
Delaware Register of Regulations

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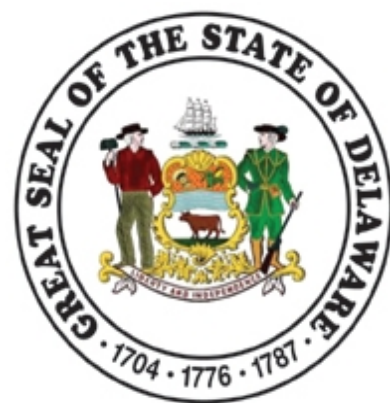


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Pursuant to 29 Del.C. Chapter 11, Subchapter III, this issue of the *Register* contains all documents required to be published, and received, on or before March 15, 2017.

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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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

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

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

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other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

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evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its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

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

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

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

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

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

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
May 1	April 17	4:30 p.m.
June 1	May 15	4:30 p.m.
July 1	June 15	4:30 p.m.
August 1	July 17	4:30 p.m.
September 1	August 15	4:30 p.m.

DIVISION OF RESEARCH STAFF

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

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Symbol Key

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.

Emergency Regulations

Under 29 **Del.C.** §10119 an agency may promulgate a regulatory change as an Emergency under the following conditions:

§ 10119. Emergency regulations.

If an agency determines that an imminent peril to the public health, safety or welfare requires the adoption, amendment or repeal of a regulation with less than the notice required by § 10115, the following rules shall apply:

(1) The agency may proceed to act without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable;

(2) The order adopting, amending or repealing a regulation shall state, in writing, the reasons for the agency's determination that such emergency action is necessary;

(3) The order effecting such action may be effective for a period of not longer than 120 days and may be renewed once for a period not exceeding 60 days;

(4) When such an order is issued without any of the public procedures otherwise required or authorized by this chapter, the agency shall state as part of the order that it will receive, consider and respond to petitions by any interested person for the reconsideration or revision thereof; and

(5) The agency shall submit a copy of the emergency order to the Registrar for publication in the next issue of the *Register of Regulations*. (60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2; 71 Del. Laws, c. 48, § 10.)

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**DIVISION OF FISH AND WILDLIFE**

Statutory Authority: 7 Delaware Code, Section 903(h) and 29 Delaware Code, Section 10119
(7 **Del.C.** §903(h) and 29 **Del.C.** §10119)
7 **DE Admin. Code** 3511

Secretary's Order No. 2017-F-0012

3511 Summer Flounder Size Limits; Possession Limits; Season

AUTHORITY:

Pursuant to 29 **Del.C.** §10119 and 7 **Del.C.** §903(h), the Department of Natural Resources and Environmental Control is adopting amendments without prior notice or public hearing to 7 **DE Admin. Code** 3511: *Summer Flounder Size Limits; Possession Limits; Seasons*. 29 **Del.C.** §10119 authorizes emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 **Del.C.** §10115. 7 **Del.C.** §903(h) authorizes the Department to adopt emergency regulations when such regulations are necessary to deal with an actual or imminent public health threat or danger to a fishing resource or habitat involving finfish. It is the determination of the agency that this amendment is immediately necessary to ensure compliance with Addendum XXVIII to the Summer Flounder, Scup, [and] Black Sea Bass Fishery Management Plan to prevent overfishing of the Summer Flounder resource and to provide for the welfare of those individuals and businesses dependent on the Summer Flounder recreational fishery.

REASON FOR THE EMERGENCY ORDER:

The Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup and Black Sea Bass Management Board approved Addendum XXVIII to the Summer Flounder, Scup, [and] Black Sea Bass Fishery Management Plan (FMP) on February 2, 2017, maintaining regional management for the 2017 recreational Summer Flounder fishery. Addendum XXVIII requires each region to increase their Summer Flounder minimum size limit by one inch and adopt a no more than four fish possession limit to stay within the 2017 recreational harvest limit (RHL). This action will only affect Delaware's existing 16-inch minimum size limit, as Delaware's existing recreational Summer Flounder possession limit is four fish. The Department has consulted with the other states (Maryland & Virginia) within our ASMFC-defined region and both states have committed to adopting a 17-inch minimum size limit and a four fish possession limit by April 1, 2017. An Emergency Regulation is necessary to meet the implementation target date, remain compliant with the FMP and to protect the Summer Flounder Resource from overfishing. Furthermore, such action will allow sufficient time for Delaware's fishing-dependent businesses and their clients/customers to plan for this important fishery. Failure to adopt these measures in a timely fashion may result in a federal closure of the fishery in accordance with the Atlantic Coastal Fisheries Cooperative Management Act.

EFFECTIVE DATE OF ORDER

This Emergency Order shall take effect at 12:01 a.m. on April 1, 2017, and shall remain in effect for 90 days.

PETITION FOR RECOMMENDATIONS

The Department will receive, consider and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Fisheries Section, Division of Fish & Wildlife, 89 Kings Highway, Dover, DE 19901.

ORDER

It is hereby ordered, this 13th day of March, 2017 that the above referenced amendment to 7 **DE Admin. Code** 3511: *Summer Flounder Size Limits; Possession Limits; Season*, a copy of which is hereby attached, is adopted pursuant to 29 **Del.C.** §10119 and 7 **Del.C.** §903(h) and supported by the evidence contained herein.

David S. Small, Secretary

3511 Summer Flounder Size Limits; Possession Limits; Season

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

- 1.0 It shall be unlawful for any recreational fisherman to have in possession more than four (4) summer flounder at or between the place where said summer flounder were caught and said recreational fisherman's personal abode or temporary or transient place of lodging.
- 2.0 It shall be unlawful for any person, other than qualified persons as set forth in section 4.0 of this regulation, to possess any summer flounder that measure less than ~~sixteen (16)~~ seventeen (17) inches between the tip of the snout and the furthest tip of the tail.
- 3.0 It shall be unlawful for any person, to have in possession any part of a summer flounder that measures less than ~~sixteen (16)~~ seventeen (17) inches between said part's two most distant points unless said person also has in possession the head, backbone and tail intact from which said part was removed.
- 4.0 Notwithstanding the size limits and possession limits in this regulation, a person may possess a summer flounder that measures no less than fourteen (14) inches between the tip of the snout and the furthest tip of the tail and a quantity of summer flounder in excess of the possession limit set forth in this regulation, provided said person has one of the following:

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- 4.1 A valid bill-of-sale or receipt indicating the date said summer flounder were received, the amount of said summer flounder received and the name, address and signature of the person who had landed said summer flounder;
 - 4.2 A receipt from a licensed or permitted fish dealer who obtained said summer flounder; or
 - 4.3 A bill of lading while transporting fresh or frozen summer flounder.
 - 4.4 A valid commercial food fishing license and a food fishing equipment permit for gill nets.
- 5.0 It shall be unlawful for any commercial finfisherman to sell, trade and or barter or attempt to sell, trade and or barter any summer flounder or part thereof that is landed in this State by said commercial fisherman after a date when the de minimis amount of commercial landings of summer flounder is determined to have been landed in this State by the Department. The de minimis amount of summer flounder shall be 0.1% of the coast wide commercial quota as set forth in the Summer Flounder Fishery Management Plan approved by the Atlantic States Marine Fisheries Commission.
- 6.0 It shall be unlawful for any vessel to land more than 200 pounds of summer flounder in any one day in this State.
- 7.0 It shall be unlawful for any person, who has been issued a commercial food fishing license and fishes for summer flounder with any food fishing equipment other than a gill net, to have in possession more than four (4) summer flounder at or between the place where said summer flounder were caught and said person's personal abode or temporary or transient place of lodging.
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Symbol Key

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

Proposed Regulations

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

DEPARTMENT OF EDUCATION**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 503

PUBLIC NOTICE**Education Impact Analysis Pursuant To 14 Del.C. Section 122(d)****503 Instructional Program Requirements****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** 503 Instructional Program Requirements. This regulation is being amended to clarify instructional program requirements and to demonstrate alignment to adopted standards in each content area as adopted by the Department of Education.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before May 5, 2017 to Tina Shockley, Education Associate - Policy Advisor, Department of Education, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation is available from the above address or may be viewed at the Department of Education business office.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amendment will help improve student achievement by providing clarifying appropriate instructional program requirements.
2. Will the amended regulation help ensure that all students receive an equitable education? The amendment will help ensure all students receive an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? This amendment does not specifically address students' health and safety.

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4. Will the amended regulation help to ensure that all students' legal rights are respected? The amendment will help ensure that all students' legal rights are respected.
 5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amendment preserves the necessary authority and flexibility of decision making at the local board and school level.
 6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amendment does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school level.
 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 does not change with regard to the amendments.
 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 state and federal 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: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 752RFA 04-01-17.pdf>

503 Instructional Program Requirements

1.0 English Language Arts

- 1.1 Local school districts and charter schools shall provide instructional programs in English language arts for each grade K to 12.
- 1.2 All public school students in each grade K to 8 shall be enrolled in an English language arts program that demonstrates alignment to the Department of Education's adopted English Language Arts standards and grade level performance expectations.
- 1.3 All public school students in grades 9 to 12 shall complete the credits in English language arts necessary to graduate from high school through classes that demonstrate alignment to the adopted English Language Arts standards and grade level performance expectations.

2.0 Mathematics

- 2.1 Local school districts and charter schools shall provide instructional programs in mathematics for each grade K to 12.
- 2.2 All public school students in each grade K to 8 shall be enrolled in a mathematics program that demonstrates alignment to the Department of Education's adopted mathematics standards and grade level performance expectations.
- 2.3 All public school students in grades 9 to 12 shall complete the credits in mathematics necessary to graduate from high school through classes that demonstrate alignment to the adopted mathematics standards and grade level performance expectations.

3.0 Science

- 3.1 Local school districts and charter schools shall provide instructional programs in science for each grade K to 12.
- 3.2 All public school students in each grade K to 8 shall be enrolled in a science program that demonstrates alignment to the Department of Education's adopted science standards and grade level performance expectations.

- 3.3 All public school students in grades 9 to 12 shall complete the credits in science necessary to graduate from high school through classes that demonstrate alignment to the adopted science standards and course performance expectations.

4.0 Social Studies

- 4.1 Local school districts and charter schools shall provide instructional programs in social studies for each grade K to 12.
- 4.2 All public school students in each grade K to 8 shall be enrolled in a social studies program that demonstrates alignment to the Department of Education's adopted social studies standards and grade level performance expectations.
- 4.3 All public school students in grades 9 to 12 shall complete the credits in social studies necessary to graduate from high school through classes that demonstrate alignment to the adopted Social Studies standards and grade level performance expectations.

5.0 Physical Education

- 5.1 Local school districts and charter schools shall provide instructional programs in physical education for each grade K to 12 with the exception of the James H. Groves High School program.
- 5.2 All public school students in each grade 1 to 8 shall be enrolled in a physical education program that demonstrates alignment to the Department of Education's adopted physical education standards and grade level performance expectations.
- 5.3 All public school students in grades 9 to 12 shall complete the credit in physical education necessary to graduate from high school through classes that demonstrate alignment to the adopted physical education standards and grade level performance expectations.
- 5.3.1 In addition to the one credit required for high school graduation, only one additional elective credit in physical education may be used to fulfill the graduation requirements.
- 5.4 The physical education requirements may be waived only for students who either have an excuse from a qualified licensed healthcare provider, which is defined as anyone lawfully authorized to diagnose and prescribe medical treatment or restriction, or objections based on religious beliefs. The local school district or charter school shall have the authority to grant such waivers. The local school district or charter school shall maintain records of the waivers granted and upon request, make them available for review consistent with Federal and state confidentiality laws.
- 5.5 Local school districts and charter schools shall annually assess the physical fitness of each student in grades 4 and 7, and in grade 9 or 10. The physical fitness assessment tool used by the districts and charter schools shall be one designated by the Delaware Department of Education.
- 5.5.1 The local school districts and charter schools shall provide the results of the physical fitness assessment to the parent(s), guardian(s), or Relative Caregiver of each student. The districts and charter schools shall also report this information to the Delaware Department of Education in a format determined by the Department.
- 5.5.1.1 The Delaware Department of Education shall annually report the statewide grade level results of the physical fitness assessment to the public.

6.0 Visual and Performing Arts

- 6.1 Local school districts and charter schools shall provide instructional programs in the visual and performing arts for each grade K to 12 with the exception of the James H. Groves High School program.
- 6.2 All public school students in each grade 1 to 6 shall be enrolled in a visual and performing arts program through classes that demonstrates alignment to the Department of Education's adopted visual and performing arts and grade level proficiency level expectations.

7.0 Career and Technical Education

- 7.1 Local school districts and charter schools, when consistent with the charter school's approved program, shall provide instructional program(s) in grades 7 and 8 that demonstrate alignment to career and technical education programs of study within the high school feeder pattern(s).
 - 7.1.1 No later than the 2017-2018 school year, career and technical instructional program(s) in grades 7 and 8 shall be aligned to career and technical education programs of study at the high school level.
- 7.2 All public school students in grades 9 through 12 in local school districts, and charter schools when consistent with the charter school's approved program, shall be provided with the opportunity to enroll in and complete a career and technical education program of study.

8.0 World Language

- 8.1 Local school districts and charter schools with any of grades 9 through 12 shall provide instructional programs in world languages for grades 9 through 12 that demonstrate alignment to the Department of Education's adopted world language standards and proficiency-level expectations.
 - 8.2 All public school students in grades 9 through 12 shall complete the credits in world languages required to graduate from high school through classes that demonstrates alignment to the Department of Education's adopted world language standards and proficiency level expectations.
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OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 710

PUBLIC NOTICE

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

710 Public School Employees Workday

A. TYPE OF REGULATORY ACTION REQUIRED

Repealing of Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

The Secretary of Education intends to repeal 14 DE Admin. Code 710 Public School Employees Workday. The Department of Education reviewed this and other regulations as part of the 2016 Regulation Review as required by 29 Del.C. §10407. Public comment was received for this regulation. The comment encouraged the Department of Education to maintain the current number of hours in the public school employee's workday and not to increase the number. The Department does not have the statutory authority to increase a school employee's workday. After further review, the Department is repealing this regulation because the public school employee's workday is specified in Delaware Code and therefore the regulation is superfluous.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before May 5, 2017 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 online at the Register of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, Finance Office located at the address listed above.

C. IMPACT CRITERIA

- 1. Will the amended regulation help improve student achievement as measured against state achievement standards? This regulation is being repealed as a public school employees' workday is specified in Delaware Code.
- 2. Will the amended regulation help ensure that all students receive an equitable education? This regulation

is being repealed as a public school employees' workday is specified in Delaware Code.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? This regulation is being repealed as a public school employees' workday is specified in Delaware Code.

4. Will the amended regulation help to ensure that all students' legal rights are respected? This regulation is being repealed as a public school employees' workday is specified in Delaware Code.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? This regulation is being repealed as a public school employees' workday is specified in Delaware Code.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? This regulation is being repealed as a public school employees' workday is specified in Delaware Code.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? This regulation is being repealed as a public school employees' workday is specified in Delaware Code.

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? This regulation is being repealed as a public school employees' workday is specified in Delaware Code.

9. Is there a less burdensome method for addressing the purpose of the regulation? This regulation is being repealed as a public school employees' workday is specified in Delaware Code.

10. What is the cost to the State and to the local school boards of compliance with the regulation? This regulation is being repealed as a public school employees' workday is specified in Delaware Code.

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

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 755RFA 04-01-17.pdf>

710 Public School Employees Workday

4.0 Required Work Hours

~~Absent an existing collective bargaining agreement to the contrary, district employees who work less than the specified time shall have their annual salary adjusted accordingly. Upon ratification of a new or extension of an existing collective bargaining agreement, the local district shall establish hours and days worked that are consistent with those specified below. Otherwise, effective July 1, 2001 a workday for public school employees shall be defined as follows:~~

- ~~4.1 Teacher, a minimum of 7 1/2 hours, inclusive of 1/2 hour for lunch, plus the amount of time required for the discharge of such duties and services as may be reasonably expected and required of a member of the professional staff of a public school. (14 Del.C. §1305 defines the number of teacher workdays per year and 14 Del.C. §1328 defines the duty free period.)~~
- ~~4.2 Aide and Paraprofessional, a minimum of 7 1/2 hours inclusive of 1/2 hour for lunch.~~
- ~~4.3 Custodian, a minimum of 8 hours inclusive of 1/2 hour for lunch.~~
- ~~4.4 Administrator, a minimum of 7 1/2 hours exclusive of lunch plus the amount of time required for the discharge of such duties and services as may be reasonably expected and required of a member of the professional staff of a public school.~~
- ~~4.5 Food Service Manager, a minimum of 7 hours exclusive of lunch.~~
- ~~4.6 Secretary, a minimum of 7 1/2 hours exclusive of lunch.~~

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 885

PUBLIC NOTICE

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

885 Safe Management and Disposal of Chemicals in the Delaware Public School System

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

The Secretary of Education intends to amend 14 DE Admin. Code 885 Safe Management and Disposal of Chemicals in the Delaware Public School System. The Department reviewed this and other regulations which were four years or older as part of the 2016 Regulation Review as required by 29 Del.C. §10407. Public comment was received for this regulation, suggesting the regulation be updated to align with the Globally Harmonized System of Classification and Labeling of Chemicals guidance document. The Department agrees and the regulation is being updated accordingly.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before May 5, 2017 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 online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, Finance Office located at the address listed above.

C. IMPACT CRITERIA

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

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

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendment does help to ensure students' health and safety are adequately protected by putting in place the appropriate compliance guidelines as are reflected in the proposed amendments to this regulation.

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

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

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

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 757RFA 04-01-17.pdf>

885 Safe Management and Disposal of Chemicals in the Delaware Public School System

1.0 Purpose

The purpose of this regulation ~~is~~ is to outline the criteria and processes for Chemical Storage and for Chemical use in the classroom, laboratory, or other Instructional Areas in Delaware public schools. This regulation sets forth the requirements for the safe procurement, management, storage, and disposal of ~~chemicals~~ Chemicals. Additional information may be found in the *Safety First: Safe Instructional Practices in the Classroom and Laboratory* manual.

2.0 Definitions:

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

"Carcinogen" means any known or suspected Chemical that can cause cancer. ~~Included are known or suspected. Carcinogens such as formaldehyde, benzene, carbon tetrachloride, nickel salts, sodium dichromate and sodium chromate.~~

"Chemical" means any element, compound, or mixture of elements and/or compounds.

"Chemical Inventory" means a list of all materials and Chemicals for which a Safety Data Sheet (SDS) must be maintained.

"Chemical Name" means the scientific designation of a Chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules of nomenclature, or a name which will clearly identify the Chemical for the purpose of conducting a hazard ~~evaluation~~ analysis.

"Chemical Procurement" means the acquisition of any Chemical(s).

"Common Name" means any designation or identification such as a code name, code number, trade name, brand name, or generic name used to identify a Chemical other than its Chemical name.

"Corrosive" means a ~~Chemical that causes~~ causing visible destruction of or irreversible alterations in, living tissue by Chemical action at the site of contact.

"Department" means the Delaware Department of Education.

"Engineering Control(s)" means a physical modification to a process, or process equipment, or the installation of further equipment with the goal of preventing the release of contaminants and improve safety conditions.

"Explosive" means a ~~Chemical that causes~~ causing a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature.

"Expose or Exposure" means an instance where an individual is subjected to or potentially subjected to a Hazardous Chemical through any route of entry (inhalation, ingestion, skin contact or absorption, etc.) ~~and includes potential (e.g., accidental or possible) Exposure.~~

"Hazardous Chemical" means any element, compound or mixture of elements and/or compounds which presents a Physical Hazard or Health Hazard.

"Health Hazard" means a Chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed ~~employees~~ persons. The term "Health Hazard" includes Chemicals which are Carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, Corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. The

~~Material~~ Safety Data Sheet (MSDS) will provide information to determine whether or not the Chemical is a Health Hazard.

"Instructional Area" means a room or defined space used for an educational activity. ~~An Instructional Area may be such as~~ a classroom, a laboratory, a field, a special building, ~~such as a~~ greenhouse, or any other space where educational activities may take place.

"Long-Term Storage" means the storage of any Chemical for a time period past the end of the school day.

"Material Safety Data Sheet (MSDS)" means a document that contains information on the potential health effects of exposure to Chemicals, or other potentially dangerous substances, and on safe working procedures when handling Chemical products. It contains hazard evaluations on the use, Storage, handling and emergency procedures related to that material. The ~~Material Safety Data Sheet (MSDS)~~ contains much more information about the material than the label and is prepared by the supplier. It is intended to tell what the hazards of the product are, how to use the product safely, what to expect if the recommendations are not followed, what to do if accidents occur, how to recognize symptoms of overexposure, and what to do if such incidents occur.

"Non-hazardous Chemical" means any element, compound or mixture of elements and/or compounds which do not present a Physical Hazard or Health Hazard as indicated by the Safety Data Sheet (SDS).

"Occupational Safety and Health Administration (OSHA)" means the government agency ~~in the which is part of the United States~~ Department of Labor that develops guidelines to maintain a healthy and safe working environment.

"Personal Protective Equipment (PPE)" means equipment worn to minimize exposure to hazards that cause serious injuries and illnesses. These injuries and illnesses may result from contact with Chemical, radiological, physical, electrical, mechanical, or other hazards. Personal protective equipment may include, but is not limited to, items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, or coveralls, vests and full body suits.

"Physical Hazard" means a Chemical ~~for which there is scientifically valid evidence that it is identified by the SDS as a~~ combustible liquid, a compressed gas, Explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive. ~~The Material Safety Data Sheet (MSDS) will provide information to determine whether or not the Chemical is a Physical Hazard.~~

"Safety First: Safe Instructional Practices in the Classroom and Laboratory Manual" means the collection of documents that outline the mandatory safety procedures regarding the safe management, storage, and disposal of ~~chemicals~~ Chemicals for Instructional Areas in Delaware public schools and which may be amended from time to time as published in the Delaware ~~Registrar~~ Register of Regulations. The manual also provides safety practices that are governed by this regulation. This document is available on the ~~Delaware Department of Education~~ Department's Website (www.doe.k12.de.us).

"Short-Term Storage" means the storage of any Chemical for a time period before the end of the school day.

"Storage" means a space for the containment of Chemicals or other materials.

"Surplus Chemical" means any Chemical that is no longer Useable or needed.

"Useable" means that the Chemical or other material has not surpassed its expiration date.

3.0 Applicable Areas

This regulation is applicable to all public schools, including charter schools and all programs they offer, not already regulated by OSHA standards, including but not limited to science education (including classrooms, laboratories, combination classroom and laboratory settings, and outdoor education settings); Career and Technical Education; Technology and Engineering Education; Agricultural Education; Family and Consumer Science Education, Art Education; and Athletics/Athletic Training.

PROPOSED REGULATIONS

4.0 Chemical ~~Safety~~ Hygiene Plan

- 4.1 All Delaware public schools shall have a Chemical ~~Safety~~ Hygiene Plan that outlines specific school district's or charter school's procedures in the area of staff and student Chemical safety. The plan shall include at least the following:
- 4.1.1 Identification of at least one Chemical ~~Safety~~ Hygiene Officer for the school district or charter school who shall:
- 4.1.1.1 Act as liaison between teachers, building ~~and~~ administration, ~~and~~ facilities staff, and the Department regarding Chemical safety issues;
- 4.1.1.2 Maintain the Chemical ~~inventory~~ Inventory for the school(s);
- 4.1.1.3 Approve all Chemical ~~orders~~ Procurement by the school district or charter school; ;
- 4.1.1.4 Maintain a supply of ~~Material~~ Safety Data Sheets (MSDS) for all Chemicals in the Chemical ~~inventory~~; Inventory. The SDS may be paper or electronic, and be easily accessible from outside of the facility;
- 4.1.1.5 Assist with maintenance requests related to safety equipment; ~~and~~
- 4.1.1.6 Identify and coordinate disposal of Hazardous Chemical wastes with the Department and Chemical disposal vendor(s); and-
- 4.1.1.7 Provide prior approval for new laboratory operations, procedures, or activities proposed by educators.
- 4.1.2 Standard operating procedures associated with Chemical Procurement, Chemical use, Chemical Storage, Chemical disposal (both Hazardous and Non-hazardous), and the handling of Chemical spills.

5.0 Inventory of Chemicals, ~~Hazardous and Non-Hazardous~~

- 5.1 Each school district and charter school shall prepare ~~an inventory of Chemicals~~ a Chemical Inventory for each of its schools by September 15 of each year. A copy of this ~~inventory of Chemicals~~ Chemical Inventory, along with the respective ~~Material~~ Safety Data Sheet (MSDS), shall be maintained by the school principal or head of school, chief custodian, and the identified Chemical ~~Safety~~ Hygiene Officer. Additionally, copies shall be maintained in the Chemical Storage area and with the school nurse or school health manager. The ~~inventory of Chemicals~~ Chemical Inventory, both Hazardous and Non-hazardous, shall contain at least the following information:
- 5.1.1 The name of the Chemical;
- 5.1.2 The amount of the Chemical (in appropriate measurement units);
- 5.1.3 The location where the Chemical is stored; ~~and~~
- 5.1.4 The date of ~~purchase-~~ procurement. If the date of procurement is unknown, the earliest known date of ownership shall be indicated; and
- 5.1.5 The form or state, (e.g. powder, solution, vapor, etc.) of the Chemical.

6.0 Chemicals with Special Conditions

- 6.1 Mercury and mercury compounds, both organic and inorganic, shall not be present in or used in public schools, including charter schools in Delaware. Schools may continue to use mercury discharge tubes and fluorescent lights even though they contain a small amount of mercury gas because the mercury is enclosed in the glass container.
- 6.2 Known Carcinogens shall not be present in or used in public schools, including charter schools in Delaware. A listing of known Carcinogens can be found in *Safety First: Safe Instructional Practices in the Classroom and Laboratory*.
- 6.3 All public schools, including charter schools shall comply with current Environmental Protection Agency (EPA) regulations regarding regulated refrigerants.
- 6.4 Further provided Chemicals may be identified as "Chemicals with special conditions" or "banned" as to not be present or used in public schools, including charter schools because of updated knowledge of the Chemicals.

7.0 Storage of Chemicals

- 7.1 The ~~Storage~~ storage of all Chemicals shall conform to the mandatory specifications stated in *Safety First: Safe Instructional Practices in the Classroom and Laboratory*.
- 7.2 Chemicals in the Instructional Area shall be for immediate use only (Short-Term Storage). All Long-Term Storage of Chemicals shall be in a properly equipped Chemical Storage room.
- 7.3 Pressurized ~~Storage~~ storage of liquids and gases shall conform to current OSHA ~~Storage~~ storage and handling regulations.

8.0 Management of Chemicals

- 8.1 Instructional staff shall provide annual training in the safe management of Chemicals to all students in Instructional Areas that use Chemicals ~~annually~~. All students shall sign a student safety ~~contract~~ acknowledgement at the conclusion of this training. The training shall be age and grade appropriate for the students and shall include at least the following:
 - 8.1.1 An overview of the school safety program;
 - 8.1.2 The location of all Hazardous Chemical containers in the Instructional Area;
 - 8.1.3 An explanation of how to read labels on containers;
 - 8.1.4 The location, availability and content of ~~Material~~ Safety Data Sheets (MSDS) and an explanation of how they are used;
 - 8.1.5 An explanation of the nature of Health Hazards and Physical Hazards associated with the use of all Hazardous Chemicals (regardless of quantity) to which they may be exposed;
 - 8.1.6 An explanation of the proper handling, ~~Storage~~ storage and disposal methods for each of the Hazardous Chemicals present in the Instructional Area; and
 - 8.1.7 Measures taken by the instructional staff and school personnel to prevent or control Exposure such as ~~engineering controls, personal protective equipment~~ Engineering Controls, Personal Protective Equipment, and emergency procedures for spills or leaks.

