The maximum maturity for any investment at the time of purchase for the Cash Account shall be one year.

PROPOSED REGULATIONS

4.2.3 Liquidity Accounts

4.2.3.1 Investment Objectives: The primary investment objectives of the Liquidity Accounts are to maximize yield and to maintain safety of principal. In the event a cash withdrawal is necessary, the investment manager will be given as much advance notification as possible.

4.2.3.2 Maturity Restrictions: The maximum maturity for any investment at the time of purchase shall be two years for the Liquidity Accounts.

4.2.4 Reserve Cash (Intermediate) Account

4.2.4.1 Investment Objectives: The Reserve Cash Account has been established to provide funding over an intermediate horizon. The primary investment objectives, therefore, are to maximize yield and maintain safety of principal during the investment period.

4.2.4.2 Maturity Restrictions: The maximum maturity for any investment at the time of purchase shall be ten years. The maximum average maturity of the portfolio shall be seven years.

4.2.5 Endowment Accounts

4.2.5.1 Investment Objectives: Endowment accounts are established to provide a long-term funding source. The primary investment objectives are to maximize yield and maintain safety of principal.

4.2.5.2 Maturity Restrictions: The maximum maturity for any investment at the time of purchase shall be ten years. The maximum average maturity of the portfolio shall be seven years. The Board shall consider tailoring maturity restrictions to meet specific purposes for endowment accounts to be established in the future.

4.2.6 Authority Operating, Bond and Debt Service Reserve Fund Accounts

4.2.6.1 Investment Objectives: State Authorities maintain various operating, bond and debt reserve funds, the investment of which is governed by statutes, bond trust agreements or Federal guidelines. The investment objectives of the operating, bond and debt service reserve funds include maximizing yield and maintaining the safety of principal. (Current tax law requires that aggregate earnings in excess of the bond yield on bond and debt service reserve funds, however, must be rebated to the Federal government).

4.2.6.2 Maturity Restrictions: The maximum maturity for any investment at the time of purchase shall be ten years, except when prudent to match a specific investment instrument with a known specific future liability, in which case the maturity limitation shall match the maturity of the corresponding liability.

5.0 Investment Restrictions

5.1 The Board has adopted the following restrictions and policies relating to the investment of its assets. The policies are fundamental and may not be changed without written approval of the Board.

5.2 The investment manager may not:

5.2.1 Purchase any securities other than money market and other securities described under Section 6.0, "Permissible Investments," subject to the percentage of account limitations as defined in Section 8.0, "Percentage of Account Limitations," hereof;

5.2.2 Make investments for the purpose of exercising control or management of an issuer;

5.2.3 Purchase or sell real estate (other than money market securities secured by real estate or money market securities issued by companies which invest in real estate, or interests therein), commodities or commodity contracts, interests in oil, gas or other mineral exploration or development programs;

5.2.4 Purchase any securities on margin, except for use of short-term credit necessary for clearance of purchases and sales of portfolio securities;

5.2.5 Make short sales of securities or maintain a short position or write, purchase or sell puts, calls, straddles, spreads or combinations thereof;

- 5.2.6 Make loans to other persons, provided that the investment manager may purchase money market securities or enter into repurchase agreements;
- 5.2.7 Mortgage, pledge, hypothecate or in any manner transfer as security for indebtedness any securities owned or held;
- 5.2.8 Invest in securities (except for repurchase agreements or variable rate master demand notes) with legal or contractual restrictions on resale or for which no readily available market exists; except for private placements considered not to be illiquid, but, instead, readily marketable by issuing dealers and the investment manager.
- 5.2.9 Act as an underwriter of securities; or
- 5.2.10 Buy or sell any authorized investment when it is a party or any related or affiliated party in the transaction on both sides, except that it may enter into a repurchase agreement with itself when the maturity does not exceed one business day and the amount does not exceed \$500,000.

6.0 Permissible Investments

The following investments are permissible for all funds under the review of the Cash Management Policy Board, subject to the percentage limitations summarized in Section 8.0 hereof.

- 6.1 United States Government Securities. Marketable securities issued by the U.S. government and supported by the full faith and credit of the U.S. Treasury either by statute or an opinion of the attorney general of the United States.
- 6.2 Government Agency Securities. Debt securities issued by government-sponsored enterprises, federal agencies, federal financing banks, and international institutions part of whose capital stock has been subscribed for by the United States.
- 6.3 Certificates of Deposit, Time Deposits, and Bankers Acceptances.
 - 6.3.1 Domestic Institutions: Issued or endorsed by a domestic bank, or a savings and loan association, organized and supervised under federal or any state laws, or any of its branches located in the United Kingdom, the Bahamas, or the Cayman Islands and denominated in U.S. dollars; provided, however, that:
 - 6.3.1.1 The banking institution has assets of not less than \$5 billion; and
 - 6.3.1.2 The banking institution is rated not lower than "B" by Fitch, Inc. (formerly Thomson's BankWatch Service).
 - 6.3.2 Non-Domestic Institutions: Issued or endorsed by a non-domestic bank organized and supervised under the laws of Japan, Canada, United Kingdom, Holland, Germany, France, or Switzerland and denominated in U.S. dollars, provided, however, that:
 - 6.3.2.1 The banking institution has assets of not less than \$5 billion; and
 - 6.3.2.2 The banking institution has a Fitch, Inc. (formerly Thomson's BankWatch Service) "Peer Group Rating" not lower than II.
 - 6.3.3 Delaware-Domiciled Institutions: The Cash Account, and only the Cash Account, may also be invested in Certificates of Deposit, Time Deposits, and Bankers Acceptances issued by or endorsed by any bank or savings association domiciled in the State of Delaware and organized and supervised under federal or State of Delaware banking laws which does not meet the requirements of subsection 6.3.1 hereto; provided, however, that:
 - 6.3.3.1 For each of the latest two years, the bank or association has had a return on total average assets of 0.50% or greater and an average capital ratio (defined as total equity capital to total assets) of at least 1 to 20, or the instrument is secured as set forth in Section 8.0, "Collateralization of State Deposits," hereto; and
 - 6.3.3.2 Not more than the lesser of \$10 million or 25% of an issuer's total equity capital, may be invested in any one issuer. (Investments due to mature in one business day may be excluded from the computation of this percentage.)
 - 6.3.3.3 The Board expressly affirms that, consistent with these guidelines, Delaware banks and savings associations should be considered as a source of investment.

PROPOSED REGULATIONS

- 6.4 Corporate Debt Instruments. Such instruments include commercial paper, variable rate master demand notes, and non-convertible debt securities (bonds and debentures); provided, however, that:
- 6.4.1 Any such instrument must be issued by a U.S. corporation or a non-domestic corporation subject to the laws of Japan, Canada, United Kingdom, Holland, Germany, France, Switzerland, Australia, New Zealand, Sweden, and Norway and denominated in U.S. dollars; and
- 6.4.2 Commercial paper investments must be rated "A-1" by Standard & Poor's ("S&P") and/or "P-1" by Moody's Investors Service ("Moody's") and/or "F1" by Fitch Ratings ("Fitch"), and the senior long-term debt of the issuer must be rated not lower than "A" by S&P and/or "A" by Moody's and/or "A" by Fitch (excluding asset-backed commercial paper that is rated A1 or better). Investments in corporate bonds and debentures must be rated at least "A" by S&P and/or "Aa" by Moody's and/or "AA" by Fitch.
- 6.4.3 Any such instrument may be backed fully by an irrevocable, unconditional letter of credit issued by a bank which meets the requirements of subsections 6.3.1 or 6.3.2 hereto. The security will count as a holding of the letter of credit provider for purposes of applying the percentage limitations outlined in Section 9.0 hereto.
- 6.5 Repurchase Agreements. The underlying securities shall consist of U.S. government or government agency securities, certificates of deposit, commercial paper or bankers acceptances; provided, however, that:
- 6.5.1 All repurchase transactions must be governed by written repurchase agreements;
- 6.5.2 Agreements will be entered into only with respect to underlying securities in which the investment manager may otherwise invest as described above, and only with a recognized U.S. Government/broker or a bank which meets the requirements set out under subsection 6.3 above;
- 6.5.3 In the case of repurchase collateral held in book-entry form in the Federal Reserve System, all deliveries of securities must be made, for the transfer thereof, through the Federal Reserve book-entry system to the account designated by the investment manager for such purpose. Securities held in certificated form must be delivered to the investment manager or a custodian as directed by the investment manager; and
- 6.5.4 Any collateral employed under this paragraph shall be counted towards the applicable maximum limits set forth within these guidelines for such type of investment, and such collateral shall be valued at market at not less than 102 percent of the maturity value of the agreement and marked-to-the-market as requested by the investment manager.
- 6.6 Reverse Repurchase Agreements. The investment manager may enter into reverse repurchase agreements which involve the sale of money market securities held by the State, with an agreement to repurchase the securities at an agreed upon price, date and interest payment, so long as:
- 6.6.1 The agreement is entered into only with a recognized U.S. government broker/dealer or a bank which meets the requirements set out under subsection 6.3 above who is acting as a principal to the agreement;
- 6.6.2 The State's securities are sold at not less than 98% of their fair market value including all accrued interest; and
- 6.6.3 The investment manager marks-to-market as appropriate.
- 6.7 Money Market Funds. The money market fund(s) selected by the investment manager shall be consistent with the investment quality guidelines as stated in this document.
- 6.8 Canadian Treasury Bills. Marketable securities issued by the government of Canada, which are fully hedged against fluctuations in foreign exchange markets.
- 6.9 Canadian Agency Securities. Debt securities issued by the Export Development Corporation, a Federal Crown Corporation and an agent of Her Majesty in Right of Canada. These securities are issued as U.S. dollar denominated commercial paper having a maximum maturity of 270 days.
- 6.10 Mortgage-Backed Securities. The Cash Reserve (Intermediate) Account, Endowment Account, and Liquidity Account may invest in AAA-rated Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Association

(FHLMC) mortgage-backed securities in the form of pass-throughs. The average life of these securities in the Liquidity Account is not to exceed two years.

- 6.11 Asset Backed Securities. These investments include auto loan receivables, credit card receivables, home equity loans, and manufactured housing loans. These can be fixed or floating rate and purchased tranches must be rated AAA by a major rating agency. The average life of these securities must not to exceed two years.
- 6.12 Municipal Obligations. Taxable and tax-exempt securities issued by state and local governments and public authorities in the U.S. These investments are permissible only for the Cash Reserve (Intermediate) Account and the Endowment Account.

7.0 Additional Permissible Investments for Special Purpose Accounts Only

- 7.1 Guaranteed Investment Contracts. From time to time, a situation arises whereby it is prudent to match a specific investment instrument with a known specific future liability. Guaranteed investment contracts, subject to the credit quality guidelines outlined in subsection 6.4.2 above and with adequate exit provisions in the event of the future downgrade of the issuer, are permitted to be purchased in these circumstances.
- 7.2 Asset Backed Securities and Trust Certificates. Securities secured by specific collateral and specified related acquisition payments assigned by a trust agreement, contract or indenture.

8.0 Collateralization of State Deposits

If the State of Delaware deposits any funds in any financial institution, those funds will be subject to the following collateralization requirements. The financial institution shall:

- 8.1 Collateralize the State's total average monthly ledger balance(s) if, for any quarter during the most recent eight quarters, the bank has not met both of the following two criteria:
- 8.1.1 Return on total average assets of 0.50 percent or greater.
- 8.1.2 Average capital ratio (total equity to total assets) of 5.00 percent or greater.
- 8.2 If either criterion in subsection 8.1 is not satisfied collateral must be pledged and shall consist of one or more of the following securities:
- 8.2.1 U.S. Government securities.
- 8.2.2 U.S. Government agency securities.
- 8.2.3 Federal Home Loan Board letters of credit.
- 8.2.4 State of Delaware securities.
- 8.2.5 Securities of a political subdivision of the State of Delaware with a Moody's rating of "A" or better.
- 8.3 Ensure that the securities pledged as collateral (except for Federal Home Loan Board letters of credit) have a market value equal to or greater than 102 percent (102%) of the total average monthly ledger balance(s) (net of FDIC insurance limits) held in all accounts. The financial institution is required to make any necessary collateral adjustments by the third business day of the following month.
- 8.4 Ensure that securities pledged as collateral are housed at the Federal Reserve Bank.
- 8.5 Provide reports on a monthly basis to the State Treasurer's Office detailing the collateral pledged.
- 8.6 Provide a Call Report (Consolidated Report of Condition and Income, FFIEC 031) on a quarterly basis to the State Treasurer's Office.

9.0 Percentage of Account Limitations

The purchase of the securities outlined in Section 6.0 cannot exceed the following percentage limits of the Account, valued at market. Investments due to mature in one business day may be excluded from the computation of said percentages.

- 9.1 U.S. Government. No Restrictions.
- 9.2 Government Agency. 50% total, 20% in any one agency.
- 9.3 CDs, Time Deposits and Bankers Acceptances. 50% total, 5% in any one issuer.

PROPOSED REGULATIONS

- 9.3.1 Domestic. No additional restrictions.
- 9.3.2 Non-Domestic. 25%.
- 9.3.3 Delaware Domiciled. See subsection 6.3.3 hereof.
- 9.4 Corporate Debt. 50% total, 25% in any one industry, 5% in any one issuer, 5% of any issuer's total outstanding securities.
- 9.4.1 Domestic. No additional restrictions.
- 9.4.2 Non-Domestic. 25%, 5% in any one issuer.
- 9.5 Repurchase Agreements. 50% total.
- 9.6 Reverse Repurchase Agreements. 25% total.
- 9.7 Money Market Funds. 25% total, 10% in any one fund.
- 9.8 Canadian Treasuries. 25% total, 10% in any one agency.
- 9.9 Canadian Agency Securities. 25% total, 10% in any one agency.
- 9.10 Mortgage-backed and asset backed securities. 10% total (combined with subsection 9.10, below if applicable).
- 9.11 Municipal Obligations. 5% in any one issuer.
- 9.12 Guaranteed Investment Contracts. See subsection 7.1 hereof.
- 9.13 Asset Backed Securities and Trust Certificates. 10% total (when combined with subsection 6.10 above).

10.0 Account Reviews

The investment manager(s) shall meet with the Board periodically to review the investment outlook, structure of the accounts, and historic results. A general agenda for these meetings shall include but not be limited to:

- 10.1 A review of the investment results achieved over the prior quarter and year in relation to the account restrictions and the investment manager's investment views and internal policies in effect prior to, and during the period;
- 10.2 The investment manager's current outlook for the financial markets during the next six to twelve months;
- 10.3 The investment manager's internal investment policies that have been adopted in response to these expectations;
- 10.4 The appropriateness of the present portfolio given the expectations, internal investment policies and the State's requirements; and
- 10.5 A review of the guidelines relative to any constraint that the investment manager feels limits his/her ability to respond to market developments in a manner consistent with the investment objectives.

APPENDIX A

The names of the various State Funds and their respective investment managers are listed below.

Current Title of Account Investment Manager

Cash Accounts:

1. Collection and Disbursement Accounts
 - Over-the-Counter Deposits — Citizens Bank
 - Electronic Transfers — BNY Mellon
2. Liquidity Accounts
 - Cutwater Asset Management
 - PFM Asset Management LLC
 - Wells Capital Management

- Wilmington Trust Investment Advisors

3. Reserve Cash (Intermediate) Account

- Chandler Asset Management
- Federated Investors, Inc.
- J.P. Morgan Asset Management
- Morgan Stanley Investment Management
- Schroder Investment Management North America, Inc.

4. Special Purpose Accounts

- Health Fund — Schroder Investment Management North America, Inc.
 - Land and Water — Schroder Investment Management North America, Inc.
-

DELAWARE CRIMINAL JUSTICE INFORMATION SYSTEM

Statutory Authority: 11 Delaware Code, Section 8605 (11 **Del.C.** §8605)

PUBLIC NOTICE

Delaware Criminal Justice Information System Regulations

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 11 of the Delaware Code, Chapter 86, Section 8605, the Delaware Criminal Justice Information System (DELJIS) Board of Managers proposes to adopt regulations. These proposed regulations are applicable to all users of the Delaware Criminal Justice Information System (CJIS) and to any agency requesting access to CJIS from the Board. The proposed regulations will ensure that access to criminal justice information conforms to the statutory requirements outlined in Chapters 85 and 86 of Title 11 of the Delaware Code.

Copies of the proposed regulations are available for review in the October 1, 2014 edition of the *Delaware Register of Regulations*, accessible online at <http://regulations.delaware.gov> or by calling DELJIS at 302-739-4856.

The Board will hold a public hearing on the proposed regulations on October 22, 2014 from 1:00 p.m. until 3:00 p.m., at the Division of Accounting, New Castle Conference Room, 820 Silver Lake Boulevard, Dover, DE 19904.

Any person who wishes to make any written suggestions, compilations of data, briefs or other written materials concerning the proposed new regulations must submit same to Peggy A. Bell, Executive Director, DELJIS, 802 Silver Lake Blvd, Suite 101, Dover DE 19904, or by fax to 302-739-6285.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be November 6, 2014, which is 15 days following the public hearing.

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of the Board and the consideration of the written comments filed by other interested persons.

Delaware Criminal Justice Information System Regulations

1.0 General Provisions

- 1.1 Authority. These regulations are promulgated pursuant to 11 **Del.C.** §8605 by the Delaware Criminal Justice Information System (DELJIS) Board of Managers.
- 1.2 Applicability. These regulations are applicable to all users of the Delaware Criminal Justice Information System (CJIS) and to any agency requesting access to CJIS from the Board.
- 1.3 Purpose. These regulations will ensure that access to criminal justice information conforms to the statutory requirements outlined in Chapters 85 and 86 of Title 11 of the Delaware Code.

PROPOSED REGULATIONS

2.0 Definitions

The definitions set forth in 11 **Del.C.** §8602 are hereby adopted and incorporated by reference in these regulations. The following words and terms, when used in these regulations, shall have the following meaning unless the context clearly indicates otherwise.

"Access" means the physical or logical (electronic) privilege to view, modify, or make use of criminal justice information, whether directly or indirectly.

"Direct access" means access to CJIS via authorized and approved DELJIS credentials (i.e., ACF2User ID and password).

"Indirect access" means access to criminal justice information, in oral, online or printed form, by an individual without approved DELJIS credentials for direct access.

"Administrative leave" means a temporary leave from employment, including without limitation, extended leave, family medical leave, or suspension from an agency.

"Authorized Agency" means any criminal justice agency or governmental agency, as defined by 11 **Del.C.** §8602(3) and 11 **Del.C.** §8602(7) respectively, having access to the CJIS.

"Authorized User" means any employee, intern, extern, contractor, volunteer, or other individual or group of individuals, acting on behalf of an Authorized Agency, who has been appropriately vetted by DELJIS and has been granted access to criminal justice information.

"Board" means the Delaware Criminal Justice Information System Board of Managers established by 11 **Del.C.** §8603.

"Criminal history record information" or **"CHRI"** means a subset of CJI, set forth in 11 **Del.C.** §8602(2), that includes identifiable descriptions and notations of arrests, detentions, indictments, informations or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release.

"Criminal justice information" or **"CJI"** is an abstract term used to refer to all CJIS data necessary for Authorized Agencies to perform their mission and enforce the laws, including but not limited to: biographic or biometric data, identity history, person, organization, property, division of motor vehicles information, and/or case or incident history. In addition, CJI refers to the CJIS-provided data necessary for Authorized Agencies to make hiring decisions.

"Biographic data" means information about individuals associated with a unique case, and not necessarily connected to identity data. Biographic data does not provide a history of an individual, only information related to a unique case.

"Biometric data" means data derived from one or more intrinsic physical or behavioral traits of humans typically for the purpose of uniquely identifying individuals from within a population. Used to identify individuals, to include: fingerprints, palm prints, iris scans, and facial recognition data.

"Case or incident history" means all relevant information gathered about an individual, organization, incident, or combination thereof, arranged so as to serve as an organized record to provide analytic value for a criminal justice organization. In regard to criminal justice information, it is the information about the history of incidents.

"Identity history" means textual data that corresponds with an individual's biometric data, providing a history of criminal or civil events for the identified individual.

"Property data" means information about vehicles and property associated with a crime.

"Criminal Justice Information System" or **"CJIS"** means the computer hardware, software and communication network used for the collection, warehousing, and timely dissemination of relevant CJI to qualified law enforcement, criminal justice agencies and the courts, governmental agencies, and other agencies, that is managed, operated and maintained by DELJIS.

"Delaware Criminal Justice Information System" or **"DELJIS"** means the administrative body created within 11 **Del.C.** Ch. 86 that manages, operates, and maintains CJIS in the State of Delaware.

"Improper Access or Breach" means any improper dissemination, unauthorized use, or obtaining CJI, directly or indirectly, whether oral, online or printed form, without a specific business reason, and shall include access for the purpose of confirming the existence or non-existence of CJI or CJIS, or the transmission or non-transmission of information improperly obtained.

"National Crime Information Center" or "NCIC" means an information system that stores CJI that can be queried by appropriate Federal, state, and local law enforcement and other criminal justice agencies.

"National Instant Criminal Background Check System" or "NICS" means a system mandated by the Brady Handgun Violence Prevention Act of 1993 that is used by Federal Firearms Licensees to instantly determine via telephone or other electronic means whether the transfer of a firearm would be in violation of Section 922 (g) or (n) of Title 18, United States Code, or state law, by evaluating the prospective buyer's criminal history.

"Secondary dissemination" means the promulgation of CJI from an Authorized Agency to an agency or individual not authorized by Chapters 85 and 86 of Title 11 of the Delaware Code or these regulations.

"Serious motor vehicle violation" means any violation of the motor vehicle code that is classified as a felony or driving while under the influence

"Victim's copy" means the automated Victim's copy of a police report created pursuant to 11 Del.C. §9410. For purposes of these regulations, a Victim's copy includes all police report details up to but not including the police narrative or statement.

3.0 Officers of the DELJIS Board of Managers

- 3.1 The officers of the Board shall be a Chairperson, Vice-Chairperson, and a Secretary. These officers shall perform the duties prescribed herein.
- 3.2 The Chairperson, Vice-Chairperson, and Secretary shall be elected from the voting members of the Board.
- 3.3 At the regular meeting held in March of each calendar year, the officers shall be elected by ballot to serve for one year or until their successors are elected; their term of office shall begin at the close of the meeting at which they are elected.
- 3.4 No member shall hold more than one office at a time, and no member shall be eligible to serve more than two consecutive terms in the same office.
- 3.5 The duties and responsibilities of the officers shall be:
 - 3.5.1 Chairperson: chairs meetings, prepares or approves agendas, acts to implement Board policy, and other such duties as prescribed by the Board or these regulations.
 - 3.5.2 Vice-Chairperson: assumes chair in the absence of the Chairperson.
 - 3.5.3 Secretary: assumes chair in the absence of the Chairperson and Vice-Chairperson. Reviews minutes of the Board meetings prior to dissemination.

