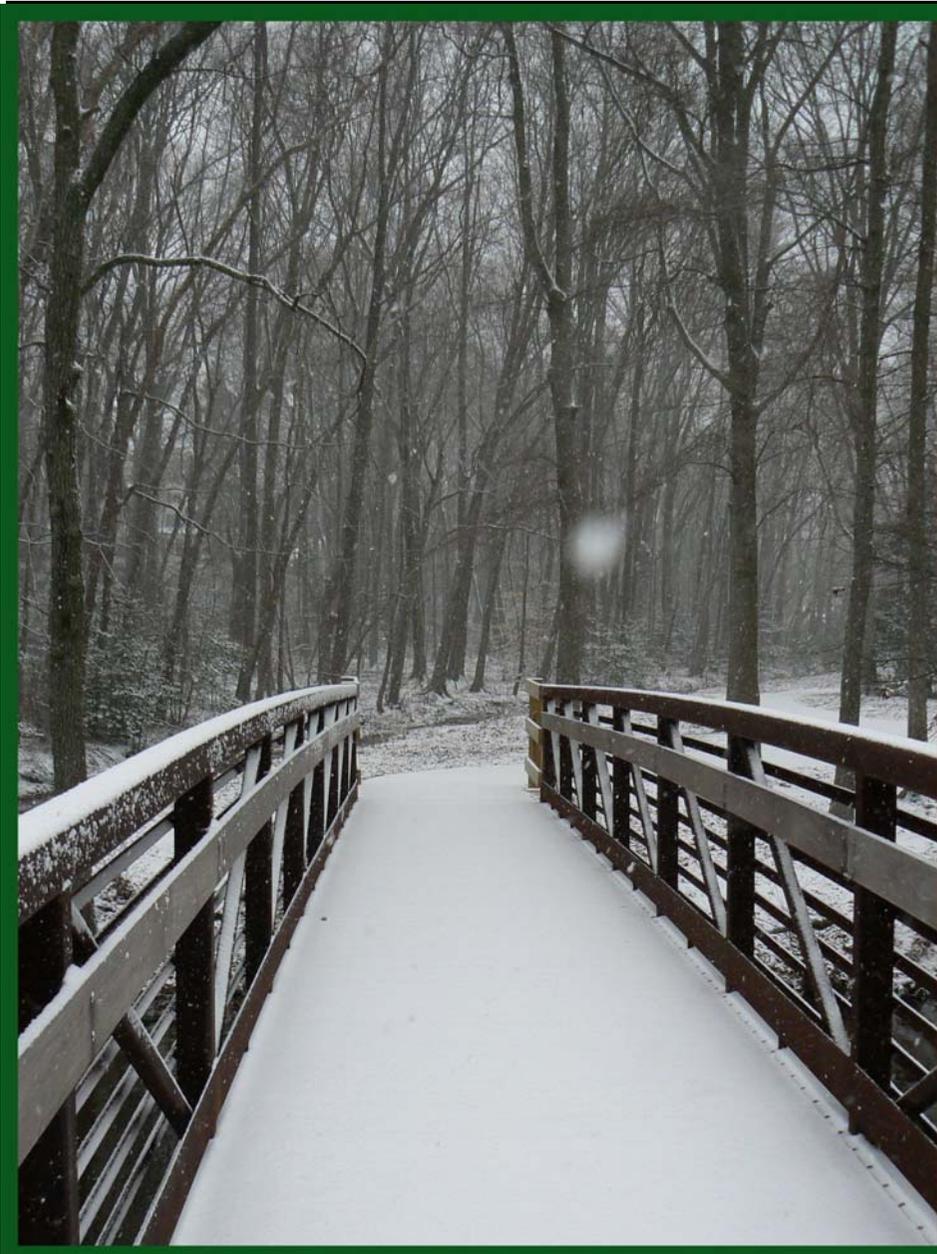

Delaware Register of Regulations

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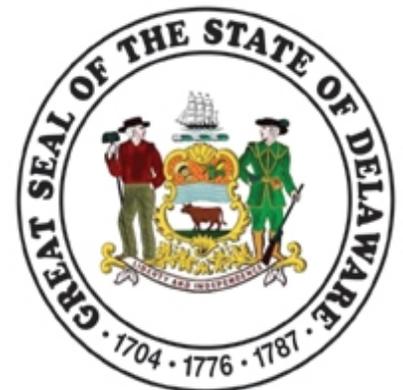


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Governor:
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Hearing Notices



Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the *Register* contains all documents required to be published, and received, on or before January 17, 2011.

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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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

14 **DE Reg.** 24-47 (07/01/10)

Refers to Volume 14, pages 24-47 of the *Delaware Register* issued on July 1, 2010.

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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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
March 1	February 15	4:30 p.m.
April 1	March 15	4:30 p.m.
May 1	April 15	4:30 p.m.
June 1	May 15	4:30 p.m.
July 1	June 15	4:30 p.m.

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Symbol Key

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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.

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Sections 6604(1) and 6637(e)
1 DE Admin. Code 706

PUBLIC NOTICE

706 Specific Occupancy Requirements

In accordance with procedures set forth in 29 **Del.C.** Ch. 11, Subch. III and 29 **Del.C.**, Ch. 101, the Delaware State Fire Prevention Commission is proposing to adopt a regulation amending the current 706 Specific Occupancy Requirements Regulation by adding a new section 6.0 Hard-Wired Smoke Detector Program to Chapter 4 – Residential Smoke Detectors of the current *706 Specific Occupancy Requirements* Regulation.

The Delaware State Fire Prevention Commission will hold a public hearing at which members of the public may present comments on the proposed regulation on March 15, 2011 at 9:00 a.m. in the Delaware State Fire Prevention Chamber at the Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Additionally, members of the public may present written comments on the proposed regulation by submitting such written comments to Ms. Sherry Lambertson, Delaware State Fire Prevention Commission, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments must be received on or before March 7, 2011. Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing Ms. Sherry Lambertson at the address of the Delaware State Fire Prevention Commission set forth above.

706 Specific Occupancy Requirements

(Break in Continuity of Chapters)

Chapter 4 Residential Smoke Detectors

1.0 General.

- 1.1 **Purpose.** This Regulation is intended to be supplemental in nature to the **16 Del.C., Ch. 66**.
- 1.2 **Scope.** This Regulation addresses the criteria for the installation of smoke detectors in all residential occupancies.
- 1.3 **Application.** The application of this Regulation applies to all residential occupancies, used wholly or in part as a home, residence, dwelling, or sleeping place for one or more persons, either permanent or transient, including, but not limited to, any one- and two-family dwelling, mobile home, modular home, townhouse; lodging, rooming or boarding house; hotel, motel, bed and breakfast facility; dormitory, apartment or multi-family dwelling; board and care facility; or a residential occupancy by any other name, be it rented, leased or owned. (**16 Del.C. §6631**)

2.0 Definitions.

“Compliance Date”. The date by which any required new installation or retrofit work must be completed.

“Existing Buildings”. Any building erected or built prior to the effective date of the legislation. (**16 Del.C. §6631(3)**).

“Effective Date of Legislation”. **16 Del.C.**, Chapter 66, relating to Smoke Detectors was enacted on June 30, 1993.

“Interconnected Smoke Detectors”. Two or more electrically operated smoke detectors wired in such a manner so that the operation of any single smoke detector shall cause the alarm in all the smoke detectors within the dwelling to sound.

“Monitored Battery Power Supply”. The type of battery operated smoke detector that is constructed in such a manner as to provide a warning beep or tone when the installed battery is reaching the end of its useful electric charge.

“Sleeping Area”. Any room or group of rooms utilized as a sleeping place, that are accessed from a common corridor or hallway. Sleeping areas separated by any other living space shall be considered to be a separate sleeping area.

3.0 One- and Two-Family Dwellings, Mobile Homes, Modular Homes, and Townhouses.

- 3.1 Each new one- and two- family dwelling, mobile home, modular home, and townhouse built after the effective date of this legislation shall have smoke detection devices and/or smoke detection systems installed according to the following requirements:
 - 3.1.1 Shall be installed outside each separate sleeping area in the immediate vicinity of the bedrooms, and;
 - 3.1.2 Shall be installed on each additional story of the family living unit, including basements, but excluding crawl spaces and unfinished attics, if nothing is stored or kept in such areas, and;
 - 3.1.3 The smoke detection devices or system shall be interconnected, so that operation of any smoke detection device shall cause the alarm-sounding devices in all smoke detectors within the dwelling or building to sound, and;
 - 3.1.4 The smoke detection devices shall be hardwired into the building or occupancy’s electrical system in accordance with the provisions of the National Electric Code, NFPA 70, as adopted and/or modified by these Regulations, and;
 - 3.1.5 Each hardwired, interconnected smoke detection device in the immediate vicinity of each bedroom area shall be equipped with a built-in battery back-up power supply, or one single station, battery operated smoke detection device shall be installed in the immediate vicinity of each bedroom area, in addition to the hardwired smoke detection device. (**16 Del.C. §6632(a)(1)** and **§6632(a)(2)**)
- 3.2 Each one- and two-family dwelling, mobile home, modular home, and townhouse erected or built prior to the effective date of this legislation shall have smoke detection devices and/or smoke detection systems installed according to the following requirements:

- 3.2.1 Shall be installed outside each separate sleeping area in the immediate vicinity of the bedrooms, and;
- 3.2.2 Shall be installed on each additional story of the family living unit, including basements, but excluding crawl spaces and unfinished attics, if nothing is stored or kept in such areas, and;
- 3.2.3 The smoke detection devices may be single-station, individual smoke detection devices approved by Underwriters Laboratories or the Factory Mutual Association, and powered by a monitored battery power supply. (16 Del.C. §6632(a)(3)).
- 3.3 Nothing contained in this section shall prohibit the owner of any one- and two-family dwelling, mobile home, modular home, or townhouse from installing an interconnected smoke detection system, in accordance with §3.1 of the Regulation. (16 Del.C. §6632(b)).

4.0 Other Residential Occupancies.

- 4.1 Each new and existing lodging, rooming, or boarding house; hotel, motel, or bed and breakfast facility; dormitory, apartment, or multi-family dwelling; board and care facility; or a residential occupancy by any other name shall have smoke detection devices and/or smoke detection systems installed in accordance with the following requirements:
 - 4.1.1 Shall be installed outside each separate sleeping area in the immediate vicinity of the bedrooms, and;
 - 4.1.2 Shall be installed in each bedroom and/or sleeping area, and;
 - 4.1.3 Shall be installed on each additional story of the occupancy, including basements and corridors, hallways and stairwells, on each floor according to the standards and specifications of the National Fire Alarm Code, NFPA 72, as adopted and/or modified by these Regulations, but excluding crawl spaces and unfinished attics, if nothing is stored or kept in such areas, or;
 - 4.1.4 Smoke detection devices and/or systems shall be installed in conformance with those provisions of the Life Safety Code, NFPA 101, as adopted and/or modified by these Regulations, for each particular occupancy, and;
 - 4.1.5 The smoke detection devices or system listed in §4.1.1, §4.1.2 and §4.1.3, except as otherwise specified herein, shall be interconnected, so that operation of any smoke detection device shall cause the alarm-sounding devices in all smoke detectors within the building, occupancy or within a separate zoned area to sound or, it shall initiate the building fire alarm system to provide an audible warning to all occupants of the building, and;
 - 4.1.6 The smoke detection devices and/or systems shall be hardwired into the electrical system of the building or occupancy in accordance with the National Electric Code, NFPA 70, as adopted and/or modified by these Regulations. (16 Del.C. §6633(a)(1) and (a)(2))
- 4.2 With the approval of the State Fire Marshal, smoke detection devices in individual sleeping areas may be exempted from the requirement that they be interconnected if the building or occupancy is provided with an automatic smoke detection system in the hallways, corridors, and stairwells, or is connected to a building fire alarm system which will activate an alarm which is sufficiently audible to warn the occupants of the building of the impending danger of fire or hazard to life. This smoke detection system and/or fire alarm system shall be installed in accordance with the National Fire Alarm Code, NFPA 72, as adopted and/or modified by these Regulations and this Statute. (16 Del.C. §6633(d)).

Note: While not specifically addressed in this Chapter, it is the expressed intent that smoke detection devices be required in individual sleeping rooms pursuant to the standards of the Life Safety Code, NFPA 101, and the National Fire Alarm Code, NFPA 72, as adopted and/or modified by these Regulations, pursuant to the language of this §4.2. If an exception is attainable, then the inference is to be made that the devices are required.

- 4.3 For all buildings or occupancies which are required to install smoke detection devices and/or systems under §4.1 or §4.2 of this Chapter, that do not have an auxiliary, emergency, or back-up power supply, each smoke detection device or smoke detection system shall utilize the type of smoke detection device, or system that has a built-in battery back-up power supply. (16 Del.C. §6633(e)).

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- 4.4 Where there is a conflict between installation requirements, the more strict of the installation specifications for a particular occupancy shall apply. (16 **Del.C.** §6633(b)).
 - 4.5 Plans and specifications for all smoke detection devices and systems required under §4.1 and §4.2 of this Chapter shall be submitted to the Office of State Fire Marshal, prior to installation, for review and approval. (§6633(f)).
 - 4.6 It shall be the responsibility of the owner of a residential occupancy listed in §4.1 to install and maintain smoke detection devices as required by this Regulation.

EXCEPTION: WHERE THERE IS A TENANT OF A RENTED OR LEASED OCCUPANCY, STRUCTURE, OR BUILDING REQUIRED TO HAVE SMOKE DETECTION DEVICES AND/OR SMOKE DETECTION SYSTEMS, AS REQUIRED IN THIS CHAPTER, AND THE RENTAL, LEASE AGREEMENT, OR CONTRACT IS FOR A PERIOD OF ONE MONTH OR MORE, SUCH TENANT SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ANY SMOKE DETECTION DEVICES, WITH RESPECT TO MAINTAINING AN OPERABLE BATTERY IN THE SMOKE DETECTION DEVICE, WITHIN THE INDIVIDUAL OR RENTED OR LEASED UNIT.