9.0 Disposal of Surplus Chemicals

- 9.1 Disposal of Surplus Non-hazardous Chemicals shall be carried out by the school district or charter school in accordance with procedures outlined in the ~~Material~~ Safety Data Sheet (MSDS).
- 9.2 Disposal of Surplus Hazardous Chemicals, ~~that meet the definition of Hazardous Chemical~~, shall only be disposed of through the use of a licensed waste hauler.
 - 9.2.1 Each school district and charter school shall prepare a list of Surplus Hazardous Chemicals and submit it to the Department's Education Associate, Science by November 15 of each year. The ~~Department of Education~~ shall arrange for a licensed waste hauler to take the Chemicals to a proper waste facility for disposal. The cost of disposal shall be prorated among the participating schools. Alternatively, a school district or charter school may independently contract with a licensed waste hauler. An official letter shall be sent to the Education Associate, Science describing the school's intentions and naming the licensed waste hauler. The licensed waste hauler shall provide the school district or charter school with a manifest of items removed. This manifest shall be retained by the school district or charter school for at least five years from the collection date.

10.0 Facility Requirements for Instructional Areas that use Hazardous Chemicals

- 10.1 Basic safety equipment shall be installed in all Instructional Areas that use Hazardous Chemicals and shall conform to the requirements outlined in *Safety First: Safe Instructional Practices in the Classroom and Laboratory*. Non-traditional ~~instructional areas~~ Instructional Areas such as an outdoor classroom or an agricultural field shall include all of the safety equipment as warranted and deemed necessary based on the hazard level of the lesson and materials being used in the instruction of students. Basic safety equipment shall include at least the following items:
 - 10.1.1 Eyewash (running water, continuous flow style);

PROPOSED REGULATIONS

- 10.1.2 Acid/Chemical shower (continuous flow style);
- 10.1.3 Eye protection (wrap-around, splash-shield style goggles);
- 10.1.4 ABC Fire extinguisher;
- 10.1.5 Fire blanket; and
- 10.1.6 Chemical spill equipment.
- 10.2 A properly functioning fume hood and/or other industry-standard ventilation system shall be used when mixing Chemicals, using Chemicals, and/or for Short-term Storage of Chemicals that release hazardous fumes. The determination that hazardous fumes may be released is ~~determined~~ made by a hazard analysis and a review of the MSDS document(s). Fume hoods and other ventilation systems shall conform to the requirements outlined in *Safety First: Safe Instructional Practices in the Classroom and Laboratory*.
- 10.3 All Instructional Areas that use Hazardous Chemicals which are constructed, reconfigured, or renovated after September 1, 2011 shall provide adequate space for student work at a minimum of 50 square feet per student.
- 10.4 All Instructional Areas that use Hazardous Chemicals shall have at least two means of egress. The second exit may pass through another room and/or a Non-Chemical Storage room if it is used only as an emergency exit.

11.0 Assurance of Safety Practices

Each school district or charter school shall submit an assurance letter annually to the Department's Education Associate, Science no later than November 15. The assurance letter shall verify that the school district or charter school's Hazardous Chemical management program has been reviewed for compliance, and is compliant with this regulation and the corresponding sections of *Safety First: Safe Instructional Practices in the Classroom and Laboratory*.

2011 Safety First Manual

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 1009

PUBLIC NOTICE

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

1009 DIAA High School Interscholastic Athletics

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

The Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics. This regulation is being amended in consultation and cooperation with the Delaware Interscholastic Athletic Association. The regulation is being amended to add sections that specify the purpose of the transfer, passing work, and years of participation eligibility rules; clarify the transfer and years of participation rules as to eighth grade students who are eligible to participate in interscholastic athletics at the high school level; organize existing sections of the transfer rule for clarity; change the time period for the subsection that allows a student who has previously participated in interscholastic athletics to transfer one time from the first year of eligibility to the first and second years of eligibility; change the transfer options permissible under the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, to conform

to federal and state law; and to eliminate the prohibition against practicing if a student is ineligible under the passing work rule.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before May 5, 2017 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 online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, Finance Office located at the address listed above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is related to interscholastic athletics and does not directly help improve student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is related to interscholastic athletics and does not help to ensure that all students receive an equitable education.

3. Will the amended regulation help to ensure all student's health and safety are adequately protected? The amended regulation is intended, in part, to help to ensure all students' health and safety are adequately protected.

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

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

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

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

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

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

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

*Please Note:

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

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 762RFA 04-01-17.pdf>

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

1009 DIAA High School Interscholastic Athletics

PROPOSED REGULATIONS

DEPARTMENT OF FINANCE

OFFICE OF UNCLAIMED PROPERTY, STATE ESCHEATOR

Statutory Authority: 12 Delaware Code, Section 1132 (12 Del.C. §1132)

12 DE Admin. Code 100, 101, 102 & 103

PUBLIC NOTICE

- 100 Regulation on Practices and Procedures for Appeals of Determinations of the Audit Manager**
101 Regulation on Practice and Procedure for Establishing Running of the Full Period of Dormancy for Certain Securities and Related Property
102 Regulation on Practices and Procedures for Records Examinations by the State Escheator
103 Abandoned or Unclaimed Property Examination Guidelines

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 12 Del.C. §1132, the Delaware Department of Finance's Office of Unclaimed Property, State Escheator, proposes to revise and replace its regulations related to its Abandoned or Unclaimed Property Law.

In accordance with 29 Del.C. §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

David M. Gregor
State Escheator
Department of Finance
820 N. French St.
Wilmington, DE 19801

Notice may also be directed via electronic mail to david.gregor@state.de.us. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Department of Finance no later than **4:30 p.m. EST, Wednesday, May 3, 2017**.

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

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that the Delaware Department of Finance's Office of Unclaimed Property, State Escheator ("DOF"), proposes to repeal all existing regulations related to State of Delaware's Abandoned or Unclaimed Property program. The DOF, in consultation with the Secretary of State, proposes to promulgate new, revised regulations (contained in a separate, concurrent proposal) to replace the regulations with new regulations presented in a more orderly and comprehensive manner.

These Regulations propose to repeal the following existing provisions in the Delaware Administrative Code:

12 DE Admin. Code 100, *Regulation on Practices and Procedures for Appeals of Determinations of the Audit Manager*

12 DE Admin. Code 101, *Regulation on Practice and Procedure for Establishing Running of the Full Period of Dormancy for Certain Securities and Related Property*

12 DE Admin. Code 102, *Regulation on Practices and Procedures for Records Examinations by the State Escheator*

12 DE Admin. Code 103, *Abandoned or Unclaimed Property Examination Guidelines*

These Regulations propose to repeal the following existing Regulations:

Abandoned or Unclaimed Property Voluntary Disclosure Agreement and Audit Program, 9 DE Reg. 771 (11/01)

05). *Abandoned or Unclaimed Property Voluntary Disclosure Agreement Program*, 10 **DE Reg.** 699 (10/01/06) (Final). *Regulation on Practices and Procedures for Appeals of Determinations of the Audit Manager*, 15 **DE Reg.** 1323 (03/01/12) (Final).

Regulation on Practice and Procedure for Establishing Running of the Full Period of Dormancy for Certain Securities and Related Property, 15 **DE Reg.** 1330 (03/01/12).

Regulation on Practices and Procedures for Records Examinations by the State Escheator, 16 **DE Reg.** 530 (11/01/12) (Final).

Abandoned or Unclaimed Property Audit Examination Guidelines, 16 **DE Reg.** 630 (12/01/12) (Final).

Statutory Authority

Delaware Code, Title 12 §1132

Background

On January 29, 2015, the Governor of Delaware signed into law Senate Bill 11 of the 148th General Assembly, which directed the Delaware Secretary of Finance to complete the development of a detailed manual containing procedural guidelines for the conduct of Delaware unclaimed property examinations.

On February 2, 2017, the Governor of Delaware signed into law Senate Bill 13 of the 149th General Assembly, which revised and updated the Delaware Abandoned and Unclaimed Property Law. Section 1176(b) directed the Secretary of Finance, in consultation with the Secretary of State, to promulgate regulations to create consistency in any examination or voluntary disclosure.

The Delaware Secretary of Finance seeks to repeal its existing regulations related to the Delaware Abandoned and Unclaimed Property Law, to replace them with detailed regulations, in order to comply with the above direction.

*Please Note:

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

[http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 764RFA 04-01-17.pdf](http://regulations.delaware.gov/register/april2017/proposed/20%20DE%20Reg%20764RFA%2004-01-17.pdf)

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

[Regulations 100, 101, 102, and 103](#)

OFFICE OF UNCLAIMED PROPERTY, STATE ESCHEATOR

Statutory Authority: 12 Delaware Code, Section 1132 (12 **Del.C.** §1132)

PUBLIC NOTICE

Department of Finance Abandoned or Unclaimed Property Reporting and Examination Manual

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 12 **Del.C.** §1132, the Delaware Department of Finance's Office of Unclaimed Property, State Escheator, proposes to revise and replace its regulations related to its Abandoned or Unclaimed Property Law.

In accordance with 29 **Del.C.** §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

David M. Gregor
State Escheator
Department of Finance
820 N. French St.
Wilmington, DE 19801

PROPOSED REGULATIONS

Notice may also be directed via electronic mail to david.gregor@state.de.us. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Department of Finance no later than **4:30 p.m. EST, Wednesday, May 3, 2017**.

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

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that the Delaware Department of Finance's Office of Unclaimed Property, State Escheator, in consultation with the Secretary of State, proposes to promulgate rules and regulations to establish instructions and guidelines for the administration of the State of Delaware's Abandoned or Unclaimed Property program. These regulations provide a framework to ensure that Holders of unclaimed property have a basic understanding of the processes available to them as well as the State's expectations. The regulations contained herein are to be implemented consistently, so as to ensure fair and uniform treatment of Holders of unclaimed property.

Statutory Authority

Delaware Code, Title 12 §1132

Background

On January 29, 2015, the Governor of Delaware signed into law Senate Bill 11 of the 148th General Assembly, which directed the Delaware Secretary of Finance to complete the development of a detailed manual containing procedural guidelines for the conduct of Delaware unclaimed property examinations.

On February 2, 2017, the Governor of Delaware signed into law Senate Bill 13 of the 149th General Assembly, which revised and updated the Delaware Abandoned and Unclaimed Property Law. Section 1176(b) directed the Secretary of Finance, in consultation with the Secretary of State, to promulgate regulations to create consistency in any examination or voluntary disclosure.

*Please Note:

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

[http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 765RFA 04-01-17.pdf](http://regulations.delaware.gov/register/april2017/proposed/20%20DE%20Reg%20765RFA%2004-01-17.pdf)

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

[Department of Finance Abandoned or Unclaimed Property Reporting and Examination Manual](#)

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF LONG TERM CARE RESIDENTS PROTECTION

Statutory Authority: 16 Delaware Code, Section 1101 (16 Del.C. §1101)

16 DE Admin. Code 3310

PUBLIC NOTICE

3310 Neighborhood Homes for Persons with Developmental Disabilities

The Division of Long Term Care Residents Protection (DLTCRP) is proposing a full revision of Regulation 3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities. The proposed regulations will replace the existing Regulation.

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 the fact that the regulation was last updated in April 01, 2012. Many changes have occurred in the field. This revision will replace the current regulations and update it to meet the current standards.

Summary of Proposal

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

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulation should submit such comments by May 1, 2017 to:

Renee Purzycki, Social Service Chief Administrator
Office of the Director for the Division of Long Term Care Residents Protection
Delaware Department of Health and Social Services
3 Mill Road Suite 308
Wilmington, DE 19806
Email: Renee.Purzycki@state.de.us
Fax: 302-421-7401

*Please Note:

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

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 766RFA 04-01-17.pdf>

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

[3310 Neighborhood Homes for Persons with Developmental Disabilities](#)

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

PUBLIC NOTICE

Lactation Counseling Services

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance is proposing to amend the Title XIX Medicaid State Plan regarding services provided to pregnant and postpartum individuals, specifically, *to provide lactation counseling services as separately reimbursed pregnancy-related services.*

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: Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, Attention: Kimberly Xavier; by email to Kimberly.xavier@state.de.us; or by fax to 302-255-4425 by May 1, 2017. Please identify in the subject line: Lactation Counseling Services.

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 PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend the Title XIX Medicaid State Plan regarding services provided to pregnant and postpartum individuals, specifically, *to provide lactation counseling services as separately reimbursed pregnancy-related services.*

Statutory Authority

- 42 CFR §440.60, *Medical or other remedial care provided by licensed practitioners*
- 42 CFR §440.170, *Any other medical care or remedial care recognized under State law and specified by the Secretary*
- 42 CFR §440.210, *Required services for the categorically needy*
- 42 CFR §440.225, *Optional services for the categorically needy*
- 42 CFR §447, *Payments for services*
- §1902(a) of the Social Security Act, *State plans for medical assistance, service requirements*

Background

Improving the health of the population and reducing preventable causes of poor health, such as obesity, is a priority of the Department of Health and Human Services (HHS) and the Centers for Medicare & Medicaid Services (CMS). Current research shows that the practice of breastfeeding for the first 6 to 12 months of life is highly beneficial for both the mother and infant. On January 20, 2011, the United States Surgeon General released "The Surgeon General's Call to Action to Support Breastfeeding." This report indicates that there is a 32% higher risk of childhood obesity and a 64% higher risk of type 2 diabetes for children who are not breastfed. An extensive body of research supports these assertions and provides evidence of the positive effects of breastfeeding on both short and long term infant and maternal health. Breastfeeding also serves additional advantages for low birth weight infants. Human milk consumption is associated with a reduction in sepsis infections and gastrointestinal illnesses among very low birth weight newborns in the neonatal intensive care unit (NICU).

The U.S. Preventive Services Task Force (USPSTF) specifically recommends coordinated interventions throughout pregnancy, birth, and infancy to increase breastfeeding initiation, duration, and exclusivity. Such recommended interventions include formal breastfeeding education for mothers and families, direct support of the mother during breastfeeding observations, and the training of health professional staff about breastfeeding and techniques for breastfeeding support. The opportunity to promote and provide support for breastfeeding occurs many times throughout the interactions that women have with various types of health care providers during and after pregnancy.

Due to the multiple health benefits associated with breastfeeding, CMS encourages States to go beyond the requirement of solely coordinating and referring enrollees to the Special Supplemental Food Program for Women, Infants, and Children (WIC) (established in 42 C.F.R. § 431.635) and include lactation services as separately reimbursed pregnancy-related services. Because lactation services are not specifically mentioned in the Medicaid statute or Federal Medicaid regulations, not all States separately reimburse lactation services as pregnancy-related services. Delaware Medicaid and Medical Assistance (DMMA) currently supports lactation counseling when provided as part of a pregnant or postpartum individuals inpatient stay. DMMA would like to expand this coverage and to separately reimburse lactation counseling services provided in outpatient settings for pregnant and postpartum individuals when such services are ordered by a licensed practitioner, operating within the scope of their license, and provided by a certified lactation consultant.

Summary of Proposal*Purpose*

To add language to the Medicaid State Plan regarding lactation counseling services for pregnant and postpartum individuals.

Summary of Proposed Changes

If implemented as proposed, this state plan amendment will accomplish the following, effective April 1, 2017:

- Amend the following state plan pages by adding a provision that allows providers to bill separately for lactation counseling services provided in outpatient settings for pregnant and postpartum individuals

when such services are ordered by a licensed practitioner, operating within the scope of their license, and provided by a certified lactation consultant.

- Attachment 3.1-A Page 3 Addendum - Other Practitioners' Services;
 - Attachment 3.1-A Page 8 and Page 8 Addendum - Extended Services for Pregnant Individuals;
 - Attachment 3.1-A Page 11 and Page 11 Addendum - Licensed or Otherwise State-Recognized covered professionals in the Freestanding Birthing Center Services;
 - Supplement 1 to Attachment 3.1-A - Case Management Services for High-Risk Pregnant Individuals; and
 - Attachment 4.19-B Page 18 - Methods and Standards for Establishing Payment Rates, Lactation Counseling Services.
- Sunset Attachment 4.19-B Pages 8, 8a, 9, 9a, and 9b as these state plan pages contain out-of-date rates and codes for obstetrical and pediatric care. This was identified while reviewing the state plan to identify the appropriate areas to update with lactation counseling services. Rates are no longer listed in the state plan; the fee schedule and any annual periodic adjustments to these, and all DMMA rates, are published on the Delaware Medical Assistance Program (DMAP) website at: <https://medicaid.dhss.delaware.gov/provider>.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 447.205 and the *state* public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on proposed regulations. Comments must be received by 4:30 p.m. on May 1, 2017.

Centers for Medicare and Medicaid Services Review and Approval

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

Provider Manuals Update

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

Fiscal Impact

The following fiscal impact was developed using data from the Center for Disease Control and Prevention (CDC) regarding the percentage of women who breastfeed and would seek lactation counseling services in a physician's office by a certified lactation consultant. This percentage was then applied to the projected childbirths for Federal Fiscal Year (FFY) 2018 and FFY 2019 to identify the potential fiscal impact of this regulation.

	Federal Fiscal Year 2017 (1)	Federal Fiscal Year 2018
General (State) funds	\$ 26,254	\$ 34,110
Federal funds	\$ 31,069	\$ 40,367

(1) Represents April – September 2017 only

PROPOSED REGULATIONS

***Please Note:**

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

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 767RFA 04-01-17.pdf>

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

Lactation Counseling Services

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 2505A (16 Del.C. §2505A)

16 DE Admin. Code 4304

PUBLIC NOTICE

4304 Delaware Medical Orders for Scope of Treatment (DMOST)

Division of Public Health, Department of Health and Social Services, is proposing to amend regulations for Delaware Medical Orders Scope of Treatment (DMOST). The purpose of amending the proposed regulations is to improve the quality of care people receive at the end of life by translating patient/resident goals and preferences into medical orders. The proposed regulations will set requirements for use of DMOST forms, provide guidance in the use of the forms and formalize the DMOST form itself. On April 1, 2017, DPH plans to publish as proposed the revised regulations, and hold them out for public comment per Delaware law.

Copies of the proposed regulations are available for review in the April 1, 2017 edition of the Delaware *Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit same to Jamie Mack by Thursday May 4, 2017, at:

Jamie Mack

Division of Public Health

417 Federal Street

Dover, DE 19901

Email: jamie.mack@state.de.us

Phone: (302) 744-4951

***Please Note:**

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

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 770RFA 04-01-17.pdf>

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

4304 Delaware Medical Orders for Scope of Treatment (DMOST)

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR QUALITY

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

7 DE Admin. Code 1120

REGISTER NOTICE

SAN # 2017-03

1120 New Source Performance Standards

1. TITLE OF THE REGULATIONS:

7 DE Admin. Code 1120 New Source Performance Standards

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

On August 29, 2016, the EPA promulgated two regulations applicable to municipal solid waste landfills (MSWLs). The EPA promulgated 40 CFR Part 60 Subpart XXX under 111(b); Subpart XXX regulated the emissions from new MSWLs. The EPA promulgated 40 CFR Part 60 Subpart Cf under 111(d); Subpart Cf mandated state agencies to develop plans to regulate emissions from existing MSWLs. The purpose of these two federal regulations was to reduce the public health impacts associated with VOC and methane emissions from MSWLs.

The purpose of this action is to incorporate the federal new MSWL requirements in Subpart XXX by reference as Section 30 of 7 DE Admin. Code 1120. To satisfy the existing MSWL requirements of Subpart Cf, the applicability of Section 30 will be expanded to include both existing and new MSWLs. Once finalized, Section 30 and the State Plan will be submitted to the EPA for approval. There are three existing MSWLs in Delaware; all are operated by the Delaware Solid Waste Authority. There are no new MSWLs.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Delaware Code, Chapter 60, Environmental Control

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

None

6. NOTICE OF PUBLIC COMMENT:

Statements and testimony may be presented either orally or in writing at a public hearing to be held on Monday, April 24, 2017 starting at 6:00 PM in the DNREC office located at 100 W. Water Street (Suite 6A), Dover, DE. If you are unable to attend or wish to submit your comments in advance of the public hearing, please send your comments to address below. Interested parties may also submit written comments to the Department, to the same address below, up until the end of the comment period, which will extend through May 9, 2017, unless a longer period is designated by the hearing officer at the public hearing.

DNREC - Division of Air Quality
Subject: April 24 Public Hearing
715 Grantham Lane
New Castle, DE 19720

7. PREPARED BY:

Jim Snead (302) 323-4542 jsnead@state.de.us March 12, 2017

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

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 771RFA 04-01-17.pdf>

PROPOSED REGULATIONS

1120 New Source Performance Standards (Break in Continuity of Sections)

30.0 Standards of Performance for Municipal Solid Waste Landfills After July 11, 2017

The provisions of Subpart XXX of Part 60, Title 40 of the Code of Federal Regulations - "Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014", as set forth in Vol. 81, No. 167, pp. 59368-59384, of the Federal Register, dated August 29, 2016, attached hereto, are hereby incorporated herein and adopted by reference, subject to the following changes:

- 30.1 Wherever the word "Administrator" appears it shall be replaced by the word "Department", with the exception of paragraphs 60.760(b) and 60.764(a)(5).
- 30.2 The ASTM Standard Test Method D6522-11 is incorporated herein and adopted by reference. The following definitions, subsections and test methods that are referenced in the text of the preceding adoption are also incorporated herein and adopted by reference as they appear in Title 40 of the Code of Federal Regulations, dated July 1, 2016:
 - 30.2.1 The definition of "land application unit", "surface impoundment", "injection well", "waste pile" and "other types of RCRA Subtitle D wastes" as each of those terms is defined in 40 CFR 257.2.
 - 30.2.2 The definition of "sludge" and "solid waste" as each of those terms is defined in 40 CFR 258.2.
 - 30.2.3 The definition of "performance test" in 60.764(a)(3)(i), as the term is defined in 40 CFR 60.8.
 - 30.2.4 The requirements of 40 CFR 51.166 and 52.21, as referenced in 60.764(c).
 - 30.2.5 The requirements of 40 CFR 60.4, as referenced in 60.767(i)(2).
 - 30.2.6 The requirements of 40 CFR 60.7(a)(1), as referenced in 60.767(a)(1).
 - 30.2.7 The requirements of 40 CFR 60.7(a)(4), as referenced in 60.761 and 60.767(e).
 - 30.2.8 The requirements of 40 CFR 60.8, as referenced in 60.764(b)(3)(i), 60.764(e)(1), 60.767(g), 60.767(h), and 60.767(i)(1).
 - 30.2.9 The requirements of 40 CFR 60.17, as referenced in 60.766(a)(2)(ii) and 60.766(a)(2)(iii)(B).
 - 30.2.10 The requirements of 40 CFR 60.18, as referenced in 60.762(b)(2)(iii)(A) and 60.768(b)(4).
 - 30.2.11 The requirements of 40 CFR 60.18(f)(3) and 60.18(f)(4), as referenced in 60.764(e).
 - 30.2.12 The requirements of 40 CFR 258, as referenced in 60.767(k).
 - 30.2.13 The requirements of 40 CFR 258.40, as referenced in 60.762(b)(2)(ii)(D)(2).
 - 30.2.14 The requirements of 40 CFR 258.60, as referenced in 60.767(e).
 - 30.2.15 Methods 2, 2E, 3, 3A, 3C, 18, 21, 25, 25A and 25C in appendix A of 40 CFR Part 60.
- 30.3 The title of Subpart XXX shall be replaced with the following language: "30.0 Standards of Performance for Municipal Solid Waste Landfills After July 11, 2017."
- 30.4 Section 60.760(a) shall be replaced with the following language: "The provisions of this subpart apply to each municipal solid waste landfill, open or closed, that commenced construction, reconstruction, or modification after July 17, 2014 or that has accepted waste after November 8, 1987 or that has additional capacity available to accept waste."
- 30.5 Section 60.762(a) shall be replaced with the following language: "Each owner or operator of an MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume must submit an initial design capacity report to the Department as provided in §60.767(a). The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions must be documented and submitted with the report. For purposes of 7 DE Admin. Code 1130, Title V State Operating Permit Program, a landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters does not require an operating permit under 7 DE Admin. Code 1130, provided it is not a major source as defined in 7 DE Admin. Code 1130. Submittal of the initial design capacity report fulfills the requirements of this subpart except as provided for in paragraphs (a)(1) and (2) of this section."
- 30.6 Delete ", local, or tribal" in Sections 60.761, 60.767(a)(2)(i) and 60.767(a)(2)(ii).

- 30.7 Paragraph 60.762(b) shall be replaced with the following language: "Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, must either comply with paragraph (b)(2) of this section or calculate an NMOC emission rate for the landfill using the procedures specified in §60.764. The NMOC emission rate must be recalculated annually, except as provided in §60.767(b)(1)(ii). The owner or operator of an MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters is subject to 7 DE Admin. Code 1130. When a landfill is closed, and either never needed control or meets the conditions for control system removal specified in §60.762(b)(2)(v), a 7 DE Admin. Code 1130 operating permit is no longer required."
- 30.8 Section 60.762(b)(2)(ii) shall be replaced with the following language: "*Collection system.* Install and start up a collection and control system that captures the gas generated within the landfill as required by paragraphs (b)(2)(ii)(C) or (D) and (b)(2)(iii) of this section in accordance with paragraph (b)(2)(ii)(A) or (B) of this section, whichever is applicable."
- 30.9 Section 60.762(b)(2)(ii)(A) shall be replaced with the following language: "*For MSW landfills that commenced construction, reconstruction, or modification on or after July 17, 2014.* The collection and control system must be started up in accordance with paragraph (b)(2)(ii)(A)(1) or (2) of this section, whichever is applicable."
- 30.10 Add new section 60.762(b)(2)(ii)(A)(1) with the following language: "Within 30 months of the first annual report in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in §60.767(c)(4) or"
- 30.11 Add new section 60.762(b)(2)(ii)(A)(2) with the following language: "Within 30 months of the most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2, if the Tier 4 surface emissions monitoring shows a surface methane emission concentration of 500 parts per million methane or greater as specified in §60.767(c)(4)(iii)."
- 30.12 Section 60.762(b)(2)(ii)(B) shall be replaced with the following language: "*For all other subject MSW landfills.* As expeditiously as practicable but not later than January 8, 2018."
- 30.13 Section 60.762(c) shall be replaced with the following language: "For purposes of obtaining an operating permit under title V of the Clean Air Act, the owner or operator of an MSW landfill subject to this subpart with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under 7 DE Admin. Code 1130, unless the landfill is otherwise subject to either part 70 or 71. For purposes of submitting a timely application for an operating permit under part 70 or 71, the owner or operator of an MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters, and not otherwise subject to 7 DE Admin. Code 1130, becomes subject to the requirements of paragraph 5.1.1 of 7 DE Admin. Code 1130, regardless of when the design capacity report is actually submitted, no later than:"
- 30.14 Sections 60.762(c)(1), 60.767(a)(1)(i) and 60.767(b)(1)(i)(A) shall be replaced with the following language: "Ninety days after the date of commenced construction, modification, or reconstruction for MSW landfills that commenced construction, modification, or reconstruction on or after July 17, 2014 or"
- 30.15 Section 60.762(c)(2) and Section 60.767(b)(1)(i)(B) shall be replaced with the following language: "January 8, 2018 for all other subject MSW landfills."
- 30.16 Section 60.763(g) shall be replaced with the following language: "If monitoring demonstrates that the operational requirement in paragraphs (b), (c), or (d) of this section are not met, corrective action must be taken as specified in §60.765(a)(3) and (5) or §60.765(c). If corrective actions are taken, as specified in §60.765, the monitored exceedance is not a violation of the operational requirements in this section."
- 30.17 Section 60.767(a)(1)(ii) shall be replaced with the following language: "The date specified in a State construction or operating permit, if applicable, or January 8, 2018, whichever is earlier, for all other subject MSW landfills."