4.0 Committees of the DELJIS Board of Managers

- 4.1 Executive Committee
 - 4.1.1 The Executive Committee shall be composed of not less than three members of the Board and shall be chaired by the Board Chairperson.
 - 4.1.2 The Executive Committee shall have the power to act between meetings of the Board. Actions of the Executive Committee are subject to confirmation by a quorum of the Board.
- 4.2 Nominating Committee
 - 4.2.1 There shall be a Nominating Committee for the purpose of developing a slate of potential candidates to fill the officer positions. The Board Chairperson shall appoint, as approved by the Board, the Nominating Committee Chairperson and members. This action and approval shall be accomplished no later than the December Board meeting of each calendar year. The Nominating Committee shall provide said slate of potential officer candidates to the Board at the subsequent January meeting.
- 4.3 The Board Chairperson shall have the authority to establish such Standing or Ad Hoc Committees as deemed necessary to conduct DELJIS business. The Board Chairperson shall:
 - 4.3.1 Provide a mission or purpose statement for each committee established;

PROPOSED REGULATIONS

- 4.3.2 Provide the objectives to be accomplished by each committee established; and
- 4.3.3 Determine the number of members of each committee and appoint the respective members and chairperson.

5.0 Agency Access to CJIS

- 5.1 To determine if access should be granted to an agency, the Board will consider whether the agency meets the conditions outlined in 11 **Del.C.** §8610.
- 5.2 An application for access to CJIS shall be submitted to the DELJIS Security Manager on forms approved by the Board.
- 5.3 The Board may require additional information or explanation when it has questions about an agency's qualifications or application materials. An application is not complete or in proper form until the Board has received all required and requested documents, materials, and information.
- 5.4 Agencies requesting access to CJIS must demonstrate a reasonable business need.
- 5.5 Approval of the agency's application, which may be in whole, in part, or as modified by the Board, shall require a two-thirds majority of the entire Board as prescribed by 11 **Del.C.** §8610(3).
- 5.6 Upon approval of the agency's application, which may be in whole, in part, or as modified by the Board, the agency shall enter into a user's agreement as prescribed by 11 **Del.C.** §8614(4), with the State Bureau of Identification (SBI) pursuant to 11 **Del.C.** §8514.
- 5.7 The Board's decision to approve, modify, or deny the agency's application is final and is not subject to appeal or further review.

6.0 Responsibilities of Authorized Agencies

- 6.1 Authorized Agencies shall obtain a fingerprint based criminal history report from SBI & FBI for each Authorized User.
- 6.2 Authorized Agencies must ensure all Authorized Users within their agency annually acknowledge that they have read and understand these regulations. The Authorized Agency shall be responsible for returning a signed acknowledgment for each Authorized User to the DELJIS Security Manager.
- 6.3 Authorized Agencies must ensure that Authorized Users within their agency comply with Chapters 85 and 86 of Title 11 of the Delaware Code and these regulations.
- 6.4 The Authorized Agency head or designee is responsible for ensuring all Authorized Users attend the DELJIS training commensurate to each Authorized User's employment position, as set forth by DELJIS.
- 6.5 The Authorized Agency head or designee shall certify for completeness and accuracy a list of Authorized Users provided annually by DELJIS to the agency head. The list shall be certified as is, or corrected to delete, add, or change Authorized Users and returned to DELJIS within 60 days of receipt of said list by the agency head or designee.
- 6.6 Authorized Agencies are responsible for notifying the DELJIS Security Manager or designee immediately upon an Authorized User's departure (transfer, termination, resignation, or retirement) from the agency.
- 6.7 Authorized Agencies are responsible for notifying the DELJIS Security Manager or designee immediately upon an Authorized User's administrative leave from the agency, if the administrative leave exceeds 24 hours or results in loss of agency privileges, identification credentials, or departmental weapon.
- 6.8 Authorized Agencies are responsible for notifying the DELJIS Security Manager or designee immediately upon an Authorized User's arrest, charge, or conviction of a criminal violation or offense in any jurisdiction immediately upon receiving notification of the same.
- 6.9 Authorized Agencies are responsible for notifying the DELJIS Security Manager or designee immediately upon discovery of an Authorized User's Improper Access or Breach.
- 6.10 Authorized Agencies are required to follow the Records Retention and Destruction procedures provided in Section 7.0, that require CJIS, NCIC or NICS information be securely disposed of. Whether

the information is in a physical form (printout) or an electronic form (hard drive, flash drive, etc.) the information must be disposed of in such a way that unauthorized people cannot retrieve it. For most agencies, this means ensuring printed information is shredded onsite by the user.

- 6.11 The DELJIS Security Manager or designee will conduct an Authorized Agency site inspection when required to ensure physical site suitability and security.
- 6.12 Authorized Agencies must maintain secondary dissemination logs consistent with 11 Del.C. §8513(e).

7.0 CJI Records Retention and Destruction

- 7.1 All information retrieved via CJIS, NCIC, or NICS is highly confidential and shall be afforded security to prevent unauthorized access to or use of that data. To prevent the misuse or improper dissemination of information, any printed information must be immediately destroyed after its intended use. Documents stored in electronic form (hard drive, flash drive, etc.) must be disposed of in such a way that unauthorized people cannot retrieve it.
- 7.2 Under no circumstances should printed information be maintained in personnel files by any Authorized Agency or in court records by any Delaware court.
- 7.3 Printed information shall be destroyed by shredding as follows:
 - 7.3.1 In-state information, including CJIS information, may be shredded onsite or added to the purge list and delivered to the Delaware Public Archives for shredding, and must follow the destruction protocols used by Delaware Public Archives in accordance with 29 Del.C. §504(b).
 - 7.3.2 Out-of-state information, including NCIC or NICS information, must be shredded onsite and witnessed or carried out by authorized personnel. Paper shredding service providers are prohibited from shredding printed information offsite, but may conduct agency supervised onsite shredding. Regardless of who destroys the records, they must follow the destruction protocols used by Delaware Public Archives in accordance with 29 Del.C. §504(b).
- 7.4 Electronic information shall be destroyed as follows:
 - 7.4.1 The agency shall sanitize, that is, overwrite at least three times or degauss electronic media prior to disposal or release for reuse by unauthorized individuals. Inoperable electronic media shall be destroyed (cut up, shredded, etc.). The agency shall maintain written documentation of the steps taken to sanitize or destroy electronic media. Agencies shall ensure the sanitization or destruction is witnessed or carried out by authorized personnel and follow the destruction protocols used by Delaware Public Archives in accordance with 29 Del.C. §504(b).

8.0 User Access to CJIS

- 8.1 To determine if a user credential should be granted to an individual, the Executive Director or designee may consider whether the individual has:
 - 8.1.1 Been charged with or convicted of a criminal offense or serious motor vehicle violation;
 - 8.1.2 An active warrant or capias;
 - 8.1.3 An active Protection from Abuse Order or Protection Order entered against him/her;
 - 8.1.4 Intentionally falsified any official record;
 - 8.1.5 Improperly accessed CJIS previously;
 - 8.1.6 Engaged in any other activity that could endanger the security, privacy, or integrity of CJIS.
- 8.2 Denial Procedure
 - 8.2.1 The Executive Director or designee makes the initial determination to deny access.
 - 8.2.2 The DELJIS Security Manager or designee will notify the Authorized Agency head or designee in writing by email, fax or U.S. Mail if the user is denied. A notice of denial will include the following:
 - 8.2.2.1 Name of user requesting access; and
 - 8.2.2.2 The reasons for the denial.
 - 8.2.3 The DELJIS Security Manager or designee will also notify the user in writing by email, fax, or U.S. Mail if the user is denied.

PROPOSED REGULATIONS

- 8.2.4 An appeal may be initiated by the user by submitting a request for a hearing in writing by email, fax or U.S. Mail to the attention of the Chairperson of the Board within fifteen (15) days of receipt of the notice of denial.
- 8.2.5 The Board shall review the appeal and the user shall be given the opportunity to be heard by the Board within sixty (60) days of receipt of the letter of appeal, unless extenuating circumstances require a longer period.

9.0 Responsibilities of Authorized Users

- 9.1 Authorized Users must hold themselves to the highest ethical standards and must conduct themselves in a manner that will ensure the security, integrity, and confidentiality of the information contained within CJIS.
- 9.2 Authorized Users shall not access information contained within CJIS for any reason other than an authorized business related reason.
- 9.3 Authorized Users agree to comply with Chapters 85 and 86 of Title 11 of the Delaware Code and these regulations.
- 9.4 Authorized Users must annually acknowledge that they have read and understand these regulations.
- 9.5 Authorized Users must complete DELJIS training prior to being granted an Authorized User credential. The DELJIS Training Supervisor may approve temporary or conditional access to CJIS by an Authorized User before completing DELJIS training.
- 9.6 Authorized Users are required to follow the Records Retention and Destruction procedures provided in Section 7.0, that require CJIS, NCIC or NICS information be securely disposed of.
- 9.7 Authorized Users who improperly access or become aware of improper access of CJIS by another user, or by any other entity, shall immediately report the violation to their agency head, management, or directly to the DELJIS Security Manager or designee, and shall cooperate with and assist in the conduct of any administrative investigation pursuant to Section 12.0.
- 9.8 Authorized Users who have been arrested, charged, convicted of a criminal offense, a serious motor vehicle offense, or a violation in any jurisdiction shall notify their agency head or designee within 24 hours of the arrest, charge, or conviction.
- 9.9 Authorized Users employed with local and municipal agencies must annually read and submit a Department of Technology and Information Acceptable Use Policy to DELJIS. Authorized Users employed with an agency of the State must annually read and submit a Department of Technology and Information Acceptable Use Policy to their respective agency.
- 9.10 Authorized Users must maintain secondary dissemination logs consistent with 11 Del.C. §8513(e).

10.0 Suspension of CJIS Access for Any Arrest or Criminal Offense of an Authorized User

- 10.1 Upon notification or discovery of an arrest for a criminal offense, violation, or serious motor vehicle offense, the Executive Director or designee will make the initial determination if the charge warrants a temporary suspension of the Authorized User's credentials.
- 10.2 If the Executive Director or designee temporarily suspends the Authorized User's credentials, access will be suspended immediately and the DELJIS Security Manager or designee will notify the Authorized Agency head or designee in writing by email, fax, or U.S. Mail of the following:
- 10.2.1 Name of Authorized User who was suspended; and
- 10.2.2 Date of the arrest, conviction, or violation.
- 10.3 The DELJIS Security Manager or designee will also notify the Authorized User in writing by email, fax, or U.S. Mail of any suspension.
- 10.4 An appeal may be initiated by the user by submitting a request for a hearing in writing by email, fax or U.S. Mail to the attention of the Chairperson of the Board within fifteen (15) days of receipt of the notice of suspension.

10.5 The Board shall review the appeal and the user shall be given the opportunity to be heard by the Board within sixty (60) days of receipt of the letter of appeal, unless extenuating circumstances require a longer period.

11.0 Suspension of CJIS Access for Improper Access or Breach

11.1 Upon notification or discovery of any violation involving Improper Access or Breach, the Executive Director or designee will authorize an administrative investigation pursuant to Section 12.0. The Executive Director or designee will also make an initial determination as to whether the apparent violation warrants a temporary suspension of the Authorized User's credentials.

11.2 If the Executive Director or designee suspends the Authorized User's credentials, access will be suspended immediately and the DELJIS Security Manager or designee will notify the Authorized Agency head or designee in writing by email, fax, or U.S. Mail of the following:

11.2.1 Name of Authorized User who was suspended; and

11.2.2 The alleged violation and date thereof.

11.3 The DELJIS Security Manager or designee will also notify the Authorized User in writing by email, fax, or U.S. Mail of any suspension.

12.0 Procedure for Conducting Administrative Investigations of Improper Access or Breach by an Authorized User

12.1 No Authorized User shall refuse to cooperate in the administrative investigation of a suspected violation or breach, whether such investigation is conducted by SBI or DELJIS. Refusal to cooperate shall result in a permanent suspension of the Authorized User.

12.2 An SBI investigator will conduct an administrative investigation of any Authorized User who is an employee, intern, extern, contractor, volunteer, or other individual or group of individuals acting on behalf of the Delaware State Police (DSP). DELJIS will work with the SBI investigator to explain the CJIS system functionality and screen access, if needed.

12.3 A DELJIS investigator will serve as the SBI designee to conduct any administrative investigation for all Authorized User's excluding any Authorized User of DSP.

12.4 The investigator will schedule a date and time to interview the user at a mutually agreed upon location.

12.5 The interviews will be conducted in a respectful, non-hostile and or non-aggressive manner.

12.6 At the conclusion of the interview, the investigator will advise the user of the possible sanctions which may be imposed by the Board.

12.7 The investigator will fill out a written law enforcement investigative support system (LEISS) report, detailing the facts of the investigation.

12.8 The LEISS report will be approved by the Executive Director or the supervisor of the DSP officer who investigated the complaint.

12.9 At the conclusion of the investigation, the facts of the investigation will be submitted to the Attorney General's office by the Executive Director to determine if there was any violation of Delaware law warranting criminal prosecution.

12.10 At the conclusion of the investigation, the DELJIS Security Manager or designee will notify the Authorized Agency head or designee in writing by email, fax, or U.S. Mail of the following:

12.10.1 Name of Authorized User who was suspended;

12.10.2 The alleged violation and date thereof; and

12.10.3 Status of the matter following the administrative investigation.

12.11 The DELJIS Security Manager or designee will also notify the Authorized User in writing by email, fax, or U.S. Mail of the status of the matter following the administrative investigation.

12.12 An appeal may be initiated by the user by submitting a request for a hearing in writing by email, fax or U.S. Mail to the attention of the Chairperson of the Board within fifteen (15) days of receipt of the notice of suspension.

PROPOSED REGULATIONS

12.13 The Board shall review the appeal and the user shall be given the opportunity to be heard by the Board within sixty (60) days of receipt of the letter of appeal, unless extenuating circumstances require a longer period.

13.0 Hearings

13.1 All hearings will be conducted in accordance with the Delaware Freedom of Information Act, 29 Del.C. Ch. 100.

13.2 Presence of the appellant is required. Failure to appear within 10 minutes of the time indicated on the notice will result in the Board hearing the appeal in the absence of the appellant or dismissal of the appeal.

13.3 At any hearing, a party may appear pro se or be represented by an attorney-at-law duly admitted to practice law in the State of Delaware or by a union representative at his or her own expense. The appellant will have the right to appear and testify at the hearing; the right to call witnesses and to present other evidence in the form of testimony and/or documents; and the right to cross-examine any witnesses who may testify at the hearing.

13.4 The Board or its attorney may administer oaths, examine any witness, receive exhibits into evidence, and move the admissions of documents and things into evidence.

13.5 Strict rules of evidence shall not apply.

13.6 At any hearing involving Improper Access or Breach, the investigator or their designee shall attend and present the facts of the administrative investigation directly to the Board.

13.7 The Board will render a decision based on the substantial evidence presented.

13.8 The Board may affirm, modify, or reverse, in whole or in part, any decision to temporarily suspend, revoke, reject, or deny access to CJIS, and may order that such suspension, revocation, rejection, or denial become permanent.

13.9 A written decision shall be rendered by the Board within sixty (60) days of the hearing, unless extenuating circumstances require a longer period.

13.10 The Board's decision on appeal is final and is not subject to further appeal or review.

14.0 Sanctions

14.1 If the Board determines there has been a violation of Title 11, Chapter 85 or 86 or these regulations by an Authorized Agency or Authorized User, it may impose any of the following sanction(s), singularly or in combination:

14.1.1 Require retraining on the CJIS system, specifically the security training.

14.1.2 Require a log of all CJIS transactions for a specific period of time. The log will be provided to the DELJIS Security Manager or designee based on the time line imposed by the Board.

14.1.3 Require monitoring for a specific period of time. The DELJIS Security Manager or designee may contact the user at any time, requesting justification as to why the User accessed a specific record.

14.1.4 Suspend the agency's or user's access for a specific period of time.

14.1.5 Suspend the agency's or user's access permanently.

14.2 Failure to comply with any imposed sanctions will result in additional sanctions, up to and including permanent suspension.

14.3 The DELJIS Security Manager or designee will notify the Authorized Agency head or designee in writing by email, fax, or U.S. Mail of any sanctions imposed by the Board.

14.4 The DELJIS Security Manager or designee will also notify the Authorized User in writing by email, fax, or U.S. Mail of any sanctions imposed by the Board.

DELAWARE ECONOMIC DEVELOPMENT OFFICE OFFICE OF THE DIRECTOR

Statutory Authority: 29 Delaware Code, Section 5005(11) (29 **Del.C.** §5005(11))

PUBLIC NOTICE

Guidelines Governing the Administration of the Neighborhood Building Blocks Fund

The Neighborhood Building Blocks Fund Board proposes to adopt Guidelines for the administration of the distribution of funds authorized by §39 of the FY 2015 Budget Act (79 **Del. Laws** Ch. 290). The Neighborhood Building Blocks Fund may be used to support local neighborhood revitalization programs, including grants to neighborhood associations and other community groups, law enforcement, local governments or other stakeholders for community development, public protection, urban beautification or any other purposes that have the effect of reducing crime or otherwise strengthen neighborhoods. The Board is seeking public comment on the proposed guidelines. Written comments should be sent to Diane Laird, State Coordinator, Downtown Delaware, Delaware Economic Development Office, Carvel State Building, 820 N. French St., Wilmington, DE 19801. Written comments will be accepted until October 30, 2014 pursuant to 29 **Del.C.** §10118(a).

Guidelines Governing the Administration of the Neighborhood Building Blocks Fund

1.0 Introduction

- 1.1 Improving the quality and availability of housing is an essential component of any strategy to build and maintain strong neighborhoods. However, building and maintaining strong neighborhoods requires more than improving housing opportunities for residents. It also requires thoughtful and coordinated efforts of state and local governments, neighborhood associations, nonprofit and community organizations, and other stakeholders to enhance economic development, reduce crime, and otherwise improve the quality of life of residents in our communities.
- 1.2 The Neighborhood Building Blocks Fund is intended to support crime reduction, neighborhood revitalization, and economic development programs statewide, including without limitation programs in and around Downtown Development Districts and communities that are part of DOJ's Building Blocks Initiative.

2.0 Background and Authorization

- 2.1 On November 19, 2013, DOJ, together with the United States and five other attorneys general, entered into a Settlement Agreement with JP Morgan Chase & Co. resolving certain claims related to the securitization of residential mortgage loans (the "Settlement"). Under the Settlement Agreement, the settlement funds received by the State of Delaware in connection therewith must be used to remediate harms to the State resulting from the conduct giving rise to the Settlement.
- 2.2 The Delaware General Assembly has approved the use of the Settlement Funds in accordance with §39 of the FY2015 Budget Act (79 **Del. Laws** Ch. 290) and that certain Allocation Plan approved by the Joint Finance Committee. Among other things, the Allocation Plan provides that \$1,000,000 of the Settlement Funds (the "Initial Allocation") shall be used to create the Neighborhood Building Blocks Fund within the Delaware Economic Development Office ("DEDO") to "support neighborhood revitalization programs, neighborhood associations and other community groups, law enforcement, [and] local governments, including grants to or other stakeholders for community development, public protection, urban beautification, or any other purposes that have the effect of reducing crime or otherwise strengthen neighborhoods."
- 2.3 These Guidelines are promulgated under the authority granted to the Director of DEDO by 29 **Del.C.** §5005(11), and in accordance with the Allocation Plan and §39 of the FY2015 Budget Act (79 **Del. Laws** Ch. 290).

PROPOSED REGULATIONS

2.4 To the extent that additional monies are added to the Fund from any source, these Guidelines shall govern the process of applying for grants of such funds, except as otherwise set forth herein or unless otherwise determined by the Board.

3.0 Purpose

The purpose of these Guidelines is to establish (a) procedures governing the administration of the Fund by the Board of the Neighborhood Building Blocks Fund (the "Board"); (b) the process for applying to the Board for Grants or other assistance; (c) pre-approval and post-approval procedures in connection with the issuance of Grants or other assistance; and (d) criteria for the Board's approval or disapproval of an application for Grants or other assistance under the Fund.

4.0 Definitions

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

"Applicant" shall have the meaning set forth in subsection 6.1.

"Application" means an application made to the Board on such form or forms, together with all relevant attachments, as the Board may, in its sole discretion, require in connection with the administration of the Fund.

"Board" means the Board of the Neighborhood Building Blocks Fund.

"Building Blocks Initiative" means the DOJ initiative to support crime reduction and neighborhood revitalization programs statewide, through the use of criminal nuisance abatement in combination with community outreach and community support. The Building Blocks Initiative is led by the Crime Strategies Unit of the Criminal Division.

"Crime Strategies Unit" is the unit within DOJ created to focus on crime prevention in communities and neighborhoods.

"DEDO" means the Delaware Economic Development Office.

"DOJ" means the Delaware Department of Justice.

"DOJ Board Members" means the members of the Board appointed by the Attorney General.

"Downtown Development District," "District," and "DDD" means any district created in accordance with the Downtown Development Districts Act, 22 Del.C. §1901 et seq.

"DSHA" means the Delaware State Housing Authority.

"Final Approval" means the final approval of an Application by the Board in accordance with the procedures set forth herein.

"Fund" means the Neighborhood Building Blocks Fund.

"Grant" means a grant allocated in accordance with these Guidelines.

"Initial Allocation" means the \$1,000,000 allocated to the Fund by the Delaware General Assembly in accordance with §39 of the FY2015 Budget Act (79 Del. Laws Ch. 290).

"OSPC" means the Office of State Planning Coordination.

"Project" means the specific intended use of the proceeds from the Fund.

"Public Sponsor" shall mean the State of Delaware or any agency or instrumentality thereof, or County, Municipality, local political subdivision, instrumentality, agency, body politic, or similar entity, within the State of Delaware.

"Reviewing Agency" means the agency responsible for conducting an initial review of an Application and making a written recommendation to the Board in connection therewith, in accordance with the procedures set forth in subsection 7.3 herein.

"State Agency" means any department or agency of the Executive Branch, as well as OSPC.

"State Agency Members" means the DEDO Director and the members of the Board appointed by the DEDO Director in accordance with subsection 5.1.2 herein.