5.0 Compliance Dates.

- 5.1 For each newly erected or constructed one- and two-family dwelling, mobile home, modular home, or townhouse, the compliance date shall be the effective date of this Legislation. (16 **Del.C.** §6634(a)).
- 5.2 For all existing one- and two-family dwellings, mobile homes, modular homes, or townhouses, the compliance date shall be July 1, 1994. (16 **Del.C.** §6634(b)).
- 5.3 For all other newly erected or constructed residential occupancies listed in §4.0 of this Chapter, the compliance date shall be the effective date of the Legislation. (16 **Del.C.** §6634(c)).
- 5.4 For all other existing residential occupancies, erected or constructed prior to the effective date of the Legislation, the compliance date shall be July 1, 1996. (16 **Del.C.** §6634(d)).

6.0 Hard-Wired Smoke Detector Program.

- 6.1 Purpose: To establish the rules and regulations for the installation of Hard-Wired Smoke Detectors pursuant to 16 **Del.C.** §6637 (Delaware Fire Detection Fund).
- 6.2 Application: This Regulation applies to owner-occupied, existing, one-family and two-family dwellings that are not equipped with smoke alarms.
 - 6.2.1 Approval for installations shall be established by the Office of the State Fire Marshal and priority will be afforded to dwellings with handicapped children, handicapped adults, infirm residents, and residents 62 years of age and older.
- 6.3 Installation
 - 6.3.1 Upon approval, hard wired single station smoke detectors with battery back-up shall be installed in the hallway of each sleeping area and on each additional story of family living units, including basements.
 - 6.3.2 The smoke detection device is to be hard-wired into the building's electrical system in accordance with the provisions of the National Electrical Code (NFPA 70).
 - 6.3.3 Owners shall have the opportunity to choose a licensed and insured electrician/installer from a list maintained by the Office of the State Fire Marshal.
 - 6.3.4 The electrician/installer will contact the homeowner to make the necessary arrangements for the scheduling of the installation of hard-wired smoke detectors.
 - 6.3.4.1 The sole responsibility for the installation of a hard-wired smoke detector will be between the homeowner and the electrician/installer.
 - 6.3.5 The installation shall be completed within thirty (30) days from the day the electrician/installer has been chosen. The homeowner will be responsible to provide access to the contractor for installation within the allotted time.
 - 6.3.6 If a hard-wired smoke detector cannot be installed due to existing wiring conditions, a Single Station Battery Operated Smoke Alarm will be issued to the occupant as an alternative device.

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- 6.3.6.1 The electrician/installer will notify the Office of the State Fire Marshal if these wiring conditions exist.
- 6.3.6.2 The Office of the State Fire Marshal will handle the projected change in the installation.
- 6.3.7 Upon completion the electrician/installer shall contact an Electrical Inspection Agency, recognized by the Office of the State Fire Marshal. The Electrical Inspection Agency shall inspect the wiring connected to the owner's electrical system for final approval.
- 6.3.7.1 The homeowner will be notified when the electrical inspection will be conducted. The homeowner will be responsible to provide access for the Electrical Inspector to make the required inspection.
- 6.3.8 Upon approval by the Electrical Inspection Agency, the electrician/installer shall forward a copy of the approval certificate, along with an invoice for the installation to the Office of the State Fire Marshal for approval for payment.
- 6.4 Authorized Electrician/Installers**
- 6.4.1 Electricians providing the installation shall be insured and have an active license to do electrical work in the State of Delaware (Title 24, Chapter 14 of the Delaware Code).
- 6.4.2 Electricians/installers shall be from a list of installers maintained and updated by the Office of the State Fire Marshal.
- 6.4.3 Electricians shall be added to the list of installers upon the Office of the State Fire Marshal receiving a Letter of Acceptance form.
- 6.4.3.1 The Letter of Acceptance shall be required to be renewed annually.
- 6.4.3.2 The Letter of Acceptance shall be required to be signed, dated, and notarized.
- 6.4.3.3 The Letter of Acceptance shall be accompanied with a copy of the electricians/company's current or updated insurance
- 6.4.3.4 The Letter of Acceptance shall be accompanied with a performance bond in the amount of \$5000.
- 6.4.3.4.1 Once the limit of \$5000 has been reached, subsequent performance bond increases shall be in increments of \$1000 before other installations are assigned.
- 6.4.4 Prior to submitting a Letter of Acceptance, the electrician/company shall confirm the current installation amount established by the Office of the State Fire Marshal.
- 6.4.4.1 The current installation amount shall establish unit prices for all installations.
- 6.4.4.2 Separate unit prices will be established for single detector installations, additional detectors, and minimal charge for showing up at locations where an installation could not be achieved. There will be separate unit prices established for each County.
- 6.4.5 The Office of the State Fire Marshal will confirm it has received the required information. The electrician/company will then be added to the list of hardwired smoke detector installers pursuant to 16 **Del.C.** §6637(d).
- 6.5 Funding:**
- 6.5.1 Pursuant to 16 **Del.C.** §6637(b), a special fund of the State has been created and is known as the "Delaware Fire Detection Fund
- 6.5.2 Pursuant to 16 **Del.C.** §6637(b), all moneys, including gifts, bequests, grants or other funds from private or public sources specifically designated for the Delaware Fire Detection Fund shall be deposited or transferred to the Fire Detection Fund. Moneys in the Delaware Fire Detection Fund may be saved and deposited in an interest bearing savings or investment account.
- 6.5.3 Pursuant to 16 **Del.C.** §6637(c), moneys from the Delaware Fire Detection Fund shall be expended for the purpose of providing hard-wired smoke detectors with battery back up to Delaware residences lacking smoke detection devices.
- 6.5.4 Pursuant to 16 **Del.C.** §6637(c), any moneys received from State-appropriated funds shall only be used for owner-occupied residences.
- 6.5.5 Pursuant to 16 **Del.C.** §6637(c), any moneys derived from private sources may be used for any Delaware residences.

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

[706 Specific Occupancy Requirements, Chapter 4](#)

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Sections 6604(1), 6711(b)(2), 6712(h) and 6717(a)
1 DE Admin. Code 710

PUBLIC NOTICE

710 Ambulance Service Regulations

In accordance with procedures set forth in 29 Del.C. Ch. 11, Subch. III and 29 Del.C., Ch. 101, the Delaware State Fire Prevention Commission is proposing to adopt a regulation amending the current 710 Ambulance Service Regulation by striking the current 710 Ambulance Service Regulation in its entirety and substituting in lieu thereof a new and revised 710 Ambulance Service Regulation.

The Delaware State Fire Prevention Commission will hold a public hearing at which members of the public may present comments on the proposed regulation on March 15, 2011 at 9:00 a.m. in the Delaware State Fire Prevention Chamber at the Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Additionally, members of the public may present written comments on the proposed regulation by submitting such written comments to Ms. Sherry Lambertson, Delaware State Fire Prevention Commission, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments must be received on or before March 7, 2011. Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing Ms. Sherry Lambertson at the address of the Delaware State Fire Prevention Commission set forth above.

***Please Note:** Due to the size of the proposed regulation, only the new language is being published here. A copy of the complete regulation is available at:

[710 Ambulance Service Regulations](#)

710 Ambulance Service Regulations

1.0 Purpose

The purpose of this Regulation is to ensure a consistent and coordinated high quality level of ambulance service throughout the State of Delaware (the, "State"), focusing on timeliness, quality of care and coordination of efforts.

2.0 Application

2.1 This Regulation shall apply to any person, firm, corporation, other business or non-profit entity, association either as owner, agent or otherwise providing either prehospital or interhospital ambulance service meeting the definitions of either "BLS Ambulance Service" or "Non-Emergency Ambulance Service" within the State. The following are exempted from this Regulation:

2.1.1 Privately owned vehicles not ordinarily used in the business of transporting persons who are sick, injured, wounded or otherwise incapacitated or helpless.

2.1.2 A vehicle rendering service as an ambulance in case of a major catastrophe or emergency when the ambulances with permits and based in the locality of the catastrophe or emergency are insufficient to render the services required.

- 2.1.3 Ambulances based outside the State rendering service in case of a major catastrophe or emergency when the ambulances with permits and based in the locality of the catastrophe or emergency are insufficient to render the services required.
- 2.1.4 Ambulances owned and operated by an agency of the United States Government.
- 2.1.5 Ambulances based and licensed outside the State engaged strictly in interstate transportation.
- 2.1.6 A vehicle which is designed or modified and equipped for rescue operations to release persons from entrapment and which is not routinely used for emergency medical care or transport of patients.

3.0 Definitions

For the purpose of this Regulation the following definitions are used:

“Advanced Life Support (ALS)” - The advanced level of pre-hospital and inter hospital emergency care that includes basic life support functions including cardiopulmonary resuscitation, plus cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of anti arrhythmic agents, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive medical devices, trauma care and other authorized techniques and procedures.

“Advertising” - Information communicated to the public, or to an individual concerned by any oral, written, or graphic means including, but not limited to, handbills, newspapers, television, billboards, radio, internet or other electronic/wireless media and telephone directories.

“Ambulance” - Any publicly or privately owned vehicle that is specifically designed, constructed or modified and equipped, and intended to be used for and is maintained or operated for the transportation upon the streets and highways of the State for persons who are sick, injured, wounded or otherwise incapacitated or helpless.

“Ambulance Service District” - A geographical area with boundaries which are typically (but not always) aligned to fire service districts within the State as identified and established by the Delaware State Fire Prevention Commission.

“Basic Life Support (BLS)” - The level of capability which provides EMT emergency patient care designed to optimize the patient’s chances of surviving an emergency situation.

“BLS Ambulance Service” - Ambulance service which provides BLS level intervention both through the level of personnel and training provided.

“BLS Ambulance Service Contract” - A written contract between either a Primary or Secondary Ambulance Service Provider and an individual, or organization, company, site location or complex or other entity for BLS Ambulance Service.

“BLS Run Report” – A standardized patient care report provided by the State EMS office.

“Cardiopulmonary Resuscitation (CPR)” – A combination of chest compressions and rescue breathing used during cardiac and respiratory arrest to keep oxygenated blood flowing to the brain.

“Center For Medicare/Medicaid Services (CMS)” - The Federal agency which oversee Medicare billing and ambulance standards.

“Certification” – The authorization by the Delaware State Fire Prevention Commission to practice the skills of an EMT or EMR within the State.

“Delaware State Fire Prevention Commission (DSFPC)” - The State agency mandated in Title 16, Delaware Code whom regulates the Basic Life Support System in the State.

“Delaware Refresher Course” - A course of instruction for re-certification required by the Delaware State Fire Prevention Commission for EMT’s and EMR’s that meets the guidelines of the United States Department of Transportation curriculum.

“Delaware State Fire School (DSFS)” – The institution under the supervision and control of the Delaware State Fire Prevention Commission.

“Delaware Training Standard For Delaware Emergency Medical Technicians & Emergency Medical Responders” – The current United States Department of Transportation curriculum.

“Emergency” - The BLS and ALS response to the needs of an individual for immediate medical care in order to prevent loss of life or aggravation or physiological or psychological illness or injury.

“Emergency Medical Dispatch System” - Means an approved protocol system used by an approved dispatch center to dispatch aid to medical emergencies which must include:

- Systematized caller interrogation questions
- Systematized pre-arrival instruction; and
- Protocols matching the dispatcher’s evaluation of injury or illness severity with vehicle response mode and configuration.

“Emergency Medical Responder (EMR)” – An individual who has successfully completed an Emergency Medical Responder course that meets the United States Department of Transportation curriculum.

“Emergency Medical Services (EMS) Provider” - Individual providers certified by the Delaware State Fire Prevention Commission to perform pre hospital care. For the purposes of this Regulation this includes EMT’s and EMR’s.

“Emergency Medical Services Provider Agency” – Shall mean a provider agency certified by the Delaware State Fire Prevention Commission.

“Emergency Medical Services Systems (EMSS)” – Shall mean a **statewide** system which provides for the utilization of available personnel, equipment, transportation and communication to ensure effective and coordinated delivery of medical care in emergency situations resulting from accidents, illness or natural disasters.

“Emergency Medical Technician (EMT)” – The individual as defined in 16 Del.C. §9702(11).

“HIPAA” - Health Insurance Portability and Accountability Act of 1996.

“Hospital” - An institution having an organized medical staff which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services or rehabilitation services for the care or rehabilitation of injured, disabled, pregnant, diseased, sick or mentally ill persons. The term includes facilities for the diagnosis and treatment of disorders within the scope of specific medical specialties, but not facilities caring exclusively for the mentally ill.

“Medical Command Facility” - The distinct unit within a hospital which meets the operational, staffing and equipment requirements established by the Secretary, Delaware Health and Social Services for providing medical control to the providers of advanced life support services. Any hospital that operates an emergency medical facility and desires to be designated as a medical command facility shall maintain and staff such facility on its premises and at its own expense with exception of base station communication devices which shall be an authorized shared expense pursuant to the provisions of Title 16, Chapter 98.

“Medical Control” - shall mean directions and advice normally provided from a centrally designated medical facility operating under medical supervision, supplying professional support through radio or telephonic communication.

“Medical Control Physician” - Any physician board-certified or board-prepared in emergency medicine, or a physician certified on advanced trauma life support (ATLS) and advanced cardiac life support (ACLS) who is credentialed by the hospital within which a medical command facility is located, and who is authorized by the medical command facility to give medical commands via radio or other telecommunication devices to a paramedic. When a medical control physician establishes contact with a paramedic, and provides medical control instructions that exceed or otherwise modify the standing orders of the statewide standard treatment protocol, the paramedic shall, solely for the purpose of compliance with the Medical Practices Act, be considered to be operating under the license of said medical control physician.

“National Registry Of Emergency Medical Technicians (NREMT)” - The nationally recognized organization for the testing and registering of persons who have completed United States Department of Transportation, paramedic, EMT and EMR courses.

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“National Registered Emergency Medical Technician – Basic (NREMT-B)” - a person who completed the United States Department of Transportation curriculum and passed the NREMT examination.