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- 30.18 The final sentence in section 60.767(a)(2)(ii) shall be replaced with the following language: "The Department may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill."
- 30.19 Section 60.767(i)(1)(ii) shall be replaced with the following language: "For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance test to the Department."
- 30.20 Section 60.767(k)(7) shall be replaced with the following language: "The initial report must contain items in paragraph (k)(1) through (6) of this section per year for the initial annual reporting period as well as for each of the previous 10 years, to the extent historical data are available in on-site records, and the report must be submitted no later than thirteen (13) months after the date of commenced construction, modification, or reconstruction for landfills that commenced construction, modification, or reconstruction on or after July 17, 2014 containing data for the first 12 months after August 29, 2016."
- 30.21 Delete and reserve sections 60.767(k)(7)(i) and 60.767(k)(7)(ii).
- 30.22 Section 60.768(c)(3) shall be replaced with the following language: "Each owner or operator subject to the provisions of this subpart who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with §60.762(b)(2)(iii) must keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other state or federal regulatory requirements.)"

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

1120 New Source Performance Standards

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DIVISION OF STATE POLICE
5500 BAIL ENFORCEMENT AGENTS

Statutory Authority: 24 Delaware Code, Section 5504(e) (24 **Del.C.** §5504(e))
 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 the following adopted rule in 24 **DE Admin. Code** 5500 Bail Enforcement Agents: Rule 2.0 - Badges, Patches, Advertisements - clarifying that "Bail Enforcement Agent" must be displayed on the outer most garment; Rule 8.0 - Apprehension Procedures - clarifies where/when a BEA must report an apprehension or surveillance. 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 May 1, 2017, to Delaware State Police, Professional Licensing Section, P. O. Box 430, Dover, DE 19903. The Board will hold its quarterly meeting Thursday, May 25, 2017, 10:00am, at the Tatnall Building, 150 Martin Luther King, Jr. Boulevard South, Room 112, Dover, DE.

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

[http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 774RFA 04-01-17.pdf](http://regulations.delaware.gov/register/april2017/proposed/20%20DE%20Reg%20774RFA%2004-01-17.pdf)

5500 Bail Enforcement Agents
(Break in Continuity of Sections)

2.0 Badges, Patches, Advertisements

- 2.1 No individual licensed under 24 **Del.C.** Ch. 55 shall use any type of uniform or other clothing items displaying logos, badges, patches, or any other type of writing without first being approved by the Board. Under no circumstances shall any item contain the seal or crest of the State of Delaware, any state of the United States, the seal or crest of any county or local sub division, or any facsimile of the aforementioned seals or crests.
- 2.1.1 All BEA's shall at all times during the lawful performance of their duties pursuant to 24 **Del.C.** Ch. 55 and the regulations set forth herein use or display the following:
- 2.1.1.1 Their assigned badge on the front of the outer most garment; and
- 2.1.1.2 Wearing of a ballistic vest; and
- 2.1.1.3 ~~Some form of "Bail Enforcement Agent"~~ must be displayed on the back of the outer most garment, the use of "BEA" only is NOT acceptable, ~~and with the option of wording on the front of the garment.~~

(Break in Continuity of Sections)

8.0 Apprehension Procedures

- 8.1 All BEA's licensed under 24 **Del.C.** Ch. 55 are required to notify the ~~911 dispatch center~~ Public Safety Answering Point (PSAP) for the appropriate jurisdiction prior to making any attempt at an apprehension or surveillance. This notification must occur prior to responding to the address of the attempt/surveillance. Notification shall be made to the same PSAP when clearing the address of the attempt/surveillance. If notification cannot be made to the PSAP of jurisdiction, the BEA shall contact the Regional Center for the County - Recom, Kentcom, or Suscom.
- 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.~~
- 8.1.2 ~~Notification to the 911 dispatch center must be made when clearing the address of the attempt.~~

***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 SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

DIVISION OF FAMILY SERVICES OFFICE OF CHILD CARE LICENSING

Statutory Authority: 29 Delaware Code, Section 9003(7) and 31 Delaware Code, Sections 341-345

(29 **Del.C.** §9003(7); 31 **Del.C.** §§341-345)
9 **DE Admin. Code** 103

PUBLIC NOTICE

103 Regulations for Family and Large Family Child Care Homes

Summary

The Office of Child Care Licensing (OCCL) proposes to amend Section 22 of the DELACARE: Regulations for

PROPOSED REGULATIONS

Family and Large Family Child Care Homes. Currently Section 22 exceeds the National Fire Protection Association's (NFPA) Life Safety Code and does not provide clarification on the placement of a fire extinguisher. The proposed Section aligns with the Life Safety Code and provides clarification on the placement of a fire extinguisher.

COMMENTS

Interested parties wishing to offer comments, suggestions, data, briefs, or other materials concerning the proposed regulation may submit them to the Office of Child Care Licensing, Division of Family Services, Department of Services for Children, Youth and Their Families, 3411 Silverside Road, Hagley Building, Wilmington, Delaware, 19810, Attention: Kelly McDowell or email them to Kelly McDowell at Kelly.McDowell@state.de.us by the close of business on May 5, 2017.

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

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 775RFA 04-01-17.pdf>

103 Regulations for Family and Large Family Child Care Homes (Break in Continuity of Sections)

22.0 Fire Safety

(Break in Continuity Within Section)

- 22.8 A licensee shall ~~have an easily~~ provide a clearly visibly, readily accessible, charged portable dry chemical fire extinguisher rated 2A-10BC or ~~above~~ greater. ~~A licensee shall mount the fire extinguisher no more than 40 inches above the finished floor. Fire extinguishers shall not be mounted in a cabinet or closet. Fire extinguishers shall be mounted at least 4 inches above the finished floor. Fire extinguishers weighing no more than 40 pounds shall be mounted no more than 60 inches above the finished floor. Fire extinguishers weighing more than 40 pounds shall be mounted no more than 42 inches above the finished floor. An inspector~~ A fire extinguisher contractor licensed by the State fire marshal shall inspect the fire extinguisher annually.

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

[103 Regulations for Family and Large Family Child Care Homes](#)

DEPARTMENT OF STATE

ABANDONED OR UNCLAIMED PROPERTY VOLUNTARY DISCLOSURE AGREEMENT PROGRAM

Statutory Authority: 12 Delaware Code, Section 1173(a)(6) (12 Del.C. §1173(a)(6))

PUBLIC NOTICE

Department of State Abandoned or Unclaimed Property Voluntary Disclosure Agreement Program Regulations Relating to Estimation

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 12 Del.C. §1173(a)(6), the Delaware Department of State proposes to introduce regulations related to the Department of State's Voluntary Disclosure Agreement Program in the Delaware Abandoned or Unclaimed Property Law.

In accordance with 29 Del.C. §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the

following address:

Kristopher Knight
Deputy Secretary of State
Department of State
820 N. French St.
4th Floor
Wilmington, DE 19801

Notice may also be directed via electronic mail to SOS.VDA@state.de.us. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Department of State no later than **4:30 p.m. EST, Wednesday, May 3, 2017**.

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

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that the Department of State, in consultation with the Delaware Department of Finance's Office of Unclaimed Property, State Escheator, proposes to promulgate rules and regulations to establish instructions and guidelines for the administration of the Department of State Voluntary Disclosure Agreement Program. The regulations provide a framework to ensure that Holders of unclaimed property have a basic understanding of the estimation methodology expected of Holders enrolled in the Department of State Voluntary Disclosure Agreement Program. The regulations contained herein are to be implemented consistently, so as to ensure fair and uniform treatment of Holders of unclaimed property participating in the Department of State Voluntary Disclosure Agreement program.

Statutory Authority

Delaware Code, Title 12 §1173(a)(6)

Background

On February 2, 2017, the Governor of Delaware signed into law Senate Bill 13 of the 149th General Assembly, which revised and updated the Delaware Abandoned and Unclaimed Property Law. The Department of Finance Unclaimed Property Audit Program and the Department of State Voluntary Disclosure Agreement Program are administered separately, and it is not legally permissible for any one Holder, including the Holder's subsidiaries and related entities, to be in both programs. Section 1176(b) directed the Secretary of Finance, in consultation with the Secretary of State, to promulgate regulations to create consistency in any examination or voluntary disclosure. The Department of Finance has introduced regulations containing an Examination Manual, which includes proposed regulations regarding permissible base periods in an examination, items to be excluded from the estimation calculation in an examination, aging criteria for outstanding and voided checks in an examination, and the definition of what constitutes complete and researchable records in an examination in accordance with Section 1176(b). In order to establish expectations for Holders that enroll in the Department of State Voluntary Disclosure Agreement Program, the Department of State has proposed these regulations to demonstrate how these issues will be administered in the Department of State Voluntary Disclosure Agreement program.

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

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 776RFA 04-01-17.pdf>

Department of State Abandoned or Unclaimed Property Voluntary Disclosure Agreement Program Regulations Relating to Estimation

1.0 Purpose, Scope and Authority

1.1 Purpose

1.1.1 On February 2, 2017, the Governor of Delaware signed into law Senate Bill 13 of the 149th General Assembly, which revised and updated the Delaware Abandoned or Unclaimed Property Law. Section 1176(b) states as follows:

The Secretary of Finance, in consultation with the Secretary of State, shall, on or before July 1, 2017, promulgate regulations regarding the method of estimation to create consistency in any examination or voluntary disclosure. These regulations must include permissible base periods, items to be excluded from the estimation calculation, aging criteria for outstanding and voided checks, and the definition of what constitutes complete and researchable records.

1.1.2 These are the Department of State's companion regulations regarding the method of estimation in the Department of State's Voluntary Disclosure Agreement program.

1.2 Scope

1.2.1 The Secretary of State may make such rules and regulations as deemed necessary to enforce Section 1173, the Department of State Abandoned or Unclaimed Property Voluntary Disclosure Agreement ("VDA") program.

1.3 Statutory Authority

1.3.1 12 Del.C. §1173(a)(6) Rule-making.

2.0 Delaware Department of State Abandoned or Unclaimed Property Voluntary Disclosure Agreement Program Estimation Regulations**2.1 Effective Date**

2.1.1 The effective date of these Regulations shall be the date the Regulations are adopted, and the standards contained therein shall apply to all Department of State voluntary disclosures pursuant to 12 Del.C. §1173 commenced after that date. To the extent practical, the Regulations shall apply to any ongoing Department of State voluntary disclosure pursuant to 12 Del.C. §1173 that commenced prior to the effective date of these Regulations, though the failure of the Department of State to have conformed to these regulations not-yet-in-existence would not invalidate a previously settled voluntary disclosure agreement.

2.2 Scope of Abandoned or Unclaimed Property Voluntary Disclosure Agreement ("VDA")

2.2.1 The Holder may determine the scope of the entities and property types included in the Department of State Voluntary Disclosure Agreement program. At the conclusion of the VDA, the Department of State will only provide a release of liability for what has been determined to be in-scope, so any property types and/or entities excluded would be subject to audit pursuant to 12 Del.C. §1173(a)(4).

2.2.2 Once entity scoping has been established by the Holder, no additional entities may be scoped into the VDA without the Department of State's consent.

2.2.3 At the Holder's discretion and with the consent of the Department of State, legal entities whose acquisition commenced after the conclusion of entity scoping would have the option of being added to the existing VDA.

2.3 Estimation

2.3.1 Overview. Section 1145 requires that a Holder, who is required to file an annual unclaimed property report, retain records for 10 years after the date the report was filed. The record retention requirement corresponds with Section 1173(c)(2) of Title 12 of the Delaware Code authorizing the Department of State to enter into a voluntary disclosure agreement with a Holder based on a self-review of a 10 year period of dormant property. Section 1173(a)(2) grants the Secretary of State the full and complete authority to determine and resolve all such claims consistent with Chapter 11 of Title 12 of the Delaware Code and exercise such authorities as are granted to the State Escheator in Chapter 11 of Title 12 of the Delaware Code, including the authority to estimate the amount of property due using a reasonable method of estimation based on all information available.

- 2.3.2 Base Periods: The “Base Period” is the period of time for which the holder possesses complete and researchable records. Consistent with a majority of states, Delaware requires that a Holder retain records for a minimum of 10 years plus dormancy (15 years total for most property types). It is expected that the Holder shall possess several years of dormant records even if the Holder does not possess records for the entire 10 year period.
- 2.3.2.1 If the Holder fails to retain sufficient dormant years of records, the Department of State and Holder shall agree on the records to be utilized for the base period.
- 2.3.2.2 Base periods shall consist of complete and researchable records. (See definition in subsection 2.4 of these Regulations). In order to draw a representative error rate, the base periods utilized by the Holder shall consist of at least the two (2) oldest continuous years the Holder has complete and researchable records outside the dormancy period. Holders may use more than two years for the base period. Depending on the unique facts and circumstances of each Holder, the Department of State and the Holder may agree to include non-dormant periods in the base periods.
- 2.3.2.3 At the conclusion of the Holder scoping its voluntary disclosure, the Chief Financial Officer or other officer of the Holder shall provide in a form amenable to the Department of State, a representation of the Holder regarding what records are available, for which property types and what years. The Holder is bound by this representation, absent good cause in the determination of the Secretary of State. A determination by the Department of State of a false statement will be considered willful misrepresentation made with intent to mislead the Secretary of State.
- 2.3.3 Items to be Excluded from Estimation Calculation
- 2.3.3.1 Items payable to an owner that is a United States federal department or agency shall be removed from the population subject to estimation.
- 2.3.3.2 Funds returned in the normal course of business, prior to enrollment in the Department of State Voluntary Disclosure Agreement program will not be included in the population of potential unclaimed items. Conversely, funds returned outside of the normal course of business (i.e. change in process) after enrollment in the Department of State Voluntary Disclosure Agreement program, will be included in the population of potential unclaimed items.
- 2.3.4 Aging Criteria
- 2.3.4.1 Checks that are outstanding or are voided less than 90 days after issuance shall be excluded from the estimation population.
- 2.3.4.2 As part of the Holder’s self-review, it is expected that Holders will perform the following analysis of its Accounts Receivable a) an analysis of aged credit balances remaining on the company’s books and records and b) an analysis to determine whether accounts receivable credits have been written off. For the former, Holders may review quarterly Accounts Receivable aging reports for Accounts Receivable credits aged 90 days or greater. For the latter, the Holder should conduct a credit tracing analysis of Accounts Receivable credit balances to test for any Accounts Receivable credits that may have been adjusted off of a customer’s account. All credits adjusted off a customer’s account and all of the accounts used to adjust credits off a customer’s account should be included in the Holder’s review.
- 2.3.5 Projection
- 2.3.5.1 If for certain periods the amount of reportable property cannot be ascertained from the books and records of the Holder, projection techniques may be used to determine the reportable amounts for such periods. Such determination shall be made by first examining records during periods in which records exist to establish a “base period” of data from which statistical inferences can be made for periods in which records are incomplete or do not exist. To the extent permitted by law, names and addresses identified in the base period shall not be used to determine which state has the priority claim to the abandoned

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property estimated to be due over periods where records of owners' addresses do not exist.

- 2.3.5.2 All sampling, projection and estimation techniques used by the Holder to determine unclaimed property due to Delaware shall be presented to the Department of State. The Department of State and the Holder must agree to the sampling, projection and estimation techniques in order to complete a Voluntary Disclosure Agreement. It is the intent of the State that any estimation methodologies used shall result in a reasonable representation of the unclaimed property potentially due for the estimated periods.

2.4 Complete and Researchable Records

- 2.4.1 The expectation is that a Holder, at a minimum, may have complete and researchable records for a period that would cover seven to eight (7-8) years from the date the Holder voluntarily enrolled in the Department of State Voluntary Disclosure Agreement program. If there are unique circumstances where a Holder does not have 7-8 years of researchable records, the Holder may present the circumstances to the Department of State and the Holder and the Department of State may agree to use an alternative data set with fewer years.
- 2.4.2 Complete records shall reconcile to the general ledger with the understanding that immaterial differences may occur. Researchable records are records to which the Holder may research the resolution of an item. At a minimum, researchable records shall include those items that contain a last known address of the owners of property.

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

PUBLIC NOTICE

300 Board of Architects

The Delaware Board of Architects, pursuant to 24 Del.C. §306(a)(1), proposes to revise regulations 3.5, 4.0, 6.2, and 6.8. The proposed change seeks to clarify the continuing education requirement for applicants re-applying for licensure in Delaware, re-implement the IDP waiver, and eliminate confusing provisions related to disallowance of acceptable continuing education credits.

The Board will hold a public hearing on the proposed regulation change on May 3, 2017 at 1:30 p.m., Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Jennifer Witte, Administrative Specialist of the Delaware Board of Architects, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until May 18, 2017 pursuant to 29 Del.C. §10118(a).

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

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 780RFA 04-01-17.pdf>

300 Board of Architects
(Break in Continuity of Sections)

3.0 Application for Registration:

(Break in Continuity Within Section)

- 3.5 An applicant re-applying with a lapsed registration shall submit evidence of having completed at least 24 HSW Continuing Education compliance hours for the preceding two (2) year period leading up to the date of application.

4.0 Registration Standards:

- 4.1 Registration Standards: To be granted registration an applicant must:

(Break in Continuity Within Section)

- 4.1.2 Training – meet the Training Requirements set forth in the NCARB Intern Development Program Guidelines (IDP). Check NCARB's website, www.ncarb.org for updates and the most current information regarding the IDP.

- 4.1.2.1 Training, as defined above, is a requirement for all applicants for initial registration in the State of Delaware. Applicants holding a current registration in good standing in another United States jurisdiction or Canadian province and documenting five (5) or more years of practicing architecture immediately preceding the date of the application that is acceptable to the Board may obtain a waiver of the IDP requirement. A request for waiver shall be made on a form prescribed by the Board.

(Break in Continuity of Sections)

6.0 Registration

(Break in Continuity Within Section)

- 6.2 Continuing Education requirements for renewal.

- 6.2.1 In addition to all other requirements for registration renewal, an architect must complete a minimum of 24 Continuing Education Hours each renewal period including a minimum of 8 Continuing Education Hours in each year or be exempt from these continuing education requirements as provided below. ~~Failure to comply with these requirements may result in non-renewal of the architect's registration.~~ For an architect's initial registration period, the continuing education requirements shall be pro-rated at one Continuing Education Hour per month of registration, beginning with the first full month following the month of issuance, through the end of the renewal cycle. Up to four CE hours can be carried over into a subsequent calendar year.

(Break in Continuity Within Section)

- 6.2.1.2 Reporting and Record keeping. An architect shall complete and maintain forms as required by the Board certifying that the architect has completed the required Continuing Education Hours. Forms may be audited by the Board for verification of compliance with these requirements. Documentation of reported Continuing Education Hours shall be maintained by the architect for six years from the date of award. ~~If the Board disallows any Continuing Education Hours the architect shall have 60 days from notice of such disallowance either to provide further evidence of having completed the Continuing Education Hours disallowed or to remedy the disallowance by completing the required number of Continuing Education Hours (but such Continuing Education Hours shall not again be used for the next calendar year). If the Board finds, after proper notice and hearing, that the architect willfully disregarded these requirements or falsified documentation of required Continuing Education Hours, the architect may be subject to disciplinary action in accordance with the Board regulations.~~

(Break in Continuity Within Section)

- 6.8 Reciprocity Re-application

- 6.8.1 ~~Registration through reciprocity applications shall be governed by 24 Del.C. §309.~~

- ~~6.8.2 Applicants for registration through reciprocity who were previously registered as architects in Delaware and had the Certificate of Registration canceled or lapsed shall be required to certify that they have satisfied the minimum Continuing Education Requirement for Renewal provided in subsections 6.2 and 6.3 completed at least 24 HSW Continuing Education hours for the two year~~

PROPOSED REGULATIONS

period preceding the new registration, ~~notwithstanding that the Certificate of Registration was canceled or lapsed.~~

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

300 Board of Architects

DIVISION OF PROFESSIONAL REGULATION

500 BOARD OF PODIATRY

Statutory Authority: 24 Delaware Code, Section 506(a)(1) (24 Del.C. §506(a)(1))
24 DE Admin. Code 500

PUBLIC NOTICE

500 Board of Podiatry

The Delaware Board of Podiatry, pursuant to 24 Del.C. §506(a)(1), proposes to revise its regulations. The proposed amendments to the regulations seek to truncate the list of crimes substantially related to the practice of podiatry.

The Board will hold a public hearing on the proposed rule change on June 7, 2017 at 5:00 p.m., in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Jessica Williams, Administrator of the Delaware Board of Podiatry, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until June 22, 2017.

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

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 782RFA 04-01-17.pdf>

500 Board of Podiatry (Break in Continuity of Sections)

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

(Break in Continuity Within Section)

- 9.1 Any crime which involves the use of physical force or violence toward or upon the person of another and shall include by way of example and not of limitation the following crimes set forth in Title 11 of the Delaware Code Annotated:

Assaults and Related Offenses

~~9.1.1 §601. Offensive touching;~~

~~9.1.2 §602. Menacing;~~

9.1.31 §603. Reckless endangering in the second degree;

9.1.42 §604. Reckless endangering in the first degree;

9.1.53 §605. Abuse of a pregnant female in the second degree;

9.1.64 §606. Abuse of a pregnant female in the first degree;

9.1.75 §611. Assault in the third degree;

9.1.86 §612. Assault in the second degree;

9.1.97 §613. Assault in the first degree;

9.1.408 §614. Assault on a sports official.

9.1.449 §615. Assault by abuse or neglect;

- 9.1.4210§621. Terroristic threatening;
- 9.1.4311§625. Unlawfully administering drugs;
- 9.1.4412§626. Unlawfully administering controlled substance or counterfeit substance or narcotic drugs;
- ~~9.1.15 §627. Prohibited acts as to substances releasing vapors or fumes;~~
- 9.1.4613§628. Vehicular assault in the second degree;
- 9.1.4714§629. Vehicular assault in the first degree;
- 9.1.4815§630. Vehicular homicide in the second degree;
- 9.1.4916§630A. Vehicular homicide in the first degree;
- 9.1.2017§631. Criminally negligent homicide;
- 9.1.2118§632. Manslaughter;
- 9.1.2219§633. Murder by abuse or neglect in the second degree;
- 9.1.2320§634. Murder by abuse or neglect in the first degree;
- 9.1.2421§635. Murder in the second degree;
- 9.1.2522§636. Murder in the first degree;
- ~~9.1.26 §645. Promoting suicide.~~

~~Abortion and Related Offenses~~

- ~~9.1.27 §651. Abortion;~~
- ~~9.1.28 §653. Issuing abortifacient articles.~~

Sexual Offenses

- 9.1.2923§763. Sexual harassment;
- 9.1.30 §764. Indecent exposure in the second degree;
- 9.1.3124§765. Indecent exposure in the first degree;
- 9.1.3225§766. Incest;
- 9.1.3326§767. Unlawful sexual contact in the third degree;
- 9.1.3427§768. Unlawful sexual contact in the second degree;
- 9.1.3528§769. Unlawful sexual contact in the first degree;
- 9.1.3629§770. Rape in the fourth degree;
- 9.1.3730§771. Rape in the third degree;
- 9.1.3831§772. Rape in the second degree;
- 9.1.3932§773. Rape in the first degree;
- 9.1.4033§776 774. Sexual extortion;
- ~~9.1.41 §777. Bestiality;~~
- 9.1.4234§778 776. Continuous sexual abuse of a child;
- 9.1.4335§780. Female genital mutilation.