5.0 Board of the Neighborhood Building Blocks Fund

- 5.1 Composition. The Fund shall be governed by the Board, which shall consist of seven (7) members as follows:
- 5.1.1 The Director of DEDO or his designee, who shall serve as Chair;
 - 5.1.2 Two (2) additional State Agency members appointed by the DEDO Director;
 - 5.1.3 Three (3) members appointed by the Attorney General; and
 - 5.1.4 One (1) member appointed by the DEDO Director, upon the concurrence of all of the foregoing members.
- 5.2 Powers. The Board shall have the power:
- 5.2.1 To solicit proposals for the use of the Fund from any person or entity, or through public notices;
 - 5.2.2 To review and prioritize any applications or proposals for grants in a manner that is coordinated to the greatest degree possible with DOJ's Building Blocks Initiative and with the successful implementation of DDDs throughout the State;
 - 5.2.3 To authorize DEDO to grant funds from the Fund; and
 - 5.2.4 To establish committees, to enlist the assistance of state agencies to review grant applications, to contract for consultation or expert services in connection with the effectuation of its mission, and to have such other powers as are necessary to conduct the affairs of the Fund in accordance with the purposes set forth herein.
- 5.3 Meetings.
- 5.3.1 Meetings of the Board shall occur at least quarterly.
 - 5.3.2 All meetings of the Board shall be noticed and conducted in accordance with Delaware's Freedom of Information Act ("FOIA"), 29 **Del.C.** §10001 *et seq.*
 - 5.3.3 Regular meetings of the Board shall be held at the date, time, and location designated by the Chair, or in the absence of action by the Chair, by at least four (4) members of the Board. Members may attend meetings in person or via phone or teleconference.
 - 5.3.4 If any member is unable to attend a meeting of the Board, such member, by written notice to the Chair no later than three (3) business days before such meeting, may designate another Board member as a proxy or send another person as a substitute. Any substitute designated in accordance with subsection 5.3.4 shall have all powers at such meeting, including the power to vote, as the member of the Board for whom such substitute is acting.
 - 5.3.5 A quorum shall consist of a majority of the members of the Board, so long as at least one (1) DOJ Member and one (1) State Agency Member are present. At any noticed meeting at which a quorum is present, any power of the Board may be exercised, including the power to vote upon proposed grants or other uses of the Fund. If at any meeting, less than a quorum is present in person or by phone or teleconference, the Board may adjourn the meeting and re-notice it at such time as a quorum may participate.
 - 5.3.6 The consent of a majority of the Board members present shall be required for approval on any vote.
 - 5.3.7 The Chair shall appoint a person to keep minutes of all meetings. DEDO shall maintain such minutes in accordance with 29 **Del.C.** §10004(f). A copy of the minutes shall be circulated to each Board member within two weeks after each meeting.
- 5.4 Coordination with Downtown Development Districts and DOJ Crime Strategies Unit.
- 5.4.1 To the greatest extent possible, the Board shall work to coordinate with the efforts of the Downtown Development District initiative and the DOJ's Crime Strategies Unit.
 - 5.4.2 The Board will support the implementation and ongoing success of DDDs throughout the State by inviting representatives from each municipality with a DDD to present to the Board information about the DDD, and identify any actions that would enhance community development, public protection, urban beautification, or any other actions that would have the effect of reducing crime or otherwise strengthening the neighborhoods within the DDD.

PROPOSED REGULATIONS

5.4.3 Among other strategies, the Crime Strategies Unit shall be working to weed out nuisance properties in high crime areas throughout the State. The Fund is designed to play a key role in the "seeding" component of a "weed and seed" strategy that will be the focus of the DOJ Building Blocks Initiative. Accordingly, the head of the DOJ Crime Strategies Unit shall attend each meeting of the Board, and shall present to the Board at such meetings a summary of the current efforts of the DOJ Crime Strategies Unit.

5.5 Vacancies.

5.5.1 Any Board member may resign at any time, and such resignation is effective immediately upon notice to the Chair, copied to all other Board members.

5.5.2 Any agency appointing a member to the Board may withdraw such appointment at any time and appoint another member, effective immediately upon notice to the Chair, copied to all other Board members.

5.5.3 Any vacancy occurring in the Board shall be filled by the agency or agencies that appointed such member.

5.5.4 If DOJ or any of the State Agency members withdraw their support for the Board member appointed by DEDO with the concurrence of the foregoing agencies, such member shall no longer serve on the Board, effective immediately upon notice by such agency to the Chair and all other Board members.

6.0 Grants

6.1 Applicants. Any natural person, community organization or neighborhood association, not-for-profit, for profit, or governmental entity (or subdivision thereof) are eligible to apply for Grant funding.

6.2 Eligible Projects. Monies from the Fund shall support neighborhood revitalization programs, including Grants to Applicants for community development, public protection, urban beautification, or any other purposes that have the effect of reducing crime or otherwise strengthening neighborhoods within the State of Delaware. Examples of Projects that may be eligible for Grant funding include, but are not limited to:

6.2.1 Planning activities, as set forth in subsection 6.3;

6.2.2 Pilot nuisance/law enforcement programs, including without limitation pilot initiatives relating to liquor stores in or adjacent to DDDs or areas that are the focus of the DOJ Building Blocks Initiative;

6.2.3 Neighborhood crime detection cameras and associated software and hardware;

6.2.4 Neighborhood lighting and/or streetscape improvements;

6.2.5 Neighborhood beautification programs;

6.2.6 Urban gardens or other projects that create, expand, or renovate urban parks or streetscapes.

6.2.7 Playground equipment, recreational equipment or other materials that enhance communities and serve to reduce crime.

6.2.8 Other Projects designed to reduce crime or revitalize neighborhoods that are sustainable without future grants from the Fund.

6.3 Initial Allocation Set-Aside for Planning Activities.

6.3.1 Of the Initial Allocation, up to \$350,000 shall be allocated to support or reimburse local governments for the development of neighborhood-specific or city-wide strategic plans, comprehensive plans, or other plans focused on economic development, crime reduction, residential development or other similar revitalization efforts.

6.3.2 Of such funds, priority shall be given to requests by cities, towns, and unincorporated areas for reimbursement of the costs of generating applications for DDD designation. Effective June 15, 2015, any unused balance of the foregoing allocation shall be available for any qualified project as determined by the Board.

7.0 Application Procedures

7.1 Obtaining and Submitting Applications.

7.1.1 Applicants may obtain Application forms by:

- 7.1.1.1 Downloading the Application from the DEDO website at <http://dedo.delaware.gov/>;
- 7.1.1.2 Requesting an Application by contacting the Delaware Economic Development Office by phone (302) 739-4271, or by fax at (302) 577-8499; or
- 7.1.1.3 Mailing a request for Application to the Delaware Economic Development Office, Attention: Diane Laird; Carvel State Building, 820 North French Street, 10th Floor, Wilmington DE 19801.

7.1.2 Completed Applications, along with any required documentation, may be submitted online, via email, or by mail in accordance with procedures adopted by DEDO.

7.2 Confidentiality. Applicants may designate certain information as law enforcement sensitive, proprietary or otherwise confidential pursuant to FOIA. Consistent with FOIA, DEDO and the Reviewing Agency will take such measures as are appropriate to limit disclosure of such information to the Board and to the Reviewing Agency.

7.3 Initial Review and Recommendation.

7.3.1 Upon receipt of an Application for a Grant seeking funds from the Initial Allocation, DEDO shall forward same to the appropriate Reviewing Agency for initial review and recommendations in accordance with the following procedure:

- 7.3.1.1 Applications for funding for Projects having a principal purpose of neighborhood revitalization shall be reviewed by DEDO. Examples include Applications having a significant economic development component; Applications for funding for murals or other neighborhood beautification programs; and applications for funding for programs within the general purview of DEDO's Main Street program.
- 7.3.1.2 Applications for funding for planning activities, as set forth in subsection 6.3, shall be reviewed by OSPC. In addition, OSPC shall review applications that involve significant land use components or potential land use impact, such as support for urban parks, urban gardening, streetscape design and similar applications.
- 7.3.1.3 Applications for funding for projects or programs having a principal purpose of crime reduction shall be reviewed by DOJ. Examples include applications for funding for neighborhood crime detection cameras and pilot nuisance abatement programs.
- 7.3.1.4 Notwithstanding the foregoing, the Board Chair, DEDO Director and/or any Reviewing Agency hereunder is authorized to forward any Application to another State Agency (including but not limited to DSHA or DSHS), or DOJ, or any other entity with expertise relevant to the consideration of the application, for additional review and recommendations, if the Board Chair, DEDO Director or Reviewing Agency determines that it is necessary or desirable to do so.

7.4 Written Recommendations by Reviewing Agency.

7.4.1 Following the review of any Application and any supporting materials, but in all cases no later than fourteen (14) days prior to the next regularly scheduled meeting of the Board, the Reviewing Agency shall forward its written recommendation for each Application to (a) the Board Chair, and (b) any DEDO staff person designated by the Chair to receive such recommendations. The Reviewing Agency shall make one of the following recommendations:

- 7.4.1.1 Approve the Application for the Grant in the amount requested by the Applicant;
- 7.4.1.2 Approve the Application, but for an amount less than requested by the Applicant;
- 7.4.1.3 Deny the Application; or
- 7.4.1.4 That the Application be held for further evaluation.

7.4.2 In all instances, the Reviewing Agency shall specify in writing the reasons underlying its recommendation. The Reviewing Agency is authorized to request additional information from the Applicant to the extent such information is necessary make a recommendation hereunder.

PROPOSED REGULATIONS

- 7.4.3 No later than ten (10) days prior to the date of the next scheduled Board meeting, the designated DEDO staff person shall forward to members of the Board all recommendations received from Reviewing Agencies.
- 7.5 Consideration of Applications by Board.
- 7.5.1 At the next scheduled Board meeting, the Reviewing Agency shall present its recommendations to the Board. The Board shall give due consideration to the recommendation of the Reviewing Agency, but shall not be bound thereby.
- 7.5.2 Following the presentation set forth in subsection 7.5.1, the Board shall:
- 7.5.2.1 Approve the Application in the amount recommended by the Reviewing Agency;
- 7.5.2.2 Approve the Application, but for an amount other than that which was recommended by the Reviewing Agency;
- 7.5.2.3 Deny the Application; or
- 7.5.2.4 Request that the Reviewing Agency reconsider its recommendation in light of evidence or information presented in connection with the Board's review. In such instance, the reviewing agency shall present its revised recommendations at the next scheduled meeting of the Board.
- 7.5.3 The Board shall determine, in its sole discretion, appropriate clawback provisions for each Applicant under which the Applicant may be required to repay some or all of the Grant.
- 7.6 Criteria for Review of Applications. In connection with the review, recommendation, and approval or denial of any Application, Reviewing Agencies and the Board shall consider:
- 7.6.1 The Applicant's ability to meet the objectives of the Fund, including the potential of the proposed project to reduce crime, provide support for the community, enhance economic development, or revitalize neighborhoods;
- 7.6.2 The level of community and local government support for the proposed project. Projects that have a Public Sponsor are generally preferred, and a Public Sponsor is required for any project that involves any form of licensing or permitting approval;
- 7.6.3 Whether the proposed project leverages charitable contributions or other public or private funds to provide a greater overall impact;
- 7.6.4 The ability of the proposed project to demonstrate success through objective, measurable criteria;
- 7.6.5 A demonstration that resources other than future grants from the Fund will be available to sustain any ongoing costs associated with a proposed project; and
- 7.6.6 Such other criteria that, in the discretion of the Board or Reviewing Agency, are relevant to the consideration of such Application.
- 7.7 In the event the Board approves an Application, the Applicant shall be issued a commitment letter outlining the terms and conditions of the Final Approval. The commitment letter must then be accepted by the Applicant and returned to the Board. The Applicant shall be bound by the terms and conditions set forth therein.
- 7.8 In the event the Board denies an Application, DEDO will advise the Applicant of the Board's action in writing. The notice of denial to the Applicant will inform the Applicant that the denial does not preclude the Applicant from applying to the Board with respect to the same project after six months from the notice of denial, or requesting the consideration of other unrelated projects.
- 7.9 Unless waived or amended by the Board in its sole discretion, the Applicant shall, for a period of five (5) years following the award of Grant, submit to DEDO, on an annual basis, financial statements in a form acceptable to the Board, a progress report on the status of the Project, including, but not limited to, objective measurement data associated with each Project and the impact of the finding and any other information required by the Board. Each Applicant shall report to DEDO no later than June 30 of each of the years for which the report is required.
-

DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))
14 **DE Admin. Code** 101

PUBLIC NOTICE

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

101 State Assessment System

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** 101 State Assessment System. As a result of House Bill 334 and Senate Bill 229 of the 147th General Assembly, this regulation is amended based on changes in the state assessment system and provides clarification as to the assessment of students with disabilities as per 14 **Del.C.** §151.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before **December 1, 2014** to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed or obtained at the Department of Education, Finance Office located at the address listed above. Pursuant to the federal Individuals with Disabilities Education Act (IDEA) this regulation requires a 60 day comment period.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is in compliance with amended 14 **Del.C.** §151.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue to ensure all students receive an equitable education.

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

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

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

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

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

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 amendment is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a 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? DOE estimates the cost to develop and implement the new assessment system to be at \$750,000-\$1,000,000.

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

101 State Assessment System

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 Del.C. §122(d))
14 DE Admin. Code 923

PUBLIC NOTICE

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

923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies

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 923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies. As a result of Senate Bill 229 of the 147th General Assembly, this amendment is needed in order to clarify the eligibility for extended school year reading services for students who are not beginning to read by age seven.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before **December 1, 2014** to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed or obtained at the Department of Education, Finance Office located at the address listed above. Pursuant to the federal Individuals with Disabilities Education Act (IDEA) this regulation requires a 60 day comment period.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is intended to improve student achievement as measured against state achievement standards by clarifying the eligibility for extended school year reading services for students who are not beginning to read by age seven.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue to ensure all students receive an equitable education.

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

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

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

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

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

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 amendment is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a 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 expected cost to implementing this amended regulation.

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

923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 Del.C. §122(d))
14 DE Admin. Code 925

PUBLIC NOTICE

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

925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs

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 925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs. As a result of Senate Bill 229 of the 147th General Assembly, this regulation has been amended to meet the requirements of 14 Del.C. Chapter 31, Section 3110(e) to address reading services and supports in a child's Individualized Education Program (IEP), if the child is a student with a disability who is not beginning to read by age seven.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before **December 1, 2014** to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed or obtained at the Department of Education, Finance Office located at the address listed above. Pursuant to the federal Individuals with Disabilities Education Act (IDEA) this regulation requires a 60 day comment period.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation may result in an improvement in student achievement as measured against state achievement standards as it addresses reading services and supports for IEPs for students with disabilities who are not beginning to read by age seven.

PROPOSED REGULATIONS

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue to ensure all students receive an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments do not address students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to ensure that all student's legal rights are respected.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulations does not change the decision making at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements on decision makers.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.
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 amendment is consistent with and not an impediment to the implementation of other state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a 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 expected cost to implementing this amended regulation.

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

925 Children with Disabilities Subpart D

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF LONG TERM CARE RESIDENTS PROTECTION

Statutory Authority: 29 Delaware Code, Section 7971(d)(1) (29 Del.C. §7971(d)(1))
16 DE Admin. Code 3315

PUBLIC NOTICE

3315 Rest (Family) Care Homes

The Division of Long Term Care Residents Protection (DLTCRP) is proposing a full revision of Regulation 3315, Rest (Family) Care Homes. The proposed regulations will replace the entire existing Regulation 3315.

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 Mary Peterson, Director, Division of Long Term Care Residents Protection, 3 Mill Road, Suite 308, Wilmington, DE 19806 by Friday, October 31, 2014.

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 PROPOSED CHANGES

Background

DLTCRP identified that the regulations for these facilities were last updated in March 1993. Many changes have occurred in this field especially in the type of care and the delivery of care. This revision will replace the current regulations and update it to meet the current standard of care for the population served.

Summary of Proposal

This regulatory proposal replaces the regulations for the purpose of bringing it into compliance with current standard of care.

Statutory Authority

29 Del.C. §7971(d)(1), "Division of Long Term Care Residents Protection."

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

3315 Rest (Family) Care Homes

DEPARTMENT OF INSURANCE OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Section 311, 1303(a) and 29 Delaware Code, Chapter 101

(18 Del.C. §§311 and 1303(a) and 29 Del.C. Ch. 101)
18 DE Admin. Code 403

PUBLIC NOTICE

403 Sale and Purchase of Options [Formerly Regulation 28]

INSURANCE COMMISSIONER KAREN WELDIN STEWART hereby gives notice of proposed amended Department of Insurance Regulation 403 relating to Sale and Purchase Options [Formerly Regulation 28]. The docket number for this proposed regulation is 2413.

The proposed amended regulation withdraws the provisions for Sale and Purchase Options due to the promulgation of new Regulation 404 Derivative Instruments, which sets standards for the prudent use of derivative instruments by domestic insurers. The Delaware Code authority for this proposed regulation is 18 Del.C. §§311 and 1303(a) and 29 Del.C. Ch. 101.

The Department of Insurance does not plan to hold a public hearing on the proposed amended regulation. The proposed amended regulation appears below and can also be viewed at the Delaware Insurance Commissioner's website at

<http://www.delawareinsurance.gov/departments/documents/ProposedRegs/>.

Any person can file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amended regulation. Any written submission in response to this notice and relevant to the proposed regulation must be received by the Department of Insurance no later than 4:30 p.m. EST, Friday, October 31, 2014. Any such requests should be directed to:

Regulatory Specialist Rhonda West
Delaware Department of Insurance
841 Silver Lake Boulevard
Dover, DE 19904
Phone: (302) 674-7379

Fax: (302) 739-5566
Email: rhonda.west@state.de.us

This Regulation shall become withdrawn effective December 11, 2014.

~~403 Sale and Purchase of Options~~

~~1.0 Rules and Regulations~~

- ~~1.1 18 Del.C. §314, authorizes the Insurance Commissioner to "...make reasonable rules and regulations necessary for or as an aid to the administration or effectuation of any provision of this Title." 18 Del.C. §1303(a), Ch. 13 permits an insurer to purchase options subject to certain limitations. It is the purpose of this Regulation to provide rules for the sale and purchase of options by insurers.~~

~~2.0 Definitions~~

~~"Call Option" means an option contract under which the holder of the option has the right, in accordance with the terms of the option, to purchase the number of shares of the underlying stock covered by the option contract.~~

~~"Closing Purchase Transaction" means the purchase of an exchange traded call options, the effect of which is to reduce or eliminate the obligations of a call option writer with respect to an option contract or contracts.~~

~~"Escrow Receipt" means an escrow receipt used with respect to escrowed stock held on deposit by a bank or other custodian approved by a registered national securities exchange.~~

~~"Escrowed Stock" means stock owned by an insurance company with respect to which an escrow receipt has been issued.~~

~~"Exchange" means a national securities exchange registered under the Securities Exchange Act of 1934, as amended.~~

~~"Exchange traded" means traded on the floor of an exchange.~~

~~"Exercise Price" means the price per unit at which the holder of an option may purchase the underlying stock upon exercise.~~

~~"Stock" means stock owned by a domestic insurance company which was acquired subject to the provisions of 18 Del.C., §§1310, 1311.~~

~~"Underlying Stock" means the stock subject to being purchased upon the exercise of a call option.~~

~~3.0 Sale of Exchange traded Call Options~~

- ~~3.1 An insurer may sell exchange traded call options only through an exchange and only with respect to stock which it owns. Insurers may not sell any other options. Any insurer selling an option:~~
- ~~3.1.1 Shall enter into an escrow agreement which provides that its escrowed stock is kept segregated by the bank or other custodian from other securities owned by the company, and from securities owned by others, which are deposited with the same bank or other custodian approved by a registered national securities exchange; and~~
- ~~3.1.2 Must obtain and retain in its possession a copy of an escrow receipt identifying with particularity the escrowed stock.~~

~~4.0 Purchase of Exchange traded Call Options~~

- ~~4.1 An insurer may purchase an exchange traded call option only through an exchange and only for the purpose of a closing purchase transaction. An insurer may purchase a call on the same security upon which an option was written by the insurer. Insurers may not purchase any other options.~~

~~5.0 Accounting Procedures~~

- 5.1 ~~The price received for selling a call option shall not be included in income at the time of receipt, but shall be carried in a deferred account until:~~
- 5.1.1 ~~The call option expires through the passage of time. The price for the option shall be treated as investment income.~~
 - 5.1.2 ~~The insurer sells the underlying stock pursuant to an exercise of the call option. The price received for the option shall be treated as increasing the amount realized upon the sale of the stock and shall be included in determining capital gain or loss.~~
 - 5.1.3 ~~The insurer engages in a closing purchase transaction. In this event the difference between the price received from the sale of the call option and the price paid in the closing purchase transaction shall be treated as addition to or deduction from investment income.~~

6.0 Valuation

- 6.1 ~~The stock on which an option has been sold shall be valued, so long as the obligation under the option exists, at the lesser of:~~
- 6.1.1 ~~The exercise price of the option, or~~
 - 6.1.2 ~~The current market price of the stock.~~

7.0 Prohibition Against Speculating in Options

- 7.1 ~~The authority granted to insurers herein to engage in option transactions shall be used solely in a manner consistent with the insurer's obligation to exercise prudent judgment in the conservative management of its assets. Each option transaction shall reflect such prudent judgment and shall have a rationale related to such conservative management of assets rather than speculations. Nothing herein shall be construed to authorize an insurer to engage in option transactions to an extent or to a degree which would, under the relevant circumstances, be inordinate or speculative. The insurer shall establish and maintain records as to each transaction, demonstrating compliance with this section.~~

8.0 Severability

- 8.1 ~~If any provision of this Regulation or the application thereof to any person or situation is held invalid, such invalidity shall not affect any other provision or application of the Regulation which can be given effect without the invalid provision or application and to this end the provisions of this Regulation are declared to be severable.~~

9.0 Effective Date

- 9.1 ~~This Regulation shall become effective September 1, 1977.~~

DEPARTMENT OF SAFETY AND HOMELAND SECURITY**DIVISION OF STATE POLICE****5500 Bail Enforcement Agents**

Statutory Authority: 24 Delaware Code, Section 5504(a) (24 **Del.C.** §5504(a))
24 **DE Admin. Code** 5500

PUBLIC NOTICE**5500 Bail Enforcement Agents**

Notice is hereby given that the Board of Examiners of Bail Enforcement Agents, in accordance with 24 **Del.C.** Ch. 55 proposes to amend:

PROPOSED REGULATIONS

- Adopted Rule 3.0 - Use of Animals, basic verbiage clean-up to keep with consistency throughout;
- Adopted Rule 8.0 - Apprehension Procedures, basic verbiage clean-up to keep with consistency throughout;
- Adopted Rule 9.0 - Notification of Arrest, deleted by Directive issued by Governor Markell, redundant as it is in the law;
- Adopted Rule 9.0 - Electronic Control Device (ECD), creates rule allowing BEA's to carry these devices and mandates the training and instructors;
- Adopted Rule 10.0 - Suspensions and Revocations, basic verbiage clean-up to keep with consistency throughout; and
- Adopted Rule 12.0 - Prohibited acts basic verbiage clean-up to keep with consistency throughout.