“Non-Emergency Ambulance Service” - Ambulance service which provides routine transport of persons who are sick, convalescent, incapacitated and non-ambulatory but do not ordinarily require emergency medical treatment while in transit.

“Non-Emergency Ambulance Service Provider” – An organization or company which has been authorized by the Delaware State Fire Prevention Commission to provide Non-Emergency Ambulance Service within the State.

“Office Of Emergency Medical Services (OEMS)” - The State agency responsible for ensuring the effective coordination and evaluation of the emergency medical services system in the State which includes providing assistance and advice for activities related toward the planning, development, improvement and expansion of emergency medical services.

“Patient” - An individual who is sick, injured, wounded or otherwise incapacitated or helpless and/or seeks immediate medical attention.

“Pre-hospital Care” - Any emergency medical service, including advanced life support, rendered by an emergency medical unit before and during transportation to a hospital or other facility.

“Primary Ambulance Service” - BLS Ambulance Service provided by the Primary Ambulance Service Provider certified by the Delaware State Fire Prevention Commission within a specific Ambulance Service District.

“Primary Ambulance Service Provider” - An organization or company which has been designated by the Delaware State Fire Prevention Commission as having primary responsibility for providing BLS Ambulance Service within a specific Ambulance Service District.

“Protocols” - Shall mean written and uniform treatment and care plans, prepared pursuant to 16 Del.C. §9802(24), for emergency and critical patients statewide that constitutes the standing orders of BLS providers.

“Quality Assurance” - is the retrospective review or inspection of services or processes that is intended to identify problems.

“Quality Improvement” - is the continuous study and improvement of a process, system or organization.

“Recertification Training” - A defined curriculum that once completed allows the individual to continue practicing as an EMT or EMR for a specific period of time as determined by the Delaware State Fire Prevention Commission.

“Response Time” - The time the Ambulance is notified by dispatch until the Ambulance arrives on scene.

“Responsible Charge” - The individual who is identified as having both the responsibility and authority to ensure full and complete compliance with all requirements of this Regulation.

“Secondary Ambulance Service” - Ambulance service provided under contract to specific locations within an Ambulance Service District by a BLS Ambulance Service Provider other than the Primary Ambulance Service Provider.

“Secondary Ambulance Service Provider” - An organization or company which provides supplemental BLS Ambulance service anywhere in the State and always under specific contractual agreements.

“Semi Automatic External Defibrillation (SAED)” – An external computerized defibrillator designed for use in unresponsive victims with no breathing or signs of circulation.

“State Board of Medical Licensure and Discipline (Board)” - The body charged with protecting the consumers of the Delaware healthcare system through the proper licensing and regulation of physicians and other health care professionals.

BLS AMBULANCE SERVICE

4.0 BLS Ambulance Service Permits

- 4.1 Any person, firm, corporation or association either as owner, agent or otherwise who furnish, conduct, maintain, advertise or otherwise engage in or profess to be engaged in the business or service of providing BLS Ambulance Service upon the streets or highways of this State shall hold a valid permit as either a Primary or Secondary Ambulance Service Provider issued by the Delaware State Fire Prevention Commission. Application for this permit shall be upon forms provided by the Delaware State Fire Prevention Commission.
- 4.2 The issuance of a permit hereunder shall not be construed so as to authorize any person, firm, corporation or association to provide BLS Ambulance Services or to operate any Ambulance without compliance with all laws, ordinances and regulations enacted or promulgated by any state, county or municipal government concerning Ambulances.
- 4.3 Prior to issuing an original or renewal permit, the Delaware State Fire Prevention Commission shall determine that all requirements of this Regulation are fully met. Additionally, the Delaware State Fire Prevention Commission has the authority to ensure continued compliance with these Regulations through the periodic review of records and operations.
- 4.4 Only Primary or Secondary Ambulance Service Providers holding a current, valid BLS Ambulance Service Provider permit shall be authorized to respond and provide BLS Ambulance Service within the State.
- 4.5 A Primary or Secondary Ambulance Service Provider may not discontinue BLS Ambulance Service until a replacement provider has been selected and can assume BLS Ambulance Service with no reduction in service.

5.0 BLS Ambulance Service Districts

- 5.1 The Delaware State Fire Prevention Commission shall have the authority to establish Ambulance Service Districts pursuant to 16 Del.C. §6717(a).
- 5.2 The role of Primary Ambulance Service Provider shall be assigned to those fire departments providing BLS Ambulance Service at the time this Regulation was initially adopted in 1997. The Ambulance Service District for these providers shall correspond to their established fire districts as established by the Delaware State Fire Prevention Commission.
- 5.3 In those areas in which fire departments were not providing BLS Ambulance Service at the time this Regulation was officially adopted in 1997, the organization who was providing BLS Ambulance Service shall be designated as the Primary Ambulance Service Provider. The Ambulance Service District for these providers shall correspond to their current boundaries.

6.0 Primary and Secondary BLS Ambulance Service Providers

- 6.1 BLS Ambulance Service may be provided by Primary Ambulance Service Providers within their Ambulance Service District or in the course of providing mutual aid within other Ambulance Service Districts, provided:
 - 6.1.1 They have a current permit; and
 - 6.1.2 They are assigned by the Delaware State Fire Prevention Commission as a Primary Ambulance Service Provider.
- 6.2 The Delaware State Fire Prevention Commission shall be authorized to select a new Primary Ambulance Service Provider at such time that:
 - 6.2.1 The current Primary Ambulance Service Provider chooses to discontinue service; or
 - 6.2.2 Failure to meet one or more elements of this Regulation creates a threat to public safety; or
 - 6.2.3 The current Primary Ambulance Service Provider either directly or indirectly, by merger or affiliation or through contractual agreement transfers or assigns Primary Ambulance Service to any any person, firm, corporation, other business or non-profit entity not authorized by the

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Delaware State Fire Prevention Commission to provide BLS Ambulance Service within the Primary Ambulance Service Provider's Ambulance Service District.

- 6.3 Any organization desiring to assume the role of Primary Ambulance Service Provider will be required to apply to the Delaware State Fire Prevention Commission showing adequate cause in the interest of public safety to justify the change.
- 6.4 BLS Ambulance Service may be provided by Secondary Ambulance Service Providers only to those with whom they have a contract for such service provided they:
- 6.4.1 Have a current permit; and
 - 6.4.2 Have a written contract to provide BLS Ambulance Service to that specific location or site; and
 - 6.4.3 Provided the names, locations and conditions of all Secondary Ambulance Service contracts to the Delaware State Fire Prevention Commission within 20 days of contract finalization.

7.0 BLS Ambulance Service Provider Permit Requirements

7.1 BLS Administrative Requirements

7.1.1 Procedures for securing a BLS Ambulance Service Primary or Secondary Ambulance Service Provider permit include:

- 7.1.1.1 The owner or registered agent must apply to the Delaware State Fire Prevention Commission upon forms provided and according to procedures established by the Delaware State Fire Prevention Commission.
- 7.1.1.2 The Primary or Secondary Ambulance Service Provider shall either be based in the State or maintain an office in the State with a full time individual assigned to that office who is in Responsible Charge.
- 7.1.1.3 All requirements set forth in this Regulation must be met before issuance of any permit.
- 7.1.1.4 The Primary or Secondary Ambulance Provider must provide proof of liability insurance in the amount of \$1 Million blanket liability coverage.
- 7.1.1.5 The Primary or Secondary Ambulance Provider must provide proof of automobile liability insurance in the amount of \$1 Million individual, \$3 Million aggregate per occurrence.

7.1.2 Permits issued shall be valid until December 31st of that year. Permits must be renewed annually.

7.1.3 The Delaware State Fire Prevention Commission may issue temporary permits when determined to be in the interest of public safety.

7.1.4 On an on-going basis throughout the term of the permit, the owner or individual in Responsible Charge shall be available upon reasonable notification for the purpose of providing documentation on any provisions of this Regulation and permitting physical inspection of all facilities and vehicles.

7.1.5 No Primary Ambulance Service Provider or Secondary Ambulance Service Provider shall advertise or represent that it provides any Ambulance service other than authorized to provide under this Regulation.

7.1.6 All individuals, Primary Ambulance Service Providers and Secondary Ambulance Service Providers shall be required to participate in the Delaware State Fire Prevention Commission approved Ambulance data collection system which includes:

- 7.1.6.1 A BLS run report shall be completed on all dispatched responses.
- 7.1.6.2 EMT's- shall complete, without exception, a written/computer report on each patient contact. Reports shall be completed within twenty-four (24) hours.
- 7.1.6.3 When available, the report shall be entered electronically and forwarded to the state EMS office.
- 7.1.6.4 Failure to comply with data submission may result in loss of BLS Ambulance Service Permit or EMT Certification.
- 7.1.6.5 Submit any other data to the designated agencies as required by the Delaware State Fire Prevention Commission.

7.2 BLS Operational Requirements

7.2.1 Vehicle Standards

7.2.1.1 All BLS Ambulances shall be registered and licensed in the State by the Delaware Division of Motor Vehicles.

EXCEPTIONS:

7.2.1.1.1 Those vehicles to which the international registration plan applies.

7.2.1.1.2 Those vehicles properly registered in some other state.

7.2.1.2 Vehicles shall have clearly visible letters on both sides and the rear identifying the name of the organization or corporation or the vehicle's specific identifier as specified under permit documentation. The letters shall be at least three inches in height.

7.2.1.3 Vehicle patient compartment shall conform with the criteria within the most current United States General Services Administration federal specifications for the State of Delaware Ambulances.

7.2.2 Equipment Standards

7.2.2.1 Every BLS Ambulance shall maintain the required equipment and supplies as specified by the Delaware State Fire Prevention Commission and updated annually following recommendations from the Delaware State Fire School Director and the Delaware State Fire Prevention Commission's Medical Director.

7.2.3 Staffing Requirements

7.2.3.1 Minimum acceptable crew staffing when transporting a patient shall consist of a driver and one State Certified EMT.

7.2.3.2 A minimum of one State Certified EMT shall always be in the patient compartment when a patient is present.

7.2.3.3 BLS Ambulance Service drivers are required to have completed the "Emergency Vehicle Operators" course conducted by the Delaware State Fire School or an equivalent program approved by the Delaware State Fire Prevention Commission.

7.2.3.4 BLS Ambulance Service drivers are required to maintain current SAED/CPR certification.

7.2.3.5 Any employee with a BLS Ambulance Service Provider who has been convicted of or, had that employee been charged as a juvenile, adjudicated delinquent of crimes set forth in 16 Del.C. §6647 or any similar offense under any federal, state, or local law is prohibited from serving as a BLS Ambulance Service driver in this State.

7.2.3.5.1 The BLS Ambulance Service Provider shall obtain a report of the employee's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Bureau of Identification Central Repository contains no information relating to that employee.

7.2.3.5.2 The BLS Ambulance Service Provider shall obtain a report of the employee's entire federal criminal history record from the Federal Bureau of Investigation. The State Bureau of Identification shall be the intermediary for the purposes of this section.

7.2.3.5.3 The BLS Ambulance Service Provider shall certify, on an annual basis, to the State Fire Prevention Commission that their employees have never been convicted of an offense that constitutes any of the crimes set forth in 16 Del.C. §6647 or any similar offense under any federal, state, or local law.

7.2.4 Quality Assurance

7.2.4.1 Each Primary and Secondary Ambulance Service Provider shall be responsible for monitoring quality assurance in the form of patient care and both mobilization and response times. The method in which this is accomplished is the authority and responsibility of the Primary or Secondary Ambulance Service Provider per the Quality Assurance and Improvement Program established by the Delaware State Fire Prevention Commission in conjunction with the Office of Emergency Medical Services and adopted by the Delaware State Fire Prevention Commission.

7.2.5 Communications Requirements

PROPOSED REGULATIONS

7.2.5.1 Dispatch Centers

- 7.2.5.1.1 Dispatch centers for both Primary and Secondary Ambulance Service Providers shall meet the criteria established by the Delaware State Fire Prevention Commission.
- 7.2.5.1.2 Secondary Ambulance Service Provider dispatch centers shall be responsible for following call taking protocols as established by the Delaware State Fire Prevention Commission. Calls determined to be ALS in nature shall be transferred to the appropriate public safety answering point (PSAP) within 30 seconds of taking the call utilizing a dedicated phone line to that PSAP.
- 7.2.5.1.3 Calls determined to be BLS in nature shall not be required to be forwarded to the PSAP.
- 7.2.5.1.4 Dispatch centers shall follow an Emergency Medical Dispatch System approved by the Delaware State Fire Prevention Commission.

7.2.5.2 Ambulances

- 7.2.5.2.1 All BLS Ambulances dispatched to handle 9-1-1 emergency responses shall be equipped with reliable communication through the State of Delaware 800 MHz radio system.

7.2.6 SAED Requirements

- 7.2.6.1 Upon placing a SAED on any Ambulance, the Primary Ambulance Service Provider or Secondary Ambulance Service Provider shall comply with the Delaware Early Defibrillation Program Administrative Policies as established by the Office of Emergency Medical Services.

7.2.7 Infection Control: All Primary Ambulance Service Providers and Secondary Ambulance Service Providers shall comply with the infection control requirements in Chapter 10A, Title 16 of the Delaware Code.

7.2.8 Medical Control: Primary Ambulance Service Providers and Secondary Ambulance Service Providers shall be required to follow all orders issued.

7.2.9 Center for Medicare Medicaid Services (CMS): All Primary Ambulance Service Providers and Secondary Ambulance Service Providers shall comply with the Final Rule in the Federal Register (64F.R3637) revising the Medicare policies for ambulance services adopted February 24, 1999, or the most current edition.