Kidnapping and Related Offenses

- 9.1.4436§781. Unlawful imprisonment in the second degree;
- 9.1.4537§782. Unlawful imprisonment in the first degree;
- 9.1.4638§783. Kidnapping in the second degree;
- 9.1.4739§783A. Kidnapping in the first degree;
- 9.1.4840§785. Interference with custody;

Coercion

- 9.1.4941§791. Acts constituting coercion;

- 9.2 ~~Any crime which involves dishonesty or false, fraudulent or aberrant behavior and shall include by way of example and not of limitation the following crimes listed in Title 11 of the Delaware Code Annotated Crimes of dishonesty or aberrant behavior:~~

Arson and Related Offenses

- 9.2.1 §801. Arson in the third degree;
- 9.2.2 §802. Arson in the second degree;
- 9.2.3 §803. Arson in the first degree;
- ~~9.2.4 §804. Reckless burning or exploding;~~
- ~~9.2.5 §805. Cross or religious symbol burning;~~
- Criminal Trespass and Burglary
- 9.2.64 §820. Trespassing with intent to peer or peep into a window or door of another;
- ~~9.2.7 §821. Criminal trespass in the third degree;~~
- ~~9.2.8 §822. Criminal trespass in the second degree;~~
- 9.2.95 §823. Criminal trespass in the first degree;
- 9.2.406 §824. Burglary in the third degree;
- 9.2.447 §825. Burglary in the second degree;
- 9.2.428 §826. Burglary in the first degree;
- 9.2.439 §828. Possession of burglar's tools or instruments facilitating theft;
- Robbery
- 9.2.4410 §831. Robbery in the second degree;
- 9.2.4511 §832. Robbery in the first degree.
- 9.2.4612 §835. Carjacking in the second degree;
- 9.2.4713 §836. Carjacking in the first degree;
- Theft and Related Offenses
- 9.2.4814 §840. Shoplifting; class G felony;
- ~~9.2.19 §840A. Use of illegitimate retail sales receipt or Universal Product Code Label.~~
- 9.2.2015 §841. Theft;
- 9.2.2416 §842. Theft; lost or mislaid property; mistaken delivery.
- 9.2.2217 §843. Theft; false pretense.
- 9.2.2318 §844. Theft; false promise.
- 9.2.2419 §845. Theft of services.
- 9.2.2520 §846. Extortion;
- ~~9.2.26 §848. Misapplication of property;~~
- ~~9.2.27 §849. Theft of rented property;~~
- ~~9.2.28 §850. Use, possession, manufacture, distribution and sale of unlawful telecommunication and access devices.~~
- 9.2.2921 §851. Receiving stolen property;
- ~~9.2.30 §853. Unauthorized use of a vehicle;~~
- 9.2.3422 §854. Identity theft;
- ~~9.2.32 §859. Larceny of livestock;~~
- ~~9.2.33 §860. Possession of shoplifter's tools or instruments facilitating theft;~~
- Forgery and Related Offenses
- 9.2.3423 §861. Forgery; class F felony;
- 9.2.3524 §862. Possession of forgery devices;
- Offenses Involving Falsification of Records
- 9.2.3625 §871. Falsifying business records;
- ~~9.2.37 §872. Falsifying business records;~~
- 9.2.3826 §873. Tampering with public records in the second degree;
- 9.2.3927 §876. Tampering with public records in the first degree;
- 9.2.4028 §877. Offering a false instrument for filing;

- 9.2.41~~29~~§878. Issuing a false certificate;
Bribery Not Involving Public Servants
- 9.2.42~~30~~§881. Bribery;
- 9.2.43~~31~~§882. Bribe receiving;
Frauds on Creditors
- 9.2.44~~32~~§891. Defrauding secured creditors;
- 9.2.45~~33~~§892. Fraud in insolvency;
- ~~9.2.46 §893. Interference with levied upon property;~~
- Other Frauds and Cheats
- 9.2.47~~34~~§900. Issuing a bad check;
- 9.2.48~~35~~§903. Unlawful use of credit card;
- 9.2.49~~36~~§903A. Reencoder and scanning devices;
- 9.2.50~~37~~§906. Deceptive business practices;
- 9.2.51~~38~~§907. Criminal impersonation;
- 9.2.52~~39~~§907A. Criminal impersonation, accident related;
- 9.2.53~~40~~§907B. Criminal impersonation of a police officer;
- ~~9.2.54 §908. Unlawfully concealing a will;~~
- ~~9.2.55 §909. Securing execution of documents by deception;~~
- ~~9.2.56 §910. Debt adjusting;~~
- ~~9.2.57 §911. Fraudulent conveyance of public lands;~~
- ~~9.2.58 §912. Fraudulent receipt of public lands;~~
- 9.2.59~~41~~§913. Insurance fraud;
- 9.2.60~~42~~§913A. Health care fraud;
- ~~9.2.61 §914. Use of consumer identification information;~~
- ~~9.2.62 §915. Use of credit card information;~~
- ~~9.2.63 §915A. Credit and debit card transaction receipts;~~
- ~~9.2.64 §916. Home improvement fraud;~~
- ~~9.2.65 §917. New home construction fraud;~~
- Offenses Relating to Recorded Devices
- ~~9.2.66 §920. Transfer of recorded sounds;~~
- ~~9.2.67 §921. Sale of transferred recorded sounds;~~
- ~~9.2.68 §922. Improper labeling;~~
- Computer Related Offenses
- ~~9.2.69 §932. Unauthorized access.~~
- ~~9.2.70 §933. Theft of computer services.~~
- ~~9.2.71 §934. Interruption of computer services.~~
- ~~9.2.72 §935. Misuse of computer system information.~~
- ~~9.2.73 §936. Destruction of computer equipment.~~
- ~~9.2.74 §937. Unrequested or unauthorized electronic mail or use of network or software to cause same.~~
- ~~9.2.75 §938. Failure to promptly cease electronic communication upon request.~~
- Offenses Relating to Marriage
- 9.2.76 §1001. Bigamy;
- ~~9.2.77 §1003. Bigamous marriage contracted outside the State.~~

9.3 Any crime which involves misuse or abuse of children or animals and shall include by way of example and not of limitation the following crimes listed in Title 11 of the **Delaware Code Annotated** Crimes involving children or animals:

PROPOSED REGULATIONS

Child Welfare; Sexual Offenses, Animal Offenses

9.3.1 §1100A. Dealing in children;

9.3.2 §1101. Abandonment of child;

9.3.3 §1102. Endangering the welfare of a child;

9.3.4 §1105. ~~Endangering the welfare of an incompetent person~~ Crime against a vulnerable adult;

(Break in Continuity Within Section)

~~9.3.13 §1114. Body piercing; tattooing or branding;~~

~~9.3.14 §1114A. Tongue splitting;~~

~~9.3.15 §1116. Sale or distribution of tobacco products to minors;~~

~~9.3.16 §1117. Notice;~~

~~9.3.17 §1119. Distribution of cigarettes through vending machines;~~

~~9.3.18 §1120. Distribution of tobacco products;~~

~~9.3.19 §1124. Purchase or receipt of tobacco products by minor;~~

~~9.3.20~~13§1325. Cruelty to animals;

~~9.3.21 §1325A. The unlawful trade in dog or cat by-products;~~

~~9.3.22~~14§1326. Animals; fighting and baiting prohibited;

~~9.3.23~~15§1327. Maintaining a dangerous animal;

- 9.4 Any crime which involves offenses against the public order the commission of which may tend to bring discredit upon the profession and which are thus substantially related to one's fitness to practice such profession and shall include by way of example and not of limitation the following crimes listed in Title 11 of the ~~Delaware Code Annotated~~ Crimes against public order:

Bribery and Improper Influence

9.4.1 §1201. Bribery;

9.4.2 §1203. Receiving a bribe;

~~9.4.3 §1205. Giving unlawful gratuities;~~

~~9.4.4 §1206. Receiving unlawful gratuities;~~

~~9.4.5~~3 §1207. Improper influence;

~~9.4.6~~4 §1211. Official misconduct;

~~9.4.7~~5 §1212. Profiteering.

Perjury and related offenses

~~9.4.8~~6 §1221. Perjury in the third degree;

~~9.4.9~~7 §1222. Perjury in the second degree;

~~9.4.10~~8 §1223. Perjury in the first degree;

~~9.4.11~~9 §1233. Making a false written statement;

~~9.4.12~~10§1239. Wearing a disguise during the commission of a felony;

~~9.4.13~~11§1240. Terroristic threatening of public officials or public servants;

~~9.4.14 §1241. Refusing to aid a police officer;~~

~~9.4.15~~12§1243. Obstructing fire-fighting operations;

~~9.4.16~~13§1244. Hindering prosecution;

~~9.4.17~~14§1245. Falsely reporting an incident;

~~9.4.18~~15§1246. Compounding a crime;

~~9.4.19 §1248. Obstructing the control and suppression of rabies;~~

~~9.4.20~~16§1249. Abetting the violation of driver's license restrictions;

~~9.4.21~~17§1250. Offenses against law-enforcement animals;

~~9.4.22~~18§1251. Escape in the third degree;

~~9.4.23~~19§1252. Escape in the second degree;

~~9.4.24~~20§1253. Escape after conviction;

- 9.4.25~~21~~§1254. Assault in a detention facility;
- 9.4.26 §1257A. Use of an animal to avoid capture;
- 9.4.27~~22~~§1259. Sexual relations in detention facility;
- 9.4.28 §1260. Misuse of prisoner mail.

Offenses Relating to Judicial and Similar Proceedings

- 9.4.29~~23~~§1261. Bribing a witness;
- 9.4.30~~24~~§1262. Bribe receiving by a witness;
- 9.4.31~~25~~§1263. Tampering with a witness;
- 9.4.32~~26~~§1263A. Interfering with child witness.
- 9.4.33~~27~~§1264. Bribing a juror;
- 9.4.34~~28~~§1265. Bribe receiving by a juror;
- 9.4.35~~29~~§1266. Tampering with a juror;
- 9.4.36~~30~~§1267. Misconduct by a juror;
- 9.4.37~~31~~§1269. Tampering with physical evidence;
- 9.4.38~~32~~§1271. Criminal contempt;
- 9.4.39~~33~~§1271A. Criminal contempt of a domestic violence protective order;
- 9.4.40 §1273. Unlawful grand jury disclosure.

- 9.5 Any crime which involves offenses against a public health order and decency which may tend to bring discredit upon the profession, specifically including the below listed crimes from Title 11 of the **Delaware Code Annotated** which evidence a lack of appropriate concern for the safety and well being of another person or persons in general or sufficiently flawed judgment to call into question the individuals ability to make health care decisions or advise upon health care related matters for other individuals. Crimes against public health and decency:

Disorderly Conduct and Related Offenses

- 9.5.1 §1301. Disorderly conduct;
- 9.5.2 §1302. Riot;
- 9.5.3~~1~~ §1304. Hate crimes;
- 9.5.4 §1311. Harassment;
- 9.5.5~~2~~ §1312. Aggravated harassment Stalking;
- 9.5.6~~3~~ §1312A. Stalking;
- 9.5.7~~4~~ §1313. Malicious interference with emergency communications;
- 9.5.8 §1315. Public intoxication;
- 9.5.9 §1316. Registration of out of state liquor agents;
- 9.5.10 §1320. Loitering on property of a state supported school, college or university;
- 9.5.11 §1322. Criminal nuisance;
- 9.5.12 §1323. Obstructing public passages;
- 9.5.13 §1324. Obstructing ingress to or egress from public buildings;
- 9.5.14 §1331. Desecration;
- 9.5.15 §1332. Abusing a corpse;
- 9.5.16 §1333. Trading in human remains and associated funerary objects.
- 9.5.17~~5~~ §1335. Violation of privacy;
- 9.5.18~~6~~ §1338. Bombs, incendiary devices, Molotov cocktails and explosive devices;
- 9.5.19~~7~~ §1339. Adulteration;
- 9.5.20~~8~~ §1340. Desecration of burial place.

Offenses Involving Public Indecency

- 9.5.21 §1341. Lewdness;
- 9.5.22 §1342. Prostitution;

PROPOSED REGULATIONS

- 9.5.23 ~~§1343. Patronizing a prostitute prohibited.~~
- 9.5.249 §1351. Promoting prostitution in the third degree;
- 9.5.2510§1352. Promoting prostitution in the second degree;
- 9.5.2611§1353. Promoting prostitution in the first degree;
- 9.5.27 §1355. ~~Permitting prostitution;~~
- Obscenity
- 9.5.2812§1361. Obscenity; acts constituting;
- 9.5.2913§1365. Obscene literature harmful to minors;
- 9.5.30 §1366. ~~Outdoor motion picture theatres;~~
- Offenses Involving Gambling
- 9.5.31 §1403. ~~Advancing gambling in the first degree;~~
- 9.5.32 §1404. ~~Providing premises for gambling;~~
- 9.5.33 §1405. ~~Possessing a gambling device; class A misdemeanor.~~
- 9.5.34 §1406. ~~Being concerned in interest in keeping any gambling device;~~
- 9.5.35 §1407. ~~Engaging in a crap game;~~
- 9.5.36 §1411. ~~Unlawfully disseminating gambling information.~~
- 9.6 Any crime which involves the illegal possession or the misuse or abuse of narcotics, or other addictive substances and those non-addictive substances with a substantial capacity to impair reason or judgment and shall include by way of example and not of limitation the following crimes listed in Chapter 47 of Title 16 of the ~~Delaware Code Annotated~~ Drug related crimes:
- 9.6.1 §4751. Prohibited acts A;
- 9.6.2 §4752 (Former). Prohibited acts B;
- 9.6.3 §4752A.Unlawful delivery of noncontrolled substance.
- 9.6.4 §4753 (Former).Prohibited acts C.
- 9.6.5 §4753A.Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, L.S.D., designer drugs.
- 9.6.6 §4754 (Former).Prohibited acts D;
- 9.6.7 §4754A.Possession and delivery of noncontrolled prescription drug.
- 9.6.8 §4755. Prohibited acts E;
- 9.6.9 §4756. ~~Prohibited acts;~~
- 9.6.10 §4757. ~~Hypodermic syringe or needle; delivering or possessing; disposal; exceptions;~~
- 9.6.11 §4758. ~~Keeping drugs in original containers.~~
- 9.6.129 §4761 (Former).Distribution to persons under 21 years of age;
- 9.6.1310§4761A.Purchase of drugs from minors;
- 9.6.1411§4767 (Former).Distribution, delivery, or possession of controlled substance within 1,000 feet of school property;
- 9.6.1512§4768 (Former).Distribution, delivery or possession of controlled substance in or within 300 feet of park, recreation area, church, synagogue or other place of worship.
- 9.6.13 Drug Dealing - Aggravated Possession; class B felony. 16 Del.C. §4752.
- 9.6.14 Drug Dealing - Aggravated Possession; class C felony. 16 Del.C. §4753.
- 9.6.15 Drug Dealing - Aggravated Possession; class D felony. 16 Del.C. §4754.
- 9.6.16 Drug Dealing - Aggravated Possession; class E felony. 16 Del.C. §4755.
- 9.6.17 Drug Dealing - Aggravated Possession; class F felony. 16 Del.C. §4756.
- 9.6.18 Prohibited acts under the Uniform Controlled Substances Act. 16 Del.C. §4756(a)(1)-(5) and (b).
- 9.6.19 Drug paraphernalia; felony. 16 Del.C. §4771(a) and (b).

- 9.7 ~~Any crime which involves the misuse or illegal possession or sale of a deadly weapon or dangerous instrument and shall include by way of example and not of limitation the following crimes listed in Title 11 of the Delaware Code Annotated Weapons related crimes:~~

Offenses Involving Deadly Weapons and Dangerous Instruments

(Break in Continuity Within Section)

- ~~9.7.13 §1452. Unlawfully dealing with knuckles combination knife;~~
~~9.7.14 §1453. Unlawfully dealing with martial arts throwing star;~~
~~9.7.15§1454. Giving a firearm to person prohibited;~~
~~9.7.1614§1455. Engaging in a firearms transaction on behalf of another;~~
~~9.7.1715§1456. Unlawfully permitting a minor access to a firearm;~~
~~9.7.1816§1457. Possession of a weapon in a Safe School and Recreation Zone;~~
~~9.7.1917§1458. Removing a firearm from the possession of a law enforcement officer;~~
~~9.7.2018§1459. Possession of a weapon with a removed, obliterated or altered serial number;~~
~~9.7.21 §1471. Prohibited acts.~~

~~Offenses Involving Drug Paraphernalia~~

- ~~9.7.22 §4774. Penalties.~~

Offenses Involving Organized Crime and Racketeering

- ~~9.7.2319§1504. Criminal Penalties for Organized Crime & Racketeering Offenses Involving Intimidation of Victims or Witnesses~~
~~9.7.2420§3533. Aggravated act of intimidation, Class D felony~~
~~9.7.2521§3532. Acts of Intimidation: Class E felony~~

Other Crimes

- ~~9.7.26 Title 3 §1041. Willfully or maliciously starting fires; Carelessly Starting Fires;~~
~~9.7.27 §1043. Setting fire to woodland; Unseasonable Marsh Burning.~~
~~9.7.28 Title 4 §901. Offenses carrying penalty of imprisonment for 3 to 6 months;~~
~~9.7.29 §902. Offenses carrying penalty of fine of \$500 to \$1,000 or imprisonment of 3 to 6 months on failure to pay fine;~~
~~9.7.30 §903. Offenses carrying penalty of fine of not more than \$100 imprisonment for 1 month on failure to pay fine;~~
~~9.7.31 §904. Offenses concerning certain persons;~~
~~9.7.32 §905. Unlicensed manufacture of alcoholic liquor; Possession of still, apparatus, mash, etc., by unlicensed person;~~
~~9.7.33 §906. Transportation or shipment;~~
~~9.7.34 §907. Interference with officer or inspector;~~
~~9.7.35 §908. Failure of licensee to file report;~~
~~9.7.36 §909. Violation of rules respecting liquor taxes.~~
~~9.7.37 Title 7 §1717. Unauthorized acts against a service guide or seeing eye dog.~~
~~9.7.38 Title 11 §2403. Manufacture, possession or sale of intercepting device;~~
~~9.7.39 §2410. Breaking and entering, etc. to place or remove equipment;~~
~~9.7.40 §2412. Obstruction, impediment or prevention of interception;~~
~~9.7.41 §2422. Divulging contents of communications;~~
~~9.7.4222§3532. Act of intimidation;~~
~~9.7.4323§3533. Aggravated act of intimidation;~~
~~9.7.4424§3534. Attempt to intimidate;~~
~~9.7.45 §8523. Penalties [for violation of reporting provision re: SBI];~~
~~9.7.46 §8562. Penalties [for failure of child care provider to obtain information required under §8561 or for those providing false information]~~

PROPOSED REGULATIONS

- 9.7.47 ~~§8572. Penalties [for providing false information when seeking employment in a public school]~~
- 9.7.48 ~~§9016. Filing false claim [under Victims' Compensation Fund].~~
- 9.7.49 ~~25~~Title 12 §210. Alteration, theft or destruction of Will.
- 9.7.50 ~~26~~Title 16 §1136. Abuse or neglect of a patient or resident of a nursing facility.
- 9.7.51 ~~27~~Title 21 §2118A. Unlawful possession or manufacture of proof of insurance;
- 9.7.52 ~~§2133. Penalties; jurisdiction of justices of the peace.~~
- 9.7.53 ~~§2315. False statements;~~
- 9.7.54 ~~§2316. Altering or forging certificate of title, manufacturer's certificate of origin, registration sticker or vehicle identification plate;~~
- 9.7.55 ~~§2620. False statements; incorrect or incomplete information;~~
- 9.7.56 ~~§2703. License to operate a motorcycle, motorbike, etc.;~~
- 9.7.57 ~~§2710. Issuance of a Level 1 Learner's Permit and Class D operator's license to persons under 18 years of age;~~
- 9.7.58 ~~§2722. Restricted licenses based on driver's physical limitations;~~
- 9.7.59 ~~§2751. Unlawful application for or use of license or identification card;~~
- 9.7.60 ~~§2752. False statements;~~
- 9.7.61 ~~§2756. Driving vehicle while license is suspended or revoked; penalty;~~
- 9.7.62 ~~§2760. Duplication, reproduction, altering, or counterfeiting of driver's licenses or identification cards.~~
- 9.7.63 ~~28~~Title 23 §2302. Operation of a vessel or boat while under the influence of intoxicating liquor and/or drugs; felony.
- 9.7.64 ~~§2305. Penalties; jurisdiction.~~
- 9.7.65 ~~Title 24 §903. Sale to persons under 21 or intoxicated persons.~~
- 9.7.66 ~~Title 29 §3107. Motor vehicle safety responsibility; False statements;~~
- 9.7.67 ~~§4175A. Reckless driving;~~
- 9.7.68 ~~29~~§4177. Driving a vehicle while under the influence or with a prohibited alcohol content; evidence; arrests; and penalties; felony
- 9.7.69 ~~30~~§4177M. Operating a commercial motor vehicle with a prohibited blood alcohol concentration or while impaired by drugs;
- 9.7.70 ~~§4183. Parking areas for vehicles being used by persons with disabilities;~~
- 9.7.71 ~~§4198J. Bicycling on highways under influence of drugs or alcohol;~~
- 9.7.72 ~~§4198O. Operation of electric personal assistive mobility devices (EPAMD);~~
- 9.7.73 ~~§4201. Duty of driver involved in accident resulting in property damage or injury;~~
- 9.7.74 ~~§4202. Duty of driver involved in accident resulting in injury or death to any person;~~
- 9.7.75 ~~§4203. Duty to report accidents; evidence;~~
- 9.7.76 ~~§4204. Report of damaged vehicles; cars involved in fatal accidents;~~
- 9.7.77 ~~§4604. Possession of motor vehicle master keys, manipulative keys, key cutting devices, lock picks or lock picking devices and hot wires;~~
- 9.7.78 ~~§6420. Odometers penalties;~~
- 9.7.79 ~~§6702. Driving vehicle without consent of owner;~~
- 9.7.80 ~~§6704. Receiving or transferring stolen vehicle;~~
- 9.7.81 ~~§6705. Removed, falsified or unauthorized identification number on vehicle, bicycle or engine; removed or affixed license/registration plate with intent to misrepresent identity;~~
- 9.7.82 ~~§6707. Penalty;~~
- 9.7.83 ~~§6709. Removal of warranty or certification stickers; vehicle identification plates; confidential vehicle identification numbers;~~
- 9.7.84 ~~§6710. Unlawful possession of assigned titles, assigned registration cards, vehicle identification plates and warranty stickers.~~

- 9.7.8531 Title 30 §571. Attempt to evade or defeat tax;
- 9.7.8632§572. Failure to collect or pay over tax;
- 9.7.8733§573. Failure to file return, supply information or pay tax;
- ~~9.7.88 §574. Fraud and false statements;~~
- ~~9.7.89 §576. Misdemeanors.~~
- 9.7.90 Title 31 §1007. Fraudulent acts penalties;
- 9.7.9134§3913. Welfare violations [knowing or reckless abuse of an infirm adult]

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

500 Board of Podiatry

**DIVISION OF PROFESSIONAL REGULATION
2100 BOARD OF EXAMINERS IN OPTOMETRY**

Statutory Authority: 24 Delaware Code, Section 2104(a)(1) (24 **Del.C.** §2104(a)(1))
24 **DE Admin. Code** 2100

PUBLIC NOTICE

2100 Board of Examiners in Optometry

The Delaware Board of Examiners in Optometry, pursuant to 24 **Del.C.** §2104(a)(1), proposes to revise its regulations. The proposed regulations seek to amend regulations 3, 4, and 5 in order to comply with a 2016 statutory change, and amend regulation 8 in order to reduce the list of crimes substantially related to the practice of optometry.

The Board will hold a public hearing on the proposed rule changes on April 27, 2017 at 4:30 p.m., in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Lisa Smith, Administrator of the Delaware Board of Examiners in Optometry, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until May 12, 2017.

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

[http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 791RFA 04-01-17.pdf](http://regulations.delaware.gov/register/april2017/proposed/20%20DE%20Reg%20791RFA%2004-01-17.pdf)

**2100 Board of Examiners in Optometry
(Break in Continuity of Sections)**

3.0 Reciprocity

(Break in Continuity Within Section)

- 3.3 "Standards of licensure," as used in 24 **Del.C.** §2109, shall refer to the qualifications of applicants set forth at §2107 and scope of practice set forth at §2101.

(Break in Continuity Within Section)

- 3.5 An applicant shall not be licensed by reciprocity as a Delaware ~~therapeutically-certified~~ optometrist unless:
- 3.5.1 ~~He/she demonstrates that the state in which he/she is therapeutically certified~~ The applicant's license allows for the use and prescription of diagnostic and therapeutic drugs, which is are at least equivalent to that permitted under a Delaware therapeutic-optometrist license as set forth in §2101(b), OR,
 - 3.5.2 ~~He/she has met the requirements of §2108(a) and (b) and Rule 5.0.~~

4.0 Continuing Education Requirements

(Break in Continuity Within Section)

- 4.4 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the requirements of Section 4.0.
- 4.4.1 Attestation ~~may~~ shall be completed electronically ~~if the renewal is accomplished online. In the alternative, paper renewal documents that contain the attestation of completion may be submitted.~~
- 4.4.2 Licensees selected for random audit ~~will be required to supplement the attestation with attendance verification pursuant to subsection 4.5.~~

(Break in Continuity Within Section)

5.0 Therapeutic Certification

5.1 Individuals seeking to upgrade to therapeutic certification must meet all of the following:

- 5.1.1 Passage of ~~the~~ examination identified in 24 **Del.C.** §2108(b) is the national examination administered by the National Board of Examiners in Optometry (NBEO) for treatment and management of ocular disease. A copy of the certificate representing passage of the examination must be submitted with the application for therapeutic licensure.
- 5.1.2 ~~All applicants for therapeutic licensure must be CPR certified~~ CPR certification for both children and adults. All optometrists must keep their CPR certification for both children and adults current.
- 5.1.3 ~~For applicants currently licensed in Delaware and applicants for reciprocal licensure pursuant to the requirements of §2108, 40~~ Forty hours of treatment and management of ocular disease training ~~may be accumulated~~ with a therapeutically certified optometrist, a medical doctor, or an osteopathic doctor. Proof of 40 hours of treatment and management of ocular disease training must be submitted in writing by the supervising doctor. If an applicant's supervisor is a therapeutically certified optometrist practicing in a state other than Delaware, proof of similar therapeutic practice standards in the other state must be submitted.
- 5.4 5.1.3.1 Applicants must have completed their forty (40) hours of clinical experience within twenty-four (24) months of their initial application for therapeutic licensure. No clinical experience older than 24 months (prior to application) will be accepted for therapeutic certification.
- 5.52 All newly licensed optometrists shall be required to be therapeutically certified. Their six month internship should be done with a therapeutically certified optometrist, M.D. or D.O. However, if a therapeutically certified optometrist, M.D. or D.O. is not available, the intern may do an internship with a non-therapeutically certified optometrist, provided the intern complete an additional 100 hours of clinical experience in the treatment and management of ocular disease supervised by a therapeutically certified optometrist, M.D. or D.O. during their internship.

(Break in Continuity of Sections)

8.0 Crimes substantially related to the practice of optometry:

- 8.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of optometry in the State of Delaware without regard to the place of conviction:
- 8.1.1 Aggravated menacing. 11 **Del.C.** §602 (b).
- ~~8.1.2 Reckless endangering in the first degree. 11 **Del.C.** §604.~~
- 8.1.32 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605.
- 8.1.43 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606.
- 8.1.54 Assault in the third degree. 11 **Del.C.** §611.
- 8.1.65 Assault in the second degree. 11 **Del.C.** §612.
- 8.1.76 Assault in the first degree. 11 **Del.C.** §613.
- 8.1.87 Abuse of a sports official; felony. 11 **Del.C.** §614.
- 8.1.98 Assault by abuse or neglect. 11 **Del.C.** §615.

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- 8.1.409 Terroristic threatening; felony. 11 **Del.C.** §621.
- 8.1.4410 Unlawfully administering drugs. 11 **Del.C.** §625.
- 8.1.4211 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626.
- 8.1.4312 Vehicular assault in the first degree. 11 **Del.C.** §629.
- 8.1.4413 Vehicular homicide in the second degree. 11 **Del.C.** §630.
- 8.1.4514 Vehicular homicide in the first degree. 11 **Del.C.** §630A.
- 8.1.4615 Criminally negligent homicide. 11 **Del.C.** §631.
- 8.1.4716 Manslaughter. 11 **Del.C.** §632.
- 8.1.4817 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633.
- 8.1.4918 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.
- 8.1.2019 Murder in the second degree; class A felony. 11 **Del.C.** §635.
- 8.1.2420 Murder in the first degree. 11 **Del.C.** §636.
- ~~8.1.22 Promoting suicide. 11 **Del.C.** §645.~~
- ~~8.1.23 Abortion. 11 **Del.C.** §651.~~
- 8.1.2421 Incest. 11 **Del.C.** §766.
- 8.1.2522 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.
- 8.1.2623 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.
- 8.1.2624 Rape in the fourth degree. 11 **Del.C.** §770.
- 8.1.2725 Rape in the third degree. 11 **Del.C.** §771.
- 8.1.2826 Rape in the second degree. 11 **Del.C.** §772.
- 8.1.2927 Rape in the first degree. 11 **Del.C.** §773.
- 8.1.3028 Sexual extortion. 11 **Del.C.** ~~§776~~774.
- 8.1.31 Bestiality. 11 **Del.C.** §777.
- 8.1.3229 Continuous sexual abuse of a child. 11 **Del.C.** ~~§778~~776.
- 8.1.3330 Dangerous crime against a child. 11 **Del.C.** §779.
- 8.1.3431 Female genital mutilation. 11 **Del.C.** §780.
- 8.1.3532 Unlawful imprisonment in the first degree. 11 **Del.C.** §782.
- 8.1.3633 Kidnapping in the second degree. 11 **Del.C.** §783.
- 8.1.3734 Kidnapping in the first degree. 11 **Del.C.** §783A.
- 8.1.3835 Arson in the third degree. 11 **Del.C.** §801.
- 8.1.3936 Arson in the second degree. 11 **Del.C.** §802.
- 8.1.4037 Arson in the first degree. 11 **Del.C.** §803.
- ~~8.1.41 Criminal mischief. 11 **Del.C.** §811.~~
- 8.1.4238 Burglary in the third degree. 11 **Del.C.** §824.
- 8.1.4339 Burglary in the second degree. 11 **Del.C.** §825.
- 8.1.4440 Burglary in the first degree. 11 **Del.C.** §826.
- 8.1.4541 Possession of burglar's tools or instruments facilitating theft. 11 **Del.C.** §828.
- 8.1.4642 Robbery in the second degree. 11 **Del.C.** §831.
- 8.1.4743 Robbery in the first degree. 11 **Del.C.** §832.
- 8.1.4844 Carjacking in the second degree. 11 **Del.C.** §835.
- 8.1.4945 Carjacking in the first degree. 11 **Del.C.** §836.
- 8.1.5046 Shoplifting; felony. 11 **Del.C.** §840.
- ~~8.1.51 Use of illegitimate retail sales receipt or Universal Product Code Label; felony. 11 **Del.C.** §840A.~~
- 8.1.5247 Extortion. 11 **Del.C.** §846.