If you wish to view the complete Rules, contact Ms. Peggy Anderson at (302) 672-5304. Any persons wishing to present views may submit them in writing, by October 31, 2014, to Delaware State Police, Professional Licensing Section, P.O. Box 430, Dover, DE 19903. The Board will hold its quarterly meeting Tuesday, November 25, 2014, 10:00 am, at the Tatnall Building, 150 Martin Luther King, Jr. Boulevard South, Room 112, Dover, DE.

5500 Bail Enforcement Agents (Break in Continuity of Sections)

3.0 Use of Animals

The use of animals is prohibited in the performance of any ~~bail enforcement agent~~ BEA activity.

(Break in Continuity of Sections)

8.0 Apprehension Procedures

- 8.1 All ~~bail enforcement agents~~ BEA's licensed under 24 ~~Del.C.~~ Ch. 55 are required to notify the police emergency 911 dispatch center for the appropriate jurisdiction prior to making any attempt at an apprehension. This notification must occur prior to responding to the address of the attempt.
- 8.1.1 Notification shall be made to one of the following 911 dispatch centers as appropriate; Recom - DSP, New Castle County PD, Newark PD, Wilmington PD, University of Delaware PD, Kent-com - DSP, Smyrna PD, Dover PD, Milford PD, Suscom - DSP, Seaford PD, Rehoboth Beach PD, Dewey Beach PD, Bethany PD, and South Bethany PD.
- 8.2 Upon successful apprehension, if the ~~bail enforcement agent~~ BEA transports the subject to the law enforcement agency in the jurisdiction in which the apprehension occurred, transfer of custody to the law enforcement agency shall take place at that time.
- 8.2.1 A failure of a police agency to accept custody of the fugitive shall be immediately documented by the ~~bail enforcement agent~~ BEA and reported to the ~~Board~~ Professional Licensing Section.
- 8.3 Failure to follow the procedures as described in this section could result in the suspension or revocation of the ~~bail enforcement agent~~ BEA identification card, license, and badge and ID card.

9.0 ~~Notification Of Arrest~~

~~Pursuant to 24 Del.C. §5511, anyone licensed under this chapter shall, excluding weekends and state holidays, notify the Director within 5 days of any arrest which could result in a misdemeanor or felony conviction. Failure to do so may result in the suspension or revocation of a license.~~

9.0 Electronic Control Device (ECD)

- 9.1 In order for a BEA to carry/use an electronic control device (ECD), he/she must complete a training program approved by the Board and all certifications or re-certifications must be on file with the Professional Licensing Section.
- 9.2 ECD Instructors

9.2.1 All ECD instructors must be approved by the Professional Licensing Section before they are authorized to instruct or qualify individuals licensed under 24 Del.C. Ch. 13.

10.0 Suspensions and Revocations

- 10.1 The Director of the Professional Licensing Section shall have the power to invoke the intent to suspend or revoke any individual, ~~licensed~~ issued an identification card, license and badge under Title 24 Chapter 55 that violates the Chapter or the promulgated Rules & Regulations.
- 10.2 The Director of the Professional Licensing Section may issue an intent to suspend or revoke any individual, ~~licensed~~ issued an identification card, license and badge under 24 **Del.C.** Ch. 55, that has been arrested and that arrest could result in the conviction of any misdemeanor or felony that violates the Chapter or the promulgated Rules and Regulations.
- 10.3 Any ~~person~~ individual whose identification card, license and badge has been suspended, revoked, ~~rejected,~~ or denied shall be granted a full hearing, by the Board at their next quarterly meeting, provided that the violating party requests such a hearing, in writing, to the Director of the Professional Licensing Section within 30 days of the suspension. Such ~~person~~ individual shall be entitled to an appeal of the Board's decision to the Department of Safety and Homeland Security if a written appeal is filed within ten (10) days from the date of the Board's decision.

(Break in Continuity of Sections)

12.0 Prohibited Acts

No one ~~licensed~~ issued an identification card, license or badge under ~~this chapter~~ 24 **Del.C.** Ch. 55 shall be impaired, by drugs or alcohol, while performing the duties of a ~~bail enforcement agent~~ BEA.

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

5500 Bail Enforcement Agents

DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION BOARD OF LANDSCAPE ARCHITECTURE

Statutory Authority: 24 Delaware Code, Section 205 (24 **Del.C.** §205)
24 **DE Admin. Code** 200

PUBLIC NOTICE

200 Board of Landscape Architecture

The Delaware Board of Landscape Architects, pursuant to 24 **Del.C.** §205(a)(1), proposes to amend its rules and regulations. The proposed regulation changes address continuing education requirements and set forth a procedure by which licensees and continuing education sponsoring organizations may seek pre-approval of continuing education units. The proposed changes also bring the regulations into compliance with the Division of Professional Regulation's operating procedures and create continuity throughout the regulations.

The Board will hold a public hearing on the proposed regulation change on November 13, 2014 at 9:00 a.m., Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Lisa Smith, Administrative Specialist of the Delaware Board of Architects, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until November 28, 2014 pursuant to 29 **Del.C.** §10118(a).

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

200 Board of Landscape Architecture (Break in Continuity of Sections)

7.0 Continuing Education as a Condition of Biennial Renewal

- 7.1 General Statement: Each licensee shall be required to meet the continuing education requirements of these guidelines for professional development as a condition for license renewal. Continuing education obtained by a licensee should maintain, improve or expand skills and knowledge obtained prior to initial licensure, or develop new and relevant skills and knowledge.
- 7.1.1 In order for a licensee to qualify for license renewal as a landscape architect in Delaware, the licensee must have completed 20 ~~hours~~ of continuing education units (CEUs) acceptable to the Board within the previous two years, or be granted an extension by the Board for reasons of hardship. Such continuing education shall be obtained by active participation in courses, seminars, sessions, programs or self-directed activities approved by the Board.
- 7.1.1.1 For purposes of seminar or classroom continuing education, one ~~hour of acceptable continuing education CEU~~ shall ~~mean 60~~ be no less than 50 minutes of instruction.
- 7.1.2 All courses, seminars, sessions and programs are acceptable for continuing education credit if sponsored by organizations listed in Rule 7.1.3. ~~All other continuing education credits will be reviewed at the time of renewal. Courses that are not offered or sponsored by those organizations require Board approval. Licensees should request Board approval in advance of attendance. Requests for approval may be submitted afterward, but there is no guarantee of approval. These CEUs must be documented by a course agenda, syllabus, or other brief documentation that would allow the Board to assess the appropriateness of the course content. Licensees and/or sponsoring organizations may request course approval.~~ All self-directed activities for continuing education credit allowed by rule ~~7-6~~ 7.1.4 must also be ~~pre-approved and submitted by the licensee 6 months prior to license renewal by the Board.~~
- 7.1.2.1 Each course, seminar, session, program, or self-directed activity to be recommended for approval by the Board shall have a direct relationship to the practice of landscape architecture as defined in the **Delaware Code** and contain elements which will assist licensees to provide for the health, safety and welfare of the citizens of Delaware served by Delaware licensed landscape architects.
- 7.1.3 Continuing Education courses offered or sponsored by the following organizations will be ~~automatically~~ deemed to qualify for continuing education ~~credit~~:
- 7.1.3.1 LA CESTM - Landscape Architecture Continuing Education SystemTM
 - 7.1.3.2 American Society of Landscape Architects (National and local/chapter levels)
 - 7.1.3.3 Council of Landscape Architectural Registration Boards
 - 7.1.3.4 American Planning Association
 - 7.1.3.5 American Institute of Certified Planners
 - 7.1.3.6 Delaware Department of Natural Resources (DNREC) Division of Soil and Water Conservation, seminars or educational programs dealing with sediment erosion and control
- 7.1.4 Self-directed Activities: The Board will have the authority to allow self-directed activities to fulfill the continuing education requirements of the licensees. However, these activities must result in a book draft, published article, delivered paper, workshop, symposium, or public address within the two (2) year reporting period. Self-directed activities must advance the practitioner's knowledge of the field and be beyond the practitioner's normal work duties, and may include time spent researching, collecting data, preparing, and producing any such book draft, published article,

delivered paper, workshop, symposium or public address. Instructors will not be granted CE credit for studies customarily associated with their usual university or college instruction teaching loads.

- 7.1.4.1 The Board may, upon request, review and approve credit for self-directed activities in a given 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 and whether any part of the self-directed activity has ever been previously approved or submitted for credit by the same licensee. Determination of credit will be made by the Board upon review of the completed final project.
- 7.2 Each licensed landscape architect shall complete, biennially, 20 units of continuing education as a condition of license renewal.
- 7.3 The continuing education period will be from February 1 to January 31 of each biennial licensing period.
- 7.4 Documentation: Each licensee must retain copies of all supporting materials documenting proof of continuing education compliance for submission to the Board upon request. Supporting materials include a syllabus, agenda, itinerary or brochure published by the sponsor of the activity and a document showing proof of attendance (i.e., certificate, a signed letter from the sponsor attesting to attendance, report of passing test score). The Board reserves its right to request additional information and/or documentation to verify continuing education compliance.
- 7.5 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the Requirement of Rule 7.0.
- 7.5.1 Attestation ~~may~~ shall be completed electronically.
- 7.5.2 Licensees selected for random post renewal audit will be required to supplement the attestation with attendance verification pursuant to Rule 7.9.
- 7.5.3 ~~Each licensed landscape architect shall complete, biennially, 20 units of continuing education as a condition of license renewal.~~
- 7.6 Hardship: The Board will consider any reasonable special request from individual licensees for continuing education ~~credits~~ units and procedures. The Board may, in individual cases involving physical disability, illness, or extenuating circumstances, grant an extension, not to exceed two (2) years, of time within which continuing education requirements must be completed. In cases of physical disability or illness, the Board reserves the right to require a letter from a physician attesting to the licensee's physical condition. No extension of time shall be granted unless the licensee submits a written request to the Board prior to the expiration of the license.
- 7.7 Exemptions: New licensees by way of uniform national examination or by way of reciprocity shall be exempt from the continuing education requirements set forth herein for their first renewal period. Statutory Authority: 24 **Del.C.** §205(12).
- 7.8 Audit. Each biennium, the Division of Professional Regulation shall randomly select from the list of renewed licensees a percentage, determined by the Board, of the licensees to be audited. The Board may also audit based on complaints or charges against an individual license, relative to compliance with continuing education requirements or based on a finding of past non-compliance during prior audits.
- 7.9 Documentation and Audit by the Board. When a licensee's name or number appears on the audit list, the Board shall obtain documentation from the licensee showing detailed accounting of the various CEU's claimed by the licensee. Licensees selected for audit are required to supplement the attestation with supporting materials which may include a syllabus, agenda, itinerary or brochure published by the sponsor of the activity and a document showing proof of attendance (i.e., certificate, a signed letter from the sponsor attesting to attendance, report of passing test score). The Board reserves the right to request additional information and/or documentation to verify continuing education compliance.
- 7.9.1 The Board shall attempt to verify the CEUs shown on the documentation provided by the licensee. The Board shall then review the documentation and verification. Upon completion of the review,

PROPOSED REGULATIONS

the Board shall decide whether the licensee's CEU's meet the requirements of these rules and regulations. The licensee shall sign and seal all verification documentation with a Board approved seal.

- 7.10 Board Review. The Board shall review all documentation requested of any licensee shown on the audit list. If the Board determines the licensee has met the requirements, the licensee's license shall remain in effect. If the Board initially determines the licensee has not met the requirements, the licensee shall be notified, ~~and a hearing may be held pursuant to the Administrative Procedures Act. This hearing will be conducted to determine if there are any extenuating circumstances justifying the apparent noncompliance with these requirements. Unjustified noncompliance of these regulations shall be considered grounds for disciplinary action pursuant to 24 Del.C. §231(a)(6). The minimum penalty for unjustified noncompliance shall be a letter of reprimand and a \$250.00 fine and in the event that the board disallows certain CEUs, the licensee shall have four months after the date of the Board's notice that the hours have been disallowed to complete the balance of acceptable CEUs required.~~
- 7.11 Non-compliance – Extenuating Circumstances. A licensee applying for renewal may request an extension and be given up to an additional twelve (12) months to make up all outstanding required CEUs providing he/she can show good cause why he/she was unable to comply with such requirements at the same time he/she applies for renewal. The licensee must state the reason for such extension along with whatever documentation he/she feels is relevant. The Board shall consider requests such as extensive travel outside the United States, military service, extended illness of the licensee or his/her immediate family, or a death in the immediate family of the licensee. The written request for extension must accompany the renewal application. The Board shall issue an extension when it determines that one or more of these criteria have been met or if circumstances beyond the control of the licensee have rendered it impossible for the licensee to obtain the required CEU's. A licensee who has successfully applied for an extension under this paragraph shall make up all outstanding hours of continuing education within the extension period approved by the Board.
- 7.12 Appeal. Any licensee denied renewal pursuant to these rules and regulations may contest such ruling by filing an appeal of the Board's final order pursuant to the Administrative Procedures Act.

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

200 Board of Landscape Architecture

DIVISION OF PROFESSIONAL REGULATION

EXAMINING BOARD OF PHYSICAL THERAPISTS AND ATHLETIC TRAINERS

Statutory Authority: 24 Delaware Code, Section 2604(a)(1) (24 Del.C. §2604(a)(1))
24 DE Admin. Code 2600

PUBLIC NOTICE

2600 Examining Board of Physical Therapists and Athletic Trainers

Pursuant to 24 Del.C. §2604(a)(1), the Examining Board of Physical Therapists and Athletic Trainers ("the Board") has proposed revisions to its rules and regulations.

A public hearing will be held on October 28, 2014 at 4:30 p.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 Examining Board of Physical Therapists and Athletic Trainers, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address. Pursuant to 29

Del.C. §10118(a), the final date to receive written comments will be November 12, 2014, which is 15 days following the public hearing.

The Board's proposed amendments serve to clarify rules pertaining to home health aides, supervision, and the practice of athletic training. Proof of current CPR certification is added to licensure requirements. Rules relating to licensure reactivation and reinstatement are revised for consistency. Rule 12.24 is added to specifically prohibit licensee involvement in kickbacks. Finally, a new Rule 15.0 is added to set forth advanced training requirements for the emergency administration of asthma and anaphylaxes medications and for physical therapy and athletic training care provided outside the clinical setting to athletic injuries.

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

2600 Examining Board of Physical Therapists and Athletic Trainers

OFFICE OF THE STATE BANK COMMISSIONER

Statutory Authority: 5 Delaware Code, Sections 121(b), 1101A(c)(3) and 1101A(c)(5)
(5 Del.C. §§121(b), 1101A(c)(3) & 1101A(c)(5)
5 DE Admin. Code 1114

PUBLIC NOTICE

1114 Alternative Franchise Tax

Summary

The State Bank Commissioner proposes to amend Regulation 1114 (Alternative Franchise Tax), adopted in accordance with Chapter 11 of Title 5 of the Delaware Code and 75 Delaware Laws Chapter 223, Section 6. The purpose of the proposed amendment is to clarify the existing regulation with respect to elections made pursuant to Section 1101A(c)(3) of Title 5, to adopt a procedure for the taxation under Section 1101A of a resulting branch in this State of an out-of-state bank pursuant to Section 1101A(c)(5), and to improve the tax forms with respect to the itemization of tax credits. Other regulations issued by the State Bank Commissioner are not affected by this proposal. The State Bank Commissioner is issuing this proposed amended regulation in accordance with Title 5 of the Delaware Code and 75 Delaware Laws Chapter 223, Section 6. This notice is issued pursuant to the requirements of Title 29 of the Delaware Code, Chapter 11, Subchapter III, and Chapter 101, Subchapter II.

Comments

A copy of the proposed amended regulation is being published in the October 1, 2014 edition of the *Delaware Register of Regulations*. A copy is also on file in the Office of the State Bank Commissioner, 555 E. Lookerman Street, Suite 210, Dover, DE 19901 and is available for inspection during regular office hours. Copies are available upon request.

Interested parties may offer comments on the proposed amended regulation or submit written suggestions, data, briefs or other materials to the Office of the State Bank Commissioner at the above address as to whether this proposed amended regulation should be adopted, rejected or modified. Pursuant to 29 Del.C. §10118(a), public comments must be received on or before November 3, 2014. Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Amended Regulation

On or after November 3, 2014, following review of the public comment, the State Bank Commissioner will determine whether to adopt the proposed amended Regulation 1114, or make additional changes because of the public comments received.

PROPOSED REGULATIONS

1114 Alternative Franchise Tax Chapter 11 of Title 5 of the Delaware Code

Effective Date: December 11, 2006

(Break in Continuity of Sections)

3.0 Instructions for Filing the Estimated Alternative Franchise Tax Return

- 3.1 Filing. A banking organization or trust company whose alternative franchise tax liability for the current year is estimated to exceed \$10,000 should file an estimated alternative franchise tax return with the State Bank Commissioner, instead of the estimated franchise tax report in Regulation No. 1104 or No. 1111, and pay estimated alternative franchise tax;
- 3.1.1 Filing. The estimated alternative franchise tax return shall be filed with the State Bank Commissioner on the first day of March of the current year. Filing an estimated tax return for a particular taxation method is not a mandatory election of that particular method. Additional tax due that results from the underpayment of estimated taxes will be computed on the basis of the final method properly chosen.
- 3.1.2 Penalty for late filing. A late filing penalty shall be assessed against the taxpayer in the amount of \$25 for each day after the due date that the taxpayer fails to file the estimated alternative franchise tax return required by section 3.1.1, or an estimated franchise tax report pursuant to Regulation No. 1104 or No. 1111, unless the State Bank Commissioner is satisfied that such failure was not willful.
- 3.1.3 Form. The estimated alternative franchise tax return is contained in this regulation as Form 1114E.
- 3.1.4 Rounding. All amounts shall be rounded to the nearest dollar.
- 3.1.5 Calculation of estimated alternative franchise tax. The total estimated alternative franchise tax shall be calculated as follows:
- 3.1.5.1 The estimated net operating income before taxes of the banking organization or trust company; not including any corporation(s) making an election as provided in Regulation No. 1101;
- 3.1.5.2 Plus the estimated net operating income before taxes of any corporation(s) making an election as provided in Regulation No. 1104;
- 3.1.5.3 Less any deductions set forth in Section 1101A(c)(1) of Title 5 of the Delaware Code;
- 3.1.5.4 Less the estimated net operating income before taxes of any subsidiary corporation(s) and Edge Act corporation(s) making an election as provided in Regulation No. 1113;
- 3.1.5.5 Apportion the entire net income to the State of Delaware in accordance with Section 1101A(c)(6) of Title 5 of the Delaware Code (attach Schedule 1 – Apportionment Percentage Calculation Worksheet [apportionment percentage shall be rounded to the nearest tenth of a percent]);
- 3.1.5.6 Plus the estimated net operating income before taxes of any corporation(s) making an election as provided in Regulation No. 1101, less any deductions set forth in Section 1101A(c)(1) of Title 5 of the Delaware Code that apply to any such Electing Corporation(s), apportioned in accordance with Section 1101A(c)(6) of Title 5 of the Delaware Code [attach supporting schedules including completed Schedule 1 for each such Electing Corporation(s)];
- 3.1.5.7 Multiply the elective income tax base by the rate of taxation set forth in Section 1101A(c)(7) of Title 5 of the Delaware Code;
- 3.1.5.8 Plus the estimated location benefit tax liability calculated in accordance with Section 1101A(d) of Title 5 of the Delaware Code, (attach Schedule 2 – Location Benefit Tax Calculation Worksheet);
- 3.1.5.9 Adjust the subtotal estimated alternative franchise tax for applicable employment tax credits pursuant to Section 1105 of Title 5 of the Delaware Code, calculated in accordance with Regulation No. 1109;
- 3.1.5.10 Adjust the subtotal estimated alternative franchise tax for Travelink tax credits calculated in accordance with Department of Transportation (DelDOT) Travelink tax credit reporting requirements;

3.4.5.409 Adjust the subtotal estimated alternative franchise tax for Historic Preservation Tax Credits calculated in accordance with Chapter 18 of Title 30 of the Delaware Code and the regulations thereunder.

3.5.10 Adjust the subtotal estimated alternative franchise tax for other tax credit(s) [attach supporting schedule identifying the tax credit(s)].

3.4.6 Payment of estimated alternative franchise tax. The estimated alternative franchise tax liability shall be due and payable as follows:

3.4.6.1 40% due on or before June 1 of the current taxable year;

3.4.6.2 20% due on or before September 1 of the current taxable year;

3.4.6.3 20% due on or before December 1 of the current taxable year.

4.0 Instructions for Filing the Final Alternative Franchise Tax Return ***(Break in Continuity Within Section)***

4.5 Calculation of final alternative franchise tax. The total final alternative franchise tax shall be calculated as follows:

4.5.1 The net operating income before taxes of the banking organization or trust company, not including any corporation(s) making an election as provided in Regulation No. 1101, (attach a statement of net income that is filed with an appropriate financial regulatory agency);

4.5.2 ~~Plus the net operating income before taxes of any corporation(s) making an election as provided in Regulation No. 1101, (attach Regulation 1101 form — Election To Be Treated As A Subsidiary Corporation Under Sections 1101(f) or 1101A(c)(3) of Title 5 of the Delaware Code and a separate report of income for each electing corporation);~~

4.5.32 Less any deductions set forth in Section 1101A(c)(1) of Title 5 of the Delaware Code;

4.5.43 Less the net operating income before taxes of any subsidiary corporation(s) and Edge Act corporation(s) making an election as provided in Regulation No. 1113;

4.5.54 Apportion the entire net income to the State of Delaware in accordance with Section 1101A(c)(6) of Title 5 of the Delaware Code (attach Schedule 1 – Apportionment Percentage Calculation Worksheet [apportionment percentage shall be rounded to the nearest tenth of a percent]);

4.5.5 Plus the net operating income before taxes of any corporation(s) making an election as provided in Regulation No. 1101, less any deductions set forth in Section 1101A(c)(1) of Title 5 of the Delaware Code that apply to any such Electing Corporation(s), apportioned in accordance with Section 1101A(c)(6) of Title 5 of the Delaware Code, (attach Regulation 1101 form – Election To Be Treated As A Subsidiary Corporation Under Sections 1101(f) or 1101A(c)(3) of Title 5 of the Delaware Code and a separate report of income for each electing corporation). Taxpayer shall complete and attach supporting schedules and a separate Schedule 1 for each such electing corporation to determine the elective income tax base in accordance with the procedures of the provisions mentioned in this subsection;

4.5.6 Multiply the elective income tax base by the rate of taxation set forth in Section 1101A(c)(7) of Title 5 of the Delaware Code;

4.5.7 Plus the location benefit tax liability calculated in accordance with Section 1101A(d) of Title 5 of the Delaware Code, computed as of December 31 of the year prior to the year for which alternative franchise tax is paid (attach Schedule 2 – Location Benefit Tax Calculation Worksheet);

4.5.8 Adjust the subtotal alternative franchise tax for applicable employment tax credits pursuant to Section 1105 of Title 5 of the Delaware Code calculated in accordance with Regulation No. 1109, (attach Employment Tax Credit Calculation Worksheet);

4.5.9 ~~Adjust the subtotal alternative franchise tax for Travelink tax credits calculated in accordance with Department of Transportation (DelDOT) Travelink tax credit reporting requirements, (attach DelDOT approval and calculation worksheet);~~

4.5.409 Adjust the subtotal alternative franchise tax for Historic Preservation Tax Credits calculated in accordance with Chapter 18 of Title 30 of the Delaware Code and the regulations thereunder,

PROPOSED REGULATIONS

(attach a Certificate of Completion issued by the Delaware State Historic Preservation Office certifying that the credits have been properly earned, in accordance with Section 1105(g) of Title 5 of the Delaware Code, and if the credits have been transferred, sold or assigned to the taxpayer by another person, also attach a Certificate of Transfer in accordance with Section 1814(c) of Title 30 of the Delaware Code);

- 4.5.10 Adjust the subtotal alternative franchise tax for other tax credit(s) [attach supporting schedule identifying the tax credit(s)].