7.2.10 Health Insurance Portability and Accountability Act of 1996 (HIPAA), or the most current version.

7.2.11 All Primary Ambulance Service Providers and Secondary Ambulance Service Providers shall comply with HIPAA.

8.0 Compliance

- 8.1 The owner or registered agent of every Primary Ambulance Service Provider or Secondary Ambulance Service Provider shall provide BLS Ambulance Service in accordance with the requirements set forth in this Regulation and the contractual agreements established as either a Primary or Secondary Ambulance Service Provider and filed with the Delaware State Fire Prevention Commission in accordance with the provisions set forth in these Regulations. The Delaware State Fire Prevention Commission shall have the authority to issue corrective orders, cease and desist orders, suspend or revoke a Primary Ambulance Service Provider or Secondary Ambulance Service Provider's permit.
- 8.2 Every BLS Ambulance shall maintain the required equipment and supplies as specified by the Delaware State Fire Prevention Commission.
 - 8.2.1 Violations of section 8.2 shall require corrective action as defined in section 8.2.3 with the exception of those violations which represent an imminent danger to the public.
 - 8.2.2 For those violations of section 8.2 representing an imminent danger to the public, the Delaware State Fire Prevention Commission or its designated agent shall issue and deliver an order to cease and desist any further BLS Ambulance Service until such time as the violation has been verified as being corrected and corrective measures accepted by the Delaware State Fire Prevention Commission or its designated agent.

8.2.3 Equipment Deficiency Classifications and Corrective Action

8.2.3.1 Critical – The Primary Ambulance Service Provider or Secondary Ambulance Service Provider shall be immediately notified and the unit is placed out-of-service until the deficiency is corrected and a re-inspection has occurred.

8.2.3.2 Cautionary – The Primary Ambulance Service Provider or Secondary Ambulance Service Provider shall be immediately notified and the violation(s) shall require correction within five (5) working days of receipt of notice. All corrections shall require validation by the Delaware State Fire Prevention Commission or its designated agent. If not corrected within five (5) working days, the unit must be placed out-of-service.

8.2.3.3 Watchful – The Primary Ambulance Service Provider or Secondary Ambulance Service Provider shall be immediately notified that the deficiency must be corrected at the next restocking or shift change.

8.3 A Primary Ambulance Service Provider or Secondary Ambulance Service Provider may have its BLS Ambulance Service permit revoked or suspended if:

8.3.1 A Primary Ambulance Service Provider or Secondary Ambulance Service Provider has violated or aided or abetted in the violation of any provision of this Regulation or order issued by the Delaware State Fire Prevention Commission or its designated agent; or

8.3.2 A Primary Ambulance Service Provider or Secondary Ambulance Service Provider has practiced any fraud, misrepresentation, or deceit in obtaining or renewing a BLS Ambulance Service permit; or

8.3.3 A Primary Ambulance Service Provider or Secondary Ambulance Service Provider has demonstrated gross negligence, incompetence or misconduct in providing BLS Ambulance Service; or

8.3.4 Has violated Statewide Basic Life Support treatment protocols; or

8.3.5 Has engaged in any unfair or deceptive trade practice; or

8.3.6 Has violated any contractual agreement related to providing BLS Ambulance Service.

9.0 Statewide Basic Life Support Quality Assurance/Quality Improvement

9.1 The Delaware State Fire Prevention Commission hereby establishes a Statewide Basic Life Support (BLS) Quality Assurance and Quality Improvement Committee hereinafter referred to as the Committee.

9.2 Purpose: The Quality Assurance/Quality Improvement (QA/QI), under direction of the State Medical Director is responsible for assuring and improving the quality of Basic Life Support within the EMSS that are served by the State of Delaware.

9.3 Definitions:

9.3.1 Quality Assurance is the retrospective review or inspection of services or processes that is intended to identify problems.

9.3.2 Quality Improvement is the continuous study and improvement of a process, system or organization.

9.4 Objectives:

9.4.1 Conduct medical incident reviews (QA)

9.4.2 Collect patient care statistics to evaluate EMSS effectiveness and identify trends (QI)

9.4.3 Provide constructive feedback on quality improvement to all EMS Providers within the State of Delaware

9.4.4 To coordinate the findings of quality assurance activities with the content of EMS Provider continuing education programs

9.4.5 To provide assistance to EMS Providers with local agency QA/QI programs.

9.5 Emergency Medical Services Provider Agencies Quality Assurance and Improvement Requirements:

9.5.1 EMS Provider Agencies should appoint a Quality Assurance Manager

PROPOSED REGULATIONS

- 9.5.2 The Quality Assurance Manager is charged with the responsibility of assuring that reasonable standards of care and professionalism are met within their respective EMS Provider Agency.
- 9.5.3 The Quality Assurance Manager should attend a Quality Management Training Program.
- 9.5.4 The Quality Assurance Manager shall implement a Quality Assurance and improvement Program within their agency or department.
- 9.5.5 The Quality Assurance Manager shall perform monthly reviews of their data collection and conduct formal reviews with their personnel.
- 9.5.6 The Quality Assurance Manager will work closely with the State wide QA/QI Committee on emergency medical services policies, guidelines, protocols and system performance.
- 9.5.7 The Quality Assurance manager will consult with their County and State EMS Medical Director.
- 9.5.8 The Quality Assurance manager will consult with the Delaware State Fire School Director or its designee.
- 9.6 Statewide QA/QI Improvement Committee
- 9.6.1 The statewide BLS QA/QI Committee shall be comprised of one BLS representative from each county (appointed by the County Fireman's Association), The BLS Medical Advisor, The State Medical Director, one representative from the State Fire Prevention Commission, who shall chair the Committee, one representative from the Delaware State Fire School, one representative from the Office of Emergency Medical Services, one representative from the Delaware Volunteer Firefighter's Association, a dispatch center representative and a State patient care report representative. The goal of this Committee is to make sure BLS is meeting all State standards and is providing the best patient care to the citizens and visitors of Delaware.
- 9.7 Committee Responsibilities
- 9.7.1 Responsible to assure reasonable standards of care and professionalism are met within the State's BLS system.
- 9.7.2 Participate in patient care report review audits, data collection, and evaluation of system performance.
- 9.7.3 Maintain strict confidentiality of patient information, personnel and Q/A topics.
- 9.7.4 Each Committee member MUST sign a confidentiality statement to be provided by the Office of Emergency Medical Services.
- 9.7.5 Make sure information disseminated is protected from discovery of protected healthcare information.
- 9.7.6 Make recommendations for changes to policies, guidelines and protocols.
- 9.7.7 Attend a quarterly meeting to discuss QA/QI issues.
- 9.7.8 Design and implement QI projects that are practical and able to collect patient care statistics to evaluate system effectiveness and identify trends in patient care.
- 9.7.9 Establish clinical benchmarks to measure the State's BLS system.
- 9.8 Medical Incident Review and Analysis
- 9.8.1 The QA/QI process evaluates all aspects of patient care and emergency medical services performance in the BLS system. The Committee will concentrate on the following areas:
- 9.8.1.1 Time Elements
- 9.8.1.1.1 Hour of day
- 9.8.1.1.2 Day of week
- 9.8.1.1.3 Response times (dispatched-arrival)
- 9.8.1.1.4 Scene time (arrival-left scene)
- 9.8.1.1.5 Transport time (left scene-at hospital)
- 9.8.1.2 Patient Assessment
- 9.8.1.2.1 Chief complaint
- 9.8.1.2.2 Mechanism of injury
- 9.8.1.2.3 History

- 9.8.1.2.4 Vital Signs
 - 9.8.1.2.5 Physical Examination
 - 9.8.1.3 Patient Treatment
 - 9.8.1.3.1 Treatment protocol followed
 - 9.8.1.3.2 Appropriate protocol followed
 - 9.8.1.3.3 If no, was deviation justified
 - 9.8.1.3.4 Patient response to treatment adequately documented
 - 9.8.1.4 Refused transport
 - 9.8.1.4.1 Disposition appropriate
 - 9.8.1.4.2 Appropriate releases signed
 - 9.8.1.5 Documentation
 - 9.8.1.5.1 Overall documentation adequate
 - 9.8.1.6 System issues
 - 9.8.1.6.1 Recourses (equipment and personnel)
 - 9.8.1.6.2 Priority medical dispatch
 - 9.8.1.6.3 Hospital diversion
 - 9.8.1.6.4 Scratch rate
 - 9.8.1.6.5 ALS cancellations
 - 9.8.1.6.6 Air medical utilization
 - 9.8.1.6.7 Funding
 - 9.8.1.7 Outcomes
- 9.8.2) Quarterly reports will be developed through the State's patient care reporting system. A percentage of the patient care reports will be reviewed using a designated and approved auditing tool.
- 9.8.3 The QA/QI Committee shall review these reports during the quarterly meeting.
- 9.8.4 The primary goal is to identify and address any problem or improvement areas and recommend potential solutions:
 - 9.8.4.1 Knowledge or skill issues
 - 9.8.4.2 Documentation issue
 - 9.8.4.3 Resource issue
 - 9.8.4.4 Protocol issue
 - 9.8.4.5 Communication issue
 - 9.8.4.6 Statewide system issue
 - 9.8.4.7 Conduct issue
- 9.8.5 The QA/QI Committee shall provide constructive feedback and recommendations to improve the State's BLS system.
 - 9.8.5.1 Recommend changes to policy, procedures, or protocols
 - 9.8.5.2 Recommend changes in operational procedures or equipment
 - 9.8.5.3 Recommend training
- 9.8.6 All Committee recommendations will be forwarded to the appropriate EMS Provider Agency(s) for consideration.

NON-EMERGENCY AMBULANCE SERVICE

10.0 Non-Emergency Ambulance Service Permits

- 10.1 Any person, firm, corporation or association either as owner, agent or otherwise who furnish, conduct, maintain, advertise or otherwise engage in or profess to be engaged in the business or service of

providing Non-Emergency Ambulance Service upon the streets or highways of this State shall hold a valid permit issued by the Delaware State Fire Prevention Commission. Application for this permit shall be upon forms provided by the Delaware State Fire Prevention Commission.

- 10.2 The issuance of a permit hereunder shall not be construed so as to authorize any person, firm, corporation or association to provide Non-Emergency Ambulance Services or to operate any Ambulance without compliance with all laws, ordinances and regulations enacted or promulgated by any state, county or municipal government concerning Ambulances.
- 10.3 Prior to issuing an original or renewal permit, the Delaware State Fire Prevention Commission shall determine that all requirements of this Regulation are fully met. Additionally, the Delaware State Fire Prevention Commission has the authority to ensure continued compliance with these Regulations through the periodic review of records and operations.
- 10.4 Only Non-Emergency Ambulance Service Providers holding a current, valid Non-Emergency Ambulance Service permit shall be authorized to respond and provide Non-Emergency Ambulance Service within the State.

11.0 Non-emergency Ambulance Service Provider Permit Requirements

11.1 Administrative Requirements

11.1.1 Procedures for securing a Non-Emergency Ambulance Service permit include:

- 11.1.1.1 The owner or registered agent must apply to the Delaware State Fire Prevention Commission upon forms provided and according to procedures established by the Delaware State Fire Prevention Commission.
- 11.1.1.2 The Non-Emergency Ambulance Service Provider shall either be based in the State or maintain an office in the State with a full time individual assigned to that office who is in Responsible Charge.
- 11.1.1.3 All requirements set forth in this Regulation must be met before issuance of permit.
- 11.1.1.4 The Non-Emergency Ambulance Service Provider must provide proof of liability insurance in the amount of \$1 Million blanket liability coverage.
- 11.1.1.5 The Non-Emergency Ambulance Service Provider must provide proof of automobile liability insurance in the amount of \$1 Million individual, \$3 Million aggregate per occurrence.
- 11.1.2 Permits issued shall be valid until December 31st of that year. Permits must be renewed yearly.
- 11.1.3 The Delaware State Fire Prevention Commission may issue temporary permits when determined to be in the interest of public safety.
- 11.1.4 On an on-going basis throughout the term of the permit, the owner or individual in Responsible Charge shall be available upon reasonable notification for the purpose of providing documentation on any provisions of this Regulation and permitting physical inspection of all facilities and vehicles.
- 11.1.5 No Non-Emergency Ambulance Service Provider shall advertise or represent that it provides any Ambulance Service other than authorized to provide under this Regulation.

11.2 Operational Requirements

11.2.1 Vehicle Standards

- 11.2.1.1 All Non-Emergency Service Ambulances shall be registered and licensed in the State by the Delaware Division of Motor Vehicles.
- EXCEPTIONS:**
- 11.2.1.1.1 Those vehicles to which the international registration plan applies.
- 11.2.1.1.2 Those vehicles properly registered in some other state.
- 11.2.1.2 Vehicles shall have clearly visible letters on both sides and the rear identifying the name of the organization or corporation or the vehicle's specific identifier as specified under permit documentation. The letters shall be at least three inches in height.

- 11.2.1.3 Vehicle patient compartment shall conform with the criteria within the most current United States General Services Administration federal specifications for the State of Delaware Ambulances.
- 11.2.2 Equipment Standards
- 11.2.2.1 Every Non-Emergency Service Ambulance shall maintain the required equipment and supplies as specified by the Delaware State Fire Prevention Commission and updated annually following recommendations from the Delaware State Fire School Director and the Delaware State Fire Prevention Commission's Medical Director.
- 11.2.3 Staffing Requirements
- 11.2.3.1 Minimum acceptable crew staffing when transporting a patient shall consist of a driver and one State Certified EMT.
- 11.2.3.2 A minimum of one State Certified EMT shall always be in the patient compartment when a patient is present.
- 11.2.3.3 Non-Emergency Ambulance Service drivers are required to have completed the "Emergency Vehicle Operators" course conducted by the Delaware State Fire School or an equivalent program approved by the Delaware State Fire Prevention Commission.
- 11.2.3.4 Any employee with a Non-Emergency Ambulance Service Provider who has been convicted of or had that employee been charged as a juvenile, adjudicated delinquent of crimes set forth in 16 Del.C. §6647 or any similar offense under any federal, state, or local law is prohibited from serving as a Non-Emergency Ambulance Service driver in this State.
- 11.2.3.4.1 The Non-Emergency Ambulance Service Provider shall obtain a report of the employee's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Bureau of Identification Central Repository contains no information relating to that employee.
- 11.2.3.4.2 The Non-Emergency Ambulance Service Provider shall obtain a report of the employee's entire federal criminal history record from the Federal Bureau of Investigation. The State Bureau of Identification shall be the intermediary for the purposes of this section.
- 11.2.3.4.3 The Non-Emergency Ambulance Service Provider shall certify, on an annual basis, to the State Fire Prevention Commission that their employees have never been convicted of an offense that constitutes any of the crimes set forth in 16 Del.C. §6647 or any similar offense under any federal, state, or local law.
- 11.2.4 Communications Requirements
- 11.2.4.1 All Non-Emergency Ambulances shall be equipped with reliable communication that is capable of interfacing with the State of Delaware 800 MHz radio systems. Systems are required to be connected with Public Safety Answering Points (PSAP) and all medical control facilities. This needs to be coordinated with the State of Delaware Division of Communication to provide connectivity. This requirement must be adhered to within one year from the adoption of this regulation.
- 11.2.5 SAED Requirements
- 11.2.5.1 Upon placing an SAED on any Ambulance, the Non-Emergency Ambulance Service Provider shall comply with the Delaware Early Defibrillation Program Administrative Policies as established by the Office of Emergency Medical Services.
- 11.2.6 Infection Control: All Non-Emergency Ambulance Service Providers shall comply with the infection control requirements in Chapter 10A, Title 16 of the Delaware code.
- 11.2.7 Center for Medicare Medicaid Services (CMS): All Non-Emergency Ambulance Service Providers shall comply with the Final Rule in the Federal Register (64 F.R. 3637) revising the Medicare policies for ambulance services adopted February 24, 1999, or the most current edition.
- 11.2.8 Health Insurance Portability and Accountability Act of 1996 (HIPAA), or most current version.
- 11.2.9 All Non-Emergency Ambulance Service Providers will comply with the HIPAA.