- ~~8.1.53 Use, possession, manufacture, distribution and sale of unlawful telecommunication and access devices; felony. 11 Del.C. §850.~~
- 8.1.5448 Receiving stolen property; felony. 11 Del.C. §851.
- 8.1.5549 Identity theft. 11 Del.C. §854.
- ~~8.1.56 Possession of shoplifters tools or instruments facilitating theft. 11 Del.C. §860.~~
- 8.1.5750 Forgery; felony; misdemeanor. 11 Del.C. §861.
- 8.1.5851 Possession of forgery devices. 11 Del.C. §862.
- 8.1.5952 Falsifying business records. 11 Del.C. §871.
- ~~8.1.6053 Tampering with public records in the second degree. 11 Del.C. §873.~~
- 8.1.6454 Tampering with public records in the first degree. 11 Del.C. §876.
- 8.1.6255 Offering a false instrument for filing. 11 Del.C. §877.
- 8.1.6356 Issuing a false certificate. 11 Del.C. §878.
- 8.1.6457 Issuing a bad check; felony. 11 Del.C. §900.
- 8.1.6558 Unlawful use of credit card; felony. 11 Del.C. §903.
- 8.1.6659 Reencoder and scanning devices. 11 Del.C. §903A.
- 8.1.6760 Deceptive business practices. 11 Del.C. §906.
- 8.1.6861 Criminal impersonation. 11 Del.C. §907.
- 8.1.6962 Criminal impersonation, accident related. 11 Del.C. §907A.
- 8.1.7063 Criminal impersonation of a police officer. 11 Del.C. §907B.
- ~~8.1.71 Securing execution of documents by deception. 11 Del.C. §909.~~
- ~~8.1.72 Fraudulent conveyance of public lands. 11 Del.C. §911.~~
- ~~8.1.73 Fraudulent receipt of public lands. 11 Del.C. §912.~~
- 8.1.7464 Insurance fraud. 11 Del.C. §913.
- 8.1.7565 Health care fraud. 11 Del.C. §913A.
- ~~8.1.76 Use of consumer identification information. 11 Del.C. §914.~~
- ~~8.1.77 Home improvement fraud. 11 Del.C. §916.~~
- ~~8.1.78 New home construction fraud. 11 Del.C. §917.~~
- ~~8.1.79 Unauthorized access. 11 Del.C. §932.~~
- ~~8.1.80 Theft of computer services. 11 Del.C. §933.~~
- ~~8.1.81 Interruption of computer services. 11 Del.C. §934.~~
- ~~8.1.82 Misuse of computer system information. 11 Del.C. §935.~~
- ~~8.1.83 Destruction of computer equipment. 11 Del.C. §936.~~
- 8.1.8466 Dealing in children. 11 Del.C. §1100A.
- 8.1.8567 Abandonment of child. 11 Del.C. §1101.
- 8.1.8668 Endangering the welfare of a child. 11 Del.C. §1102.
- 8.1.8769 Endangering the welfare of an incompetent person Crime against a vulnerable adult. 11 Del.C. §1105.
- 8.1.8870 Sexual exploitation of a child. 11 Del.C. §1108.
- 8.1.8971 Unlawfully dealing in child pornography. 11 Del.C. §1109.
- 8.1.9072 Possession of child pornography. 11 Del.C. §1111.
- 8.1.9473 Sexual offenders; prohibitions from school zones. 11 Del.C. §1112.
- 8.1.9274 Sexual solicitation of a child. 11 Del.C. §1112A.
- 8.1.9375 Bribery. 11 Del.C. §1201.
- 8.1.9476 Receiving a bribe; class E felony. 11 Del.C. §1203.
- 8.1.9577 Improper influence. 11 Del.C. §1207.
- 8.1.9678 Official misconduct. 11 Del.C. §1211.

- 8.1.9779 Perjury in the second degree. 11 **Del.C.** §1222.
- 8.1.9880 Perjury in the first degree. 11 **Del.C.** §1223.
- 8.1.9981 Making a false written statement. 11 **Del.C.** §1233.
- 8.1.40082 Wearing a disguise during the commission of a felony. 11 **Del.C.** §1239.
- 8.1.40483 Terroristic threatening of public officials or public servants. 11 **Del.C.** §1240.
- 8.1.40284 Hindering prosecution. 11 **Del.C.** §1244.
- 8.1.40385 Abetting the violation of driver's license restrictions. 11 **Del.C.** §1249.
- ~~8.1.104 Abetting the violation of driver's license restrictions. 11 **Del.C.** §1249.~~
- 8.1.40586 Offenses against law-enforcement animals. Felony. 11 **Del.C.** §1250.
- 8.1.40687 Escape in the second degree. 11 **Del.C.** §1252.
- 8.1.40788 Escape after conviction. 11 **Del.C.** §1253.
- 8.1.40889 Assault in a detention facility. 11 **Del.C.** §1254.
- 8.1.40990 Promoting prison contraband; felony; misdemeanor. 11 **Del.C.** §1256.
- ~~8.1.110 Use of an animal to avoid capture; felony. 11 **Del.C.** §1257A.~~
- ~~8.1.111 Misuse of prisoner mail; felony. 11 **Del.C.** §1260.~~
- 8.1.44291 Bribing a witness. 11 **Del.C.** §1261.
- 8.1.44392 Bribe receiving by a witness. 11 **Del.C.** §1262.
- 8.1.44493 Tampering with a witness. 11 **Del.C.** §1263.
- 8.1.44594 Interfering with child witness. 11 **Del.C.** §1263A.
- 8.1.44695 Bribing a juror. 11 **Del.C.** §1264.
- 8.1.44796 Bribe receiving by a juror. 11 **Del.C.** §1265.
- 8.1.44897 Tampering with a juror. 11 **Del.C.** §1266.
- 8.1.44998 Misconduct by a juror. 11 **Del.C.** §1267.
- 8.1.42099 Tampering with physical evidence. 11 **Del.C.** §1269.
- 8.1.424100 Riot. 11 **Del.C.** §1302.
- 8.1.422101 Hate crimes; misdemeanor; felony. 11 **Del.C.** §1304.
- ~~8.1.423102 Aggravated harassment Stalking. 11 **Del.C.** §1312.~~
- 8.1.424103 Stalking. 11 **Del.C.** §1312A.
- 8.1.425104 Cruelty to animals; felony. 11 **Del.C.** §1325.
- 8.1.426105 Animals; fighting and baiting prohibited; felony. 11 **Del.C.** §1326.
- 8.1.427106 Maintaining a dangerous animal; felony. 11 **Del.C.** §1327.
- ~~8.1.128 Abusing a corpse. 11 **Del.C.** §1332.~~
- ~~8.1.129 Trading in human remains and associated funerary objects. 11 **Del.C.** §1333.~~
- 8.1.430107 Violation of privacy; misdemeanor; felony. 11 **Del.C.** §1335.
- 8.1.434108 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 **Del.C.** §1338.
- 8.1.432109 Adulteration. 11 **Del.C.** §1339.
- 8.1.433110 Prostitution. 11 **Del.C.** §1342.
- 8.1.434111 Patronizing a prostitute prohibited. 11 **Del.C.** §1343.
- 8.1.435112 Promoting prostitution in the third degree. 11 **Del.C.** §1351.
- 8.1.436113 Promoting prostitution in the second degree. 11 **Del.C.** §1352.
- 8.1.437114 Promoting prostitution in the first degree. 11 **Del.C.** §1353.
- 8.1.438115 Permitting prostitution. 11 **Del.C.** §1355.
- 8.1.439116 Carrying a concealed deadly weapon. 11 **Del.C.** §1442.
- 8.1.440117 Carrying a concealed dangerous instrument. 11 **Del.C.** §1443.
- 8.1.444118 Possessing a destructive weapon. 11 **Del.C.** §1444.
- 8.1.442119 Unlawfully dealing with a dangerous weapon. 11 **Del.C.** §1445.

PROPOSED REGULATIONS

- 8.1.443~~120~~Possession of a deadly weapon during commission of a felony. 11 **Del.C.** §1447.
- 8.1.444~~121~~Possession of a firearm during commission of a felony. 11 **Del.C.** §1447A.
- 8.1.445~~122~~Possession and purchase of deadly weapons by persons prohibited. 11 **Del.C.** §1448.
- 8.1.446~~123~~Criminal history record checks for sales of firearms; felony. 11 **Del.C.** §1448A.
- 8.1.447~~124~~Wearing body armor during commission of felony. 11 **Del.C.** §1449.
- 8.1.448~~125~~Receiving a stolen firearm. 11 **Del.C.** §1450.
- 8.1.449~~126~~Theft of a firearm. 11 **Del.C.** §1451.
- 8.1.450~~127~~Giving a firearm to person prohibited. 11 **Del.C.** §1454.
- 8.1.454~~128~~Engaging in a firearms transaction on behalf of another. 11 **Del.C.** §1455.
- 8.1.452~~129~~Unlawfully permitting a minor access to a firearm. 11 **Del.C.** §1456.
- 8.1.453~~130~~Possession of a weapon in a Safe School and Recreation Zone. 11 **Del.C.** §1457.
- 8.1.454~~131~~Removing a firearm from the possession of a law enforcement officer. 11 **Del.C.** §1458.
- 8.1.455~~132~~Possession of a weapon with a removed, obliterated or altered serial number. 11 **Del.C.** §1459.
- ~~8.1.456~~~~Prohibited acts - cheating devices (a) - (e), second or subsequent offense.~~ 11 **Del.C.** §1471.
- 8.1.457~~133~~Organized Crime and Racketeering. 11 **Del.C.** §~~1504~~1503.
- 8.1.458~~134~~Victim or Witness Intimidation 11 **Del.C.** §3532 & 3533.
- 8.1.459~~135~~Abuse, neglect, mistreatment or financial exploitation of residents or patients. 16 **Del.C.** §1136(a), (b) and (c).
- 8.1.460~~136~~Prohibited acts A under the Uniform Controlled Substances Act. 16 **Del.C.** §4751(a), (b) and (c).
- 8.1.464~~137~~Prohibited acts B under the Uniform Controlled Substances Act. 16 **Del.C.** ~~Former~~ §4752(a) and (b).
- 8.1.462~~138~~Unlawful delivery of noncontrolled substance. 16 **Del.C.** §4752A.
- 8.1.463~~139~~Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 **Del.C.** §4753A (a)(1)-(9).
- 8.1.464~~140~~Possession and delivery of noncontrolled prescription drug. 16 **Del.C.** §4754A.
- 8.1.465~~141~~Prohibited acts E under the Uniform Controlled Substances Act. 16 **Del.C.** ~~Former~~ §4755(a)(1) and (2).
- 8.1.466~~142~~Prohibited acts under the Uniform Controlled Substances Act. 16 **Del.C.** ~~Former~~ §4756(a)(1)-(5) and (b).
- 8.1.467~~143~~Hypodermic syringe or needle; delivering or possessing; disposal; 16 **Del.C.** §~~4757~~4762.
- 8.1.468~~144~~Keeping drugs in original containers. 16 **Del.C.** ~~Former~~ §4758.
- 8.1.469~~145~~Distribution to persons under 21 years of age. 16 **Del.C.** ~~Former~~ §4761.
- 8.1.470~~146~~Purchase of drugs from minors. 16 **Del.C.** §4761A.
- 8.1.474~~147~~Distribution, delivery, or possession of controlled substance within 1,000 feet of school property; penalties; defenses. 16 **Del.C.** ~~Former~~ §4767.
- 8.1.472~~148~~Distribution, delivery or possession of controlled substance in or within 300 feet of park, recreation area, church, synagogue or other place of worship. 16 **Del.C.** ~~Former~~ §4768.
- 8.1.473~~149~~Drug paraphernalia. 16 **Del.C.** §4771 (a) and (b).
- 8.1.474~~150~~Possession, manufacture and sale, delivery to a minor and advertising of drug paraphernalia. 16 **Del.C.** §4774(a), (b), (c) (d).
- 8.1.151 Drug Dealing - Aggravated Possession; class B felony. 16 **Del.C.** §4752.
- 8.1.152 Drug Dealing - Aggravated Possession; class C felony. 16 **Del.C.** §4753.
- 8.1.153 Drug Dealing – Aggravated Possession; class D felony. 16 **Del.C.** §4754.
- 8.1.154 Drug Dealing – Aggravated Possession; class E felony. 16 **Del.C.** §4755.
- 8.1.155 Drug Dealing – Aggravated Possession; class F felony. 16 **Del.C.** §4756.

- 8.1.475~~156~~ Operation of a vessel or boat while under the influence of intoxicating liquor and/or drugs; third and fourth offenses. 23 **Del.C.** §2302(a) and §2305 (3) and (4).
- 8.1.476~~157~~ Attempt to evade or defeat tax. 30 **Del.C.** §571.
- 8.1.477~~158~~ Failure to collect or pay over tax. 30 **Del.C.** §572.
- 8.1.478~~159~~ Failure to file return, supply information or pay tax. 30 **Del.C.** §573.
- 8.1.179~~160~~ Fraud and false statements. 30 **Del.C.** §574.
- 8.1.480~~161~~ Obtaining benefit under false representation. 31 **Del.C.** §1003.
- 8.1.481~~162~~ Reports, statements and documents. 31 **Del.C.** §1004(1), (2), (3), (4), (5).
- 8.1.482~~163~~ Kickback schemes and solicitations. 31 **Del.C.** §1005.
- 8.1.483~~164~~ Conversion of payment. 31 §1006.
- 8.1.484~~165~~ Unlawful possession or manufacture of proof of insurance. 21 **Del.C.** §2118A.
- 8.1.185~~166~~ Temporary registration violations related to providing false information. 21 **Del.C.** §2133(a)(1)-(3).
- 8.1.186~~167~~ False statements. 21 **Del.C.** §2315.
- 8.1.187~~168~~ Altering or forging certificate of title, manufacturer's certificate of origin, registration card, vehicle warranty or certification sticker or vehicle identification plate. 21 **Del.C.** §2316.
- 8.1.188~~169~~ False statements; incorrect or incomplete information. 21 **Del.C.** §2620.
- 8.1.189~~170~~ License to operate a motorcycle, motorbike, etc. 21 **Del.C.** §2703.
- 8.1.190~~171~~ Issuance of a Level 1 Learner's Permit and Class D operator's license to persons under 18 years of age. 21 **Del.C.** §2710.
- 8.1.191~~172~~ Unlawful application for or use of license or identification card. 21 **Del.C.** §2751.
- 8.1.192~~173~~ False statements. 21 **Del.C.** §2752.
- 8.1.193~~174~~ Driving vehicle while license is suspended or revoked. 21 **Del.C.** §2756.
- 8.1.194~~175~~ Duplication, reproduction, altering, or counterfeiting of driver's licenses or identification cards. 21 **Del.C.** §2760(a) and (b).
- 8.1.195~~176~~ Driving after judgment prohibited. 21 **Del.C.** §2810.
- 8.1.196~~177~~ False statements. 21 **Del.C.** §3107.
- 8.1.497~~165~~ Driving a vehicle while under the influence or with a prohibited alcohol content. 21 **Del.C.** §4177 (3) and (4).
- 8.1.198~~178~~ Duty of driver involved in accident resulting in injury or death to any person. 21 **Del.C.** §4202.
- 8.1.199~~179~~ Duty to report accidents; evidence. 21 **Del.C.** §4203.
- 8.1.200~~180~~ Possession of motor vehicle master keys, manipulative keys, key cutting devices, lock picks or lock picking devices and hot wires. 21 **Del.C.** §4604(a).
- 8.1.201~~181~~ Tampering with vehicle. 21 **Del.C.** §6703.
- 8.1.202~~182~~ Receiving or transferring stolen vehicle. 21 **Del.C.** §6704.
- 8.1.203~~183~~ Removed, falsified or unauthorized identification number on vehicle, bicycle or engine; removed or affixed license/registration plate with intent to misrepresent identity. 21 **Del.C.** §6705(a) (e).
- 8.1.204~~184~~ Possession of blank title; blank registration card; vehicle identification plate; warranty sticker and registration card. 21 **Del.C.** §6708(a) and (b).
- 8.1.205~~185~~ Removal of warranty or certification stickers; vehicle identification plates; confidential vehicle identification numbers. 21 **Del.C.** §6709(a).
- 8.1.206~~186~~ Unlawful possession of assigned titles, assigned registration cards, vehicle identification plates and warranty stickers. 21 **Del.C.** §6710(a).
- 8.1.207~~187~~ Offenses [involving meat and poultry inspection including bribery or attempted bribery or assaulting or impeding any person in the performance of his duties] (felony). 3 **Del.C.** §871.
- 8.1.208~~188~~ Fraudulent Written Statements. 3 **Del.C.** §10049.
- 8.1.209~~189~~ Fraudulent Certificate of Registration or Eligibility Documents. 3 **Del.C.** §10050.
- 8.1.210~~190~~ Prohibited trade practices against infirm or elderly. 6 **Del.C.** §2581.
- 8.1.211~~191~~ Auto Repair Fraud victimizing the infirm or elderly. 6 **Del.C.** §4909A.

PROPOSED REGULATIONS

- ~~8.1.212 Possession or use of false weights. 6 Del.C. §5134.~~
- ~~8.1.213 Violations of the Securities Act. 6 Del.C. §7322.~~
- ~~8.1.214 Unauthorized Acts against a Service Guide or Seeing Eye Dog. 7 Del.C. §1717.~~
- ~~8.1.215 Interception of Communications Generally; Divulging Contents of Communications. 11 Del.C. §2402.~~
- ~~8.1.216 Manufacture, Possession or Sale of Intercepting Device. 11 Del.C. §2403.~~
- ~~8.1.217 Breaking and Entering, Etc. to Place or Remove Equipment. 11 Del.C. §2410.~~
- ~~8.1.218 Obstruction, Impediment or Prevention of Interception. 11 Del.C. §2412.~~
- ~~8.1.219 Obtaining, Altering or Preventing Authorized Access. 11 Del.C. §2421.~~
- ~~8.1.220 Divulging Contents of Communications. 11 Del.C. §2422.~~
- ~~8.1.221 Installation and Use Generally [of pen trace and trap and trace devices]. 11 Del.C. §2431.~~
- ~~8.1.222 166 Aggravated Act of Intimidation. 11 Del.C. §3533.~~
- ~~8.1.223 167 Attempt to Intimidate. 11 Del.C. §3534.~~
- ~~8.1.224 Disclosure of Expunged Records. 11 Del.C. §4374.~~
- ~~8.1.225 Violation of reporting provisions re: SBI. 11 Del.C. §8523.~~
- ~~8.1.226 Failure of child-care provider to obtain information required under §8561 or for those providing false information. 11 Del.C. §8562.~~
- ~~8.1.227 Providing false information when seeking employment in a public school. 11 Del.C. §8572.~~
- ~~8.1.228 Filing False Claim [under Victims' Compensation Fund]. 11 Del.C. §9016.~~
- ~~8.1.229 168 Alteration, Theft or Destruction of Will. 12 Del.C. §210.~~
- ~~8.1.230 169 Violation of reporting requirements involving abuse under §903. 16 Del.C. §914.~~
- ~~8.1.231 170 Coercion or intimidation involving health-care decisions and falsification, destruction of a document to create a false impression that measures to prolong life have been authorized. 16 Del.C. §2513(a) and (b).~~
- ~~8.1.232 Violations related to the sale, purchase, receipt, possession, transportation, use, safety and control of explosive materials other than 16 Del.C. §7103. 16 Del.C. §7112.~~
- ~~8.1.233 171 Operation of a Vessel or Boat while under the Influence of Intoxicating Liquor and/or Drugs. 23 Del.C. §2302 (3) and (4).~~
- ~~8.1.234 License Requirements. 24 Del.C. §901.~~
- ~~8.1.235 Sale to Persons under 21 or Intoxicated Persons. 24 Del.C. §903.~~
- ~~8.1.236 Failure to make Reports of Persons who are Subject to Loss of Consciousness. 24 Del.C. §1763.~~
- ~~8.1.237 172 [Interference] Relating to the Blind and "Seeing Eye Dogs". 31 Del.C. §2117.~~
- ~~8.1.238 173 Abuse, neglect, exploitation or mistreatment of infirm adult. 31 Del.C. §3913(a), (b) and (c).~~

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

2100 Board of Examiners in Optometry

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** 701

REGULATORY IMPLEMENTING ORDER

701 Unit Count

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education intends to amend 14 **DE Admin. Code** 701 Unit Count. The Department of Education reviewed this and other regulations which were four years or older as part of the 2016 Regulation Review as required by 29 **Del.C.** §10407. Public comment was received for this regulation in which the Department of Education was asked to include language that provides more control over how local education agencies use the units they receive. The Department cannot mandate the requested change. Therefore, the regulation is being readopted in its original form.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on February 1, 2017, in the form hereto attached as *Exhibit "A"*. Comments were received from Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities regarding: (1) the Department's reference to a public comment period. The Department was referencing the initial public comment period required by 29 **Del.C.** §10407, not the regulatory process public comment period; (2) not using "instructional level" as a means of identifying students for the unit count. The Department kept the existing language which includes reporting students by age and "instructional level" as there are instances where it does not always include students with disabilities, and where flexibility is needed in reporting an instructional level; (3) elimination of a reference to Section 7.1, as this section does not exist in the regulation. The Department agrees with this comment and the reference has been changed to 7.0; (4) including 18-21 year old students in the Department of Corrections pre-trial settings in the unit count. The Department clarified the regulation to include those students who are eligible for the unit count; (5) the regulation not addressing the adult prison population. The Department notes that this population

is reported in a separate agency report, as they are funded through the Budget Bill/Adult Prison Education and thus not included in the K-12 unit count or this regulation; (6) Additionally, the Department made minor grammatical corrections for clarity.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to reauthorize 14 **DE Admin. Code** 701 Unit Count in its original form with only minor changes for clarification purposes.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 DE Admin. Code 701 Unit Count. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 701 Unit Count attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 701 Unit Count 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** 701 Unit Count amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 701 Unit Count 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 March 23, 2017. 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 23rd day of March 2017.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 23rd day of March 2017

701 Unit Count (Break in Continuity of Sections)

4.0 Programs, Situations and Program Types that Qualify for Inclusion in the Unit Count

- 4.1 Students in the following programs, situations and program types shall qualify for inclusion in the enrollment count:

(Break in Continuity Within Section)

- 4.1.5 ~~[Stevenson House or New Castle County Detention Center Department of Services for Children, Youth and Their Families or Department of Correction Facilities]~~ Department of Services for Children, Youth and Their Families or Department of Correction Facilities: Students on a temporary basis pending disposition of case who are expected to return to school prior to November 1st.

(Break in Continuity Within Section)

- 4.1.7 Except as provided in section 5.0 and ~~[7-4 7.0]~~, all pre kindergarten children with disabilities shall be counted in the Preschool Pre K-12 Intensive Special Education (Intensive), or Pre K-12 Complex Special Education (complex) units.

(Break in Continuity Within Section)

- 4.1.9 ~~[Regular Programs,]~~ Regular programs include students who are enrolled in the regular elementary or secondary curriculum of the school, i.e., the core of the school subjects, which most students take.
- 4.1.10 ~~[Special Education Services, sS]~~ Special education services include students who have been properly identified and have an IEP in effect during the last week of school in September. Students

with disabilities must have appropriate supporting documentation on file as required by the Identification, Evaluation and Placement Process in 14 **DE Admin. Code** 925.

- 4.1.11 [~~Career and Technical Education (CTE) Programs,~~] A maximum of 900 minutes of career and technical education time per week per student shall be credited toward the career and technical education unit determination. However, units shall be counted on the basis of 1 unit for each 30 students for students enrolled in the New Castle County Votech School District, the POLYTECH School District and the Sussex Technical School District.

***Please note that no additional changes were made to the regulation as originally proposed and published in the February 2017 issue of the *Register* at page 602 (20 DE Reg. 602). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

701 Unit Count

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 716

REGULATORY IMPLEMENTING ORDER

716 Maintenance of Local School District and Charter School Personnel Records

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education intends to amend 14 **DE Admin. Code** 716 Maintenance of Local School District and Charter School Personnel Records. The Department of Education reviewed this and other regulations which were four years or older as part of the 2016 Regulation Review as required by 29 **Del.C.** §10407. An internal review of this regulation was done to confirm it procedurally aligns with guidance from the Division of Public Archives relative to school personnel records. Therefore, only a few minor edits were made for clarity and continuity with other regulations.

Notice of the proposed regulation was published in the *News Journal* and *Delaware State News* on February 1, 2017, in the form hereto attached as *Exhibit "A"*. No comments were received. The Department did add language in the Definitions section for clarification and to align with other regulations, as well as made minor punctuation corrections.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 716 Maintenance of Local School District and Charter School Personnel Records in order to make a few minor edits for clarity and continuity with other regulations.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 716 Maintenance of Local School District and Charter School Personnel Records. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 716 Maintenance of Local School District and Charter School Personnel Records attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 716 Maintenance of Local School District and Charter School Personnel Records 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** 716 Maintenance of Local School District and Charter School Personnel Records amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 716 Maintenance of Local School District and Charter School Personnel Records 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 March 23, 2017. 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 23rd day of March 2017.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 23rd day of March 2017

716 Maintenance of Local School District and Charter School Personnel Records**1.0 Definitions**

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

(Break in Continuity of Sections)

3.0 Records Retention

(Break in Continuity Within Section)

3.4~~2~~ For the security of records and the protection of the personnel for whom the information is recorded, it is recommended that original records are to be maintained at the school district or charter school for three (3) years after termination of an employee and a successful audit of such records. Records shall be purged in accordance with the *Delaware Public Archives School Districts General Records Retention Schedule* and prepared for storage according to the [~~4~~Delaware Public Archives Records Management Handbook Preparation of Records for Short-Term Storage~~2~~]. Records shall remain in their original format and shall then be transferred to DPA and retained in storage for the balance of the fifty (50) required years. Local District and charter school records officers and authorized agents may request files from storage in accordance with DPA's procedures for requesting files. At the end of the retention period, the documents will be destroyed in accordance with DPA's destruction procedures.

3.2~~3~~ The style and form of the records shall be at the discretion of the local school districts or charter schools, except that records transferred to the Delaware Public Archives for storage shall be in a format acceptable to DPA. Individual local school districts and charter schools may elect to have their records recorded onto a different type of media at district expense, in accordance with DPA guidelines.