(Break in Continuity of Sections)

8.0 Election to be listed as a "Subsidiary Corporation"

(Break in Continuity Within Section)

- 8.4 Any corporation making an election pursuant to Section 1101A(c)(3) of Title 5 of the Delaware Code shall consolidate its income with that of the banking organization or trust company in the following manner to calculate the total elective income tax base for purposes of Section 1101A(c)(6) of Title 5 of the Delaware Code. The Electing Corporation(s) shall calculate its entire net income for purposes of Section 1101A(c)(1) of Title 5 of the Delaware Code and apportion that income to the State of Delaware in accordance with the procedure stated in Section 1101A(c)(6) of Title 5 of the Delaware Code separately from that of the banking organization or trust company. The banking organization or trust company shall calculate its entire net income for purposes of Section 1101A(c)(1) of Title 5 of the Delaware Code without including the Electing Corporation(s) and shall apportion that income to the State of Delaware in accordance with the procedures stated in Section 1101A(c)(6) of Title 5 of the Delaware Code without including the Electing Corporation(s). The net income so apportioned of the Electing Corporation(s) shall be added to that of the banking organization or trust company to determine the total elective income tax base for purposes of Section 1101A(c)(6) of Title 5 of the Delaware Code.

(Break in Continuity of Sections)

11.0 Resulting Branch in this State of an Out-of-State Bank

A resulting branch in this State of an out-of-state bank shall be treated as if it were a corporation, pursuant to Section 1101A(c)(5) of Title 5 of the **Delaware Code**, for purposes of determining the alternative franchise tax. Resulting branches may account for their operations in accordance with Section 9.0 (Separate Accounting by Resulting Branches) of Regulation 1110 (Instructions for Preparation of Franchise Tax for Resulting Branches in this State of Out-of-state Banks), or in accordance with such other reasonable method as may be approved by the State Bank Commissioner.

112.0 Instructions for Filing an Amendment to the Final Alternative Franchise Tax Return

Filing. To amend a previously filed final alternative tax return, or to elect the alternative franchise tax method as provided in Section 1101A(a) of Title 5 of the Delaware Code, place a check mark (✓) in the box provided on Form 1114F and complete the return in accordance with Section 4 of this regulation. Attach a complete copy of the original filing along with a statement of explanation for all changes.

~~1114A.pdf Form 1114E – Estimated Alternative Franchise Tax Return and Form 111F Final Alternative Franchise Tax Return~~

[1114A.pdf 1114 - Alternative Franchise Tax Forms and Schedules](#)

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

[1114 Alternative Franchise Tax](#)

OFFICE OF THE STATE BANK COMMISSIONER

Statutory Authority: 5 Delaware Code, Sections 121(b), 2112, 2210(e), and 2906(e);
(5 Del.C. §§121(b), 2112, 2210(e), and 2906(e))
5 DE Admin.Code 2101, 2102, 2104, 2201, 2202, 2701, 2901 and 2902

PUBLIC NOTICE

2101 Operating Regulation
2102 Minimum Records
2104 Minimum Disclosure and Agreement Requirements
2201 Operating Regulation
2202 Minimum Records
2701 Operating Regulation
2901 Operating Regulation
2902 Minimum Records

Summary

The State Bank Commissioner proposes to amend eight Regulations adopted in accordance with Title 5 of the Delaware Code, Chapters 21, 22, 27 and 29. Regarding Title 5, Chapter 21 (Mortgage Loan Brokers), the proposed amended Regulations are 2101(Operating Regulation), 2102 (Minimum Records) and 2104 (Minimum Disclosure and Agreement Requirements). Regarding Title 5, Chapter 22 (Licensed Lenders), the proposed amended Regulations are 2201 (Operating Regulation) and 2202 (Minimum Records). Regarding Title 5, Chapter 27 (Cashing of Checks, Drafts or Money Orders), the proposed amended Regulation is 2701 (Operating Regulation). Regarding Title 5, Chapter 29 (Financing the Sale of Motor Vehicles), the proposed amended Regulations are 2901 (Operating Regulation) and 2902 (Minimum Records). The purpose of the proposed amendments is to clarify the existing regulations and reduce regulatory burden. Other regulations issued by the State Bank Commissioner are not affected by this proposal. The State Bank Commissioner is issuing these proposed amended regulations in accordance with Title 5 of the Delaware Code. This notice is issued pursuant to the requirements of Title 29 of the Delaware Code, Chapter 11, Subchapter III, and Chapter 101, Subchapter II.

Comments

A copy of the proposed amended regulations is being published in the October 1, 2014 edition of the Delaware *Register of Regulations*. A copy is also on file in the Office of the State Bank Commissioner, 555 E. Loockerman Street, Suite 210, Dover, DE 19901 and is available for inspection during regular office hours. Copies are available upon request.

Interested parties may offer comments on the proposed amended regulations or submit written suggestions, data, briefs or other materials to the Office of the State Bank Commissioner at the above address as to whether these proposed amended regulations should be adopted, rejected or modified. Pursuant to 29 Del.C. §10118(a), public comments must be received on or before November 3, 2014. Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Amended Regulations

On or after November 3, 2014, following review of the public comment, the State Bank Commissioner will determine whether to adopt the proposed amended Regulations 2101, 2102, 2104, 2201, 2202, 2701, 2901 and 2902, or make additional changes because of the public comments received.

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

8 Banking Regulations

PROPOSED REGULATIONS

PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Section 209(a) (26 Del.C. §209(a))
26 DE Admin. Code 4001 & 4003

PUBLIC NOTICE

PROPOSED AMENDMENTS TO THE PUBLIC SERVICE COMMISSION'S "RULES FOR THE PROVISION OF TELECOMMUNICATIONS SERVICES"

AND

"REGULATION GOVERNING THE MINIMUM SERVICE REQUIREMENTS FOR THE PROVISION OF TELEPHONE SERVICE FOR PUBLIC USE WITHIN THE STATE OF DELAWARE"

TO: ALL TELECOMMUNICATIONS CARRIERS, ALL CONSUMERS, AND OTHER INTERESTED PERSONS

In 2001, the Public Service Commission ("PSC") adopted "Rules for the Provision of Telecommunications Services" ("Telecom Rules") to govern its regulatory oversight of telecommunications carriers operating within Delaware. Those Rules apply to all current telecommunications carriers.

By PSC Order No. 8618 (Aug. 19, 2014), the PSC now proposes to amend those Telecom Rules. The proposed changes are a result of new legislation (H.B.96) which was effective on July 15, 2013. This bill was enacted to reflect the competitive environment that now exists for telecommunications services. The legislation reduced the oversight of the PSC while it retained oversight of basic services.

The text of these proposed rules are attached to PSC Order No. 8618. That Order and the exhibits are reproduced in the October 2014 edition of the Delaware *Register of Regulations*. The Order and exhibits can also be reviewed on-line at the PSC's website at www.state.de.us/delpsc. You can also obtain a paper copy of the Order at the PSC's Dover office. Those paper copies will cost \$0.25 per page.

You can file written comments, suggestions, briefs, compilations of data, or other materials concerning these proposed amendments to the Telecom Rules. Such material (10 copies or file online to our Delafile system) must be submitted to the Commission on or before Friday, November 7, 2014. Send the material to the Commission's Dover office at the following address:

Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building
Suite 100
Dover, Delaware, 19904
Attn: PSC Reg. Dckts. Nos. 10, 45 & 20

In addition, the PSC will conduct a public hearing on these proposed changes on Wednesday, November 19, 2014, beginning at 10:00 AM. The hearing will take place in the Third Floor Conference Room of the Carvel State Office Building, 820 North French Street, Wilmington, Delaware. You can submit additional materials then.

If you are handicapped and might need assistance or aids in participating in this matter, please contact the PSC to discuss the needed assistance or aids. You can contact the PSC with questions or requests about this

matter at the Commission's toll-free telephone number (800) 282-8574 (Delaware only) or (302) 739-4333 (including text telephone). You can also send inquiries by Internet e-mail addressed to psc@state.de.us.

IN THE MATTER OF THE SALE, RESALE, AND
OTHER PROVISIONS OF INTRASTATE
TELECOMMUNICATIONS SERVICES (OPENED
MAY 1, 1984; REOPENED NOVEMBER 17, 1998;
REOPENED JULY 24, 2001; REOPENED
AUGUST 9, 2005; REOPENED AUGUST 19,
2014)

PSC REGULATION DOCKET NO. 10

IN THE MATTER OF THE DEVELOPMENT OF
REGULATIONS FOR THE FACILITATION OF
COMPETITIVE ENTRY INTO THE
TELECOMMUNICATIONS LOCAL EXCHANGE
SERVICE MARKET (OPENED NOVEMBER 21,
1995; REOPENED NOVEMBER 17, 1998;
REOPENED JULY 24, 2001 REOPENED
AUGUST 9, 2005; REOPENED AUGUST 19,
2014)

PSC REGULATION DOCKET NO. 45

IN THE MATTER OF THE PROPOSED
ADOPTION OF REGULATIONS GOVERNING
THE MINIMUM SERVICE REQUIREMENTS FOR
THE PROVISION OF TELEPHONE SERVICE
FOR PUBLIC USE WITHIN THE STATE OF
DELAWARE (OPENED DECEMBER 13, 1988;
REOPENED AUGUST 19, 2014)

PSC REGULATION DOCKET NO. 20

ORDER NO. 8618

This 19th day of August, 2014, the Commission determines and Orders the following:

A. BACKGROUND AND SUMMARY

1. Several years ago, this Commission adopted its "Rules For The Provision of Telecommunications Services" ("Regulation Docket Nos. 10 & 45 Rules"), which included not only criteria related to the initial certification of telecommunication companies to provide intrastate services but also explained how the Commission will supervise these telecommunication companies' offerings and prices, and adopted its "Regulations Governing the Minimum Service Requirements For the Provision of Telephone Service for Public Use Within the State of Delaware" ("Regulation Docket No. 20 Rules").

2. By this Order, the Commission now proposes to update these Rules in light of the passage of Delaware House Bill No. 96 which took effect on July 15, 2013. The legislative revisions to Title 26 of the Delaware Code reduces the oversight of telecommunications services. The proposed changes to these Rules are meant to even the playing field for both the telecommunications providers electing to be regulated pursuant to Subchapter VII-A of Title 26 of the Delaware Code and the telecommunications providers regulated under these Regulation Dockets.

B. AUTHORITY FOR AMENDMENTS

3. The Commission is generally empowered to promulgate regulations governing the operations of public utilities. See 26 **Del.C.** §209(a)(1). In addition, since 1992, the Commission has been authorized to adopt alternative forms of regulation for telecommunications carriers, including both de-tariffing and deregulation. See 26 **Del.C.** §703(3)(2004 Supp.).

C. SUMMARY OF THE REVISIONS

4. The proposed revisions to the Regulation Docket Nos. 10 & 45 Rules include deleting obsolete definitions, deleting rules in which the Commission no longer has authority and limits the certification requirements of new carriers, who want to provide telecommunications services in Delaware.

5. The Regulation Docket No. 20 Rules are being eliminated in their entirety. According to 26 **Del.C.** §705, switched access services and local exchange telecommunication services to an individual residential customer who has no alternative telecommunication service provider available to her/him are basic services. All other services are competitive services. The Federal Communications Commission regulates the price, terms and conditions of switched access service for both intrastate and interstate. Pursuant to 26 **Del.C.** §706, competitive services can be added, revised, and abandoned without notification to the Commission. Also, it is highly unlikely that there are any residential customers in Delaware that have no alternative telecommunications service providers available to her/him. Therefore, Staff believes that the Regulation Docket No. 20 Rules are no longer necessary.

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF NOT FEWER THAN THREE COMMISSIONERS:

1. That, pursuant to 26 **Del.C.** §§209 and 703(3), the Commission proposes to amend its "Rules for the Provision of Telecommunications Services" (Dockets 10 and 45) and eliminate "Regulations Governing the Minimum Service Requirements For the Provision of Telephone Service for Public Use Within the State of Delaware" (Docket 20). The proposed rules are set forth in **Exhibit "A"** to this Order and the redlined version of the existing rules are set forth in **Exhibit "B"**.

2. That, pursuant to 29 **Del.C.** §§1133 & 10115, the Secretary shall transmit a copy of this Order, with the attached exhibits, to the Registrar of Regulations for publication in the Delaware *Register of Regulations*.

3. That, pursuant to 26 **Del.C.** §209 and 29 **Del.C.** §10115(a)(2) & (b), the Secretary shall cause the form of public notice attached as **Exhibit "C"** to be published in two-column format, outlined in black, in the following two newspapers on the following dates:

The News Journal (August 26, 2014)

Delaware State News (August 27, 2014)

The Secretary shall also ensure, pursuant to 29 **Del.C.** §10115, that a copy of such notice is sent to the Registrar of Regulations for its publication in the *Register of Regulations*. In addition, the Secretary shall mail a copy of this Order, with its exhibits, to the Division of the Public Advocate and to all persons or entities who have made written requests for advanced notice of this Commission's rule-making proceedings. The Secretary shall file a certification of the completion of these tasks by September 15, 2014.

4. That interested persons or entities may submit written suggestions, compilations of data, briefs, or other written materials concerning these proposed amendments on or before Friday, November 7, 2014. Pursuant to 26 **Del.C.** §209(a), the Commission, through its designated Hearing Examiner, will hold a public hearing on the proposed amendments on Wednesday, November 19, 2014, beginning at 10:00 AM in the Third Floor Conference Room of the Carvel State Office Building, 820 North French Street, Wilmington, Delaware.

5. That, pursuant to 26 **Del.C.** §502 and 29 **Del.C.** §10117, the Commission designates Hearing Examiner R. Campbell Hay to organize, classify, summarize, and make recommendations concerning the rule changes proposed by this Order in light of the submitted materials and public hearings. Hearing Examiner Hay is specifically authorized to conduct further hearings or direct submission of additional documents if deemed necessary or appropriate.

6. The Commission reserves the jurisdiction and authority to enter such further orders in this matter as may be deemed necessary or proper by Order of the Commission.

BY ORDER OF THE COMMISSION:

Dallas Winslow, Chair

Joann T. Conaway, Vice Chair

Jeffrey J. Clark, Commissioner

PROPOSED REGULATIONS

299

Harold Gray, Commissioner

Jaymes B. Lester, Commissioner

ATTEST:

Alisa Carrow Bentley, Secretary

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

PSC Regulations 4001 and 4003

Symbol Key

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

Final Regulations

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

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

DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 401

REGULATORY IMPLEMENTING ORDER

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

401 Major Capital Improvement Programs**I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

The Secretary of Education intends to amend Title 14 of the Delaware Administrative Code by amending 14 **DE Admin. Code** 401 Major Capital Improvement Programs.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on August 1, 2014, in the form hereto attached as Exhibit "A". Comments were received from the Director of Administrative Services of the Woodbridge School District related to 1.) the definition of Facility, 2.) a clearly defined deadline for consideration of Certificate of Necessity, 3.) provisions related to Certificate of Occupancy and 4.) clarification that the local school board is to consider and act on change orders. The Department considered the comments and made changes accordingly.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 401 Major Capital Improvement Programs in order to eliminate the Voluntary School Assessment Section from this regulation and establish a separate regulation for it. Minor changes were made to the remaining provisions of the regulation to correct grammatical errors, eliminate duplicate provisions, and provide clarity.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 401 Major Capital Improvement Programs. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 401 Major Capital Improvement Programs attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 401 Major Capital Improvement Programs 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** 401 Major Capital Improvement Programs amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 401 Major Capital Improvement Programs 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 September 18, 2014. 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 18th day of September 2014.

Department of Education

Mark T. Murphy, Secretary of Education

Approved this 18th day of September 2014

401 Major Capital Improvement Programs

1.0 Purpose and Definitions

(Break in Continuity Within Section)

1.2 Definitions

(Break in Continuity Within Section)

"Certificate of Occupancy": A document issued by a local code enforcement official/office attesting that a **[Facility Facility]** meets building codes and is fit for human occupancy.

(Break in Continuity Within Section)

"Educational Specifications": A document which explains how the educational spaces relate to the educational programs as well as the requirements of an educational **[Facility Facility]** to house and implement the educational philosophy and institutional program.

(Break in Continuity Within Section)

["Facility": Long lived capital assets to include but not limited to school buildings; athletic buildings; athletic fields and appurtenances; playgrounds; maintenance, operations and storage structures; office buildings and all other buildings and capital assets associated with the operation and management of a school district or school system.]

"Final Construction Plans": Plans that show the complete **[Facility Facility]** design including mechanical, electrical, water, sewer, site plans, storm water conveyance and structural systems, complete bid documents and specifications.

"Schematic Design Plans": Documents that present a proposed **[Facility Facility]** in its earliest stages denoting the approximate size and relationship of areas to each other. Detailed utilities or mechanical functions are not typically shown at this stage.

"Signed and Sealed Plans": Plans that have the architect's and/or engineer's professional seal and signature affixed.

42.0 Certificates of Necessity

- 2.1 Districts shall submit local school board approved projects to the Department of Education by August 31 **[of each fiscal year]** in order to be considered for a Certificate of Necessity **[and capital funding in the following fiscal year]**.
- 4.1 The Certificate of Necessity is a document issued by the Department of Education which certifies that a construction project is necessary and sets the scope and cost limits for that project.
- 42.2 ~~Certificates of Necessity shall be obtained sufficiently in advance to meet all prerequisites for the holding of a local referendum and shall be issued only at the written request of the local school district. The Certificate of Necessity shall be quoted in the advertisement for the referendum.~~
- 42.3 Projects proposing the construction of a new **[Facility Facility]** or for an addition to an existing **[Facility Facility]** shall be issued a separate Certificate of Necessity. Funds issued for the construction of a new **[Facility Facility]** or for an addition to an existing **[Facility Facility]** shall not be transferred between projects or to projects in a separate Certificate of Necessity.
- 42.4 Additions to existing **[Facilities Facilities]** that are done in connection with other renovations may be issued a single Certificate of Necessity. However, when such a multiple project Certificate is issued, it shall identify each **[Facility Facility]** in the program and describe the work to be done at that **[Facility Facility]** including the dollar amount for that work. Funds may be transferred between projects issued under the same Certificate of Necessity in accordance with 8.0 below.
- 42.5 ~~The Office of Education Facilities Planning, Construction and Operations~~ The Department of Education will complete the final Certificates of Necessity and forward the Certificate of Necessity to the local school district superintendent for his/her signature.
- 42.6 A copy of the final Certificate of Necessity will be returned to the district within ten (10) working days following final approval by the Department of Education.

*(Break in Continuity of Sections)***34.0 Approval of Educational Specifications, Schematic Design Plans, Design Development Plans, and Construction Drawings***(Break in Continuity Within Section)*

- 3-54.3 The local school district must involve all applicable State, Local and Municipal regulatory agencies in reviewing Final Construction Drawings prior to the start of construction. Copies of all applicable State, Local and Municipal agency approvals shall be maintained in the local school district construction files. Required State agency approvals include but may not be limited to:

(Break in Continuity Within Section)

- 3-54.3.5 Architectural Accessibility Board to ensure that the build[ing] environment is safely accessible to, and usable by all persons.
- 3-54.3.6 Department of Natural Resources and Environmental Control for wastewater, storm water management and erosion control.
- 3-64.4 Exemptions: Major Capitol Projects that do not include structural changes or wall modifications such as, but not limited to, window replacement, HVAC, electrical or plumbing infrastructure upgrades do not require submission to the Department of Education.

5.0 Notification, Start of Construction, and Completion of Construction, and Certificate of Occupancy

- 5.1 The local school district shall submit to the Department of Education and the Director, Office of Management and Budget a construction schedule, showing start dates, intermediate stages and final completion dates.
- 5.2 The local school district shall notify the Department of Education, the Director, Office of Management and Budget and the Insurance Coverage Office at the completion of the construction, which is defined as when the school district, with the concurrence of the architect, accepts the **[Facility Facility]** as complete. Completion means that the following have occurred: punch-list items are resolved, release of liens has been received and funds held in retainage have been released.

- 5.3 The local school district shall record capital assets (buildings) in accordance with the State of Delaware ~~Capital Asset Budget and Accounting~~ Manual which requires capital assets (buildings) to be recorded when the asset is ready for its intended use. As an example, the capital asset (building) should be recorded when it has received an occupancy certificate or the building is ready for its intended use.
- 5.4 The local school district shall notify the Department of Education, the State Auditor, and the ~~Director, Office of Management and Budget~~ upon approval of ~~[the Certificate of]~~ Occupancy.
- 5.5 Local school districts shall submit to the Department of Education a copy of the electronic autocad files. Electronic autocad files shall be submitted no later than 30 calendar days after the completion of any major renovation, addition to an existing ~~[Facility Facility]~~, new school or replacement school.

6.0 Purchase Orders

All purchase orders for any Major Capitol Improvement Project shall be approved by both the Department of Education and ~~the Assistant Chief of Fiscal & Policy Analysis for Capital Projects~~ Office of Management and Budget prior to submission to the Division of Accounting.