12.0 Compliance

- 12.1 The owner or registered agent of every Non-Emergency Ambulance Service Provider shall provide Non-Emergency Ambulance Service in accordance with the requirements set forth in this Regulation and the contractual agreements established as a Non-Emergency Ambulance Service Provider and filed with the Delaware State Fire Prevention Commission in accordance with the provisions set forth in these Regulations. The Delaware State Fire Prevention Commission shall have the authority to issue corrective orders, cease and desist orders, suspend or revoke a Non-Emergency Ambulance Service Provider's permit.
- 12.2 Every Ambulance used by a Non-Emergency Ambulance Service Provider shall maintain the required equipment and supplies as specified by the Delaware State Fire Prevention Commission.
- 12.2.1 Violations of section 12.2 shall require corrective action as defined in section 12.2.3 with the exception of those violations which represent an imminent danger to the public.
- 12.2.2 For those violations of section 12.2 representing an imminent danger to the public, the Delaware State Fire Prevention Commission or its designated agent shall issue and deliver an order to cease and desist any further Non-Emergency Ambulance Service until such time as the violation has been verified as being corrected and corrective measures accepted by the Delaware State Fire Prevention Commission or its designated agent.
- 12.2.3 Equipment Deficiency Classifications and Corrective Action
- 12.2.3.1 Critical – The Non-Emergency Ambulance Service Provider shall be immediately notified and the unit is placed out-of-service until the deficiency is corrected and a re-inspection has occurred.
- 12.2.3.2 Cautionary – The Non-Emergency Ambulance Service Provider shall be immediately notified and the violation(s) shall require correction within five (5) working days of receipt of notice. All corrections shall require validation by the Delaware State Fire Prevention Commission or its designated agent. If not corrected within five (5) working days, the unit must be placed out-of-service.
- 12.2.3.3 Watchful – The Non-Emergency Ambulance Service Provider shall be immediately notified that the deficiency must be corrected at the next restocking or shift change.
- 12.3 A Non-Emergency Service Provider may have its Non-Emergency Ambulance Service permit revoked or suspended if:
- 12.3.1 A Non-Emergency Ambulance Service Provider has violated or aided or abetted in the violation of any provision of this Regulation or order is sued by the Delaware State Fire Prevention Commission or its designated agent; or
- 12.3.2 A Non-Emergency Ambulance Service Provider has practiced any fraud, misrepresentation, or deceit in obtaining or renewing a Non-Emergency Ambulance Service permit; or
- 12.3.3 A Non-Emergency Ambulance Service Provider has demonstrated gross negligence, incompetence or misconduct in providing Non-Emergency Ambulance Service; or
- 12.3.4 Has engaged in any unfair or deceptive trade practice; or
- 12.3.5 Has violated any contractual agreement related to providing Non-Emergency Ambulance Service.

DISCONTINUATION OF BLS AMBULANCE SERVICE**13.0 Discontinuation of BLS Ambulance Service**

- 13.1 STEP 1: Any Primary Ambulance Service Provider desiring to terminate BLS Ambulance Service in the State must notify the Delaware State Fire Prevention Commission in writing 180 days before terminating BLS Ambulance Service.
- 13.2 STEP 2: Immediately upon notification of a Primary Ambulance Service Provider's desire to terminate service, the Chair or the Vice Chair of the Delaware State Fire Prevention Commission shall notify the president of the county firemen's association in which the Primary Ambulance Service Provider

provides BLS Ambulance Service to the residences and visitors of the State for that Ambulance Service District.

- 13.3 STEP 3: Immediately upon receiving notification of a Primary Ambulance Service Provider's desire to terminate BLS Ambulance Service the Chair of the Delaware State Fire Prevention Commission shall appoint a committee. The committee established pursuant to this section 13.3 shall:
- 13.3.1 Communicate and offer assistance to the terminating Primary Ambulance Service Provider in an effort to help them continue BLS Ambulance Service.
- 13.3.2 In the event that the county committee is unable to get the company to continue BLS Ambulance Service, they shall then contact the surrounding departments and ascertain and/or develop a plan for those departments to divide the Ambulance Service District and continue BLS Ambulance Service.
- 13.3.3 In the event that step one and two fail the county committee may put forth any and all suggestions they deem viable in order to provide BLS Ambulance Service to the residences and visitors of the state of Delaware for that Ambulance Service District.
- 13.3.4 The committee, through the County Firemen's Association President, shall report to the Delaware State Fire Prevention Commission within 60 days with their recommendations and/or findings.

EMERGENCY MEDICAL TECHNICIANS

14.0 Training/Certification

All individuals who successfully complete initial EMT training may be eligible for and must successfully pass the NREMT examination to receive Delaware EMT Certification.

14.1 Eligibility For Delaware EMT Certification

- 14.1.1 Apply to the Delaware State Fire Prevention Commission the approved application for m provided by the Delaware State Fire School.
- 14.1.2 An individual may apply for Certification as an EMT provided that.
- 14.1.2.1 They are a member in good standing of a Delaware Fire Department, an ambulance company, a private ambulance provider or any other group, business or industry authorized by the Delaware State Fire Prevention Commission to provide BLS or Non-Emergency Ambulance Service within the State.
- 14.1.2.2 They have obtained EMT, advanced emergency medical technician or paramedic registration from the NREMT.
- 14.1.2.3 The Chief, CEO, or head of the respective organization signs the application.
- 14.1.2.4 They are compliant with criminal history background check pursuant to 16 Del.C. §6712.
- 14.1.2.5 Must be 18 years of age.
- 14.1.2.6 Comply with the State of Delaware Immunization policy.

14.2 Certification

- 14.2.1 Certification may be obtained by completing a state approved EMT course and passing the NREMT exam. Registration and Certification will be issued for the time period to coincide with the NREMT registration cycle. This is typically a two-year period.
- 14.2.2 Individuals who take an EMT class from a state-approved provider other than the Delaware State Fire School are required to meet all Delaware State Fire Prevention Commission requirements for Certification.
- 14.2.2.1 It is the responsibility of the individual applying for certification to provide criminal history background check as specified by Delaware State Fire Prevention Commission.
- 14.2.2.2 It is the responsibility of the individual applying to provide all necessary documentation for certification to include course completion certificate, current SAED/CPR certification, Delaware protocol training and NREMT-B card.

14.3 Recertification as Delaware EMT

PROPOSED REGULATIONS

- 14.3.1 Individuals will be re-certified for a two-year period.
- 14.3.2 The re-certification requirements for a Delaware EMT will be determined by the Delaware State Fire Prevention Commission, with recommendations of their medical advisor/director.
- 14.3.3 Requirements for re-Certification are:
- 14.3.3.1 Individuals must submit a request for re-Certification to the Delaware State Fire School documenting completion of the following requirements.
- 14.3.3.1.1 Attend an approved in-State prescribed US Department of Transportation EMT refresher conducted by the Delaware State Fire School or an equivalent approved by the State Fire Prevention Commission.
- 14.3.3.1.2 Current CPR/SAED certificate.
- 14.3.3.1.3 Completion of form provided by the Delaware State Fire School.
- 14.3.3.1.4 The applicant for re-Certification is a member in good standing of a Delaware Fire Department, an Ambulance organization, a private Ambulance provider or any other group business or industry certified by the Delaware State Fire Prevention Commission to provide Ambulance service.
- 14.3.3.1.5 The Chief, Chief Executive Officer, President or head of the respective organization signs the application.
- 14.3.3.1.6 The applicant for re-Certification has not previously had their Delaware EMT Certification revoked. Previous suspension of a Delaware EMT Certification may be grounds for denial of re-Certification.
- 14.3.4 Re-registration as a n NREMT T-B: The re-registration requirements for a National Registry of Emergency Medical Technician – Basic will be determined by the National Registry of Emergency Medical Technicians.
- 14.3.4.1 Continuing education classes to achieve re-registration through the NREMT will be reviewed for approval by the Office of Emergency Medical Services in accordance with NREMT policy and procedures.
- 14.3.5 Active duty military personnel not able to re-certify due to deployment may request for an extension of Certification until they are able to return and complete necessary requirements. Upon return the individual shall have 90 days to complete re-Certification requirements.
- 14.4 Decertification; Violations; Penalties and Disciplinary Procedure.
- 14.4.1 An EMT may lose their Delaware EMT Certification if:
- 14.4.1.1 An EMT does not meet the re-Certification requirements as defined by the Delaware State Fire Prevention Commission; or
- 14.4.1.2 Obtained Certification by means of fraud or deceit; or
- 14.4.1.3 Demonstrated gross negligence, or has proven otherwise to be grossly incompetent; or
- 14.4.1.4 Violated Statewide Basic Life Support treatment protocols; or
- 14.4.1.5 Violated or aided or abetted in the violation of any provision of this Regulation; or
- 14.4.1.6 Engaged in unprofessional conduct; or
- 14.4.1.7 Has their NREMT certification revoked by the National Registry of Emergency Medical Technicians; or
- 14.4.1.8 Is charged with an offense as specified in 16 **Del.C.** §6712(b).
- 14.4.2 “Unprofessional conduct” includes but is not limited to any of the following acts or omissions:
- 14.4.2.1 The use of any false, fraudulent, or forged statement or document or the use of any fraudulent, deceitful, dishonest, or unethical practice in connection with a certification, registration, or licensing requirement of this Regulation, or in connection with the practice of EMT services or other profession or occupation regulated by the Delaware State Fire Prevention Commission;
- 14.4.2.2 Conviction of or admission under oath to having committed a crime substantially related to the practice of EMT services or other profession or occupation regulated by the Delaware State Fire Prevention Commission;

- 14.4.2.3 Any dishonorable, unethical, or other conduct likely to deceive, defraud, or harm the public;
- 14.4.2.4 The practice of EMT services or other profession or occupation regulated by the Delaware State Fire Prevention Commission under a false or assumed name;
- 14.4.2.5 The practice of EMT services or other profession or occupation regulated by the Delaware State Fire Prevention Commission without a certificate or other authorizing document or renewal of such document, unless otherwise authorized by the Delaware State Fire Prevention Commission;
- 14.4.2.6 The use, distribution, or issuance of a dangerous or narcotic drug, other than for therapeutic or diagnostic purposes;
- 14.4.2.7 The practice of EMT services or other profession or occupation regulated by the Delaware State Fire Prevention Commission by any EMT whose physical or mental capacity is not adequate to safely perform the EMT's duties and responsibilities;
- 14.4.2.8 Advertising of the practice of EMT services or other profession or occupation regulated by the Delaware State Fire Prevention Commission in an unethical or unprofessional manner;
- 14.4.2.9 Knowing or intentional performance of an act which, unless authorized by the Delaware State Fire Prevention Commission, assists a non authorized person to practice EMT services or other profession or occupation regulated by the Delaware State Fire Prevention Commission;
- 14.4.2.10 The failure to provide adequate supervision to an individual working under the supervision of a person who is certified to practice EMT services or other profession or occupation regulated by the Delaware State Fire Prevention Commission;
- 14.4.2.11 Misconduct, incompetence, or gross negligence in the practice of EMT services or other profession or occupation regulated by the Delaware State Fire Prevention Commission;
- 14.4.2.12 Unjustified failure upon request to divulge information relevant to the authorization or competence of a person to practice EMT services or other profession or occupation regulated by the Delaware State Fire Prevention Commission to the Delaware State Fire Prevention Commission, or to anyone designated by the Delaware State Fire Prevention Commission to request such information;
- 14.4.2.13 The violation of a provision of this Regulation or the violation of an order of the Delaware State Fire Prevention Commission related to the practice of EMT services, BLS Service or to the procedures of other professions or occupations regulated by Delaware State Fire Prevention Commission, the violation of which more probably than not will harm or injure the public or an individual;
- 14.4.2.14 Charging a grossly exorbitant fee for EMT services or BLS Services rendered;
- 14.4.2.15 Suspension or revocation of EMT Certification or of the authorizing document to practice another profession or occupation regulated by Delaware State Fire Prevention Commission, or other disciplinary action taken by the regulatory authority in another state or territory. In making its determination, the Delaware State Fire Prevention Commission may rely upon decisions made by the appropriate authorities in other states and may not permit a collateral attack on those decisions.
- 14.4.3 The following procedure shall be followed for the investigation of complaints against EMT's:
 - 14.4.3.1 Any person who desires to file a complaint against any EMT must do so in writing to the Delaware State Fire Prevention Commission.
 - 14.4.3.2 The complaint shall state the name of the EMT and sufficient facts as determined by the Delaware State Fire Prevention Commission which allegedly constitute the basis for the written complaint. If any of these elements are missing in the written complaint, the Delaware State Fire Prevention Commission may, in its discretion, sua sponte dismiss the complaint.
 - 14.4.3.3 The complaint shall be filed with the Delaware State Fire Prevention Commission. The Delaware State Fire Prevention Commission's designee shall, within 15 days of the receipt