3.2~~3~~.1 The information referred to above shall be maintained and available for any employee or former employee seeking information concerning their own employment records for a period of fifty (50) years after termination of employment. [~~1~~It is recommended that for the convenience of employees and former employees that school districts and charter schools develop an alphabetically arranged file showing the name of each employee and the disposition of his or her records.~~1~~]

*Please note that no additional changes were made to the regulation as originally proposed and published in the February 2017 issue of the *Register* at page 603 (20 DE Reg. 603). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

716 Maintenance of Local School District and Charter School Personnel Records

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 731

REGULATORY IMPLEMENTING ORDER

731 School Food Service Employees

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education intends to amend 14 DE Admin. Code 731 School Food Service Employees. The Department of Education reviewed this and other regulations which were four years or older as part of the 2016 Regulation Review as required by 29 Del.C. §10407. While no public comment was received for this regulation, Delaware Department of Education staff reviewed the regulation per the required five year review cycle. A few minor edits were made for the purpose of clarification and continuity with other regulations.

Notice of the proposed regulation was published in the *News Journal* and *Delaware State News* on February 1, 2017, in the form hereto attached as Exhibit "A". No comments were received.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 DE Admin. Code 731 School Food Service Employees in order to make a few minor edits for the purposes of clarification and continuity with other regulations.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 DE Admin. Code 731 School Food Service Employees. Therefore, pursuant to 14 Del.C. §122, 14 DE Admin. Code 731 School Food Service Employees attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 Del.C. §122(e), 14 DE Admin. Code 731 School Food Service Employees hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 DE Admin. Code 731 School Food Service Employees amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 DE Admin. Code 731 School Food Service Employees 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 March 23, 2017. 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 23rd day of March 2017.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 23rd day of March 2017

***Please note that no changes were made to the regulation as originally proposed and published in the February 2017 issue of the Register at page 605 (20 DE Reg. 605). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

731 School Food Service Employees

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 750

REGULATORY IMPLEMENTING ORDER

750 Support Personnel Salary Supplements for Additional Training**I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

The Secretary of Education intends to amend 14 **DE Admin. Code** 750 Support Personnel Salary Supplements for Additional Training. The Department of Education reviewed this and other regulations which were four years or older as part of the 2016 Regulation Review as required by 29 **Del.C.** §10407. While no initial public comment was received for this regulation, Delaware Department of Education staff reviewed the regulation per the required five year review cycle. Minor formatting changes were made for the purpose of clarification and continuity with other regulations.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on February 1, 2017, in the form hereto attached as *Exhibit "A"*. No comments were received but the Department did add text in the Definitions section for clarification and to align with other regulations, as well as made minor grammatical corrections.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 750 Support Personnel Salary Supplements for Additional Training in order to make a few minor formatting changes for the purpose of clarification and continuity with other regulations.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 750 Support Personnel Salary Supplements for Additional Training. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 750 Support Personnel Salary Supplements for Additional Training attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 750 Support Personnel Salary Supplements for Additional Training 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** 750 Support Personnel Salary Supplements for Additional Training amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 750 Support Personnel Salary Supplements for Additional Training 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 March 23, 2017. 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 23rd day of March 2017.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 23rd day of March 2017

750 Support Personnel Salary Supplements for Additional Training**1.0 Definitions:**

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

(Break in Continuity Within Section)

2.0 Supplements for Additional Training

(Break in Continuity Within Section)

2.42 Professional Secretary Certificate, Level I Salary Supplement Qualifications

2.42.1 Hold a high school diploma or certificate of equivalency; and

- 2.42.1.1 Complete sixty (60) semester hours of course work from a regionally accredited ~~[post secondary post-secondary]~~ institution in professional office training, accounting or other related areas; or

(Break in Continuity Within Section)

2.23 Certified Secretary Certificate, Level II Salary Supplement Qualifications

2.23.1 Hold a high school diploma or certificate of equivalency; and

- 2.23.1.1 Complete an associate degree in business, professional office training or, accounting from a regionally accredited ~~[post secondary post-secondary]~~ institution; and have a minimum of five years successful experience as an office professional; or

- 2.23.1.2 Pass the Certified Administrative Professional (CAP) examination administered by the International Association of Administrative Professionals (IAAP); complete twelve (12) semester hours of course work from a regionally accredited ~~[post secondary post-secondary]~~ institution in professional office training, accounting or other related area; and have a minimum of five years successful experience as an office professional; or

- 2.23.1.3 Pass the National Association of Educational Office Professionals, Professional Standards Program (PSP), Certificate Level, Option I; complete twelve (12) semester hours of course work from a regionally accredited ~~[post secondary post-secondary]~~ institution in professional office training, accounting or other related area; and have a minimum of five years successful experience as an office professional; or

- 2.23.1.4 Pass the National Association of Educational Office Professionals, Professional Standards Program (PSP), Certificate Level, Option II which includes the completion of at least twelve (12) semester hours of course work from a regionally accredited ~~[post secondary post-secondary]~~ institution in professional office training, accounting or other related area; and have a minimum of five years successful experience as an office professional;

2.34 Bachelor's Degree Certificate, Level III Salary Supplement Qualifications

- 2.34.1 ~~[An individual shall hold]~~ Hold a Bachelor's degree from a regionally accredited College.

*Please note that no additional changes were made to the regulation as originally proposed and published in the February 2017 issue of the *Register* at page 607 (20 DE Reg. 607). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

750 Support Personnel Salary Supplements for Additional Training

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

ORDER

Delaware Healthy Children Program State Plan – Health Services Initiative: Vision to Learn

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated

proceedings to amend the Title XXI Delaware Healthy Children Program State Plan regarding health service initiatives, specifically, *to increase access for low-income children to needed vision services and glasses*. 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 February 2017 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 3, 2017 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 (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend the Title XXI Delaware Healthy Children Program State Plan regarding health service initiatives, specifically, *to increase access for low-income children to needed vision services and glasses*.

Statutory Authority

- 42 CFR §457.140; *State Plans for Child Health Insurance Programs and Outreach, Budgets*
- 42 CFR §457.618(2); *State Plans for Child Health Insurance Programs and Outreach, Non-primary Expenditures*
- 42 CFR §457.622(2)(i); *State Plans for Child Health Insurance Programs and Outreach, Rate of FFP for State Expenditures*
- Section 2105(a)(1)(D)(ii) of the Social Security Act; *Payments to states for expenditures for health service initiatives*

Background

Under Title XXI of the Social Security Act, a State is eligible for Federal matching funds on certain expenditures only to the extent that those expenditures do not exceed 10% of the State's total computable expenditures on health benefits through the state's Child Health Insurance Program (CHIP). As specified in Section 2105(a)(1)(D)(ii), these capped expenditures must be used for child health assistance under the plan and be targeted toward low-income children in the form of providing health benefits coverage that meets the requirements of section 2103 of the Act. These capped expenditures include those related to health services initiatives under the plan for improving the health of children (including targeted low-income children and other low-income children); outreach activities under the plan, as provided in section 2102(c)(1) of the Act; translation or interpretation services in connection with the enrollment of, retention of, and use of services under this Title XXI of the Act by, individuals for whom English is not their primary language (as found necessary by the Secretary for the proper and efficient administration of the State plan); and for other reasonable costs incurred by the State to administer the plan.

For the purposes of Title XXI, health services initiatives (either new or ongoing) include activities designed to: protect the public health, protect the health of individuals, improve or promote a State's capacity to deliver public health services, and/or strengthen the human and material resources necessary to accomplish public health goals. These activities must be for the purposes of improving the health of children (including targeted low income children and other low income children.)

Access to vision exams and glasses is critical for students' educational achievements and health outcomes; 80% of all learning during a child's first 12 years is visual. It comes as no surprise that students with vision problems tend to have lower academic performance, as measured by test scores and grades, and that students' performance in school impacts future employment earnings, health behaviors, and life expectancy. As such, Delaware seeks to use the health services initiative (HIS) option to improve the health of low-income children by increasing their access to needed vision services and glasses through a targeted, school-based initiative.

Summary of Proposal

Purpose

Delaware intends to contract with a non-profit Medicaid participating provider to offer these services on-site at certain Delaware schools. Delaware is currently engaged with Vision to Learn (VTL), which has been serving Delaware children since 2014 and is a certified Medicaid participating provider. VTL is a non-profit,

philanthropically-funded entity that provides free eye exams and glasses to students at schools in low-income communities.

Summary of Proposed Changes

If implemented as proposed, this state plan amendment will accomplish the following, effective January 1, 2017:

Provide a provision in Delaware Healthy Children Program State Plan regarding health service initiatives, specifically, to improve the health of low-income children by increasing their access to needed vision services and glasses through a targeted, school-based initiative. Delaware intends to contract with a community-based, non-profit, Medicaid participating provider to offer these services on-site at Title I Delaware schools in which at least 51% of the student body receives free or reduced price meals.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 447.205 and the *state* public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input regarding this State Plan Amendment. Comments must be received by 4:30 p.m. on March 3, 2017.

Centers for Medicare and Medicaid Services Review and Approval

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

Provider Manuals Update

Also, upon CMS approval, the applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals will be updated. Manual updates, revised pages or additions to the provider manual are issued, as required, for new policy, policy clarification, and/or revisions to the DMAP program. Provider billing guidelines or instructions to incorporate any new requirement may also be issued. A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding manual updates. DMAP provider manuals and official notices are available on the DMAP website: <http://www.dmap.state.de.us/home/index.html>

Fiscal Impact

The following fiscal impact for this health service initiative, with effective date of January 1, 2017, was projected using the following assumptions:

- It is estimated that approximately 600 children will receive vision exams and refraction, with 408 children being provided glasses in FY 2017.
- The rate of client growth will increase an average of 6.4% each fiscal year, resulting in an estimated 851 children receiving vision exams and refraction, with 579 children being provided glasses in FY 2018.
- The current enhanced Federal Matching Assistance Percentage (FMAP) for CHIP is 90.94%.

The following fiscal impact is projected:

	Federal Fiscal Year 2017 (1)	Federal Fiscal Year 2018
General (State) funds	\$ 6,719	\$ 9,530
Federal funds	\$ 67,441	\$ 95,660

(1) Federal FY 2017 represents 9 months; January 2017 through September 2017

Summary of Comments Received with Agency Response and Explanation of Changes

The State Council for Persons with Disabilities (SCPD) and the Governor's Advisory Council for Exceptional Citizens (GACEC) offered the following summarized observations:

Delaware implements the federal Child Health Insurance Program (CHIP) through the State Delaware Healthy Children Program (DHCP). The DHCP provides health care services to children under age 19 whose families have countable income below 200% of the Federal Poverty Level (FPL). DMMA plans to contract with a non-profit Medicaid provider and use Health Service Initiative Funds to offer free eye exams and glasses on site at Title I Delaware schools in which at least 51% of the student body receives free or reduced price meals.

Councils endorse the proposed regulation since vision services would benefit low-income children, and the proposal leverages significant federal funds.

Agency Response: DMMA appreciates the Councils' endorsement.

No changes were made as a result of these comments.

DMMA is appreciative of these comments from the Councils. DMMA is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the February 2017 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Title XXI Delaware Healthy Children Program State Plan regarding health service initiatives, specifically, *to increase access for low-income children to needed vision services and glasses*, is adopted and shall be final effective April 11, 2017.

Kara Odom Walker, MD, MPH, MSHS,
Secretary, DHSS
3/17/17

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

Delaware Healthy Children Program State Plan – Health Services Initiative: Vision to Learn

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, §122(3)c (16 Del.C. §122(3)c)
16 DE Admin. Code 4462

ORDER**4462 Public Drinking Water Systems****NATURE OF THE PROCEEDINGS:**

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt the State of Delaware Regulations Governing Public Drinking Water Systems. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Del.C. Ch. 101 and authority as prescribed by 16 Del.C. §122(c).

On October 1, 2016 (Volume 20, Issue 6), DHSS published in the Delaware *Register of Regulations* its notice of proposed regulations, pursuant to 29 Del.C. §10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by November 11, 2016, after which time the DHSS would review information, factual evidence and public comment to the said proposed regulations.

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

SUMMARY OF EVIDENCE

In accordance with Delaware Law, public notices regarding proposed Department of Health and Social Services (DHSS) Regulations Governing Public Drinking Water Systems were published in the Delaware *Register*

of *Regulations*. Written comments were received on the proposed regulations during the public comment period (October 1, 2016 through November 11, 2016).

Entities offering written comments include:

- ACLU of Delaware, Kathleen MacRae, Executive Director
- Equality Delaware, Inc., Lisa Goodman, President and Equality Delaware Foundation, Mark Purpura, President
- National Center for Transgender Equality, Arli Christian, State Policy Counsel

Comment from the United States Environmental Protection Agency (USEPA)

On October 1, 2016, the Delaware Health and Social Services (DHSS) published in the Delaware *Register of Regulations* proposed technical corrections to bring Delaware's regulations into full compliance with the Safe Drinking Water Act. EPA has reviewed Delaware's proposed corrections and offers the following comments:

The language at 4.2.2.4.1.1 Mandatory Health Effects Language for Microbiological Contaminants, specifically for E.coli, contains the phrase "some of the elderly". To be consistent and as stringent as the Federal language, this phrase must read "the elderly". Similar language is also found in Appendix A to Section 6.0 and must be similarly revised.

Additional comments pertain to the regulations listed below as follows.

Lead and Copper Rule Short Term Revisions

Section 10.10.1.3: In the fourth sentence, change the phrase "switching corrosion inhibitor products (e.g., alum to ferric chloride)." to "switching corrosion inhibitor products (e.g., orthophosphate to blended phosphate)."

Phase 11-V Chemicals

- Section 9.1.3.4.2: In the second sentence, change "<3,300 persons" to $\leq 3,300$ persons".
- Section 9.2.2.1.10.3: In the second sentence, change "<3,300 persons" to $\leq 3,300$ persons".
- Section 9.2.2.2.12: Change the reference to section 9.2.2.3.15 to section 9.2.2.2.15, and the reference to section 9.2.2.3.11 .3 to section 9.2.2.2.11.3.
- Remove the bracket (]) from the designation for Section 9.2.2.2.17.1.4.
- Section 9.2.2.2.17.2.2: Change "+40 percent" to " ± 40 percent" and change the reference to "subsection 9.2.4.17.2.1" to subsection 9.2.2.2.17.2.1 ".

DPH Response

The Division appreciates these comments and has made the necessary revisions.

FINDINGS OF FACT:

No substantive changes were made to the regulations based on the comments received. Technical corrections and other minor revisions that do not impact the intent of the regulations were made. The Department finds that the proposed regulations, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations Governing Home Health Agencies - Aide Only (Licensure) is adopted and shall become effective April 11, 2017, after publication of the final regulation in the Delaware *Register of Regulations*.

Kara Odom Walker, MD, MPH, MSHS
Cabinet Secretary
3/17/17

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

4462 Public Drinking Water Systems

DIVISION OF SOCIAL SERVICES

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

ORDER

Purchase of Care (POC) - Licensed Exempt Providers

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend the Delaware Social Services Manual (DSSM) regarding child care licensing requirements, specifically, to revise the definition of licensed exempt child care providers receiving Purchase of Care (POC) funding. 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 February 2017 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by March 3, 2017 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 (DHSS)/Division of Social Services (DSS) is proposing to amend the Delaware Social Services Manual (DSSM) regarding child care licensing requirements, specifically, *to revise the definition of licensed exempt child care providers receiving Purchase of Care (POC) funding.*

Statutory Authority

- Pub. L. 113-186; *Child Care and Development Block Grant (CCDBG) Act of 2014*
- 42 USC §9858; *Child Care and Development Block Grant, authorization of appropriations,*
- §418 of the Social Securities Act (42 USC §618); *Funding for child care*
- 45 CFR 98; *Child Care and Development Fund*
- 81 FR 67438; *Federal Register Child Care Development Fund*

Background

On November 19, 2014, President Barack Obama signed the (Pub. L. 113-186) into law. The Child Care and Development Block Grant (CCDBG) Act authorizes the Child Care and Development Fund (CCDF), which is the primary Federal funding source devoted to providing low-income families who are working or participating in education or training activities with help paying for child care and improving the quality of child care for all children. The CCDBG Act includes provisions to: (1) Protect the health and safety of children in child care; (2) help parents make informed consumer choices and access information to support child development; (3) provide equal access to stable, high quality child care for low-income children; and (4) enhance the quality of child care and the early childhood workforce. The law requires providers receiving CCDF funds (including those that are license-exempt) to be monitored, at least annually, to determine whether health and safety practices and standards are being followed in the child care setting, including a pre-licensure visit for licensed providers. Among other things, the law allows agencies to develop alternative monitoring requirements for CCDF-funded care provided in the child's home and to exempt relative caregivers from the monitoring requirement, if the agency chooses to do so.

The 2016 Child Care and Development Fund Final Rule updates regulations to incorporate, and in some cases clarify, changes made through the Child Care and Development Block Grant Act of 2014. The rule applies to states, territories and tribes administering CCDF and incorporates and clarifies changes made through the bipartisan CCDBG Act. It also is reflective of helpful comments received on the Notice of Proposed Rulemaking (NPRM) published in December 2015. Throughout the final rule, ACF responds to the more than 150 comments received during the public comment period and makes changes where appropriate. Where possible, it also aligns child care requirements with new Head Start regulations, including certain requirements for background checks

and health and safety trainings for staff.

Summary of Proposal

DSS published this proposed regulation in the December 2016 Delaware *Register*. These regulations were erroneously published under the Division of Medicaid and Medical Assistance. In order to promote transparency and ensure that all applicable parties have an opportunity to participate in the public comment process, DSS has chosen to republish these regulations for further public review and comment.

Purpose

To revise language in the Delaware Social Services Manual (DSSM) so as to be compliant with changes in the Child Care and Development Fund Final Rule. The final rule requires that all providers who serve children receiving CCDF funding be trained in all health and safety topics and be inspected annually by qualified licensing inspectors. In order to comply with this new regulation the state of Delaware will now require all license exempt providers who serve children receiving CCDF funding to become licensed through the Office of Child Care Licensing. Relative Care providers will remain exempt.

Summary of Proposed Changes

If implemented as proposed, the amendment to the DSSM will accomplish the following, effective April 11, 2017:

Modify DSSM 11004.4.1, Explanation of Certificates, and DSSM 11004.9, Authorizing Child Care Services, to align with the final rule.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 447.205 and the *state* public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Social Services (DSS) gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the Delaware Social Services Manual provisions regarding Purchase of Care Licensing Requirements. Comments must be received by 4:30 p.m. on March, 3 2017.

Fiscal Impact Statement

Reauthorization of the Child Care Development Block Grant is requiring that child care providers that receive purchase of care funding to become licensed. A revision of current policy in regards to licensed exempt providers will be required. This is a revision of our current policies and will not require additional funding.

Summary of Comments Received with Agency Response and Explanation of Changes

The State Council for Persons with Disabilities (SCPD), Governor's Advisory Council for Exceptional Citizens (GACEC), and State of Delaware Department of Children, Youth, and Their Families offered the following summarized observations:

One significant change is curtailing the scope of providers exempt from licensing. Persons who come into the child's home and relatives who provide care in their own homes remain exempt from licensing. However, the following entities would no longer be exempt: (1) public or private school care; (2) preschools and kindergarten care; and (3) before and after school care programs.

DSS recites that "(t)he final rule requires that all providers receiving Purchase of Care (POC) funding must now be licensed, including those that were previously license exempt, in order to continue receiving POC funding." The accuracy of this recital which, read literally, would disallow the exemption of persons coming into a child's home and relatives providing care in their homes, could not be verified. The federal regulations (§§98.2 and 98.40) do not categorically require Delaware to remove the current licensing exemption of the above 3 types of entities. However, §98.40 does require DHSS to describe the rationale for any exemptions in its Plan. The regulation does not provide the rationale for retaining the exemption for persons coming into a child's home and relatives who provide care in their home apart from a bare listing of some health and safety standards. A second change is deletion of an authorization category of "double time (D) which is two days". The specific rationale for this change is also not provided.

First, the regulation could be improved by including the rationale for retaining the 2 exemptions in §11004.4.1

consistent with the attached federal §98.40.

Agency Response: The Division of Social Services (DSS) appreciates the comment regarding the fact that the proposed regulation does not provide the rationale for retaining the exemption for persons coming into a child's home and relatives who provide care in their home. We would like to begin by clarifying that the final rule does not require that license exempt providers that serve children receiving CCDF funding become licensed. The final rule requires an annual inspection of all license exempt providers who serve children receiving CCDF funding; and that all licensing inspectors conducting these annual inspections should be qualified to do so. We as a state proposed that the only way to comply with the new regulations was to require that all exempt providers become licensed. The final rule exempts Relative Care Providers; therefore Delaware exempts Relative Care Providers. These providers are however required to receive 28 hours of training which includes pre-service training. This training includes topics such as "safe sleep", "CPR/First Aid", "Child Development", etc. Relative Care providers have 12 months to complete the required 28 hours of training and must complete 3 hours of health and safety training annually. This training is facilitated by the University of Delaware Institute for Excellence in Early Childhood. Relative Care Providers, which includes providers who come into a child's home to provide care, and are monitored by the Purchase of Care Child Care Monitors.

Monitoring requirements. Section 658E(c)(2)(K) of the CCDBG Act requires that Lead Agencies conduct monitoring visits for all child care providers receiving CCDF funds, including license-exempt providers (except, at Lead Agency option, those that only serve relatives).

Second, it is recommended that DSS resolve the inconsistency between reciting that "all providers receiving Purchase of Care (POC) funding must now be licensed...." and still exempting 2 classes of providers.

Agency Response: DSS appreciates the comment regarding the ambiguity of the above statement and has revised the summary to read as follows: "The final rule requires that all providers who serve children receiving CCDF funding be trained in all health and safety topics and be inspected annually by qualified licensing inspectors. In order to comply with this new regulation the state of Delaware will now require all license exempt providers who serve children receiving CCDF funding to become licensed through the Office of Child Care Licensing. Relative Care providers will remain exempt."

Third, it is recommended that DSS provide the rationale for deleting the authorization category "double time (D) which is two days".

Agency Response: DSS appreciates this comment. The double time code was originally intended for providers who kept children for a 24 hour period. As this practice would now be a violation of licensing regulation DSS removed the code from its eligibility system.

Fourth, there will be a financial impact, sometimes significant, on a prospective applicant to become a licensed child care provider. While the Office of Child Care Licensing imposes no fees, the licensing application process requires the applicant to obtain certain state and/or local certifications for which another agency may charge a fee.

Agency Response: DSS appreciates the Department's comment regarding financial impact of this new regulation on prospective applicants. While there may be some financial impact, the final rule will not result in a significant economic impact on a substantial number of small entities. To date there are a total of 18 License Exempt providers that would be effected. The primary impact of the Act and this final rule is on the State because the rule articulates a set of expectations for how grantees are to satisfy certain requirements of the Act. The health and safety provisions in the rule will likely have the most significant impact; however there are some no/low cost options for providers such as DEPDNow and Better Kid Care's Health and Safety Training courses.

Fifth, increased staffing and funding may be required at the Office of Child Care Licensing in order to meet the increased demands for licensure from the previously exempt providers.

Agency Response: DSS appreciates the comment regarding the potential impact of the final rule on your agency's workload and its ability to meet time lines. Currently there are 18 license exempt providers who will be affected by the proposed regulation. At the time of this writing there were 16 Licensing Specialist statewide which means an increase of approximately one provider per specialist.

Sixth, 11001.4.1 (B) states: "All family child care homes and child care centers must have a license to operate in Delaware. Do not allow a parent to select an unlicensed family, or center child care provider." A specific type of

child care is missing from this listing. The Office of Child Care Licensing respectfully suggests the following revision:

"All family child care homes, large family child care homes, and child care centers must have a license to operate in Delaware. Do not allow a parent to select an unlicensed family or large family child care home, or center child care provider."

Agency Response: DSS appreciates your comment regarding this missing piece of information and agrees to revise this statement to read as follows: "All family child care homes, large family child care homes, and child care centers must have a license to operate in Delaware. Do not allow a parent to select an unlicensed family or large family child care home, or center child care provider."

Seventh, in 11001.4.1 (C) this regulation revision proposes eliminating types of providers who are exempt from licensing requirements in Delaware. DHSS does not have the authority to determine which individuals or entities are required to be licensed to provide child care in Delaware; that authority rests with the Office of Child Care Licensing. DHSS may certainly specify that providers who are license-exempt under Office of Child Care Licensing regulations will be required to be licensed in order to receive POC subsidies but DHSS may not dictate the providers who are license exempt. Changing who qualifies for license exempt care.

Also, youth camps are not listed as a license exempt provider type; however they are currently receiving POC funding. Youth camps are currently listed as a license exempt provider type in DELACARE: Regulations for Early Care and Education and School-Age Centers. Is DHSS eliminating POC funding to youth camps or allowing them to receive POC funding if the youth camp is issued an exemption from OCCL and a permit from the Department of Public Health, as currently required by this office's regulations? The Office of Child Care Licensing does not have the regulations or staff to license, regulate, or monitor youth camps that receive POC funding.

Agency Response: DSS appreciates the Department's comments regarding any confusion about Delaware Health and Social Services' authority where licensed providers are concerned. DHSS is aware that licensing authority rests solely with the Office of Child Care Licensing. DHSS only intended to make the public aware that the Department now requires all exempt providers who serve children receiving CCDF funding to become licensed. This new requirement is a result of the CCDF Final Rule which requires that all providers, who serve children receiving CCDF funding, be trained in specific health and safety topics; and be inspected annually by qualified licensing inspectors. The Department determined that requiring license exempt providers to become licensed was the most prudent way to comply with this new regulation.

DSS appreciates your comment regarding the status of Youth Camps and the final rule. Per the Administration for Children and Families (ACF) Youth camps are not exempt from this final rule, however the state has requested some additional guidance for Delaware regarding the final rule as it pertains to youth camps.

Seventh, 11001.4.1 (C) 6 states: "Though the above provider types are exempt from licensing requirements, they are still required to meet certain health and safety standards. These standards are:

1. maintaining documentation of the child's immunization record,
2. safe and clean building premises,
3. providers and those 18 and older who live in the home where care is being provided must not have any record of child abuse or neglect (do not allow persons to provide care where there is a known record of abuse or neglect), and"

The Office of Child Care Licensing respectfully suggests revising #3 above to include all criminal convictions and civil child abuse and neglect substantiations that prohibit a person under state and federal law as follows:

"3. providers and those 18 and older who live in the home where care is being provided are required to submit to a fingerprinted background check and must not have any prohibited criminal convictions or prohibited child abuse and neglect substantiations as designated under 31 Delaware Code, Section 309, 16 Delaware Code, Section 923 and the Child Care Development Block Grant Act of 2014."

Agency Response: DSS appreciates your comment and suggestion regarding the wording of number #3 under this section and will revise the sentence to read as follows: "providers and those 18 and older who live in the home where care is being provided are required to submit to a fingerprinted background check and must not have any prohibited criminal convictions or prohibited child abuse and neglect substantiations as designated under 31 Delaware Code, Section 309, 16 Delaware Code, Section 923 and the Child Care Development Block Grant Act of 2014."

Eight, 11001.4.1 (E) states: "The provider will need to complete and return the original copy of the actual child care certificate before Case Managers can authorize care. Relative and non-relative providers will also complete and return the Child Abuse/ Neglect History Clearance Form or forms for all members 18 and older living in the home. If this form is not returned, discontinue care. Other exempt providers will need to keep a completed child/abuse and criminal history declaration statement on file for each child care staff member."