7.0 Change Orders

- 7.1 ~~Change Orders are changes in the construction contract negotiated with the contractor. The main purpose is to correct design omissions, address unforeseen circumstances which arise during the construction process, and improve upon designs based on project progress.~~
- 7.21 All Change Orders must be agreed upon by the architect, the local school district ~~and the contractor,~~ **[board district]** and shall be forwarded to the Department of Education.
- 7.21.1 Submission of a Change Order must include the following documents: ~~Completed~~ **A completed purchase order as applicable [and in accordance with the local school board approved change order approval and authorization process and procedure];** local school board of education minutes identifying and approving the changes; completed **[and in accordance with the local school board approved change order approval and authorization process and procedure]** AIA document G701, and correspondence which gives a breakdown in materials mark-up and other expenses.

(Break in Continuity of Sections)

11.0 Administration of the New School

~~[The principle principal An]~~ administrator of a new school may be hired for up to one (1) year prior to student occupancy to organize and hire staff. The State portion of salary and benefits may be paid from Major Capital Improvement Programs.

42.0 ~~Voluntary School Assessment~~

- 42.1 ~~The funds generated as a result of the Voluntary School Assessment, as authorized by the provisions of 14 Del.C. §103(c) relating to land use planning and education, shall be applied exclusively to offsetting the required local share of major capital construction costs.~~
- 42.1.1 ~~Districts receiving Voluntary School Assessment funds shall have full discretion in the use of these funds for any construction activities that increase school capacity.~~

***Please note that no additional changes were made to the regulation as originally proposed and published in the August 2014 issue of the Register at page 95 (18 DE Reg. 95). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

401 Major Capital Improvement Programs

FINAL REGULATIONS

OFFICE OF THE SECRETARY

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

REGULATORY IMPLEMENTING ORDER

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

415 Voluntary School Assessment

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education intends to amend Title 14 of the Delaware Administrative Code by adding a new regulation 14 **DE Admin. Code** 415 Voluntary School Assessment. The Voluntary School Assessment was removed from 14 **DE Admin. Code** 401 Major Capital Improvement Programs. The Department of Education proposes this regulation to further delineate the process related to Voluntary School Assessment.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on August 1, 2014, in the form hereto attached as Exhibit "A". Comments were received from the Director of Administrative Services for the Woodbridge School District regarding the cost of residential units. In addition, comments were received from the Delaware Association of School Administrators requesting assistance for a statewide implementation of the Voluntary School Assessment, which would require legislation and is beyond the scope of action by the Department in this regulation.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to add 14 **DE Admin. Code** 415 Voluntary School Assessment in order to further delineate the process related to Voluntary School Assessment.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to add 14 **DE Admin. Code** 415 Voluntary School Assessment. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 415 Voluntary School Assessment attached hereto as Exhibit "B" is hereby added. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 415 Voluntary School Assessment as hereby added 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 new 14 **DE Admin. Code** 415 Voluntary School Assessment shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 415 Voluntary School Assessment 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 September 18, 2014. 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 18th day of September 2014.

Department of Education

Mark T. Murphy, Secretary of Education

Approved this 18th day of September 2014

415 Voluntary School Assessment

(Break in Continuity of Sections)

2.0 Definitions

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

(Break in Continuity Within Section)

“Program Capacity” means eighty-five (85) percent of the maximum number of students that a program or school can contain as determined solely by considerations of physical space~~[- physical space]~~ and class size for each grade level, as identified in 14 **Del.C.** §405(c).

“School Capacity” means the calculation which determines the number of students that can be served within a school building, as determined by the Department of Education school construction formula.

“School Capacity Certification” means the certification made by any local school district to be impacted by a pending development, which identifies the existence of capacity within existing district infrastructure, or lack thereof.

“School Construction Technical Assistance Manual” means the document that identifies the school construction formula and provides local school districts with guidance and rules related to school construction.

“Voluntary School Assessment” means the fee assessed on new residential construction units in New Castle County and its municipalities to provide support for the construction of additional capacity within local school districts, for increased student growth that results from residential development.

3.0 Determination of School District Capacity

- 3.1 Prior to a developer recording a residential subdivision plan per 9 **Del.C.** §2661, and for over 5 units in size for any lands annexed into any municipality located in New Castle County per 22 **Del.C.** §842(2), the developer shall request from the Department of Education a School Capacity Certification to ensure that the school district in which the development will be located has adequate capacity to accommodate the proposed number of students the development will ~~incur~~ generate]. The Department of Education shall also verify with the municipality located in New Castle County or New Castle County all the necessary information regarding the development to include location; tax parcel number of the development; and number and type of residential units.

(Break in Continuity Within Section)

*Please note that no additional changes were made to the regulation as originally proposed and published in the August 2014 issue of the *Register* at page 100 (18 DE Reg. 100). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

415 Voluntary School Assessment

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

ORDER

Nursing Facility Services – Preadmission Screening and Resident Review

IN THE MATTER OF: REVISION OF THE REGULATION OF DELAWARE'S TITLE XIX MEDICAID STATE PLAN
4.39 PAGES 79s, 79t; ATTACHMENT 4.39 PAGE 1, ATTACHMENT 4.39-A PAGES 1 - 4; DSSM: PAS POL
20102.3.1

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to amend to amend the Title XIX Medicaid State Plan regarding administration of the Medicaid Preadmission Screening and Resident Review (PASRR), specifically, *Categorical Determinations and Specialized Services*. 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 August 2014 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by August 31, 2014 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services/Division of Medicaid and Medical Assistance is proposing to amend the Title XIX Medicaid State Plan and the Division of Social Services Manual (DSSM) regarding administration of the Medicaid Preadmission Screening and Resident Review (PASRR), specifically, *Categorical Determinations and Specialized Services*.

Statutory Authority

- 1919(e)(7), State Requirements for Preadmission Screening and Resident Review
- 42 CFR 483 Subpart C, *Preadmission Screening and Annual Review of Mentally Ill and Mentally Retarded Individuals*

Background

Preadmission Screening and Resident Review (PASRR), a provision at section 1919(e)(7) of the Social Security Act, is a federally mandated screening process for individuals with serious mental illness and/or individuals with intellectual disability/developmental disability, who apply or reside in Medicaid certified beds in a nursing home regardless of payor. The screening helps ensure individuals in need of long term care services reside in the most appropriate and least restrictive setting possible, are not inappropriately placed in nursing homes, and receive services they need in that setting. Additionally, if a need for specialized services is determined, federal guidelines require that such services must be provided.

The PASRR process specified in 42 CFR §§ 483.100 through 483.138 requires that 1) all applicants to a Medicaid-certified nursing facility, which includes children under age 21 years, be evaluated for mental illness and/or intellectual disability; 2) be offered the most appropriate setting for their needs (in the community, a nursing facility, or acute care settings); and 3) receive the services they need in those settings.

As a process, PASRR has two core components. Level I and Level II:

Level I PASRR Screen

In brief, the PASRR process requires that all applicants to Medicaid-certified Nursing Facilities be given a preliminary assessment to determine whether they might have mental illness or intellectual disability/developmental disability. This is called a "Level I PASRR screen."

Level II PASRR Screen

Those individuals who test positive at Level I are then evaluated in depth, called "Level II PASRR screen." The results of this evaluation result in a determination of need, determination of appropriate setting, and a set of recommendations for services to inform the individual's plan of care.

Categorical Determinations

Categorical Determinations means the provisions in 42 CFR §483.130 for creating categories that describe certain diagnoses, severity of illness, or the need for a particular service that clearly indicates that admission to a nursing facility is normally needed or that the provision of specialized services is not normally needed.

Categorical determinations permit states to omit the full Level II evaluation in certain circumstances that are time-limited or where the need for nursing facility services is clear. While categorical determinations do abbreviate the PASRR process, the function of the resulting determination is not different from an individualized determination and a determination document must be produced prior to admission. Categorical determinations are not

"exemptions."

Specialized Services

In accordance with 42 CFR §483.120, Specialized Services for Preadmission Screening and Resident Review means services that are provided in addition to the routine care provided by a nursing facility (NF) that result in the continuous and aggressive implementation of an individualized plan of care for mental illness (MI) or intellectual or developmental disability (IDD) or related conditions, as follows:

(1) For mental illness, specialized services means the services specified by the State which, combined with services provided by the NF, results in the continuous and aggressive implementation of an individualized plan of care that-

(i) Is developed and supervised by an interdisciplinary team, which includes a physician, qualified mental health professionals and, as appropriate, other professionals.

(ii) Prescribes specific therapies and activities for the treatment of persons experiencing an acute episode of serious mental illness, which necessitates supervision by trained mental health personnel; and

(iii) Is directed toward diagnosing and reducing the resident's behavioral symptoms that necessitated institutionalization, improving his or her level of independent functioning, and achieving a functioning level that permits reduction in the intensity of mental health services to below the level of specialized services at the earliest possible time.

(2) For intellectual or developmental disability, specialized services means the services specified by the State which, combined with services provided by the NF or other service providers, results in treatment which meets the requirements of §483.440(a)(1).

The State must provide or arrange for the provision of specialized services, in accordance with this subpart, to all NF residents with MI or IDD whose needs are such that continuous supervision, treatment and training by qualified mental health or intellectual disability personnel is necessary, as identified by the screening provided in §483.130 or §§483.134 and 483.136.

Summary of Proposal

This state plan amendment is mandated by federal law to ensure that Medicaid-certified nursing facility applicants and residents with mental illness, intellectual or developmental disabilities, or related conditions are identified and admitted or allowed to remain in a nursing facility only if there is a verified need for nursing facility services.

Federal regulation prohibits Medicaid reimbursement to nursing facilities under certain circumstances, such as but not limited to, (1) Individual admitted without a completed preadmission screening and resident review (PASRR) screening indicating appropriateness for nursing facility placement, (2) Nursing facility fails to obtain a Level II determination when there are indicators of mental illness or intellectual disability/developmental disability.

The Division of Medicaid and Medical Assistance (DMMA) will amend the Medicaid State plan and the Division of Social Services Manual to implement the nursing facility preadmission screening and resident review (PASRR) categorical determinations and specialized services definitions. This regulatory process defines the Level II evaluation provided to all individuals suspected of having mental illness or an intellectual developmental disability seeking admission to a Medicaid-certified nursing facility under the PASRR program. This regulatory process also identifies specialized services that will be available when determined to be needed through the PASSR evaluation process.

DMMA will utilize the PASSR state plan template, drafted by the Centers for Medicare and Medicaid Services (CMS), to ensure that the State's Medicaid plan and policies complies with PASRR federal regulations.

The provisions of this state plan amendment relating to Preadmission Screening and Resident Review are subject to approval by CMS.

IMPORTANT NOTE: People first language is respectful of the person and should always be used when referencing an individual with intellectual and other developmental disabilities. Current federal law and regulations use the term "mentally retarded". DHSS/DMMA prefers to use the accepted term "individuals with intellectual disability" (ID) instead of "mental retardation." The term "intellectual disability" will be reflected on all applicable amended State plan and policy pages.

Fiscal Impact Statement

There will be a fiscal impact. However, the actual calculation of costs is currently being determined. The projected impact for federal fiscal years 2014 and 2015 will be provided in the agency's request to CMS for an amendment to the State Plan.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGE(S)

The State Council for Persons with Disabilities (SCPD) and the Governor's Advisory Council for Exceptional Citizens (GACEC) offered the following observations and recommendations summarized below. The Division of Medicaid and Medical Assistance (DMMA) has considered each comment and responds as follows:

SCPD and GACEC

Consistent with the "Background" section in the Register of Regulations, federal law was adopted decades ago to prevent the inappropriate placement of individuals with mental illness or intellectual disabilities in nursing facilities. States are required to conduct an initial Level 1 screening to determine if an applicant for nursing facility admission may have a mental illness or intellectual/ developmental disability. If that screening supports the existence of a mental illness or intellectual disability, a Level II screening is undertaken which results in a determination of need, appropriate setting, and identification of any "specialized services" if the individual is admitted to the nursing facility. States are authorized to adopt a "short cut" to the Level II screening if certain criteria are met. Such "categorical determinations" may be based on certain diagnoses, severity of illness, or brevity of anticipated stay.

There are two (2) main features in the proposed regulation. First, DMMA is identifying seven (7) qualifiers for a "categorical determination": 1) convalescent care; 2) terminal illness; 3) medical dependence; 4) delirium; 5) emergency situations; 6) respite; and 7) dementia combined with intellectual disability. Second, DMMA is defining each of these qualifiers.

SCPD and GACEC have the following observations.

First, at the top of page 112, the definition of "convalescent care" may have omitted a word. It recites as follows:

X. Convalescent Care: NF services are needed for from an acute physical illness which required hospitalization, and does not meet all the criteria for an exempt hospital discharge.

The serial prepositions (for from) are grammatically odd. SCPD suspects the term should be "for or from" an acute physical illness. DMMA may wish to review this sentence.

Agency Response: DMMA agrees with the comment and has amended the sentence by inserting the term "convalescent care", as follows: "X. Convalescent Care: NF services are needed for **[convalescent care]** from an acute physical illness which required hospitalization, and does not meet all the criteria for an exempt hospital discharge".

Second, in the past, there was considerable discussion of which agency issues the final PASRR decision. See e.g., 15 DE Reg. 86, 88, "Seventh" Paragraph (July 1, 2011). The proposed regulation would benefit from a clarifying amendment to avoid confusion. There is some "tension" between the recital that DSAMH/DDDS adopt "the final determination" versus the recital that DMMA issues the final determination. See Pars. 9 and 10 at p. 115. For example, Par. 9 could be revised as follows:

9. DSAMH/DDDS notifies DMMA of the agency's Level II Evaluation determination.

Agency Response: Under the proposed Regulations, page 115, #9, DMMA agrees to clarify that the determination is made by the CMS designated authority Divisions, DSAMH/DDDS, by changing the word "the" to "their". The sentence has been amended to read, as follows: "DSAMH/DDDS notifies DMMA of the[ir] final determination".

Third, it may not be intuitive that the final DMMA PASRR is appealable to DSS. See 16 DE Admin. Code 5001, Subsection 2.D; 5304; 5304.1; and 5401, Subsection 1.C.4. DMMA could consider amending Par. 10 on p. 115 as follows:

10. Final PASRR determinations will be issued by DMMA and are subject to 16 DE Admin. Code 5000.

Agency Response: DMMA agrees with the comment. Page 115, #10 is amended to read, as recommended: 10. Final PASRR determinations will be issued by DMMA [and are subject to 16 DE Admin Code 5000].

Fourth, DMMA and DSS may wish to review 16 DE Admin Code 5304.1 which reads as follows:

Individuals adversely affected by determinations made by the Division of Substance Abuse and Mental Health (DSAMH) or the Division of Developmental Disabilities Services (DDDS) as a result of a pre-admission screening resident review PASRR may appeal the decision to the Division of Social Services (DSS). The hearing is conducted by DSS and the decision is binding on the Department of Health and Social Services. ...Final PASRR determinations will be issued by DMMA.

There is some "tension" between the notion that DMMA issues the final PASRR determination but the decision subject to hearing is the DSAMH or DDDS determination. DMMA may wish to consider whether this regulation merits prospective modification.

Agency Response: PASRR determinations made by the State mental health or intellectual disability authorities cannot be countermanded by the State Medicaid agency. DMMA will take into consideration your comments as the agency develops procedures for processing a PASRR-related Fair Hearings.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the August 2014 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Delaware Title XIX Medicaid State Plan regarding administration of the Medicaid Preadmission Screening and Resident Review (PASRR), specifically, *Categorical Determinations and Specialized Services*, is adopted and shall be final effective October 10, 2014.

Rita M. Landgraf, Secretary, DHSS

(Break in Continuity of Sections)

**DMMA FINAL ORDER REGULATION #14-40c
REVISION:**

(Break in Continuity of Sections)

Attachment 4.39-A
Page 2

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE: **DELAWARE**
CATEGORICAL DETERMINATIONS

(Break in Continuity Within Section)

PASRR Level II Preadmission Screening by Categorical Determination Continued

X Convalescent Care: NF services are needed for [convalescent care] from an acute physical illness which required hospitalization, and does not meet all the criteria for an exempt hospital discharge. (An exempt hospital discharge as specified in 42 CFR 483.106(b)(2) is not subject to Preadmission Screening, at State option.)

(Break in Continuity of Sections)

DMMA FINAL ORDER REGULATION #14-40d
REVISIONS:

PAS POL 20102.3.1 PREADMISSION SCREENING AND RESIDENT REVIEWS (PASRR)

~~This applies to all nursing home applicants or residents of a Medicaid-certified facility (NF) regardless of payment source or diagnoses.~~

Preadmission Screening and Resident Review (PASRR) Screening applies to all applicants to a Medicaid certified nursing facility, regardless of the applicant's payer source. PASRR screening must be completed prior to the individual's admission.

(Break in Continuity Within Section)

9. ~~DMMA is notified by~~ DSAMH/DDDS notifies DMMA of the[ir] final determination.

10. DMMA will send the final determination letter to:

- Individual/~~applicant~~ Applicant;
- Legal Representative;
- Admitting or ~~retaining NF~~ Retaining Nursing Facility (NF);
- Attending Physician;
- Discharging ~~hospital~~ Hospital - if exemption is not applicable.

Final PASRR determinations will be issued by DMMA [and are subject to 16 DE Admin. Code 5000].

*Please note that no additional changes were made to the regulation as originally proposed and published in the August 2014 issue of the *Register* at page 106 (18 DE Reg. 106). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

Nursing Facility Services – Preadmission Screening and Resident Review

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

ORDER

Standards for the Coverage of Organ Transplant Services

**IN THE MATTER OF: REVISION OF THE REGULATION OF DELAWARE'S TITLE XIX MEDICAID STATE PLAN
ATTACHMENT 3.1-E**

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to submit a state plan amendment regarding Organ Transplants, specifically, *standards for the coverage of organ and tissue transplant services*. 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 August 2014 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by August 31, 2014 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

The proposed provides notice to the public that Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) intends to submit a state plan amendment to the Centers for Medicare and Medicaid Services (CMS) regarding Organ Transplants, specifically, standards for the coverage of organ and tissue transplant services.

Statutory Authority

- Section 1903(i) of the Social Security Act, *Payment to States, State Plan Requirement, Organ Transplant Procedures*
- 42 CFR 441.35, *Organ Transplants*
- State Medicaid Manual Section 4210, *Organ Transplants*
- Section 1138 of the Social Security Act, *Hospital Protocols for Organ Procurement and Standards for Organ Procurement Agencies*
- 42 CFR Subpart G, *Requirements for Certification and Designation and Conditions for Coverage: Organ Procurement Organizations*

Background

Section 9507 of the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), codified as section 1903(i) of the Social Security Act, requires states, as part of the Medicaid program, to establish standards for coverage of transplantation services. Specifically, Section 1903(i)(1) requires the denial of Federal Financial Participation (FFP) for organ transplants unless the State plan provides written standards concerning the coverage of such procedures. The statute does not list the transplant procedures for which standards must be written, but the organs about which questions are most commonly asked are: cornea, kidney, heart, liver, bone marrow, pancreas and combined heart-lung. States can choose to cover no organ transplant procedures, some types of transplants and not others, or all transplants. States should specify in the written standards which organs the state covers and any special conditions or limitations which apply to them.

Standards for Coverage

If a state covers organ transplant procedures, written standards must be furnished for the coverage of these procedures which provide that:

- "similarly situated individuals are treated alike;
- "any restriction, on the facilities or practitioners which may provide such procedures, is consistent with the accessibility of high quality care to individuals eligible for the procedures under the State plan; and
- "services are reasonable in amount, duration, and scope to achieve their purpose.

Coverage for organ transplants is described in Attachment 3.1-E of the Medicaid State plan pursuant to the requirement of 42 CFR 441.35 (Organ Transplants), and meet the requirements of Section 4201 (Organ Transplants) of the State Medicaid Manual.

Summary of Proposal

Delaware Medicaid currently covers the following transplant procedures for eligible Medicaid recipients:

- Heart transplant
- Heart/Lung transplant
- Liver (any age) transplant
- Cornea transplant
- Bone Marrow transplant
- Pancreas transplant
- Kidney transplant

Prior authorization is required for all transplant services.

Medicaid State Plan page Attachment 3.1-E establishes standards and criteria for tissue and organ transplant services. The purpose of the proposed state plan amendment is to update standards for coverage of organ transplant services by adding "Intestinal transplant" to the list of transplant procedures to reflect long-standing practice. Also, as the current plan page is outdated, the amended state plan is reformatted to provide the information in a more useful manner as well as to update language to reflect current terms and usage, to

incorporate citations, to clarify text to reflect current policy and, to reconcile state plan and provider manual policies.

The agency's proposal involves no change in the definition of those eligible to receive benefits under Medicaid, and the transplantation services benefits available to eligible recipients remains the same.

The provisions of this state plan amendment are subject to approval by the Centers for Medicare and Medicaid Services (CMS). Upon CMS approval, the applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals will be updated.

Fiscal Impact Statement

This revision imposes no increase in cost on the General Fund.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE

No public comments were received.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the August 1, 2014 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Medicaid state plan regarding Organ Transplants, specifically, *standards for the coverage of organ and tissue transplant services* is adopted and shall be final effective October 10, 2014.

Rita M. Landgraf, Secretary, DHSS

***Please note that no changes were made to the regulation as originally proposed and published in the August 2014 issue of the *Register* at page 115 (18 DE Reg. 115). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

Standards for the Coverage of Organ Transplant Services

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF WATERSHED STEWARDSHIP

Statutory Authority: 7 Delaware Code, Section 6010 (7 **Del.C.** §6010)
7 **DE Admin. Code** 7401

Secretary's Order No. 2014-WS-0019

7401 Surface Water Quality Standards

Date of Issuance: August 21, 2014

Effective Date: October 11, 2014

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") under 29 **Del.C.** §8001 et seq., 29 **Del.C.** §10111 et seq. and 7 **Del.C.** §6010(a), the following findings, reasons and conclusions are entered as an Order of the Secretary to amend the regulation, 7 **DE Admin. Code** 7401, Surface Water Quality Standards. (Regulation 7401). The attached Hearing Officer's Report (Report) reviews the record and recommends approval of the proposed amendment. The Report is adopted to the extent it is consistent with this Order.

The Department's Division of Watershed Stewardship, Watershed Assessment and Management Section (WAMS), prepared the proposed amendment. The proposed amendment reflects a small change to be consistent with the proposed change to the Murderkill River Total Maximum Daily Loads (TMDLs) and other changes warranted by changes to federal regulations. The change to the Murderkill River TMDL will establish seasonal limits based upon considerable research on the Murderkill River's water quality. This research was undertaken as a

result of a court approved settlement of an appeal of the Department's Regulation that established Total Maximum Daily Loads (TMDLs) for the Murderkill River. The Department and Kent County funded additional water quality studies that determined that the tidal area of the Murderkill River from the Route 1 bridge near Frederica to the Murderkill River's mouth in the Delaware Bay should have site specific water quality standards. The tidal area is dominated by tidal marshlands that cause a significant impact of oxygen levels in the water, particularly during the warm weather months. WAMS determined that the presence of the tidal marshes supported changes to Regulation 7401 to reflect better information than was available when the Department last established the surface water standards in 2011.