PROPOSED REGULATIONS

- of the complaint, fill out a complaint card, assign a complaint number and log the complaint in the Delaware State Fire Prevention Commission's records. A record of the complaint shall be kept with the Delaware State Fire Prevention Commission for a period of 5 years. The Delaware State Fire Prevention Commission shall also assign a designee to investigate the complaint after this procedure is complied with.
- 14.4.3.4 The Delaware State Fire Prevention Commission shall thereafter mail a copy of the complaint to the EMT named in the complaint at the EMT's address of record in the Delaware State Fire Prevention Commission's files. The Delaware State Fire Prevention Commission may, in its discretion, withhold the name of the complainant. The named EMT, if the EMT chooses, may file an answer to the complaint within 20 calendar days with the Delaware State Fire Prevention Commission.
- 14.4.3.5 The Delaware State Fire Prevention Commission shall suspend its investigation and withhold from the respondent reports of violations or misconduct if a request to do so is made in writing by the Delaware Department of Justice or a federal law-enforcement authority due to the potential effects of such conduct on a pending criminal investigation. Such written request shall suspend any duty to investigate, advise the complainant or respondent, or undertake any other duties that would interfere with the ability of law enforcement to investigate the allegations successfully. The suspension shall remain in effect until the Delaware Department of Justice or federal law enforcement informs the Delaware State Fire Prevention Commission in writing that action by the Delaware State Fire Prevention Commission will not interfere with a pending law-enforcement investigation.
- 14.4.3.6 The investigator assigned by the Delaware State Fire Prevention Commission shall direct the investigation of the complaint. The investigator shall issue a final report at the conclusion of the investigator's investigation. The report shall list the evidence reviewed, the witnesses interviewed and cite the law or regulation alleged to have been violated and the facts to support such finding. The report shall contain a written recommendation to either prosecute or dismiss the complaint approved by the Delaware State Fire Prevention Commission.
- 14.4.3.7 The Chair or Vice-Chair of Director of the Delaware State Fire Prevention Commission may forward the complaint and written report to the Department of Justice for review by a Deputy Attorney General. If deemed warranted, the Deputy Attorney General may file a formal written complaint against the named EMT with the Delaware State Fire Prevention Commission and request a hearing before the Delaware State Fire Prevention Commission. If the Deputy Attorney General assigned to the case recommends not to prosecute or otherwise not file a formal complaint, the Deputy Attorney General shall notify the Chair or Vice-Chair of the Delaware State Fire Prevention Commission in writing.
- 14.4.3.8 If the Deputy Attorney General assigned to the case recommends dismissal or no prosecution, the Delaware State Fire Prevention Commission shall, thereafter, dismiss the complaint which shall constitute a final order. The Delaware State Fire Prevention Commission shall, thereafter, file a copy of the Attorney General's recommendation and an investigator's report for informational purposes only.
- 14.4.3.9 Nothing in this subsection shall prohibit a member of the public from filing a complaint directly with the Delaware State Fire Prevention Commission or an EMS Medical Director.
- 14.4.4 For the purpose of the public health, safety and welfare, the Delaware State Fire Prevention Commission may impose, after a hearing, any of the following sanctions against an EMT for any violation of this Regulation:
- 14.4.4.1 Issue a letter of reprimand;
- 14.4.4.2 Place the EMT on probationary status with requirements for reporting to the Delaware State Fire Prevention Commission.
- 14.4.4.3 Suspend any EMT's Certification;

- 14.4.4.4 Permanently revoke any EMT's Certification;
- 14.4.4.5 Withdraw or reduce conditions of probation when the Delaware State Fire Prevention Commission finds that the deficiencies which required such action have been remedied.
- 14.5 Reinstatement for Delaware EMT Upon Expiration of Current Certification.
 - 14.5.1 Individuals desiring to regain Certification as a Delaware EMT, after the expiration of their Certification may do so provided the following conditions are met.
 - 14.5.1.1 Their card has been expired 24 months or less.
 - 14.5.1.2 They must attend an approved Delaware EMT refresher course.
 - 14.5.1.3 They must show proof of a current SAED and CPR certification.
 - 14.5.1.4 They must successfully complete the current Delaware Protocol examination. The protocol self study course is available from the Delaware State Fire School or their website.
 - 14.5.1.5 They must acquire a Delaware and Federal background check at their expense.
 - 14.5.1.6 They must submit all required paperwork and application for Certification to the Delaware State Fire School.
 - 14.5.1.7 The applicant is a member in good standing of a Delaware Fire Department, an Ambulance organization, a private Ambulance provider or any other group business or industry certified by the Delaware State Fire Prevention Commission to provide Ambulance service.
 - 14.5.1.8 The Chief, CEO or head of the respective organization signs the application.
 - 14.5.1.9 The applicant has not previously had their Delaware EMT Certification revoked. Previous suspension of a Delaware EMT Certification may be grounds for denial of reinstatement.
 - 14.5.2 Individuals whose card has expired 24 months or more must take an approved EMT course and pass the NREMT examination.
- 14.6 Testing Procedures For National Registry of Emergency Medical Technicians.
 - 14.6.1 Initial testing and re-testing for National Registered EMT-B will follow the guidelines set forth by the National Registry of Emergency Medical Technicians.
- 14.7 Reciprocity
 - 14.7.1 EMT's, paramedics, nurses, or physicians who enter Delaware with a NR EMT EMT, advanced emergency medical technician or paramedic certification will receive reciprocity as an EMT in the State provided that.
 - 14.7.1.1 They become a member of an authorized Primary, Secondary or Non-Emergency Ambulance Service Provider in the State.
 - 14.7.1.2 They submit the required application form to the Delaware State Fire School.
 - 14.7.1.3 They have a current National Registry EMT certification.
 - 14.7.1.4 CPR and SAED as approved by the Delaware State Fire Prevention Commission.
 - 14.7.1.5 Challenge practical exams as required.
 - 14.7.1.6 Successfully completed Delaware Protocol Examination.
 - 14.7.1.7 Provide mandated State & Federal background checks.
 - 14.7.1.8 Applicants will be advised of the appeal process of Regulation 710, Section 15.0, Criminal History Background Check if reciprocity is denied because of criminal history background check.
 - 14.7.2 Applicants certified from other states without at least a nationally registered EMT certification must obtain NREMT registration prior to applying for Delaware Certification.
 - 14.7.3 The Delaware State Fire Prevention Commission reserves the right to administer a written examination if deemed necessary.
- 14.8 Duty to Self-Report. – All EMT's shall:
 - 14.8.1 Self-report to the volunteer fire, rescue or ambulance company, BLS Ambulance Service Provider, Primary Ambulance Service Provider, Secondary Ambulance Service Provider or Non-Emergency

Ambulance Service Provider to which they are a member or employed and to the State Fire Prevention Commission any convictions, charges or adjudications.

14.8.2 Submit the report required by this section in writing within 30 days of the charge, adjudication or notification of the conviction.

14.8.3 Failure to make a report constitutes grounds for discipline under this Regulation.

15.0 Criminal History Background Check

15.1 Authorized Governmental Designee for the Delaware State Fire Prevention Commission

15.1.1 The Delaware State Fire Prevention Commission authorizes the Director of the Delaware State Fire School to be its governmental designee to acquire and review State and Federal criminal history background checks submitted by the State Bureau of Identification for an applicant applying to become a Delaware EMT and to interview the applicant, if necessary.

15.2 Evaluation Procedure for Criminal History Background Checks.

15.2.1 The Director of the Delaware State Fire School shall evaluate the criminal history background checks using the criteria established in 16 Del.C. §6712(b). All criminal history background checks will be forwarded by the State Bureau of Identification to the Director of the Delaware State Fire School.

15.2.2 Should the Director of the Delaware State Fire School as a result of the criminal history background check find cause to recommend to the Delaware State Fire Prevention Commission that it deny the application of the person seeking certification as an EMT, the Director shall notify the Delaware State Fire Prevention Commission of this decision. Unprofessional conduct as defined in this Regulation may constitute cause under this sub-section.

15.2.3 The Director of the Delaware State Fire School shall advise the applicant that the application is denied and state the reason therefore. The Director of the Delaware State Fire School will also advise the applicant of the right to review all information reviewed by the Director and the right to appeal the decision by requesting a hearing before the Delaware State Fire Prevention Commission.

15.3 Appeal Process for Denial of Certification or De-certification because of Criminal Conviction

15.3.1 Any Delaware EMT applicant or certificate holder notified by the Delaware State Fire Prevention Commission and or the Delaware State Fire School that the Delaware State Fire Prevention Commission intends to deny the application or decertify the certificate holder because of criminal history background check information may appeal the denial to the Delaware State Fire Prevention Commission. The process is:

15.3.1.1 Within 10 days after the postmark on the notification of the intent to deny certification or decertify a certificate holder, the applicant shall submit a written request for a hearing to the Delaware State Fire Prevention Commission stating the reason(s) supporting the appeal.

15.3.1.2 Notice of the hearing shall be given at least 20 days before the day of the hearing and comply with the provisions of 29 Del.C. §10122.

15.3.1.3 The hearing before the Delaware State Fire Prevention Commission will be conducted in accordance with the Delaware Administrative Procedures Act 29 Del.C. Ch. 101.

15.4 Requirements for Certification

15.4.1 Persons seeking certification as a Delaware EMT must be eighteen (18) years of age at the time of application.

15.4.2 An individual applying for certification must meet the requirement of Regulation 710, of the Delaware State Fire Prevention Regulations "Ambulance Service Regulations".

15.4.3 Persons seeking Certification must meet the criminal history background check as mandated in 16 Del.C. §6712(b), effective July 12, 2001 and follow the procedures outlined in this Regulation.

15.5 Administrative Policy Pertaining to Criminal History Background Checks

- 15.5.1 Delaware State Fire School training announcements for EMT courses will include the statement "Criminal History Background checks will be required as per the regulations".
- 15.5.2 All chiefs of departments, presidents or ambulance captains of volunteer rescue or ambulance squads or officers of private corporations or entities which have students pre-registered for the class or have hired an individual as an Ambulance driver shall inform the individual that a criminal history background check will be required. It will be the responsibility of any private EMT training institution to make their students aware that a criminal history background check is required to become a State Certified EMT and the criminal history background check be available in order to receive EMT Certification or authorization by the Delaware State Fire Prevention Commission, or its designee, to drive an Ambulance.
- 15.5.3 Any student not pre-registered for the class will not be accepted as a walk-in.
- 15.5.4 All EMT students and Ambulance drivers will sign a release provided by the State Bureau of Identification authorizing the criminal history background check. Any student or Ambulance driver failing to sign the designated form will not be allowed to participate in the course or drive an Ambulance.
- 15.5.5 Students who are members of a private ambulance service are required to pay the course tuition prior to the first night of class. The tuition is refundable at 100% if the student drops out prior to the first night of class. The tuition may be refundable at 50% if the student drops out prior to the midpoint of class. The tuition is non-refundable after the midpoint of class.
- 15.5.6 Any volunteer fire, rescue or ambulance company student accepted into the course who does not complete the course will be required to reimburse the Delaware State Fire School the cost of the course materials.
- 15.6 Payment of Cost for Criminal History Background Checks
 - 15.6.1 All applicants and Ambulance drivers shall pay for the criminal history background check at the time of their request.
 - 15.6.2 Reciprocity for University of Delaware Students
 - 15.6.2.1 The Delaware State Fire Prevention Commission will waive the criminal history background check requirements for all University of Delaware Students applying for Certification as an EMT.
 - 15.6.2.2 The University Police Department will provide the Director of the Delaware State Fire School with a written document listing all eligible students and a statement that they have passed an internal background check at least equal to the requirement of 16 Del.C. §6712.
- 15.7 Confidentiality of Criminal History Background Check Information
 - 15.7.1 Information obtained pursuant to the criminal history background check is confidential and except as provided in this Regulation, shall not be released from the Delaware State Fire School under any circumstances to anyone.
 - 15.7.2 All criminal history background check information that is reviewed by the Director of the Delaware State Fire School shall be retained in a locked file cabinet in the custody of the Director for a two (2) year period.
 - 15.7.3 When a denial for Certification is made, the Delaware State Fire Prevention Commission will be advised by the Director of the Delaware State Fire School and the background check will be secured for at least 60 days or until any appeal process is completed.
 - 15.7.3.1 At the expiration of 60 days, if an appeal has not been filed, the information is to be retained by the Director of the Delaware State Fire School secured file system.
 - 15.7.4 Pursuant to 16 Del.C. §6712 the individual may meet with the Director of the Delaware State Fire School and after providing proof of identification including a photo identification, review their information. Copies will not be provided to anyone.