The Office of Child Care Licensing respectfully suggests revising E above to use the correct name of the form that needs to be returned to DHSS and also delete the last sentence pertaining to "other exempt providers" because in the Summary of Proposal Purpose it states, "The final rule requires that all providers receiving Purchase of Care (POC) funding must now to be licensed, including those that were previously license exempt, in order to continue receiving POC funding." Assuming that DHSS position is as stated in the Purpose (see comment #3), there should not be "other exempt providers."

SUGGESTED REWORDING: E. The provider will need to complete and return the original copy of the actual child care certificate before Case Managers can authorize care. Relative and non-relative providers will also complete and return the ~~Child Abuse/ Neglect History Clearance Form or forms~~ yellow copy of the License Exempt Provider Criminal History and Child Abuse and Neglect Background Check Request form for all ~~members~~ persons 18 and older living in the home. If this form is not returned, discontinue care. ~~Other exempt providers will need to keep a completed child/abuse and criminal history declaration statement on file for each child care staff member.~~

Agency Response: DSS appreciates your comment and has revised the regulation to read as follows: "The provider will need to complete and return the original copy of the actual child care certificate before case managers can authorize care. Relative care providers will also complete and return the yellow copy of the License Exempt Provider Criminal History and Child Abuse and Neglect Background Check Request for all persons 18 and older living in the home. If this form is not returned, discontinue care."

DSS is appreciative of these comments. DSS is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the February 2017 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Delaware Social Services Manual (DSSM) regarding child care licensing requirements, specifically, *to revise the definition of licensed exempt child care providers receiving Purchase of Care (POC) funding*, is adopted and shall be final effective April 11, 2017.

Kara Odom Walker, MD, MPH, MSHS, Secretary, DHSS
3/17/17

DSS FINAL ORDER #17-015a REVISION:

11004.4.1 Explanation of Certificates

Use the following as a guide to explain the child care certificate package.

A. Parents/caretakers can use this package to select a child care provider of their choice. However, they must select care that is legal. Legal care is care that is licensed or that is exempt from licensing requirements.

B. Licensed Care: ~~In Delaware, a~~All family child care homes[, **large family child care homes**] and child care centers must have a license to operate in Delaware. Do not allow a parent to select an unlicensed family [**or large family child care home**], or center child care provider.

C. License-exempt Care: The following provider types are exempt from licensing requirements in Delaware:

1. persons who come into the child's own home to care for the parent/caretaker's child,
2. relatives who provide care in their home for the parent/caretaker's child;
- ~~3. public or private school care,~~

4. preschools and kindergarten care, and
5. before and after school care programs.

6. Though the above provider types are exempt from licensing requirements, they are still required to meet certain health and safety standards. These standards are:

1. maintaining documentation of the child's immunization record,
2. safe and clean building premises,

3. providers and those 18 and older who live in the home where care is being provided [~~must not have any record of child abuse or neglect (do not allow persons to provide care where there is a known record of abuse or neglect)~~], are required to submit to a fingerprinted background check and must not have any prohibited criminal convictions or prohibited child abuse and neglect substantiations as designated under 31 Delaware Code, Section 309, 16 Delaware Code, Section 923 and the Child Care Development Block Grant Act of 2014;] and

(Break in Continuity Within Section)

~~[E. The provider will need to complete and return the original copy of the actual child care certificate before Case Managers can authorize care. Relative and non relative providers will also complete and return the Child Abuse/ Neglect History Clearance Form or forms for all members 18 and older living in the home. If this form is not returned, discontinue care. Other exempt providers will need to keep a completed child/abuse and criminal history declaration statement on file for each child care staff member.]~~

E. The provider will need to complete and return the original copy of the actual child care certificate before case managers can authorize care. Relative care providers will also complete and return the yellow copy of the License Exempt Provider Criminal History and Child Abuse and Neglect Background Check Request for all persons 18 and older living in the home. If this form is not returned, discontinue care.]

*Please note that no additional changes were made to the regulation as originally proposed and published in the February 2017 issue of the *Register* at page 614 (20 DE Reg. 614). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

Purchase of Care (POC) - Licensed Exempt Providers

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF WASTE AND HAZARDOUS SUBSTANCES

Statutory Authority: 7 Delaware Code, Chapter 74A; (7 Del.C. Ch. 74A)
7 DE Admin. Code 1352

Secretary's Order No.: 2017-WH-0013

1352 Aboveground Storage Tanks

Date of Issuance: March 13, 2017

Effective Date of the Amendment: April 11, 2017

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 Del.C. §§6006, 6010, and 7 Del.C. Ch. 74A, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory proceeding.

Background, Procedural History and Findings of Fact

This Order relates to proposed regulation Amendments to 7 DE Admin. Code 1352: *Regulations Governing Aboveground Storage Tank Systems*. The Department's Division of Waste and Hazardous Substances, Tank Management Section, commenced the regulatory development process with Start Action Notice ("SAN") #2016-14 dated September 14, 2016 (which updated previously issued SAN #2013-28 approved by then-DNREC Secretary O'Mara on November 8, 2013). The Department published its initial proposed regulation Amendments in the November 1, 2016 Delaware *Register of Regulations*. The Department then held a public hearing on December 6, 2016. Consistent with 29 Del.C. §10118(a), the public hearing record remained open for public comment through December 21, 2016.

Subsequent to the November 1, 2016 publication of the aforementioned initial proposed Amendments, the Department identified several formatting and typographical errors associated with the same. As a result, a complete list of revisions required to correct said errors was provided at the December 6, 2016 hearing, so as to fully vet the same to the public at that time. Additionally, during the initial time period that the hearing record was open for public comment (November 1, 2016 - December 21, 2016), the Department received three sets of comment: (1) Mark Baker of Baker Petroleum; (2) Diana Turner of DuPont; and (3) Michael Hayes of the Delaware City Refining Company. The Department's DWHS-TMS responded fully to each of these comments, and made further revisions to the initial proposed Amendments as a result of same.

To ensure that all of the aforementioned Department's revisions were fully vetted to the public, a re-publication of the *revised* initial proposed AST Regulations was issued by the Delaware *Register of Regulations* on February 1, 2017. Accordingly, the hearing record was re-open for an additional thirty days, so that public comment could once again be received by the Department subsequent to the above-referenced revisions made by the DWHS-TMS. A press release was issued on February 3, 2017 (as well as additional legal notice published in the *News Journal* on February 5, 2017) to offer formal public notice of the matters of re-publication of the *revised* proposed Amendments, and the re-opening of the hearing record for comment on the same. This additional comment period remained open through Friday, March 3, 2017.

Members of the public attended the December 1, 2016 public hearing, and comment was received by the Department throughout the course of this proposed promulgation. It should also be noted that all proper notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

The purpose of this proposed regulatory promulgation is to adopt as final the aforementioned revised proposed Amendments to the *Regulations Governing Aboveground Storage Tank Systems* ("Amendments"), in order to be consistent with changes made in July 2016 to the Jeffrey Davis Aboveground Storage Tank Act, as well as to implement additional changes that provide clarification to the existing AST Regulations, reflect the use of current technologies and best management practices which prevent releases from AST systems and ensure an effective cleanup when a release occurs.

Subsequent to the close of the hearing record for the second time on March 3, 2017, the Department's DWHS-TMS thoroughly reviewed all comment received from the public in this matter, and provided the Department's presiding Hearing Officer, Lisa A. Vest, with a formal Technical Response Memorandum ("TRM"), dated March 9, 2017. This TRM provided a balanced discussion of the comment received, and provided the Department's reasoning for all action taken by the Department concerning these *revised* proposed Amendments. Some comments prompted the Department to insert additional language to the proposed Amendments in order to provide greater clarity and understanding for both the regulated community and the public at large with regard to such AST regulatory matters. It should be noted that all revisions to the proposed Amendments were made *prior* to the re-publication and re-opening of the hearing record for comment from February 1, 2017 - March 3, 2017. Although comment was received by the Department during the second aforementioned comment period, no additional revisions were made to these *revised* proposed AST Regulation Amendments as a result of the same. Therefore, no further re-publication or re-noticing of the same is necessary.

Hearing Officer Vest prepared a Hearing Officer's Report dated March 10, 2017 ("Report"). The Report documents the proper completion of the required regulatory amendment process, establishes the record, and recommends the adoption of the *revised* proposed Amendments as attached to the Report as Appendix "B".

Reasons and Conclusions

Based on the record developed by the Department's experts and established by the Hearing Officer's Report, I find that the revised proposed regulatory Amendments to 7 **DE Admin. Code** 1352: *Regulations Governing Aboveground Storage Tank Systems* are well-supported. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that the *revised* proposed regulatory Amendments be promulgated as final.

I find that the Department's experts in the Division of Waste and Hazardous Substances, Tank Management Section, fully developed the record to support adoption of these *revised* regulatory Amendments. The adoption of these *revised* regulatory Amendments will allow Delaware to be consistent with changes made in July 2016 to the Jeffrey Davis Aboveground Storage Tank Act, as well as to implement additional changes that provide clarification to the existing AST Regulations, reflect the use of current technologies and best management practices which prevent releases from AST systems, and ensure an effective cleanup when a release occurs.

In conclusion, the following reasons and conclusions are entered:

1. The Department has the statutory basis and legal authority to act with regard to the revised proposed Amendments to 7 **DE Admin. Code** 1352: *Regulations Governing Underground Storage Tank Systems*, pursuant to 7 **Del.C.** Ch. 74A;

2. The Department has jurisdiction under its statutory authority, pursuant to 7 **Del.C.** §7407A, to issue an Order adopting these *revised* proposed Amendments as final;

3. The Department provided adequate public notice of the proposed regulatory amendments and all proceedings in a manner required by the law and regulations, provided the public with an adequate opportunity to comment on the proposed regulatory amendments, including at the time of the public hearing held on December 6, 2016, and held the record open through close of business on December 21, 2016, consistent with 29 **Del.C.** §10118(a), in order to consider public comment on these proposed regulatory amendments before making any final decision;

4. Due to the aforementioned formatting and typographical errors contained in the initial proposed Amendments as set forth above (realized by the Department subsequent to the publication of the same on November 1, 2016, but prior to the public hearing held on December 6, 2016), a complete list of revisions required to correct said errors was provided at the time of said hearing, so as to fully vet the same to the public at that time. Additionally, to ensure that *all* of the aforementioned Department's revisions were fully vetted to the public, a re-publication of the revised proposed Amendments were issued by the Delaware *Register of Regulations* February 1, 2017. Accordingly, the Department re-opened the hearing record from February 1, 2017, through close of business March 3, 2017, in order to properly vet the *revised* proposed Amendments to the public, and to consider any public comment which might be offered on same before making any final decision in this proposed promulgation;

5. While the Department has made revisions to the initial proposed regulatory Amendments to 7 **DE Admin. Code** 1352: *Regulations Governing Aboveground Storage Tank Systems* as set forth above, such changes were all fully vetted to the public as referenced above. Moreover, although additional comment was received by the Department during the second public comment period of February 1, 2017 - March 3, 2017, no additional changes were made to these *revised* proposed Amendments as a result of the same. Therefore, no additional re-publication or re-noticing is necessitated at this time;

6. The Department's Hearing Officer's Report, including its established record and the recommended *revised* proposed regulatory Amendments as set forth in Appendix "B", are hereby adopted to provide additional reasons and findings for this Order;

7. The adoption of the revised proposed regulatory Amendments to 7 **DE Admin. Code** 1352: *Regulations Governing Aboveground Storage Tank Systems*, pursuant to 7 **Del.C.** Ch. 74A, will enable the Department to provide clarification in areas where (1) existing regulations were not specific in nature; (2) technical areas were not addressed; (3) advanced technology was not included; and (4) newly developed industry standards were not included. Additionally, the *revised* proposed Amendments will ensure that DNREC's AST Regulations are consistent with the recent changes made to the Jeffrey Davis Aboveground Storage Tank Act in July 2016, as set forth in Senate Bill 233, to wit: the inclusion of descriptions as to when an aboveground storage tank is considered "in-service" and "out-of-service", and defining the Department's authority to respond to imminent threat and indicated release situations, thus ensuring an effective cleanup when such release occurs;

8. The Department has reviewed these proposed regulatory Amendments in the light of the Regulatory Flexibility Act, consistent with 29 **Del.C.** Ch.104, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally;

9. The Department's *revised* proposed regulatory Amendments, as re-published in the February 1, 2017 Delaware *Register of Regulations*, and as set forth in Appendix "B" as noted above, are adequately supported, are

not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they are approved as final regulatory amendments, which shall go into effect ten days after their publication in the next available issue of the Delaware *Register of Regulations*; and

10. The Department shall submit this Order approving as final the proposed Amendments to 7 **DE Admin. Code** 1352: *Regulations Governing Aboveground Storage Tank Systems* to the Delaware *Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.

David S. Small
Secretary

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

1352 Aboveground Storage Tanks

**DIVISION OF WATERSHED STEWARDSHIP
SHORELINE AND WATERWAY MANAGEMENT SECTION**

Statutory Authority: 7 Delaware Code, Section 6803(c) (7 **Del.C.** §6803(c))
7 DE Admin. Code 5102

Secretary's Order No.: 2017-WS-0011

5102 Regulation Governing Beach Protection and the Use of Beaches

Date of Issuance: March 13, 2017

Effective Date of the Amendment: April 11, 2017

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 29 **Del.C.** §10113(b)(4), DNREC has revised Section 5102 of Title 7 of the Delaware Administrative Code to correct the technical errors found after the final adoption of this regulation (as set forth previously in Secretary's Order No. 2016-WS-0023).

Findings of Fact

Based on Delaware law and the record as reflected in the prior Secretary's Order referenced above, I make the following findings of fact:

1. The proposed regulation is not in conflict with Delaware law; and
2. The proposed regulation is an appropriate exercise of the Department's responsibilities and authority.

Decision and Order Concerning the Regulation

NOW THEREFORE, under the above-described statutory authority, and for the reasons set forth above, the Secretary of the Delaware Department of Natural Resources and Environmental Control does hereby ORDER that the revisions to 7 DE Admin. Code §5102: Regulations Governing Beach Protection and the Use of Beaches, be adopted and promulgated as follows, to wit:

1. The Agency Heading at the beginning of these published regulations shall be corrected to change the Division's Sectional Reference from "Coastal Programs" to "Shoreline and Waterway Management Section", so that said Heading reads: "DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DIVISION OF WATERSHED STEWARDSHIP, Shoreline and Waterway Management Section";

2. Section 2.5.1 shall be corrected to change the subsection reference found therein from "2.13" to "2.11", so that the last sentence of that section reads: "Regardless of the developmental status of the parcels affected by this Section, all construction activities shall be subject to the Building Line upon its future re-establishment pursuant to

subsection 2.11 of this regulation";

3. Section 4.8.1 shall be corrected to change the word "disposition" to "deposition", so that the first sentence of that section of that section reads: "No person shall commence or conduct construction of any structure or the alteration, digging, mining, moving, removal or deposition of any substantial amount of beach or other materials landward of the Building Line and within the beach area without a letter of approval from the Division"; and

4. Section 8.2.4 shall be corrected to change the subsection reference found therein from "©" to "8.2.3, so that the section reads: "For the purposes of subsection 8.2.3 of this Section, each and every day that a permit condition or limitation is violated, an activity engaged in which is prohibited by this chapter or a regulation violated is deemed a separate offense."

The effective date of this Order is ten (10) days from the date of its publication in the Delaware *Register of Regulations*, in accordance with 29 **Del.C.** §10118(g).

David S. Small, Secretary

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

5102 Regulation Governing Beach Protection and the Use of Beaches

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

DIVISION OF STATE POLICE

5500 BAIL ENFORCEMENT AGENTS

Statutory Authority: 24 Delaware Code, Section 5504(e) (24 **Del.C.** §5504(e))
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 9.0 Electronic Control Device (ECD), 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 amendment to keep the name of the weapon consistent with industry standards.

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 keep the name of the weapon consistent with industry standards.
5. The Board finds that the adoption will have no adverse impact on the public.
6. The Board finds that the amendment is well written and describes its intent to adopt the rule to keep the name of the weapon consistent with industry standards.

Conclusion

7. The proposed rule adoption was 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 April 11, 2017.
13. Attached hereto and incorporated herein this order is the amended rule marked as exhibit A and executed simultaneously on the 23rd day of February, 2017.

Major Melissa A. Zebley, Chairman
 Director John Yeomans
 Ms. Robin David
 Mr. Michael J. Dellose
 Alexander W. Funk, Esquire (absent)

Mr. Jack McGhee, II
 Mr. Harry O. Jennings
 Mr. R. Dale Hamilton
 Mr. Brandon Habron (absent)

***Please note that no changes were made to the regulation as originally proposed and published in the December 2016 issue of the *Register* at page 421 (20 DE Reg. 421). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

5500 Bail Enforcement Agents

**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 December 1, 2016, the Delaware Board of Accountancy published proposed changes to its regulations in the Delaware *Register of Regulations*, Volume 20, Issue 6. 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 January 18, 2017 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*.

No verbal testimony was provided at the public hearing. 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 on the proposed amendments to the Board's regulations in writing and by testimony at the public hearing.
2. There were no public comments provided to the Board during the written public comment periods.
3. Pursuant to 24 **Del.C.** §105(a)(1) the Board has the statutory authority to promulgate rules and regulations to implement or clarify 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 December 1, 2016. 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 February, 2017.

Delaware Board of Accountancy

Kathryn S. Schultz, CPA, President

Susan Benson, CPA

John McManus, PA

Dr. Araya Debessay (absent)

Prameela Kaza (absent)

Alison Houck, CPA, Secretary

Sarah Patterson, CPA

Karen C. Smith, CPA (absent)

Richard Snyder (absent)

***Please note that no changes were made to the regulation as originally proposed and published in the December 2016 issue of the *Register* at page 422 (20 DE Reg. 422). 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

2000 BOARD OF OCCUPATIONAL THERAPY PRACTICE

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

ORDER

2000 Board of Occupational Therapy Practice

On December 1, 2016 the Delaware Board of Occupational Therapy Practice published proposed changes to its regulations in the Delaware *Register of Regulations*, Volume 20, Issue 6. 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 January 4, 2017 at a regularly scheduled meeting of the Board of Occupational Therapy Practice 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. 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 on the proposed amendments to the Board's regulations in writing and by testimony at the public hearing.
2. There were no public comments provided to the Board during the written public comment periods.
3. Pursuant to 24 **Del.C.** §2006(a)(1) the Board has the statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.
4. Having reviewed 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.** §2006(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 December 1, 2016. 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 1st day of March 2017.

DELAWARE BOARD OF OCCUPATIONAL THERAPY PRACTICE

Kelly M. Richardson

Karen M. Virion (absent)

Mara Beth Schmittinger

Evan Park

Angelita Mosley

*Please note that no changes were made to the regulation as originally proposed and published in the December 2016 issue of the *Register* at page 423 (20 DE Reg. 423). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

[2000 Board of Occupational Therapy Practice](#)

DIVISION OF PROFESSIONAL REGULATION 2100 BOARD OF EXAMINERS IN OPTOMETRY

Statutory Authority: 24 Delaware Code, Section 2104(a)(1) (24 **Del.C.** §2104(a)(1))
24 **DE Admin. Code** 2100

ORDER

2100 Board of Examiners in Optometry

On April 1, 2016, the Delaware Board of Examiners in Optometry pursuant to 24 **Del.C.** §2104(a)(1), proposed to revise its regulations in order to clarify and provide more detailed information regarding the use of telehealth services for the provision of optometry services. 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* on May 1, 2016 and two Delaware newspapers, a public hearing was held on May 26, 2016 at a meeting of the Delaware Board of Examiners in Optometry 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*;

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

Board Exhibit 3 - May 26, 2016 correspondence from Michael Kurliand, Director of Telehealth at Nemours Alfred I DuPont Hospital for Children requesting the Board change proposed Regulation 9.2.4.4 in order to expand the type of optometric practice that may be performed through telehealth.

The Board also considered the verbal testimony from Mr. Kurliand in support of his letter. Mr. Kurliand argued that 9.2.4.4 should be broadened to expand practice that can be performed through telehealth. He stated that innovative technology will allow for newer better care, especially through telehealth, so Board should not limit what can be done through telehealth.

FINDINGS OF FACT AND CONCLUSIONS

Pursuant to 29 **Del.C.** §10118, 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. Pursuant to 24 **Del.C.** §2104(a)(1) the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

The proposed changes seek to add regulations that clarify and provide more detailed information regarding the use of telehealth services for the provision of optometry services. At the time of the hearing, Nemours Alfred I DuPont Hospital for Children (Nemours) submitted written and oral comments for the Board's review raising one primary concern. Nemours argued that the Board should not limit the practice of optometry through telehealth so as to not hamstring the practice in the future as technology develops. Nemours asked that the Board consider changing the language to simply reflect that telehealth must be performed competently in the best judgment of the practitioner.

The Board found that in light of the limitations in regard to practicing optometry through telehealth, there was no basis to amend the proposed regulations.

DECISION AND ORDER CONCERNING THE REGULATIONS

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

IT IS SO ORDERED this 23 day of February, 2017 by the Delaware Board of Examiners in Optometry.

Evelyn Nestlerode, Public Member, Sonja Biddle, O.D.
President

Joseph Senall, O.D. (absent)

Irvin Bowers, Public Member (absent)

Jeffrey Hilovsky, O.D., Secretary

***Please note that no changes were made to the regulation as originally proposed and published in the April 2016 issue of the *Register* at page 914 (19 DE Reg. 914). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

2100 Board of Examiners in Optometry

FINAL REGULATIONS

DIVISION OF PROFESSIONAL REGULATION 3600 BOARD OF GEOLOGISTS

Statutory Authority: 24 Delaware Code, Section 3606(a)(1) (24 **Del.C.** §3606(a)(1))
24 **DE Admin. Code** 3600

ORDER

3600 Board of Geologists

After due notice in the Delaware *Register of Regulations* and two Delaware newspapers, a public hearing was held on February 10, 2017 at a scheduled meeting of the Delaware Board of Geologists ("Board") to receive comments regarding the Board's proposed revisions to its rules and regulations.

The Board added a new Section 7.1.1.1 which will allow an applicant to take the Fundamentals of Geology ("FG") examination during that applicant's final semester in an accredited geosciences program leading to a degree. The examination is given just twice a year, in March and October. This change will enable the applicant to take the FG examination in March rather than waiting until October. The applicant will still be required to meet all other requirements for licensure, including passing the Practice of Geology examination. The results of the FG examination will be disclosed to the applicant after the final transcript is received. In addition, the list of automatically approved continuing education course providers, in Section 6.10, is amended to add the Pennsylvania Council of Professional Geologists. Finally, Section 6.10.54 is stricken to eliminate Board discretion to add providers to that list. Licensees will still have the option of seeking specific course approval from the Board.

The proposed changes to the rules and regulations were published in the *Register of Regulations*, Volume 20, Issue 7, on January 1, 2017. Notice of the February 10, 2017 hearing was published in the *News Journal* (Exhibit 1) and the *Delaware State News*. Exhibit 2. Pursuant to 29 **Del.C.** §10118(a), the date to receive final written comments was February 25, 2017, 15 days following the public hearing. The Board deliberated on the proposed revisions at its regularly scheduled meeting on March 10, 2017.

Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

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

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

Board Exhibit 3: January 23, 2017 email from R. Jeffries of PA Council of Professional Engineers.

There was no verbal testimony given at the public hearing on February 10, 2017. One written comment was received. In her email dated January 23, 2017, Ms. Jeffries asked that the PA Council of Professional Geologists be included as a pre-approved course provider under subsection 6.10. (Board Exhibit 3). This suggestion had been included in the amended regulations.

Findings of Fact and Conclusions

Pursuant to 24 **Del.C.** §3606(a)(1), the Board has the statutory authority to promulgate rules and regulations.

The public was given notice and an opportunity to provide the Board with comments in writing and by testimony on the proposed amendments to the Board's rules and regulations. There was no verbal testimony at the hearing and the written suggestion from Ms. Jeffries has been incorporated in the revised regulations.

In these circumstances, the Board finds no reason to amend the rules and regulations as proposed.

Decision and Effective Date

The Board finds that the rules and regulations shall be adopted as final in the form proposed. These changes will become effective ten days following publication of this Final Order in the Delaware *Register of Regulations*.

Text and Citation

The exact text of the rules and regulations, as amended, is attached to this order as Exhibit A.

IT IS SO ORDERED this 10th day of March 2017 by the Delaware Board of Geologists.

William "Sandy" Schenck, Professional Member, Maureen LaFate, Public Member (absent)
President

Steven Smailer, Professional Member, Vice President Kenneth Dryden, Public Member (absent)
Douglas Rambo, Professional Member, Secretary Judith Nicholas, Public Member
David Reinhold, Professional Member

***Please note that no changes were made to the regulation as originally proposed and published in the January 2017 issue of the *Register* at page 543 (20 DE Reg. 543). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

3600 Board of Geologists

**DIVISION OF PROFESSIONAL REGULATION
5300 BOARD OF MASSAGE AND BODYWORK**

Statutory Authority: 24 Delaware Code, Section 5306(a)(1) (24 **Del.C.** §5306(a)(1))
24 **DE Admin. Code** 5300

ORDER

5300 Board of Massage and Bodywork

After due notice in the Delaware *Register of Regulations* and two Delaware newspapers, a public hearing was held on February 16, 2017 at a scheduled meeting of the Delaware Board of Massage and Bodywork ("Board") to receive comments regarding the Board's proposed revisions to its rules and regulations.

The Board proposed the addition of a definition of "school or approved program" of massage and bodywork and included specific requirements for documentation of education. These proposed changes will address the widespread problem of applicants presenting invalid and falsified diplomas and school records. The continuing education requirements have been clarified and language has been added to state that a licensee's failure to provide an updated address to the Division of Professional Regulation will not excuse that licensee from discipline for continuing education violations. The new Section 13.0 has been amended to remove crimes not related to the practice of massage and bodywork and thereby eliminate unjustified obstacles to licensure. Finally, various rules and regulations have been modified for clarity and consistency.

The proposed changes to the rules and regulations were published in the *Register of Regulations*, Volume 20, Issue 7, on January 1, 2017. Notice of the February 16, 2017 hearing was published in the *News Journal* (Exhibit 1) and the *Delaware State News*. Exhibit 2. Pursuant to 29 **Del.C.** §10118(a), the date to receive final written comments was March 3, 2017, 15 days following the public hearing. The Board deliberated on the proposed revisions at its regularly scheduled meeting on March 16, 2017.

Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

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

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

There was no public comment presented in the form of testimony at the February 16, 2017 hearing. Further, no written comment was submitted either before the hearing or during the 15 day period following the hearing.

Findings of Fact and Conclusions

Pursuant to 24 **Del.C.** §5306(a)(1), the Board has the statutory authority to promulgate rules and regulations.

The public was given notice and an opportunity to provide the Board with comments in writing and by testimony on the proposed amendments to the Board's rules and regulations. There was no verbal testimony or written comment submitted. In these circumstances, the Board finds no reason to amend the rules and regulations as proposed.

Decision and Effective Date

The Board finds that the rules and regulations shall be adopted as final in the form proposed. These changes will become effective ten days following publication of this Final Order in the Delaware *Register of Regulations*.