The amendment to the Surface Water Quality Standards adds a provision to reflect the natural impact on water quality from the tidal marshlands, particularly during warmer weather, and reflects changes to federal regulations. WAMS determined that a seasonal variation in the surface water quality standards was supported by the studies, which WAMS applied as a lower dissolved oxygen limit for the warmer time period from May 16 through September 30 for the area impacted by the tidal marshlands, namely, the Murderkill River from the Route 1 bridge near Frederica to the Delaware Bay in Bowers Beach.

The Surface Water Quality Standards adopted by this Order are based upon sound scientific evidence, are consistent with state and federal law, and are a reasoned exercise of the Department's authority to issue regulations to improve water quality. The Surface Water Quality Standards will allow the Murderkill River's water quality to improve to reach the federal and state water quality standards, and reflect the natural impact of tidal marshlands in calculating the appropriate water quality standards to apply to the tidal portion of the Murderkill River.

In conclusion, the following findings and conclusions are entered:

1. The Department, acting through this Order of the Secretary, adopts the proposed regulation as a final regulation, as set forth in the Appendix A to the Report,
2. The approval of the proposed amendment to the regulation as the final regulation will protect and improve the water quality within the watershed by allowing the Department to regulate uses within the watershed to control the release of pollutants that have impaired the water quality from meeting the water quality standards;
3. The Regulation amendment approved by this Order was developed consistent with the applicable law and regulatory standards, and is supported by expert technical analysis;
4. The Department provided public notice of the proposed regulation and the public hearing in a manner required by the law and regulations,
5. The Department held a public hearing in a manner required by the law and regulations, and considered all timely and relevant public comments in making its determination;
6. The Department's proposed amendment to Regulation 7401, as published in the April 1, 2014, Delaware *Register of Regulations*, and as set forth in Appendix A to the Report, is well supported by the record, and is reasonable to regulate water quality consistent with the applicable laws and regulations.
7. The Department shall have published this Order in the Delaware *Register of Regulations*; and the notice in newspapers, and the Regulation amendment will go into effect ten days after its publication in the Delaware *Register of Regulations*.

David S. Small, Secretary

7401 Surface Water Quality Standards (Break in Continuity of Sections)

2.0 Definitions

(Break in Continuity Within Section)

"Harvestable Shellfish Waters" means waters from which shellfish may be taken and consumed; such waters are approved for shellfish harvesting by the ~~[State Board of Health Shellfish & Recreational Waters Branch, Watershed Assessment and Management Section, Division of Watershed Stewardship, Department of Natural Resources and Environmental Control]~~.

(Break in Continuity Within Section)

["Wetland Dominated Tidal River Designated Use" applies to the Murderkill River from the Route 1 Bridge to the confluence with Delaware Bay which supports the survival, growth and propagation of balanced indigenous populations of fish inhabiting the river and adapted to

intermittent low dissolved oxygen caused by natural processes during the period May 16 through September 30.]

3.0 Stream Basins & Designated Uses

The designated uses applicable to the various stream basins represent the categories of beneficial use of waters of the state which must be maintained and protected through application of appropriate criteria.

Basins and waterbodies as illustrated in Figure 1		Public Water Supply Source	Industrial Water Supply	Primary Contact Recreation	Secondary Contact Recreation	Fish, Aquatic Life & Wildlife**	Cold Water Fish (Put-and-Take)	Agricultural Water Supply	ERES Waters*	Harvestable Shellfish Waters
#	Name									
1	Naamans Creek	-	x	x	x	x	-	(a)	-	-
2	Shellpot Creek	-	x	x	x	x	-	(a)	-	-
3	Brandywine Creek	(a)	x	x	x	x	(b)	(a)	(h)	-
4	Red Clay Creek	x	x	x	x	x	(e)	x	q	-
5	White Clay Creek	(a)	x	x	x	x	(f)	(a)	(g)	-
6	Christina River	(a)	x	x	x	x	(c)	(a)	-	-
7	Delaware River	-	-	x	x	x	-	(a)	-	-
8	Army Creek	-	-	x	x	x	-	(a)	-	-
9	Red Lion Creek	(a)(i)	x	x	x	x	-	(a)	-	-
10	Dragon Run Creek	(a)	x	x	x	x	-	(a)	-	-
11	Chesapeake & Delaware Canal East	-	x	x	x	x	-	-	-	-
12	Appoquinimink River	-	x	x	x	x	-	(a)	-	-
13	Blackbird Creek	-	x	x	x	x	-	(a)	-	-
14	Delaware Bay	-	x	x	x	x	-	(a)		
15	Smyrna River	-	x	x	x	x	-	(a)	-	-
16	Leipsic River	-	x	x	x	x	-	(a)	-	-
17	Little Creek	-	x	x	x	x	-	(a)	-	-
18	St. Jones River	-	x	x	x	x	-	(a)	-	-
19	Murderkill River	-	x	x	x	x [(r)]	-	(a)	-	-
20	Mispillion River	-	x	x	x	x		(a)		
21	Cedar Creek	-	x	x	x	x	-	(a)	(d)	-
22	Broadkill River (k)	-	x	x	x	x	-	(a)	-	-
23	Elk Creek	-	x	x	x	x	-	x	-	-
24	Perch Creek	-	x	x	x	x	-	x	-	-
25	Chesapeake & Delaware Canal West	-	x	x	x	x	-	-	-	-
26	Bohemia Creek	-	x	x	x	x	-	x	-	-

27	Sassafras River	-	x	x	x	x	-	x	-	-
28	Chester River	-	x	x	x	x	-	x	-	-
29	Choptank River	-	x	x	x	x		x	-	
30	Marshyhope Creek	-	x	x	x	x	-	x	x	-
31	Nanticoke River	-	x	x	x	x (p)	-	(a)	x	-
32	Gum Branch	-	x	x	x	x	-	(a)	x	-
33	Gravelly Branch	-	x	x	x	x	-	(a)	x	-
34	Deep Creek	-	x	x	x	x	-	(a)	x	-
35	Broad Creek	-	x	x	x	x (p)	-	(a)	x	-
36	Wicomico	-	x	x	x	x	-	(a)	x	-
37	Pocomoke River	-	x	x	x	x	-	x	-	-
38	Lewes & Rehoboth Canal	-	x	x	x	x	-	-	-	-
39	Rehoboth Bay	-	x	x	x	x	-	(a)	x	(j)
40	Indian River	-	x	x	x	x	-	(a)	(d)	-
41	Iron Branch	-	x	x	x	x	-	(a)	(d)	-
42	Indian River Bay	-	x	x	x	x	-	(a)	x	(j)
43	Buntings Branch	-	-	x	x	x	-	x	-	-
44	Assawoman	-	-	x	x	x	-	(a)	x-	-
45	Little Assawoman Bay	-	x	x	x	x	-	(a)	x	-
	Delaware Bay (waterbody) (l), (n)	-	x	x	x	x	-	-	(m)	(j)
	Delaware River (Waterbody) (l),(o)	-	x	x	x	x	-	-	-	-
	Atlantic Ocean (waterbody)	-	x	x	x	x	-	-	(m)	

(Break in Continuity Within Section)

[(r) The Murderkill River from the Route 1 Bridge to the confluence with Delaware Bay has special dissolved oxygen criteria in section 4.5 that are protective of the wetland dominated tidal river designated use.]

(Break in Continuity Within Section)

4.0 Criteria To Protect Designated Uses

(Break in Continuity Within Section)

4.5 The following criteria shall apply outside approved regulatory mixing zones unless otherwise specified:

(Break in Continuity Within Section)

4.5.2 Dissolved Oxygen, measured as milligrams per liter (mg/L)

(Break in Continuity Within Section)

4.5.2.5 ~~All Waters~~ The Murderkill River from the Route 1 Bridge to the Confluence with the Delaware Bay

4.5.2.5.1 ~~In cases where natural conditions prevent attainment of these criteria, allowable reduction in dissolved oxygen levels as a result of human activities shall be determined through application of the requirements of Sections 5 and 9 of these Standards. For the period from May [15 16] through September 30:~~

FINAL REGULATIONS

4.5.2.5.1.1 Daily average shall not be less than 3.0 mg/L

4.5.2.5.1.2 [~~Instantaneous One Hour~~] Minimum: one hour average shall not be less than 1.0 mg/L

4.5.2.5.2 The Department may mandate additional limitations on a site-specific or seasonal basis in order to provide incremental protection for early life stages of fish. For the period October 1 through [~~April 30~~ May 15], applicable criteria for all waters of the State shall apply.

***Please note that no additional changes were made to the regulation as originally proposed and published in the April 2014 issue of the *Register* at page 963 (17 DE Reg. 963). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

7401 Surface Water Quality Standards

DIVISION OF WATERSHED STEWARDSHIP

Statutory Authority: 7 Delaware Code, Chapter 60; (7 **Del.C.**, Ch. 60)
7 **DE Admin. Code** 7408

Secretary's Order No. 2014-WS-0018

7408 TMDLs for Nutrients for the Murderkill River Watershed

Date of Issuance: September 2, 2014

Effective Date: October 11, 2014

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") under 29 **Del.C.** §8001 et seq., 29 **Del.C.** §10111 et seq. and 7 **Del.C.** §6010(a), the following findings, reasons and conclusions are entered as an Order of the Secretary to amend the regulation, 7 **DE Admin. Code** 7408, Total Maximum Daily Loads (TMDLs) for the Murderkill River Watershed (Regulation 7408). The attached Hearing Officer's Report (Report) reviews the record and recommends approval of the proposed amendment. The Report is adopted to the extent it is consistent with this Order.

The Department's Division of Watershed Stewardship, Watershed Assessment Management Section (WAMS), prepared the proposed amendment following years of study and research on the Murderkill River's water quality. The research and studies followed the prior Regulation that established TMDLs, but this regulation was challenged in court by an appeal taken by Kent County, which operates a waste water treatment plant that discharges into the Murderkill River. The court appeal was settled based upon the Department and Kent County undertaking addition water quality studies. These studies concluded that the tidal marshlands along the Murderkill River warranted different TMDLs than previously approved. Accordingly, based upon the site specific studies, considerable research and the opinion of the Department's experts in WAMS, the amendment reflects better information than was available when the Department last established the TMDLs. Consequently, the changes to the TMDLs reflect what the prior TMDLs would have been if the same degree of study was undertaken of site specific conditions, namely the tidal marshlands along the Murderkill River beginning at the Route 1 bridge near Frederica and ending at the Delaware Bay.

The TMDLs adopted by this Order are based upon sound scientific evidence, are consistent with state and federal law, and are a reasoned exercise of the Department's authority to issue regulations to improve water quality. The TMDLs will limit the release of harmful levels of nutrients and allow the Murderkill River's water quality to improve to reach the federal and state water quality standards.

In conclusion, the following findings and conclusions are entered:

1. The Department, acting through this Order of the Secretary, adopts the proposed regulations as final regulations, as set forth in the Appendix A to the Report, under 29 **Del.C.** §6010(a);
2. The approval of the proposed regulations as final regulations will protect and improve the water quality within the watershed. The TMDLs, as regulations, will allow the Department to take such actions to control the release of pollutants that impair the water quality from meeting the water quality standards;
3. The TMDLs approved by this Order were developed consistent with the applicable law and regulatory

standards, and are supported by expert technical analysis;

4. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and regulations, held a public hearing in a manner required by the law and regulations, and considered all timely and relevant public comments in making its determination;

5. The Department's proposed amendment to Regulation 7408, as published in the April 1, 2014, Delaware *Register of Regulations*, and as set forth in Appendix A to the Report, are adequately supported, not arbitrary or capricious, are consistent with the applicable laws and regulations, and should be approved as a final regulation to go into effect ten days after their publication in the next available issue of the Delaware *Register of Regulations*; and that;

6. The Department shall provide notice to the persons affected by the Order consistent with applicable laws and regulations.

David S. Small, Secretary

7408 TMDLs for Nutrients for the Murderkill River Watershed

1.0 Introduction and Background

- 1.1 Intensive water quality monitoring performed by Delaware Department of Natural Resources and Environmental Control (DNREC) has shown that the waters of the Murderkill River and several of its tributaries and ponds are impaired as the result of low dissolved oxygen and high nutrients. Low concentrations of dissolved oxygen are harmful to fish, shellfish, and other aquatic life. With regard to nutrients (nitrogen and phosphorus), although they are essential elements for both plants and animals, their presence in excessive amounts causes undesirable conditions. Symptoms of nutrient overenrichment include frequent phytoplankton blooms, decreased water clarity, dissolved oxygen deficiency, alteration of composition and diversity of economically important native species of plants and animals, and possible human health effects.
- 1.2 A reduction in the amount of nutrients and oxygen consuming pollutants reaching the waters of the Murderkill River and its tributaries and ponds is necessary to reverse these undesirable impacts. These pollutants and nutrients enter the waters of the Murderkill River from point sources and nonpoint sources. Point sources are end-of-pipe discharges from municipal or industrial wastewater treatment plants. Nonpoint sources include runoff from agricultural and urban areas, septic tank effluent, and ground water discharges.
- 1.3 Section 303(d) of the Federal Clean Water Act (CWA) requires states to develop a list (303(d) List) of waterbodies for which existing pollution control activities are not sufficient to attain applicable water quality criteria and to develop Total Maximum Daily Loads (TMDLs) for pollutants of concern. A TMDL sets a limit on the amount of a pollutant that can be discharged into a waterbody and still protect water quality. TMDLs are composed of three components, including Waste Load Allocations (WLAs) for point source discharges, Load Allocations (LAs) for nonpoint sources, and a Margin of Safety (MOS) to account for uncertainties and future growth.
- 1.4 DNREC listed the Murderkill River and several of its tributaries and ponds on the Delaware's 1996, 1998, and 2000 303(d) Lists and ~~proposes the following~~ developed and promulgated a Total Maximum Daily Load regulation for nitrogen, phosphorous, and 5-day Carbonaceous Biochemical Oxygen Demand (CBOD₅) in 2005.
- 1.5 Since the promulgation of the 2005 TMDLs, a multi-year monitoring, research, and modeling study of Murderkill River Watershed by DNREC and other cooperating agencies and institutions concluded that new scientifically-based, site-specific dissolved oxygen criteria should be adopted for the tidal Murderkill River. This amendment of the 2005 TMDLs is to comply with this proposed site-specific dissolved oxygen criteria for the tidal Murderkill River.

2.0 Total Maximum Daily Loads (TMDLs) Regulation for the Murderkill River Watershed, Delaware

Article 1. The total nitrogen waste load from the Kent County Facility and ~~Canterbury Crossing Mobile Home Park~~ shall be limited to ~~755.3~~ 897 pounds per day. ~~The waste load allocation for the Kent County Facility will be 751 pounds per day and for Canterbury Crossing Mobile Home Park will be 4.3 pounds~~

per day. This load shall be expressed as annual average load in the National Pollutant Discharge Elimination System (NPDES) Permit for this facility.

Article 2. The total phosphorus waste load from the Kent County Facility and Canterbury Crossing Mobile Home Park shall be limited to ~~62.7~~ 51 pounds per day. ~~The waste load allocation for the Kent County Facility will be 62.5 pounds per day and for Canterbury Crossing Mobile Home Park will be 0.2 pounds per day.~~ This load shall be expressed as annual average load in the NPDES Permit for this facility.

Article 3. The CBOD5 (5-day Carbonaceous Biochemical Oxygen Demand) waste load from the Kent County Facility and Canterbury Crossing Mobile Home Park shall be limited to ~~4040.6~~ 544 pounds per day. ~~The waste load allocation for Kent County Facility will be 4001 pounds per day and for Canterbury Crossing Mobile Home Park will be 9.6 pounds per day.~~

~~**Article 4.** Treated wastewater from the City of Harrington wastewater treatment facility shall be used for spray irrigation. However, during the winter season, as well as during wet weather periods, when spray irrigation of treated wastewater is not practical, the effluent may be discharged into Browns Branch. During periods of surface discharge, the maximum discharge flow rate shall not exceed 750,000 gallons per day and daily waste loads shall not exceed 140 pounds per day for total nitrogen, 0.75 pounds per day for total phosphorus, and 37.5 pounds per day for CBOD5. Furthermore, the total annual waste load discharged from the City of Harrington wastewater treatment facility to the surface waters of Browns Branch shall not exceed 9125 pounds per year for total nitrogen, 55 pounds per year for total phosphorus, and 3000 pounds per year for CBOD5.~~

Article 54. The nonpoint source nitrogen load in the entire watershed shall be reduced by 30 percent (from the 1997 ~~2007-2008~~ base-line). This shall result in a yearly-average total nitrogen load of ~~560~~ 972.6 pounds per day.

Article 65. The nonpoint source phosphorus load in the entire watershed shall be reduced by 50 percent (from the 1997 ~~2007-2008~~ base-line). This shall result in a yearly-average total phosphorous load of ~~96~~ 12.1 pounds per day.

~~**Article 76.** Based upon hydrodynamic and water quality model runs and assuming implementation of reductions identified by Articles 1 through 65, DNREC has determined that, with an adequate margin of safety, water quality standards and nutrient targets will be met in the Murderkill River and its tributaries and ponds.~~

~~**Article 8.** Implementation of this TMDL Regulation shall be achieved through development and implementation of a Pollution Control Strategy. The Strategy will be developed by DNREC in concert with the Murderkill River Tributary Action Team, other stakeholders, and the public.~~

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

DIVISION OF STATE POLICE

5500 Bail Enforcement Agents

Statutory Authority: 24 Delaware Code, Section 5504(a) (24 Del.C. §5504(a))

24 DE Admin. Code 5500

ORDER

5500 Bail Enforcement Agents

Pursuant to the Guidelines in 29 Del.C. §10118(a)(1)-(7), the Board of Examiners of Bail Enforcement Agents ("Board") hereby issues this Order. Following notice and a public hearing on the proposed adoption of amendments to Rule 4.0 - Firearms Policy, and Rule 5.0 – Nightstick, PR24, Mace, Peppergas, Chemical Spray, and Handcuffs, the Board makes the following Findings and Conclusions:

Summary of Evidence and Information Submitted

1. The Board did not receive written evidence or information pertaining to the proposed adoption.

2. The Board expressed its desire to adopt the amendments to clarify the minimum requalifications and the firearms instructor requirements, and to require certifications to be on file with Professional Licensing and to clarify the instructor requirements.

Findings of Fact

3. The public was given notice and the opportunity to provide the Board with comments, in writing and by oral testimony, on proposed amendments. The written comments and oral testimony received are described in paragraph 1.

4. The Board finds that the adoption of this rule will clarify the minimum requalifications and the firearms instructor requirements, and require certifications to be on file with Professional Licensing and to clarify the instructor requirements.

5. The Board finds that the adoption will have no adverse impact on the public.

6. The Board finds that the amendments are well written and describes their intent to adopt the rule to clarify the minimum requalifications and the firearms instructor requirements, and require certifications to be on file with Professional Licensing and to clarify the instructor requirements.

Conclusion

7. The proposed rule adoptions were published by the Board in accord with the statutory duties and authority as set forth in 24 **Del.C.** §5503 et seq. and, in particular, 24 **Del.C.** §5503(d)(2).

8. The Board deems this adoption necessary and expedient to the full and official performance of its duties under 24 **Del.C.** §5503 et. seq.

9. The Board concludes that the adoption of this rule will be in the best interests of the citizens of the State of Delaware.

10. The Board therefore adopts the amendment pursuant to 24 **Del.C.** §5503(d)(2) and guidelines of 29 **Del.C.** §10118 of the Administrative Procedures Act. See, *Strauss v. Silverman*, Del. Supr., 399 A.2d 192 (1979).

11. This adopted rule replaces in its entirety any former rule or regulation heretofore promulgated by the Board.

12. The effective date of this Order shall be November 11, 2014.

13. Attached hereto and incorporated herein this order is the amended rule marked as exhibit A and executed simultaneously on the 28th day of August 2014.

Major Melissa Zebley, Chairman
Director John Yeomans
Rebecca L. Byrd, Esquire
Ms. Robin David
Mrs. Jennifer A. Esposito

Mr. R. Dale Hamilton
Mr. Kevin C. Jones
Mrs. Brunilda Luna-Mercado
Mr. Jack. McGhee, II

August 28, 2014

***Please note that no changes were made to the regulation as originally proposed and published in the July 2014 issue of the *Register* at page 21 (18 DE Reg. 21). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

5500 Bail Enforcement Agents

FINAL REGULATIONS

DEPARTMENT OF STATE 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

100 Board of Accountancy

On June 1, 2014, the Delaware Board of Accountancy published proposed changes to its regulations in the Delaware *Register of Regulations*, Volume 17, Issue 12. The notice indicated that written comments would be accepted by the Board, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on July 16, 2014 at a regularly scheduled meeting of the Board of Accountancy to receive verbal comments regarding the Board's proposed amendments to its regulations.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

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

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

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

There was no verbal testimony presented at the public hearing on July 16, 2014. No written comments were received by the Board.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.
2. There were no public comments provided to the Board during the written public comment periods, or at the public hearing.
3. Pursuant to 24 Del.C. §105 (a)(1) the Board has the statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.
4. Having received no public comments, the Board finds no reason not to amend the regulations as proposed.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, pursuant to 24 Del.C. §105(a)(1) and for the reasons set forth above, the Board does hereby ORDER that the regulations be, and that they hereby are, adopted and promulgated as set forth in the Delaware *Register of Regulations* on June 1, 2014. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, pursuant to 29 Del.C. §10118(g).

The new regulations are attached hereto as Exhibit A.

SO ORDERED this 20th day of August, 2014.