EMERGENCY MEDICAL RESPONDERS**16.0 Emergency Medical Responders: EMR's do not meet the requirements of EMT and cannot transport a patient without a Delaware Certified EMT present and in the patient care compartment.****16.1 Eligibility for Delaware EMR Certification****16.1.1 16 years of age****16.1.2 Complete approved United States Department of Transportation EMR curriculum****16.1.3 NREMT EMR certification is optional****16.1.4 Submit required applications and paperwork to Delaware State Fire School****16.2 Certification is valid for 2 years from the date of course completion.****16.3 Re-Certification****16.3.1 Must re-Certify as mandated by the Delaware State Fire Prevention Commission.****16.3.1.1 United States Department of Transportation EMR refresher, SAED and CPR.****16.3.1.2 NREMT registration – As determined by NREMT.****16.3.1.3 The applicant for re-Certification has not previously had their Delaware EMR Certification revoked. Previous suspension of a Delaware EMR Certification may be grounds for denial of re-Certification.****16.4 De-certification****16.4.1 May have their Certification revoked by the Delaware State Fire Prevention Commission for any violation of this Regulation. The provisions of sections 14.4 and 14.8 of this Regulation are expressly made applicable to EMR's****16.5 Expired EMR Certifications****16.5.1 Individuals desiring Certification as an EMR after the expiration date of their certification may do so providing the following conditions are met.****16.5.1.1 Card expired 24 months or less.****16.5.1.2 Attend approved refresher course.****16.5.1.3 Show proof of current SAED/CPR certification.****16.5.1.4 Submit all required applications and paperwork to Delaware State Fire School.****16.5.1.5 The applicant for re-Certification has not previously had their Delaware EMR Certification revoked. Previous suspension of a Delaware EMR Certification may be grounds for denial of re-Certification.****16.5.1.6 Individuals whose card has expired more than 24 months must attend a complete EMR training course.****16.5.2 Individuals desiring to regain NREMT registration must follow the policies of the NREMT.****16.6 Testing procedures Delaware EMR.****16.6.1 Initial testing and retesting for EMR's will follow the guidelines set forth by Delaware State Fire School.****16.7 Reciprocity.****16.7.1 EMR's from other state must submit a request.****16.7.2 Show proof of attending a United States Department of Transportation curriculum.****16.7.3 Obtain or show proof of CPR/SAED certification as approved by Delaware State Fire Prevention Commission.****16.7.4 Successfully complete practical examinations as determined by the Delaware State Fire School.****16.7.5 Successfully complete the State EMR examination.**

**DEPARTMENT OF AGRICULTURE
THOROUGHBRED RACING COMMISSION**

Statutory Authority: 3 Delaware Code, Section 4815(b)(3)(c)(3) (3 Del.C. §4815(b)(3)(c)(3))
3 DE Admin. Code 1001

PUBLIC NOTICE**1001 Thoroughbred Racing Rules and Regulations**

The Delaware Thoroughbred Racing Commission in accordance with 3 Del.C. §10103(c) has proposed changes to its rules and regulations. The proposal amends the rules and regulations to conform to recently revised national standards for the acceptable levels of phenylbutazone and oxyphenbutazone in thoroughbred race horses.

A public hearing will be held on March 15, 2011 at 10:00 a.m. in the second floor conference room of the Horseman's Office, located on the grounds of Delaware Park, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 where members of the public can offer comments. Anyone wishing to receive a copy of the proposed regulations may obtain a copy from the Delaware Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

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

1001 Thoroughbred Racing Rules and Regulations***(Break in Continuity of Sections)*****15.0 Medication; Testing Procedures****15.1 Prohibition and Control of Medication:*****(Break in Continuity Within Section)*****15.1.3 Foreign Substances:**

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

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

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

15.1.3.1.3 A foreign substance of accepted therapeutic value may be administered as prescribed by a Veterinarian when test levels and guidelines for its use have been established by the Veterinary-Chemist Advisory Committee of the National Association of State Racing Commissioners and approved by the Commission. Aminocaproic acid may be present in a horse's body while it is participating in a race, subject to all the provisions of these Rules. Androgenic-Anabolic Steroids are subject to the provisions of Rule 15.17.

PROPOSED REGULATIONS

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

Revised: 1/6/92.

15.1.3.1.5 The test level of phenylbutazone under this Rule shall not be in excess of two point five (2.50) micrograms (mcg) per milliliter (ml) of plasma without penalties in the following format:

Micrograms per milliliter	Penalties
0 to 2.50	No action
2.61 to 4.94	First Offense-\$500.00 fine
2.61 to 4.94	Second Offense within 365 days \$1000.00 fine
2.61 to 4.94	Third Offense within 365 days \$1000.00 fine and/or Suspension and/or Loss of Purse
5.0 4.5 and Over	Fine, Suspension, Loss of Purse

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

Micrograms per milliliter	Penalties
0 to 2.50	No action
2.61 to 4.94	First Offense-\$500.00 fine
2.61 to 4.94	Second Offense within 365 days \$1000.00 fine
2.61 to 4.94	Third Offense within 365 days \$1000.00 fine and/or Suspension and/or Loss of Purse
5.0 4.5 and Over	Fine, Suspension, Loss of Purse

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

[1001 Thoroughbred Racing Rules and Regulations](#)

DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

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

PUBLIC NOTICE

210 District School Board Member Special Education Due Process Hearing Training

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

A. Type of Regulatory Action Required

New Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education intends to amend 14 **DE Admin. Code** by adding a new regulation 210 District School Board Member Special Education Due Process Hearing Training. The regulation is required as a result of the passage of HB 386 of the 145th General Assembly. The regulation relates to special education due process hearing training for school district board of education members. The law as written does not apply to charter schools; therefore, this regulation does not apply to charter schools.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before **March 4, 2011** to Susan Haberstroh, Education Associate, Regulation Review, 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 new regulation help improve student achievement as measured against state achievement standards? This is a new regulation and not specifically related to improving student achievement.
2. Will the new regulation help ensure that all students receive an equitable education? This is a new regulation and not specifically related to students receiving an equitable education.
3. Will the new regulation help to ensure that all students' health and safety are adequately protected? This is a new regulation and not specifically related to students' health and safety.
4. Will the new regulation help to ensure that all students' legal rights are respected? The requirements of this new regulation will provide information that includes students' legal rights as they relate to special education.
5. Will the new regulation preserve the necessary authority and flexibility of decision making at the local board and school level? This new regulation does not specifically address decision making at the local board and school level.
6. Will the new regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? This new regulation requires administrators and boards of local school districts to attend training.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The new regulation requires training for local school district board members and does not specifically address decision making authority and accountability.
8. Will the new 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 new regulation is consistent with other state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? The new regulation is in response to legislation passed.
10. What is the cost to the State and to the local school boards of compliance with the regulation? There are time resources and material costs associated with the requirements of this regulation.

210 District School Board Member Special Education Due Process Hearing Training**1.0 Purpose**

The purpose of this regulation is to outline the criteria and process for the required training for members of district school boards, including vocational technical school boards, pursuant to 14 Del.C. §1049B. The purpose of the training is to inform school board members of the educational and legal issues generally involved in special education due process hearings arising under the Individuals With Disabilities Education Act, 20 U.S.C. § 1400 ("IDEA") and Chapter 31 of Title 14 of the Delaware Code ("Chapter 31").

PROPOSED REGULATIONS

2.0 Definitions

“District School Board” shall mean reorganized school district boards and vocational technical school district boards duly appointed or elected pursuant to Chapter 10 of Title 14 of the Delaware Code.

“Materials” shall mean training aids approved by the Secretary of Education for use in the Special Education Due Process Hearing Training.

“School Board Member” shall mean a district school board member whether that person is elected, appointed, or is a volunteer.

“Trainer” means an individual, agency, or organization approved by the Secretary of Education to provide the Special Education Due Process Hearing Training, in whole or in part.

3.0 Special Education Due Process Hearing Training Requirement

3.1 The Special Education Due Process Hearing Training means the program and materials approved by the Department of Education consisting of a minimum of two (2) hours and covering the following topics:

3.1.1 Overview of special education requirements related to the identification, evaluation, and educational placement of children with disabilities, and the provision of a free, appropriate public education to children with disabilities; and

3.1.2 Overview of the due process hearing system; and

3.1.3 Summary of other procedural safeguards and dispute resolution options available to parents and school districts under the IDEA and Chapter 31.

3.2 The training may be provided in a format that includes, but not limited to, an electronic media format or in person.

4.0 Special Education Due Process Hearing Training Requirement for District School Board Members

4.1 Each district School Board Member shall participate and complete the Special Education Due Process Hearing Training the later of the following:

4.1.1 Within one (1) year of election, appointment, or voluntary service to a District School Board; or

4.1.2 Within one year of the initial effective date of this regulation.

5.0 Trainer

The training required by this regulation shall be conducted by a trainer as defined in this regulation.

6.0 Materials

The materials used for the training required by this regulation shall be those as defined in this regulation.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 211

PUBLIC NOTICE

211 Notice to School Boards of Due Process Proceedings

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

A. Type of Regulatory Action Required

New Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education intends to amend 14 **DE Admin. Code** by adding a new regulation 211 Notice to School Boards of Due Process Proceedings. The regulation is required as a result of the passage of HB 387 of the 145th General Assembly. The regulation relates to notification of special education due process proceedings. This law applies to both local school boards and charter schools.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before **March 4, 2011** to Susan Haberstroh, Education Associate, Regulation Review, 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 new regulation help improve student achievement as measured against state achievement standards? This is a new regulation and not specifically related to improving student achievement.

2. Will the new regulation help ensure that all students receive an equitable education? This is a new regulation and not specifically related to students receiving an equitable education.

3. Will the new regulation help to ensure that all students' health and safety are adequately protected? This is a new regulation and not specifically related to students' health and safety.

4. Will the new regulation help to ensure that all students' legal rights are respected? The requirements of this new regulation will provide information that might include students' rights as they relate to special education.

5. Will the new regulation preserve the necessary authority and flexibility of decision making at the local board and school level? This new regulation requires administrators and boards of local school districts and charter schools to take additional actions as it relates to due process proceedings.

6. Will the new regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? This new regulation requires administrators and boards of local school districts and charter schools to take additional actions as it relates to due process proceedings.

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 does not change based on this new regulation.

8. Will the new 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 new regulation is consistent with other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? The new regulation is in response to legislation passed.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are time resources and material costs associated with the requirements of this regulation.

211 Notice to School Boards of Due Process Proceedings**1.0 Purpose**

The purpose of this regulation is to outline the process for notifying school board members pursuant to 14 Del.C. §3110(d) of special education administrative hearings under the Individuals With Disabilities Education Act, 20 U.S.C. § 1400 et seq. ("IDEA") and 14 Del.C. §3101 et seq. ("Chapter 31") involving the school district or charter school.

2.0 Definitions

"School Board" shall mean charter school boards of directors organized pursuant to Chapter 5 of Title 14 of the Delaware Code, and reorganized school district boards and vocational technical school district boards duly appointed or elected pursuant to Chapter 10 of Title 14 of the Delaware Code.

“School Board Member” shall mean a district school board member or charter school board member whether that person is elected, appointed, or is a volunteer.

3.0 Privacy and Confidentiality Considerations

Actions taken and documents provided in accordance with this regulation and 14 Del.C. §3110(d) must comply with IDEA and its regulations, the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (“FERPA”) and its regulations, the Delaware Freedom of Information Act, 14 Del.C. §10001 et seq. (“FOIA”), and all other applicable federal and state laws and regulations governing the privacy and confidentiality of student information and records.

4.0 Notice of Due Process Complaint

- 4.1 After receiving notification that a due process complaint has been received by the Secretary of the Department of Education, the superintendent of a reorganized school district or a vocational technical school district (“superintendent”) or charter school principal (“principal”) shall provide a copy of the complaint to each school board member at the next scheduled school board meeting.
- 4.2 The school board president shall sign a statement that all school board members received a copy of the complaint and the superintendent or principal shall provide a copy of the statement to the parent(s) or legal guardian of the child named in the complaint by certified mail.

5.0 Notice of Due Process Hearing Panel Decision

- 5.1 Within 7 school days of receiving a due process hearing decision, the superintendent or principal shall provide a copy of the decision to each school board member.
- 5.2 The superintendent or principal shall send a letter signed by the school board president to the parent or legal guardian of the child named in the hearing decision by certified mail, stating that the members of the school board were provided with a copy of the due process hearing panel decision.

6.0 Notice of Parent Request for Judicial Review of Due Process Hearing Panel Decision

- 6.1 After receipt of the civil action filed by a parent or legal guardian seeking judicial review of a due process hearing decision pursuant to applicable laws and regulation, the superintendent or principal shall provide each school board member with a copy of the civil action at the next regularly scheduled school board meeting.
- 6.2 The superintendent or principal shall send a letter signed by the president of the school board by certified mail to the parent(s) or legal guardian of the child named in the civil action stating that the members of the school board were provided with a copy of the civil action.

7.0 School District or Charter School Request for Judicial Review of Due Process Hearing Panel Decision

A decision by a reorganized school district or a vocational technical school district or charter school to seek judicial review of a due process hearing decision must be made by a majority of school board members.

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Section 1205(b) (14 Del.C. §1205(b))
14 DE Admin. Code 1565

PUBLIC NOTICE

1565 World Language Teacher

EDUCATIONAL IMPACT ANALYSIS PURSUANT TO 14 DEL.C. SECTION 122(d)

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to amend regulation 14 DE Admin. Code 1565 World Language Teacher. The regulation concerns the requirements for certification of educational personnel, pursuant to 14 Del.C. §1220(a). It is necessary to amend this regulation to allow for the certification of American Sign Language and other World Language teachers for whom the typical examination of content knowledge may not be applicable and available. This regulation sets forth the requirements for a World Language Teacher.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on Wednesday, March 2, 2011 to Mr. Charlie Michels, Executive Director, Delaware Professional Standards Board, The Townsend Building, 401 Federal Street, Dover, Delaware 19901. Copies of this regulation are available from the above address or may be viewed at the Professional Standards Board Business Office.

C. IMPACT CRITERIA

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

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

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

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

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

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

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

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

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

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

1565 World Language Teacher

1.0 Content

- 1.1 This regulation shall apply to the ~~requirements for issuance of~~ a Standard Certificate, pursuant to 14 Del.C. §1220(a), for World Language Teacher ~~Comprehensive~~. This certification is required for (Grades K to 12).
- 1.2 Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.

2.0 Definitions

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

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

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

~~“Educator” means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term ‘educator’ does not include substitute teachers.~~

~~“Examination of Content Knowledge” means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.~~

~~“Fifteen (15) Credits or Their Equivalent in Professional Development” means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours taken either as part of a degree program or apart from it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.~~

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

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

~~“Major or Its Equivalent” means a minimum of thirty (30) semester hours of course work in a particular content area.~~

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

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

~~“NASDTEC” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.~~

~~“NCATE” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.~~

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

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

~~“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.~~

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

10 DE Reg. 100 (07/01/06)

3.0 Standard Certificate

In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a World Language Teacher Comprehensive to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, who has met the following requirements:

- 3.1 ~~Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:~~
- 3.1.1 ~~Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or~~
 - 3.1.2 ~~Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in the world language of the Standard Certificate requested; or~~
 - 3.1.3 ~~Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or~~
 - 3.1.4 ~~Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits or their equivalent must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and~~
- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a World Language Teacher to an educator who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; and.
 - 3.1.2 Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and
 - 3.1.3 Has satisfied the additional requirements in this regulation.
- 3.2 ~~For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score, as established~~

by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination.