Text and Citation

The exact text of the rules and regulations, as amended, is attached to this order as Exhibit A.

IT IS SO ORDERED this 16th day of March 2017 by the Delaware Board of Massage and Bodywork.

Jermaine Cannon, Professional Member, Holly Overmyer, Professional Member
President

Danielle DiFonzo, Professional Member, Rachel Dunning, Public Member
Vice President

Kathy Sherwin, Public Member, Secretary Frank Beebe, Public Member
Sandra Jachimowski, Professional Member
(absent)

***Please note that no changes were made to the regulation as originally proposed and published in the January 2017 issue of the *Register* at page 545 (20 DE Reg. 545). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

5300 Board of Massage and Bodywork

DIVISION OF PROFESSIONAL REGULATION CONTROLLED SUBSTANCE ADVISORY COMMITTEE

Statutory Authority: 16 Delaware Code, Section 4731(a) (16 Del.C. §4731(a))

ORDER

Uniform Controlled Substances Act Regulations

NATURE OF THE PROCEEDINGS

Pursuant to 16 Del.C. §4731(a), the Delaware Secretary of State ("Secretary") proposed revisions to the Uniform Controlled Substance Act ("UCSA") rules and regulations.

The Secretary proposed revisions to Section 9.0 pertaining to the safe prescribing of opioid analgesics. Subsection 9.6 sets forth the requirements of the medical evaluation that must be performed by a practitioner before a subsequent prescription is issued. The new subsection 9.7 adds two exemptions to subsection 9.6. These exemptions permit continuity of care for acute pain while ensuring patient safety.

In addition, on December 15, 2016, the Secretary issued a Final Order adopting emergency regulations adding the synthetic opioid known as U-47700 to Schedule I. This Final Order was published in the Delaware *Register of Regulations* on January 1, 2017, Volume 20, Issue 7. Pursuant to the Administrative Procedure Act, the Secretary's Final Order will only be effective for a maximum of 120 days but may be renewed once for an additional period of sixty days. 29 Del.C. §10119(3). Therefore, the Secretary proposed the addition of subsections 10.3.1 and 10.3.1.2 to the UCSA rules and regulations.

The proposed changes to the rules and regulations were published in the *Register of Regulations*, Volume 20, Issue 8, on February 1, 2017. The Secretary solicited written comments from the public regarding the proposed rules and regulations allowing the period of time for such submissions to remain open for the 30 days mandated by 29 Del.C. §10118(a).

Summary of the Evidence

No written comments were submitted.

Secretary of State's Findings and Conclusions

Pursuant to 16 **Del.C.** §4731(a), the Secretary has the statutory authority to promulgate rules and regulations relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this State.

As required by 29 **Del.C.** §10118(a), the public was given notice and an opportunity to provide the Secretary with comments in writing on the proposed changes to the rules and regulations.

Having received no public comment, the Secretary finds no reason to amend the rules and regulations as proposed.

Decision and Effective Date

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.

Text and Citation

The text of the revised rules and regulations is attached hereto as Exhibit A.

IT IS SO ORDERED this 15th day of March, 2017.

SECRETARY OF STATE

Jeffrey W. Bullock

***Please note that no changes were made to the regulation as originally proposed and published in the February 2017 issue of the *Register* at page 624 (20 DE Reg. 624). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

Uniform Controlled Substances Act Regulations

PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Section 209(a) (26 **Del.C.** §209(a))
26 **DE Admin. Code** 3001

ORDER NO. 9020

3001 Rules for Certification and Regulation of Electric Suppliers

IN THE MATTER OF THE ADOPTION OF RULES
AND REGULATIONS TO IMPLEMENT THE
PROVISIONS OF 26 DEL. C. CH. 10 RELATING
TO THE CREATION OF A COMPETITIVE
MARKET FOR RETAIL ELECTRIC SUPPLY
SERVICE (OPENED APRIL 27, 1999; RE-
OPENED JANUARY 7, 2003; RE-OPENED
SEPTEMBER 22, 2009; RE-OPENED
SEPTEMBER 7, 2010; RE-OPENED JULY 17,
2012)

PSC REGULATION DOCKET NO. 49

AND NOW, this 2nd day of February, 2017, the Delaware Public Service Commission (the "Commission") determines and orders the following:

PROCEDURAL HISTORY

1. In 1999, the General Assembly restructured the electric utility industry such that customers of regulated electric utilities would be free to purchase their electricity supply from entities other than their regulated electric utility. See 26 **Del.C.** Ch. 10, "Electric Utility Restructuring."

2. In October 1999, pursuant to the authority provided to it in 26 **Del.C.** §1012(b), the Commission adopted Rules for Certification and Regulation of Electric Suppliers (the "Supplier Regulations"). Order No. 538 (October 1, 1999). See 26 **DE Admin. Code** §3001.

3. The Supplier Regulations have been amended several times since then. See Order Nos. 7023 (Sept. 5, 2006), 7078 (Jan. 1, 2007), 7435 (Sept. 2, 2008) and 7984 (June 7, 2011).

4. In Order No. 8187 (July 17, 2012), the Commission reopened this docket to consider revising the Supplier Regulations in accordance with the settlement agreement in Docket No. 10-2, which called for the parties to "consider rule changes to ensure electric choice for Customers is more competitive and ... to provide additional protection for Customers," among other considerations.¹ The Commission Staff conducted three workshops to discuss revisions to the Supplier Regulations.

5. In Order No. 8424 (July 30, 2013), the Commission authorized the publication of proposed modifications to the Supplier Regulations that reflected revisions from the workshop process. The proposed revised Supplier Regulations were published in the September 2013 *Register of Regulations* (17 DE. Reg. 310 (9/1/13)).

6. The Commission received comments on the proposed modified Supplier Regulations from several entities, including the Delaware Division of the Public Advocate ("DPA"), Delmarva Power & Light Company ("DPL"), and the Retail Energy Supplier Association ("RESA"). However, no Commission action was taken with respect to these modified Supplier Regulations.

7. In Order No. 8545 (April 15, 2014), the Commission authorized publication of another revised version of the Supplier Regulations. This proposed revision was published in the May 2014 *Register of Regulations*. (17 DE. Reg. 1052 (5/1/14)).

8. The Commission received several comments on this version of the Supplier Regulations. In December 2014, Staff circulated another revised draft of Supplier Regulations based on the comments received and requested comments by early January 2015 (subsequently extended to mid-January 2015). Although this proposed revision was not published in the *Register of Regulations*, the DPA, DPL and RESA filed comments and proposed modifications to it.

9. This version of the proposed Supplier Regulations lay dormant until December 2015, when Staff once again proposed modifications to the Supplier Regulations. In Order No. 8830 (12/15/15), the Commission authorized publication of this version, and it was published in the January 2016 *Register of Regulations*.

10. The DPA, DPL and RESA submitted comments on and proposed revisions to this version of the Supplier Regulations.

11. On January 16, 2016 the Commission issued Order No. 8845 opening Docket No. 15-1693 in response to a petition filed by the Electric Affordability Committee ("EAC") identifying eight specific proposals to increase customer choice in Delaware. One of those proposals was to "[f]inalize Regulation Docket No. 49 ... by incorporating recommended changes and simplifying supplier requirements where possible."²

12. In February 2016, Staff, the DPA and RESA met to attempt to narrow the outstanding issues and review comments submitted by the parties in January. In early March 2016, Staff circulated a revised version of the Supplier Regulations to the DPA and RESA that attempted to incorporate the comments received as of January 2016, as well as to further narrow the issues subsequent to the meeting between the parties in February 2016. During the months of March through early July 2016, the DPA and RESA worked together to modify the Supplier Regulations to encourage customer choice in Delaware. On July 7, 2016, RESA's counsel circulated the DPA/RESA draft Supplier Regulations to Staff and DPL.

13. On August 15, 2016, the DPA and RESA filed a motion with the Commission in this docket and in Docket No. 15-1693 requesting the Commission to hold the required public hearing on the revised Supplier Regulations on September 6, 2016, and if the Commission did not hold the public hearing on September 6, to postpone the proceedings in Docket No. 15-1693 until the Supplier Regulations were finalized.

14. The Commission met on September 6, 2016, to consider the DPA-RESA Motion. It heard oral argument

1. Order No. 8187, ¶2.

2. Order No. 8845, p. 3, ¶g.

from the DPA, RESA, Staff and DPL. Staff presented the Commission with an alternative version of modified Supplier Regulations and took the position that republication of the Supplier Regulations was required. The DPA and RESA took the position that their revised Supplier Regulations were in the nature of comments on the previously-published Supplier Regulations and that no republication was necessary; however, if the Commission decided that republication was necessary, then the Commission should authorize publication of the DPA-RESA version of the modified Supplier Regulations. The Commission voted unanimously to authorize publication of the DPA-RESA version of the modified Supplier Regulations and to postpone further proceedings in Docket No. 15-1693 until final Supplier Regulations were in place. See Order No. 8937. (Sept. 20, 2016) and Order No. 8948 (Oct. 6, 2016).

15. The DPA-RESA version of the Supplier Regulations was published in the October 2016 *Register of Regulations*. (20 DE. Reg. 272 (10/1/16)). The public notice stated that comments were due on October 31, 2016, and that the Commission would hold a public hearing on November 1, 2016 to consider the published Supplier Regulations.

16. As of November 1, 2016, no persons other than the DPA, DPL, RESA and Staff had submitted comments to the Commission.

17. On November 1, 2016, the Commission conducted a public hearing and heard oral argument from the DPA, DPL, RESA and Staff, and deliberated in public on the proposed Supplier Regulations and the contested issues.

18. On November 15, 2016, the Commission issued Order No. 8981 which approved the uncontested revisions to the Supplier Regulations, rendered the Commission's decision on the contested issues, and set forth that the Commission Secretary shall transmit the revised regulations to the *Register of Regulations* for publication in the December 2016 Delaware *Register of Regulations* a copy of Order No. 8981; a copy of the existing Supplier Regulations, showing the proposed changes (Exhibit "A").

19. On November 16, 2016, WGL Energy Services submitted written comments summarizing the company's position on three (3) key issues: a) its support for the three (3) business day rescission period; b) its support for a further revision of Section 3.3 of the proposed revised Supplier Rules to expand the type of customer information provided in Customer Lists, as well as increasing the frequency with which customers can opt-in to Customer Lists; and c) its support for a revision to the proposed revised rules that would include Parental Guarantees as an acceptable form of financial security.

20. Notice of these revised regulations was officially published in the December Delaware *Register of Regulations* (20 DE. Reg. 425 (12/1/16)), and also advertised in *The News Journal* and the *Delaware State News* newspapers (November 27, 2016). The public notice stated that written comments were due on January 25, 2017, and that the Commission would conduct a public hearing on the revised regulations on January 10, 2017 beginning at 1:00 p.m. at the Commission's office at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, Delaware.

21. The Secretary provided proof of such publication in the docket file before the public hearing in this matter.

22. On January 4, 2017, RESA filed a Request for a Temporary Waiver ("Request") seeking an effective date of the revised Supplier Regulations six to eight weeks after final publication, whenever that might occur. After discussion with the stakeholders regarding the effective date of the revised Supplier Regulations, RESA agreed that its Request would be considered in the nature of comments.

23. On January 10, 2017, the Commission held a duly noticed public hearing. No comments were submitted. The Commission held the record open for 15 days thereafter for written comments as required.

24. As of January 25, 2017, no additional comments had been received in response to these notices.

II. ORDER

AND NOW, this 2nd day of February, 2017, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF NO FEWER THAN THREE COMMISSIONERS:

25. That the amendments and revisions of the Commission's "Rules for Certification and Regulation of Electric Suppliers" (26 DE Admin. Code §3001) set forth in Exhibit "A" to this Order are hereby adopted. These Supplier Regulations shall become effective on April 11, 2017.

26. That, pursuant to 29 Del.C. §§1134 and 10115(a), the Secretary shall transmit to the Registrar of Regulation for publication in the April 2017 Delaware *Register of Regulations* a copy of this Order.

27. The Commission reserves the jurisdiction and authority to enter such further Orders in this docket as may

be necessary or appropriate.

BY ORDER OF THE COMMISSION:

Dallas Winslow, Chair (absent)

Joann T. Conaway, Commissioner

Harold B. Gray, Commissioner

Mike Karia, Commissioner

K. F. Drexler, Commissioner

ATTEST:

Donna Nickerson, Secretary

*Please note that no changes were made to the regulation as originally proposed and published in the December 2016 issue of the *Register* at page 425 (20 DE Reg. 425). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

3001 Rules for Certification and Regulation of Electric Suppliers

DEPARTMENT OF TRANSPORTATION**DIVISION OF MOTOR VEHICLES**

Statutory Authority: 21 Delaware Code, Sections 302, 2711 and 3102 (21 Del.C. §§302, 2711, 3102)

2 DE Admin. Code 2217

ORDER**2217 Driver License and Identification Card Application Procedures for Delaware Compliant and Delaware Non-Compliant Identification Documents****SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Proposed Regulation 2217 relating to Driver License and Identification Card Application Procedures for Delaware Compliant and Delaware Non-Compliant Identification Documents was published in the *Delaware Register of Regulations* on January 1, 2017. The proposed Regulation 2217 incorporated updates to add the use of the State Pointer Exchange System (SPEXS) electronic verification system definition and procedures into the regulation. Written comments were to be accepted regarding this proposal until January 30, 2017; however, no comments were received. There was no public hearing on proposed Regulation 2217. Public notice of the proposed Regulation 2217 was published in the *Register of Regulations* in conformity with Delaware Law.

No comments were received on the proposed Regulation 2217. No amendments or changes were made to the proposed Regulation 2217.

EFFECTIVE DATE OF ORDER

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

TEXT AND CITATION

The text of proposed Regulation 2225 last appeared in the *Register of Regulations* Vol. 20, Issue 7, pages 546.

IT IS SO ORDERED this 28th day of February, 2017

Jennifer Cohan, Secretary
Department of Transportation

*Please note that no changes were made to the regulation as originally proposed and published in the January 2017 issue of the *Register* at page 546 (20 DE Reg. 546). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

2217 Driver License and Identification Card Application Procedures for Delaware Compliant and Delaware Non-Compliant Identification Documents

GENERAL NOTICES

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR QUALITY

Statutory Authority: 7 Delaware Code, Chapter 60; (7 Del.C. Ch. 60)
7 DE Admin. Code 1120

REGISTER NOTICE

SAN # 2017-03

State Plan for the Regulation of Air Emissions from Municipal Solid Waste Landfills

1. TITLE OF THE REGULATIONS:

State Plan for the Regulation of Air Emissions from Municipal Solid Waste Landfills

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

On August 29, 2016, the EPA promulgated two regulations applicable to municipal solid waste landfills (MSWLs). The EPA promulgated 40 CFR Part 60 Subpart XXX under 111(b); Subpart XXX regulated the emissions from new MSWLs. The EPA promulgated 40 CFR Part 60 Subpart Cf under 111(d); Subpart Cf mandated state agencies to develop plans to regulate emissions from existing MSWLs. The purpose of these two federal regulations was to reduce the public health impacts associated with VOC and methane emissions from MSWLs.

The purpose of this action is to incorporate the federal new MSWL requirements in Subpart XXX by reference as Section 30 of 7 DE Admin Code 1120. To satisfy the existing MSWL requirements of Subpart Cf, the applicability of Section 30 will be expanded to include both existing and new MSWLs. Once finalized, Section 30 and the State Plan will be submitted to the EPA for approval. There are three existing MSWLs in Delaware; all are operated by the Delaware Solid Waste Authority. There are no new MSWLs.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Delaware Code, Chapter 60, Environmental Control

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

None

6. NOTICE OF PUBLIC COMMENT:

Statements and testimony may be presented either orally or in writing at a public hearing to be held on Monday, April 24, 2017 starting at 6:00 PM in the DNREC office located at 100 W. Water Street (Suite 6A), Dover, DE. If you are unable to attend or wish to submit your comments in advance of the public hearing, please send your comments to address below. Interested parties may also submit written comments to the Department, to the same address below, up until the end of the comment period, which will extend through May 9, 2017, unless a longer period is designated by the hearing officer at the public hearing.

DNREC - Division of Air Quality
Subject: April 24 Public Hearing
715 Grantham Lane
New Castle, DE 19720

7. PREPARED BY:

Jim Snead (302) 323-4542 jsnead@state.de.us March 12, 2017

State Plan for the Regulation of Air Emissions from Municipal Solid Waste Landfills

DELAWARE RIVER BASIN COMMISSION
PUBLIC NOTICE

The Delaware River Basin Commission's public hearing on a draft resolution for the review of aquatic life uses in the Delaware River Estuary in recognition of improved water quality will take place at 2:00 p.m. on Thursday, April 6, 2017 at the West Trenton Volunteer Fire Company Hall, 40 West Upper Ferry Road, West Trenton, New Jersey 08628. For directions, please see www.wtvfc.org/directions.htm. The public hearing was originally scheduled for March 15, 2017 but was cancelled due to a winter storm and has been re-scheduled. If you wish to comment at the hearing, please pre-register by emailing paula.schmitt@drbc.nj.gov, using the subject line, "Pre-registration to speak on April 6". The Commission is also accepting written comments on the resolution through 5:00 p.m. on April 13, 2017. For additional information, including hearing procedures, how to submit written comments, and the text of the draft resolution, please visit www.drbc.net.

DEPARTMENT OF EDUCATION
PUBLIC NOTICE

The State Board of Education will hold its monthly meeting on Thursday, April 20, 2017 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF FINANCE
OFFICE OF UNCLAIMED PROPERTY, STATE ESCHEATOR
PUBLIC NOTICE

- 100 Regulation on Practices and Procedures for Appeals of Determinations of the Audit Manager**
- 101 Regulation on Practice and Procedure for Establishing Running of the Full Period of Dormancy for Certain Securities and Related Property**
- 102 Regulation on Practices and Procedures for Records Examinations by the State Escheator**
- 103 Abandoned or Unclaimed Property Examination Guidelines**

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 12 **Del.C.** §1132, the Delaware Department of Finance's Office of Unclaimed Property, State Escheator, proposes to revise and replace its regulations related to its Abandoned or Unclaimed Property Law.

In accordance with 29 **Del.C.** §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

David M. Gregor
State Escheator
Department of Finance
820 N. French St.
Wilmington, DE 19801

Notice may also be directed via electronic mail to david.gregor@state.de.us. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Department of Finance no later than **4:30 p.m. EST, Wednesday, May 3, 2017**.

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

OFFICE OF UNCLAIMED PROPERTY, STATE ESCHEATOR**PUBLIC NOTICE****Department of Finance Abandoned or Unclaimed Property Reporting and Examination Manual**

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 12 **Del.C.** §1132, the Delaware Department of Finance's Office of Unclaimed Property, State Escheator, proposes to revise and replace its regulations related to its Abandoned or Unclaimed Property Law.

In accordance with 29 **Del.C.** §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

David M. Gregor
State Escheator
Department of Finance
820 N. French St.
Wilmington, DE 19801

Notice may also be directed via electronic mail to david.gregor@state.de.us. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Department of Finance no later than **4:30 p.m. EST, Wednesday, May 3, 2017**.

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

DEPARTMENT OF HEALTH AND SOCIAL SERVICES**DIVISION OF LONG TERM CARE RESIDENTS PROTECTION****PUBLIC NOTICE****3310 Neighborhood Homes for Persons with Developmental Disabilities**

The Division of Long Term Care Residents Protection (DLTCRP) is proposing a full the revision of Regulation 3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities. The proposed regulations will replace the existing Regulation.

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.

DLTCRP identified the fact that the regulation was last updated in April 01, 2012. Many changes have occurred in the field. This revision will replace the current regulations and update it to meet the current standards.

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

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulation should submit such comments by May 1, 2017 to:

Renee Purzycki, Social Service Chief Administrator
Office of the Director for the Division of Long Term Care Residents Protection
Delaware Department of Health and Social Services
3 Mill Road Suite 308
Wilmington, DE 19806
Email: Renee.Purzycki@state.de.us
Fax: 302-421-7401

CALENDAR OF EVENTS/HEARING NOTICES

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE**PUBLIC NOTICE****Lactation Counseling Services**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance is proposing to amend the Title XIX Medicaid State Plan regarding services provided to pregnant and postpartum individuals, specifically, *to provide lactation counseling services as separately reimbursed pregnancy-related services.*

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: Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, Attention: Kimberly Xavier; by email to Kimberly.xavier@state.de.us; or by fax to 302-255-4425 by May 1, 2017. Please identify in the subject line: Lactation Counseling Services.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

DIVISION OF PUBLIC HEALTH**PUBLIC NOTICE****4304 Delaware Medical Orders for Scope of Treatment (DMOST)**

Division of Public Health, Department of Health and Social Services, is proposing to amend regulations for Delaware Medical Orders Scope of Treatment (DMOST). The purpose of amending the proposed regulations is to improve the quality of care people receive at the end of life by translating patient/resident goals and preferences into medical orders. The proposed regulations will set requirements for use of DMOST forms, provide guidance in the use of the forms and formalize the DMOST form itself. On April 1, 2017, DPH plans to publish as proposed the revised regulations, and hold them out for public comment per Delaware law.

Copies of the proposed regulations are available for review in the April 1, 2017 edition of the Delaware *Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit same to Jamie Mack by Thursday May 4, 2017, at:

Jamie Mack

Division of Public Health

417 Federal Street

Dover, DE 19901

Email: jamie.mack@state.de.us

Phone: (302) 744-4951

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**DIVISION OF AIR QUALITY****PUBLIC NOTICE****1120 New Source Performance Standards**

On August 29, 2016, the EPA promulgated two regulations applicable to municipal solid waste landfills (MSWLs). The EPA promulgated 40 CFR Part 60 Subpart XXX under 111(b); Subpart XXX regulated the emissions from new MSWLs. The EPA promulgated 40 CFR Part 60 Subpart Cf under 111(d); Subpart Cf mandated state agencies to develop plans to regulate emissions from existing MSWLs. The purpose of these two federal

regulations was to reduce the public health impacts associated with VOC and methane emissions from MSWLs.

The purpose of this action is to incorporate the federal new MSWL requirements in Subpart XXX by reference as Section 30 of 7 **DE Admin. Code** 1120. To satisfy the existing MSWL requirements of Subpart Cf, the applicability of Section 30 will be expanded to include both existing and new MSWLs. Once finalized, Section 30 and the State Plan will be submitted to the EPA for approval. There are three existing MSWLs in Delaware; all are operated by the Delaware Solid Waste Authority. There are no new MSWLs.

Statements and testimony may be presented either orally or in writing at a public hearing to be held on Monday, April 24, 2017 starting at 6:00 PM in the DNREC office located at 100 W. Water Street (Suite 6A), Dover, DE. If you are unable to attend or wish to submit your comments in advance of the public hearing, please send your comments to address below. Interested parties may also submit written comments to the Department, to the same address below, up until the end of the comment period, which will extend through May 9, 2017, unless a longer period is designated by the hearing officer at the public hearing.

DNREC - Division of Air Quality
Subject: April 24 Public Hearing
715 Grantham Lane
New Castle, DE 19720

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 the following adopted rule in 24 **DE Admin. Code** 5500 Bail Enforcement Agents: Rule 2.0 - Badges, Patches, Advertisements - clarifying that "Bail Enforcement Agent" must be displayed on the outer most garment; Rule 8.0 - Apprehension Procedures - clarifies where/when a BEA must report an apprehension or surveillance. 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 May 1, 2017, to Delaware State Police, Professional Licensing Section, P. O. Box 430, Dover, DE 19903. The Board will hold its quarterly meeting Thursday, May 25, 2017, 10:00am, at the Tatnall Building, 150 Martin Luther King, Jr. Boulevard South, Room 112, Dover, DE.

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES
DIVISION OF FAMILY SERVICES
OFFICE OF CHILD CARE LICENSING
PUBLIC NOTICE

103 Regulations for Family and Large Family Child Care Homes

The Office of Child Care Licensing (OCCL) proposes to amend Section 22 of the DELACARE: Regulations for Family and Large Family Child Care Homes. Currently Section 22 exceeds the National Fire Protection Association's (NFPA) Life Safety Code and does not provide clarification on the placement of a fire extinguisher. The proposed Section aligns with the Life Safety Code and provides clarification on the placement of a fire extinguisher.

Interested parties wishing to offer comments, suggestions, data, briefs, or other materials concerning the proposed regulation may submit them to the Office of Child Care Licensing, Division of Family Services, Department of Services for Children, Youth and Their Families, 3411 Silverside Road, Hagley Building, Wilmington, Delaware, 19810, Attention: Kelly McDowell or email them to Kelly.McDowell@state.de.us by the close of business on May 5, 2017.

DEPARTMENT OF STATE**ABANDONED OR UNCLAIMED PROPERTY VOLUNTARY DISCLOSURE AGREEMENT PROGRAM****PUBLIC NOTICE****Department of State Abandoned or Unclaimed Property Voluntary Disclosure Agreement Program
Regulations Relating to Estimation**

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 12 **Del.C.** §1173(a)(6), the Delaware Department of State proposes to introduce regulations related to the Department of State's Voluntary Disclosure Agreement Program in the Delaware Abandoned or Unclaimed Property Law.

In accordance with 29 **Del.C.** §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

Kristopher Knight
Deputy Secretary of State
Department of State
820 N. French St.
4th Floor
Wilmington, DE 19801

Notice may also be directed via electronic mail to SOS.VDA@state.de.us. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Department of State no later than **4:30 p.m. EST, Wednesday, May 3, 2017**.

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

DIVISION OF PROFESSIONAL REGULATION**300 BOARD OF ARCHITECTS****PUBLIC NOTICE**

The Delaware Board of Architects, pursuant to 24 **Del.C.** §306(a)(1), proposes to revise regulations 3.5, 4.0, 6.2, and 6.8. The proposed change seeks to clarify the continuing education requirement for applicants re-applying for licensure in Delaware, re-implement the IDP waiver, and eliminate confusing provisions related to disallowance of acceptable continuing education credits.

The Board will hold a public hearing on the proposed regulation change on May 3, 2017 at 1:30 p.m., Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Jennifer Witte, Administrative Specialist of the Delaware Board of Architects, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until May 18, 2017 pursuant to 29 **Del.C.** §10118(a).

DIVISION OF PROFESSIONAL REGULATION**500 BOARD OF PODIATRY****PUBLIC NOTICE**

The Delaware Board of Podiatry, pursuant to 24 **Del.C.** §506(a)(1), proposes to revise its regulations. The proposed amendments to the regulations seek to truncate the list of crimes substantially related to the practice of podiatry.

The Board will hold a public hearing on the proposed rule change on June 7, 2017 at 5:00 p.m., in the Second

Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Jessica Williams, Administrator of the Delaware Board of Podiatry, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until June 22, 2017.

DIVISION OF PROFESSIONAL REGULATION
2100 BOARD OF EXAMINERS IN OPTOMETRY
PUBLIC NOTICE

The Delaware Board of Examiners in Optometry, pursuant to 24 **Del.C.** §2104(a)(1), proposes to revise its regulations. The proposed regulations seek to amend regulations 3, 4, and 5 in order to comply with a 2016 statutory change, and amend regulation 8 in order to reduce the list of crimes substantially related to the practice of optometry.

The Board will hold a public hearing on the proposed rule changes on April 27, 2017 at 4:30 p.m., in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Lisa Smith, Administrator of the Delaware Board of Examiners in Optometry, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until May 12, 2017.