DELAWARE BOARD OF ACCOUNTANCY

Jeffrey Premo, CPA, President
John McManus, PA
Robert Mosch, Jr., CPA
Robert Paretta

Gary Phippen
Judith Scarborough, CPA
Kathryn S. Schultz, CPA
Karen C. Smith, PA

*Please note that no changes were made to the regulation as originally proposed and published in the

June 2014 issue of the *Register* at page 1157 (17 DE Reg. 1157). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

100 Board of Accountancy

DIVISION OF PROFESSIONAL REGULATION

300 BOARD OF ARCHITECTS

Statutory Authority: 24 Delaware Code, Section 306(a)(1) (24 **Del.C.** §306(a)(1))
24 **DE Admin. Code** 300

ORDER

300 Board of Architects

NATURE AND STAGE OF THE PROCEEDINGS

On June 1, 2014, the Delaware Board of Architects published proposed changes to its regulations in the Delaware *Register of Regulations*, Volume 17, Issue 12. This notice further indicated that written comments would be accepted by the Board for thirty days, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on July 2, 2014 at a regularly scheduled meeting of the Delaware Board of Architects to receive verbal comments regarding the Board's proposed amendments to its regulations.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

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

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

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

There was no verbal testimony given at the public hearing on July 2, 2014. No written comments were received by the Board during the initial thirty day public comment period; nor were any written comments received after the public hearing during the fifteen day 29 **Del.C.** §10118(a) second public comment period.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.
2. There were no additional public comments received during the public hearing or in the 15 day comment period following the hearing.
3. Pursuant to 24 **Del.C.** §306(a)(1), the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.
4. The proposed changes to regulations 7.6.1.1 and 7.6.2 seek to grant authority to licensees to utilize electronic seals whenever the use of an architect's seal is permitted. and allow architects to utilize an electronic signature when signed and sealed submissions are published and/or submitted under the current requirements of regulation 7.6.2.
5. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed changes to the Board's rules and regulations.
6. Having received no public comments, the Board finds no reason to amend the regulations as proposed.

DECISION AND EFFECTIVE DATE

The Board hereby adopts the changes to its rules and regulations as proposed, to be effective 10 days following publication of this order in the *Register of Regulations*. The new regulations are attached hereto as Exhibit A.

SO ORDERED this 3rd day of September, 2014.

BY THE DELAWARE BOARD OF ARCHITECTS

John Mateyko, RA, President

Elizabeth Happoldt, Public Member

Paul Guggenberger, RA

Joseph J. Schorah, Jr., Public Member

Richard Wertz, RA

Todd Breck, RA

Kevin W. Wilson, RA, Secretary

Prameela Kaza, Public Member

*Please note that no changes were made to the regulation as originally proposed and published in the June 2014 issue of the *Register* at page 1158 (17 DE Reg. 1158). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

300 Board of Architects

DIVISION OF PROFESSIONAL REGULATION

Statutory Authority: 24 Delaware Code, Section 1904(c) (24 Del.C. §1904(c))
24 DE Admin. Code 1900

ORDER

1900 Board of Nursing

The Delaware Board of Nursing pursuant to 24 Del.C. §1904(c), proposed to revise subsections 6.5.1.5; 6.5.6.4; 6.5.7.3; and 6.5.7.5. The proposed changes seek to bring the regulations affecting licensure by endorsement into line with Chapter 19, Title 24 as well as other recent changes to the Board's regulations concerning out of state nursing programs.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Following publication in the Delaware *Register of Regulations* on May 1, 2014 a public hearing was held on June 11, 2014. Written comment periods were held open for thirty days, and an additional fifteen days following the public hearing. At the hearing, the Board accepted as evidence and marked as the Board's Exhibits 1 and 2 documentation of publication of the notice of the public hearing in the *News Journal* and the *Delaware State News*.

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

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

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

There was no verbal testimony given at the public hearing on June 11, 2014. No written comments were received by the Board during the initial thirty day public comment period; nor were any written comments received after the public hearing during the fifteen day 29 Del.C. §10118(a) second public comment period.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.
2. There were no public comments provided to the Board during the two written public comment periods, or the public hearing.
3. Pursuant to 24 Del.C. §1906(a)(1) the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.
4. The proposed changes amend Board's Regulations 6.5.1.5; 6.5.6.4; 6.5.7.3; and 6.5.7.5 and seek to bring the regulations affecting licensure by endorsement into line with Chapter 19, Title 24 as well as other recent changes to the Board's regulations concerning out of state nursing programs.
5. The public was given notice and an opportunity to provide the Board with comments in writing and by

testimony at the public hearing on the proposed changes to the Board's rules and regulations.

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

DECISION AND ORDER CONCERNING THE REGULATIONS

Having found that the proposed changes to the regulations are necessary as outlined herein, the Board finds that the regulations shall be adopted as final in the form as proposed. The exact text of the regulations, as amended, are attached to this order as Exhibit A. These changes will become effective ten days following publication of this order in the Delaware *Register of Regulations* on October 1, 2014.

IT IS SO ORDERED this 10th day of September, 2014 by the Delaware Board of Nursing

Robert Contino, RN, Nurse Educator, President	Madelyn Nellius, Public Member
Pam Tyranski, RN, Vice-President	Delphos Price, RN, CRNA
Kathy L. Bradley, LPN	David Salati, RN
Dianne Halpern, RN	Harland Sanders Jr., Public Member
Mary Lomax, Public Member (absent)	Victoria Udealer, RN Member
Linda Darling, RN	Megan Williams, APN

***Please note that no changes were made to the regulation as originally proposed and published in the May 2014 issue of the *Register* at page 1046 (17 DE Reg. 1046). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

1900 Board of Nursing

DIVISION OF PROFESSIONAL REGULATION

Board of Examiners of Psychologists

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

ORDER

3500 Board of Examiners of Psychologists

On May 1, 2014, the Delaware Board of Examiners of Psychologists published proposed changes to its regulations in the Delaware *Register of Regulations*, Volume 17, Issue 11. This notice further indicated that written comments would be accepted by the Board for thirty days, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on June 2, 2014 at a regularly scheduled meeting of the Delaware Board of Examiners of Psychologists to receive verbal comments regarding the Board's proposed amendments to its regulations.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

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

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

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

There was no verbal testimony given at the public hearing on June 2, 2014. No written comments were received by the Board during the initial thirty day public comment period; nor were any written comments received after the public hearing during the fifteen day 29 **Del.C.** §10118(a) second public comment period.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by

testimony at the public hearing on the proposed amendments to the Board's regulations.

2. There were no public comments provided to the Board during the two written public comment periods, or the public hearing.

3. Pursuant to 24 **Del.C.** §3506(a)(1), the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

4. The proposed changes to the Rules and Regulations seek to bring the regulations into conformity with operational procedures at the Division of Professional Regulation regarding license renewal; clarify requirements for supervising psychologists to psychological assistants; and enhance continuing education requirements by ensuring that at least ten of the credits are earned in a live setting and clarifying the maximum number of credits which may be earned for alternative eligible credits.

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

DECISION AND EFFECTIVE DATE

The Board hereby adopts the changes to its rules and regulations as proposed, to be effective 10 days following publication of this order in the *Register of Regulations*. The new regulations are attached hereto as Exhibit A.

SO ORDERED this 8th day of September, 2014.

Dr. Richard Brokaw, President

Dr. Wesley R. Bowman, Vice President

Victor Kennedy, Public Member, Secretary

Eleanor Allione, Public Member

Ronise Ball, Public Member

Dr. Rachel A. Brandenburg

Dr. Marcia S. Halperin

Rosa Robinson, Public Member (absent)

Dr. Joseph Zingaro (absent)

***Please note that no changes were made to the regulation as originally proposed and published in the May 2014 issue of the *Register* at page 1047 (17 DE Reg. 1047). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

3500 Board of Examiners of Psychologists

CASH MANAGEMENT POLICY BOARD**PUBLIC NOTICE****Objectives and Guidelines for the Investment of State of Delaware Funds**

In accordance with procedures set forth in 29 **Del.C.** Ch. 11, Subch. III and 29 **Del.C.** Ch. 101, the Cash Management Policy Board of the State of Delaware is proposing to adopt a regulation on objectives and guidelines for the investment of State funds as described in 29 **Del.C.** §2716. The proposed regulation sets forth the rules governing practices for those investments.

Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing or calling Ms. Angela Moffett-Batty, Secretary, Delaware Department of Finance, Carvel State Building, 820 North French Street, Wilmington, Delaware 19899-8763, phone (302) 577-8522, or facsimile at (302) 577-8565. Members of the public may present written comments on the proposed regulation by submitting such written comments to Ms. Moffett-Batty at the address of the Delaware Department of Finance as set forth above. Written comments must be received on or before October 31, 2014.

DELAWARE CRIMINAL JUSTICE INFORMATION SYSTEM**PUBLIC NOTICE****Delaware Criminal Justice Information System Regulations**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 11 of the Delaware Code, Chapter 86, Section 8605, the Delaware Criminal Justice Information System (DELJIS) Board of Managers proposes to adopt regulations. These proposed regulations are applicable to all users of the Delaware Criminal Justice Information System (CJIS) and to any agency requesting access to CJIS from the Board. The proposed regulations will ensure that access to criminal justice information conforms to the statutory requirements outlined in Chapters 85 and 86 of Title 11 of the Delaware Code.

Copies of the proposed regulations are available for review in the October 1, 2014 edition of the *Delaware Register of Regulations*, accessible online at <http://regulations.delaware.gov> or by calling DELJIS at 302-739-4856.

The Board will hold a public hearing on the proposed regulations on October 22, 2014 from 1:00 p.m. until 3:00 p.m., at the Division of Accounting, New Castle Conference Room, 820 Silver Lake Boulevard, Dover, DE 19904.

Any person who wishes to make any written suggestions, compilations of data, briefs or other written materials concerning the proposed new regulations must submit same to Peggy A. Bell, Executive Director, DELJIS, 802 Silver Lake Blvd, Suite 101, Dover DE 19904, or by fax to 302-739-6285.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be November 6, 2014, which is 15 days following the public hearing.

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of the Board and the consideration of the written comments filed by other interested persons.

DELAWARE ECONOMIC DEVELOPMENT OFFICE**OFFICE OF THE DIRECTOR****PUBLIC NOTICE****Guidelines Governing the Administration of the Neighborhood Building Blocks Fund**

The Neighborhood Building Blocks Fund Board proposes to adopt Guidelines for the administration of the distribution of funds authorized by §39 of the FY 2015 Budget Act (79 **Del. Laws** ch. 290). The Neighborhood Building Blocks Fund may be used to support local neighborhood revitalization programs, including grants to neighborhood associations and other community groups, law enforcement, local governments or other stakeholders for community development, public protection, urban beautification or any other purposes that have the effect of reducing crime or otherwise strengthen neighborhoods. The Board is seeking public comment on the proposed guidelines. Written comments should be sent to Diane Laird, State Coordinator, Downtown Delaware, Delaware Economic

Development Office, Carvel State Building, 820 N. French St., Wilmington, DE 19801. Written comments will be accepted until October 30, 2014 pursuant to 29 **Del.C.** §10118(a).

DEPARTMENT OF EDUCATION
PUBLIC NOTICE

The State Board of Education will hold its monthly meeting on Thursday, October 16, 2014 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF LONG TERM CARE RESIDENTS PROTECTION
PUBLIC NOTICE
3315 Rest (Family) Care Homes

The Division of Long Term Care Residents Protection (DLTCRP) is proposing a full the revision of Regulation 3315, Rest (Family) Care Homes. The proposed regulations will replace the entire existing Regulation 3315.

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 Mary Peterson, Director, Division of Long Term Care Residents Protection, 3 Mill Road, Suite 308, Wilmington, DE 19806 by Friday, October 31, 2014.

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
OFFICE OF THE COMMISSIONER
PUBLIC NOTICE

403 Sale and Purchase of Options [Formerly Regulation 28]

INSURANCE COMMISSIONER KAREN WELDIN STEWART hereby gives notice of proposed amended Department of Insurance Regulation 403 relating to Sale and Purchase Options [Formerly Regulation 28]. The docket number for this proposed regulation is 2413.

The proposed amended regulation withdraws the provisions for Sale and Purchase Options due to the promulgation of new Regulation 404 Derivative Instruments, which sets standards for the prudent use of derivative instruments by domestic insurers. The Delaware Code authority for this proposed regulation is 18 **Del.C.** §§311 and 1303(a) and 29 **Del.C.** Ch. 101.

The Department of Insurance does not plan to hold a public hearing on the proposed amended regulation. The proposed amended regulation appears below and can also be viewed at the Delaware Insurance Commissioner's website at

<http://www.delawareinsurance.gov/departments/documents/ProposedRegs/>.

Any person can file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amended regulation. Any written submission in response to this notice and relevant to the proposed regulation must be received by the Department of Insurance no later than 4:30 p.m. EST, Friday, October 31, 2014. Any such requests should be directed to:

Regulatory Specialist Rhonda West
Delaware Department of Insurance
841 Silver Lake Boulevard
Dover, DE 19904
Phone: (302) 674-7379

Fax: (302) 739-5566

Email: rhonda.west@state.de.us

This Regulation shall become withdrawn effective December 11, 2014.

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DIVISION OF STATE POLICE
5500 Bail Enforcement Agents
PUBLIC NOTICE

Notice is hereby given that the Board of Examiners of Bail Enforcement Agents, in accordance with 24 **Del.C.**, Ch. 55 proposes to amend:

Adopted Rule 3.0 - Use of Animals, basic verbiage clean-up to keep with consistency throughout;

Adopted Rule 8.0 - Apprehension Procedures, basic verbiage clean-up to keep with consistency throughout;

Adopted Rule 9.0 - Notification of Arrest, deleted by Directive issued by Governor Markell, redundant as it is in the law;

Adopted Rule 9.0 - Electronic Control Device (ECD), creates rule allowing BEA's to carry these devices and mandates the training and instructors;

Adopted Rule 10.0 - Suspensions and Revocations, basic verbiage clean-up to keep with consistency throughout; and

Adopted Rule 12.0 - Prohibited acts basic verbiage clean-up to keep with consistency throughout.

If you wish to view the complete Rules, contact Ms. Peggy Anderson at (302) 672-5304. Any persons wishing to present views may submit them in writing, by October 31, 2014, to Delaware State Police, Professional Licensing Section, P.O. Box 430, Dover, DE 19903. The Board will hold its quarterly meeting Tuesday, November 25, 2014, 10:00am, at the Tatnall Building, 150 Martin Luther King, Jr. Boulevard South, Room 112, Dover, DE.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
BOARD OF LANDSCAPE ARCHITECTURE
PUBLIC NOTICE
200 Board of Landscape Architecture

The Delaware Board of Landscape Architects, pursuant to 24 **Del.C.** §205(a)(1), proposes to amend its rules and regulations. The proposed regulation changes address continuing education requirements and set forth a procedure by which licensees and continuing education sponsoring organizations may seek pre-approval of continuing education units. The proposed changes also bring the regulations into compliance with the Division of Professional Regulation's operating procedures and create continuity throughout the regulations.

The Board will hold a public hearing on the proposed regulation change on November 13, 2014 at 9:00 a.m., Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Lisa Smith, Administrative Specialist of the Delaware Board of Architects, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until November 28, 2014 pursuant to 29 **Del.C.** §10118(a).

CALENDAR OF EVENTS/HEARING NOTICES

DIVISION OF PROFESSIONAL REGULATION

EXAMINING BOARD OF PHYSICAL THERAPISTS AND ATHLETIC TRAINERS

PUBLIC NOTICE

2600 Examining Board of Physical Therapists and Athletic Trainers

Pursuant to 24 **Del.C.** §2604(a)(1), the Examining Board of Physical Therapists and Athletic Trainers ("the Board") has proposed revisions to its rules and regulations.

A public hearing will be held on October 28, 2014 at 4:30 p.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 Examining Board of Physical Therapists and Athletic Trainers, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address. Pursuant to 29 **Del.C.** §10118(a), the final date to receive written comments will be November 12, 2014, which is 15 days following the public hearing.

The Board's proposed amendments serve to clarify rules pertaining to home health aides, supervision, and the practice of athletic training. Proof of current CPR certification is added to licensure requirements. Rules relating to licensure reactivation and reinstatement are revised for consistency. Rule 12.24 is added to specifically prohibit licensee involvement in kickbacks. Finally, a new Rule 15.0 is added to set forth advanced training requirements for the emergency administration of asthma and anaphylaxes medications and for physical therapy and athletic training care provided outside the clinical setting to athletic injuries.

DIVISION OF PROFESSIONAL REGULATION

PUBLIC NOTICE

2700 Board of Registration for Professional Land Surveyors

The Delaware Board of Professional Land Surveyors, in accordance with 24 **Del.C.** §2706(a)(1), has proposed revisions to its rules and regulations. The proposed revisions to the Rules and Regulations are intended to allow professional development hours to be obtained by active duty military. The Board will hold a public hearing on the proposed rule changes on November 20, 2014 at 8:30 a.m., Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Amanda McAtee, Administrator of the Delaware Board of Professional Land Surveyors, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904.

OFFICE OF THE STATE BANK COMMISSIONER

PUBLIC NOTICE

Notice of Proposed Amendment to Regulation 1114 of the State Bank Commissioner

The State Bank Commissioner proposes to amend Regulation 1114 (Alternative Franchise Tax), adopted in accordance with Chapter 11 of Title 5 of the Delaware Code and 75 Delaware Laws Chapter 223, Section 6. The purpose of the proposed amendment is to clarify the existing regulation with respect to elections made pursuant to Section 1101A(c)(3) of Title 5, to adopt a procedure for the taxation under Section 1101A of a resulting branch in this State of an out-of-state bank pursuant to Section 1101A(c)(5), and to improve the tax forms with respect to the itemization of tax credits. Other regulations issued by the State Bank Commissioner are not affected by this proposal. The State Bank Commissioner is issuing this proposed amended regulation in accordance with Title 5 of the Delaware Code and 75 Delaware Laws Chapter 223, Section 6. This notice is issued pursuant to the requirements of Title 29 of the Delaware Code, Chapter 11, Subchapter III, and Chapter 101, Subchapter II.

A copy of the proposed amended regulation is being published in the October 1, 2014 edition of the Delaware *Register of Regulations*. A copy is also on file in the Office of the State Bank Commissioner, 555 E. Loockerman Street, Suite 210, Dover, DE 19901 and is available for inspection during regular office hours. Copies are available upon request.

Interested parties may offer comments on the proposed amended regulation or submit written suggestions, data, briefs or other materials to the Office of the State Bank Commissioner at the above address as to whether this

proposed amended regulation should be adopted, rejected or modified. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before November 3, 2014. Written materials submitted will be available for inspection at the above address.

On or after November 3, 2014, following review of the public comment, the State Bank Commissioner will determine whether to adopt the proposed amended Regulation 1114, or make additional changes because of the public comments received.

OFFICE OF THE STATE BANK COMMISSIONER

PUBLIC NOTICE

Notice of Proposed Amendments to 8 Regulations of the State Bank Commissioner

Summary

The State Bank Commissioner proposes to amend eight Regulations adopted in accordance with Title 5 of the Delaware Code, Chapters 21, 22, 27 and 29. Regarding Title 5, Chapter 21 (Mortgage Loan Brokers), the proposed amended Regulations are 2101(Operating Regulation), 2102 (Minimum Records) and 2104 (Minimum Disclosure and Agreement Requirements). Regarding Title 5, Chapter 22 (Licensed Lenders), the proposed amended Regulations are 2201 (Operating Regulation) and 2202 (Minimum Records). Regarding Title 5, Chapter 27 (Cashing of Checks, Drafts or Money Orders), the proposed amended Regulation is 2701 (Operating Regulation). Regarding Title 5, Chapter 29 (Financing the Sale of Motor Vehicles), the proposed amended Regulations are 2901 (Operating Regulation) and 2902 (Minimum Records). The purpose of the proposed amendments is to clarify the existing regulations and reduce regulatory burden. Other regulations issued by the State Bank Commissioner are not affected by this proposal. The State Bank Commissioner is issuing these proposed amended regulations in accordance with Title 5 of the Delaware Code. This notice is issued pursuant to the requirements of Title 29 of the Delaware Code, Chapter 11, Subchapter III, and Chapter 101, Subchapter II.

Comments

A copy of the proposed amended regulations is being published in the October 1, 2014 edition of the Delaware Register of Regulations. A copy is also on file in the Office of the State Bank Commissioner, 555 E. Loockerman Street, Suite 210, Dover, DE 19901 and is available for inspection during regular office hours. Copies are available upon request.

Interested parties may offer comments on the proposed amended regulations or submit written suggestions, data, briefs or other materials to the Office of the State Bank Commissioner at the above address as to whether these proposed amended regulations should be adopted, rejected or modified. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before November 3, 2014. Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Amended Regulations

On or after November 3, 2014, following review of the public comment, the State Bank Commissioner will determine whether to adopt the proposed amended Regulations 2101, 2102, 2104, 2201, 2202, 2701, 2901 and 2902, or make additional changes because of the public comments received.

PUBLIC SERVICE COMMISSION

PUBLIC NOTICE

PROPOSED AMENDMENTS TO THE PUBLIC SERVICE COMMISSION'S "RULES FOR THE PROVISION OF TELECOMMUNICATIONS SERVICES"

AND

"REGULATION GOVERNING THE MINIMUM SERVICE REQUIREMENTS FOR THE PROVISION OF TELEPHONE SERVICE FOR PUBLIC USE WITHIN THE STATE OF DELAWARE"

TO: ALL TELECOMMUNICATIONS CARRIERS, ALL CONSUMERS, AND OTHER INTERESTED PERSONS

In 2001, the Public Service Commission ("PSC ") adopted "Rules for the Provision of Telecommunications Services" ("Telecom Rules") to govern its regulatory oversight of telecommunications carriers operating within Delaware. Those Rules apply to all current telecommunications carriers.

By PSC Order No. 8618 (Aug. 19, 2014), the PSC now proposes to amend those Telecom Rules. The proposed changes are a result of new legislation (H.B.96) which was effective on July 15, 2013. This bill was enacted to reflect the competitive environment that now exists for telecommunications services. The legislation reduced the oversight of the PSC while it retained oversight of basic services.

The text of these proposed rules are attached to PSC Order No. 8618. That Order and the exhibits are reproduced in the October 2014 edition of the Delaware *Register of Regulations*. The Order and exhibits can also be reviewed on-line at the PSC's website at www.state.de.us/delpsc. You can also obtain a paper copy of the Order at the PSC's Dover office. Those paper copies will cost \$0.25 per page.

You can file written comments, suggestions, briefs, compilations of data, or other materials concerning these proposed amendments to the Telecom Rules. Such material (10 copies or file online to our Delafile system) must be submitted to the Commission on or before Friday, November 7, 2014. Send the material to the Commission's Dover office at the following address:

Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building
Suite 100
Dover, Delaware, 19904
Attn: PSC Reg. Dckts. Nos. 10, 45 & 20

In addition, the PSC will conduct a public hearing on these proposed changes on Wednesday, November 19, 2014, beginning at 10:00 AM. The hearing will take place in the Third Floor Conference Room of the Carvel State Office Building, 820 North French Street, Wilmington, Delaware. You can submit additional materials then.

If you are handicapped and might need assistance or aids in participating in this matter, please contact the PSC to discuss the needed assistance or aids. You can contact the PSC with questions or requests about this matter at the Commission's toll-free telephone number (800) 282-8574 (Delaware only) or (302) 739-4333 (including text telephone). You can also send inquiries by Internet e-mail addressed to psc@state.de.us.