- 3.2.1 ~~Where no PRAXIS II test is available, nationally recognized equivalent tests, such as the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the ACTFL Writing Proficiency Test, may be substituted. For tests of languages using a Roman alphabet, candidates are required to achieve an Advanced Low Level on the oral skills and an Advanced Low Level on the writing skills based on the ACTFL Proficiency Guidelines. For tests of languages using a non-Roman alphabet, an Advanced Low Level on the oral skills and an Intermediate High level on the writing skills based on the ACTFL Proficiency Guidelines are required; and~~
- 3.3 ~~Meeting the requirements for licensure and holding a valid and current license or certificate from another state in a world language;~~
 - 3.3.1 ~~The Department shall not act on an application for certification if the applicant is under official investigation by a ny state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or~~
- 3.4 ~~Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.~~

9 DE Reg. 558 (10/1/05)

10 DE Reg. 100 (07/01/06)

4.0 ~~Multiple Certificates~~ Additional Requirements

Educators may hold certificates in more than one area.

- 4.1 If an examination of content knowledge such as Praxis II is not applicable and available for the World Language Standard Certificate requested, an educator must also meet the following:
 - 4.1.1 Available ACTFL Tests
 - 4.1.1.1 When the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the ACTFL Writing Proficiency Test is available in the World Language requested, the applicant shall achieve a passing score on the examination.
 - 4.1.1.2 For purposes of this regulation the following shall be considered a passing score:
 - 4.1.1.2.1 For tests of languages using a Roman alphabet, candidates are required to achieve as a minimum score an Advanced Low Level on the oral skills and an Advanced Low Level on the writing skills based on the ACTFL Proficiency Guidelines.
 - 4.1.1.2.2 For tests of languages using a non-Roman alphabet, candidates are required to achieve as a minimum score an Advanced Low Level on the oral skills and an Intermediate High level on the writing skills based on the ACTFL Proficiency Guidelines.
 - 4.1.2 If ACTFL tests are not available, the educator must meet one of the following:
 - 4.1.2.1 Specialized Education
 - 4.1.2.1.1 The applicant shall have completed fifteen (15) credits or the ir equivalent in professional development in the area of the World Language requested.
 - 4.1.2.1.1.1 The fifteen (15) credits or their equivalent in professional development in the area of the World Language requested for certification must be selected by the applicant with the assent of the employing school district or charter school and subsequently submitted to the Department for final approval.
 - 4.1.2.1.1.2 In the case where the educator is seeking certification independently or there is no employing school district or charter school, the Department shall review the proposed fifteen (15) credits or their equivalent in professional development selected by the applicant in the area of the World Language, for final determination of acceptance.

4.1.2.1.1.3 If approved by the Department, the educator may use past coursework or professional development; or

4.1.2.2 Approved Certification of Content Knowledge

4.1.2.2.1 The applicant has earned an approved certificate in the World Language requested.

4.1.2.2.2 The Standards Board may recognize certificate programs that establish the minimum content knowledge in a World Language. Certificates are approved by the Standards Board in consultation with the Department and with the concurrence of the State Board in the same manner as examinations of content knowledge.

4.1.2.2.3 The Department shall make publicly available a list of approved World Language certificates.

10 DE Reg. 100 (07/01/06)

5.0 ~~Application Requirements~~

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

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

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

40 DE Reg. 100 (07/01/06)

6.0 ~~Application Procedures for License Holders~~

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

40 DE Reg. 100 (07/01/06)

7.0 ~~Effect of Regulation~~

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

40 DE Reg. 100 (07/01/06)

8.0 ~~Validity of a Standard Certificate~~

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 **DE Admin. Code** 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board.

~~Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.~~

~~10 DE Reg. 100 (07/01/06)~~

9.0 Secretary of Education Review

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

~~9 DE Reg. 558 (10/1/05)~~

~~10 DE Reg. 100 (07/01/06)~~

~~Renumbered effective 6/1/07 - see Conversion Table~~

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Chapter 5, §512
(31 Del.C., Ch. 5, §512)

PROPOSED

DSSM: 3000 Technical Eligibility for Cash Assistance

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend policies in the Division of Social Services Manual (DSSM) regarding Delaware's Temporary Assistance for Needy Families (TANF) programs, specifically, *removing workfare requirements, removing clock extensions, and clearly defining hours for one- and two-parent families.*

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by Wednesday, March 2, 2011.

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

The proposal described below amends policies in the Division of Social Services Manual (DSSM) regarding Delaware's Temporary Assistance for Needy Families (TANF) programs, specifically, *removing workfare requirements, removing clock extensions, and clearly defining hours for one- and two-parent families.*

Statutory Authority

- 31 Del.C. §518, *Failure to comply with job placement, education, training, work eligibility, parenting or personal responsibility requirements*
- 31 Del.C. §501, *Legislative intent*
- 31 Del.C. §505(1), *Categories of Assistance - Aid to Families with Dependent Children*

- 31 Del.C. §512(1), *Administration*

Summary of Proposed Changes

This rule change removes workfare requirements from Division of Social Services (DSS) policy. Removing these restrictions to the types of activities caretakers can engage in as a requirement to receive TANF allows activities to be tailored to the needs, strengths, and goals of clients thereby increasing the likelihood of long term self-sufficiency and allowing the program to be more responsive to the unique needs of each recipient.

The rule change also eliminates the separate State program that provided additional months of TANF for those clients who continued to receive TANF while also employed at least 25 hours a month. Anecdotal evidence suggests this policy discourages recipients from accepting increased hours or job advancement at higher wages in order to retain benefits. It also advantages larger families. With the TANF caseload growing, it is one chance to reduce the growth rate. Finally, the policy changes clarify the expectations and required hours of mandatory participants in the TANF employment and training program.

The proposed changes affect the following policy sections:

DSSM 3002, *Time Limit, Temporary Welfare Program*

DSSM 3002, *Two-Parent Families - Time Limit, Temporary Welfare Program*

DSSM 3002.2, *Single Parent / Non-Parent Caretaker Families*

DSSM 3002.3, *Time Limits for Single Parent and Two Parent Families on Assistance Prior To 01/01/2000*

DSSM 3002.9, *Exceptions to the Time Limit Counter*

DSSM 3006.1.1, *Requiring Participation in Employment and training for One-Parent and single caretaker families*

DSSM 3006.1.2, *Requiring Participation in Employment and training for Two-Parent Families*

DSSM 3031, *Work For Your Welfare*

DSSM 3031, *Hours of Participation – One-Parent Families*

DSSM 3031.2, *Hours of Participation – Two-Parent Families*

DSSM 3031.3, *Reserved*

DSSM 3031.3.1, *Reserved*

DSSM 3031.3.2, *Reserved*

DSSM 3031.4, *Initiating Work for Your Welfare – Two-Parent Families*

DSS 3031.5, *Ending a Work for Welfare Placement*

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

[DSSM: 3000 Technical Eligibility for Cash Assistance](#)

DEPARTMENT OF JUSTICE

VICTIMS' COMPENSATION ASSISTANCE PROGRAM ADVISORY COUNCIL

Statutory Authority: 11 Delaware Code, Section 9004 (11 Del.C. §9004)

1 DE Admin. Code 301

PUBLIC NOTICE

301 Victims' Compensation Assistance Program Rules and Regulations

Brief Synopsis of the Subject, Substance and Issues

The Department of Justice Victims Compensation Assistance Program proposes to add an additional regulation, 29.0, to section 301 relating to payment of Mental Health claims. VCAP currently reimburses victims

who lack other insurance for mental health assessment and counseling services. VCAP is the payer of last resort for these mental health claims. Other health insurance, Medicaid and/or Medicare must pay first, before VCAP pays. This provision is intended to mirror the provisions of recently-enacted Rule 28, covering medical expenses.

This regulation would require that VCAP pay all mental health providers at 80% of the usual and customary charge for services. This amount would be deemed payment in full, and the mental health provider would be unable to collect any additional monies from the victim, or from third parties, through "balance billing". VCAP would pay any co-payment amounts in full, on approved assessment and treatment. Enactment of this regulation would help preserve and extend the Victims Compensation Assistance Program funds and bring VCAP more in line the practices of insurers and other government programs in paying mental health claims.

Notice of Public Comment:

The Department of Justice Victims Compensation Assistance Program will hold a public hearing on these proposed amendments on Wednesday, February 23, 2011 at 2:00 p.m. at Dover Police Department, 400 S. Queen Street, Dover, DE 19904. Interested persons may submit comments in writing to Barbara Brown, VCAP, 900 King Street, Suite 4, Wilmington Delaware 19801, no later than February 28, 2011. Statements and testimony may be presented either orally or in writing at the public hearing.

Prepared by: Barbara Brown
302 255-1770
December 14, 2010

301 Victims' Compensation Assistance Program Rules and Regulations

(Break in Continuity of Sections)

29.0 Payment of Mental Health Claims

- 29.1 Mental health assessment and counseling expenses shall be paid on behalf of the victim to a qualified mental health practitioner at a rate set by VCAP. If VCAP accepts a claim, the mental health treatment practitioner shall accept the VCAP payment as payment in full, and may not attempt to collect from the victim or third parties any amount exceeding the amount of reimbursement made by VCAP. In the absence of an existing provider agreement, VCAP payments may be accompanied by a notice that provider acceptance constitutes acknowledgement of payment in full.
- 29.2 VCAP will pay a mental health provider at the rate of 80% of the usual and customary charge for such services. When a third party has made payment, and the victim is responsible for a co-payment, VCAP may reimburse for the amount of the co-payment. VCAP may pay a lesser amount if payment under this section would exceed a statutory or regulatory cap.
- 29.3 If the usual and customary charge cannot readily be established, or in special circumstances, VCAP may, in its discretion, determine the reasonable charge for the procedure performed or the service rendered.

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

[301 Victims' Compensation Assistance Program Rules and Regulations](#)

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF SOIL AND WATER CONSERVATION

Statutory Authority: 7 Delaware Code, Section 3905 (7 Del.C. §3905)

PUBLIC NOTICE

5105 Regulations Governing the Election of Members of County Board of Conservation District Supervisors

SAN # 2010 - 20

1. TITLE OF THE REGULATIONS:

7 DE Admin. Code 5105 - Regulations Governing the Election of Members of the County Board of Conservation District Supervisors

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

Current regulations contain a discrepancy between voter qualification in Kent and New Castle Counties as compared to voter qualification in Sussex County. In Kent and New Castle Counties, qualified voters must hold title to land in the Specified Board Supervisor area. In Sussex County, qualified voters must hold title to land in Sussex County. This modification would change voter eligibility standards in Sussex County to mirror those in Kent and New Castle Counties.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

This modification was requested by the Sussex Conservation District Board of Supervisors and the Delaware Association of Conservation District in an effort to keep *Title 7, Chapter 39*, consistent and uniform throughout each of Delaware's three Conservation Districts.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

Title 7, Chapter 39, §3905

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

None

6. NOTICE OF PUBLIC COMMENT:

Individuals may present their comments or request additional information by contacting Robert Palmer of the District Operations Section, Division of Watershed Stewardship, 89 Kings Highway, Dover, DE 19901, (302) 739-9921. A public hearing on these proposed amendments will be held on February 24, 2011 at 7:00 P.M. in the DNREC Auditorium, 89 Kings Highway, Dover, DE 19901. The record will remain open for written comments until 4:30 PM, March 26, 2011.

7. PREPARED BY:

Robert R. Palmer

5105 Regulations Governing the Election of Members of County Board of Conservation District Supervisors**1.0 Authority.**

These regulations are promulgated pursuant to the authority provided by 7 Del.C. §3905.

2.0 Definitions.

“**Cooperator**” means a landowner for whom a district provides, or has agreed to provide, in accordance with this chapter, services, material and equipment with respect to the landowner’s land within the district;

“**Farmer**” means any person holding legal title to a farm and being actively engaged in farming operations;

“**Landowner**” or “**owner of land**” means and includes any person, firm or corporation who shall hold title to any land in this State.

3.0 Eligibility of Candidates

3.1 The elected members of the Kent and Sussex Districts shall be farmers residing in those respective counties. In New Castle County, two (2) of the elected supervisors shall be farmers residing in the southern portion of the County, and the remaining two (2), who shall not be farmers, shall reside in the northern portion of the County, according to a division established by the Secretary of the Department of Natural Resources and Environmental Control, 7 Del.C., Section 3907(b).

3.1.1 The division of New Castle County established by the Secretary for this purpose is that the northern portion of the county shall include all land north of the Chesapeake and Delaware Canal, and the southern portion shall include all land south of the Canal.

3.2 The Department further requires that a candidate shall reside in a specified section of the District to provide geographical distribution of supervisors in order to facilitate the performance of their duties.

3.3 The four Supervisor Areas in each county shall be shown on a map prepared by the Board of District Supervisors and approved by the Department.

4.0 Nomination of Candidates

4.1 The County Board of Supervisors may nominate qualified candidates including supervisors who shall be eligible to succeed themselves if otherwise qualified.

4.2 Other nominations may be made provided: (a) each nomination is supported by ten (10) signatures of landowners in the Conservation District, and (b) that the nomination with supporting signatures is presented to the County Board of Supervisors by the deadline set for nominations which shall be at least two weeks in advance of the election date.

4.3 The County Board of Supervisors shall invite other nominations through press and radio news releases at least once in each of the two weeks preceding the deadline for nominations.

5.0 Ballots

The County Board of Supervisors shall prepare the ballots for the election after review and acceptance of the nominations.

6.0 Supervision of Polls

Each voting place shall be supervised by (a) two members of the County Board of Supervisors other than those that may be candidates for reelection, or (b) two landowners who are cooperators in the soil conservation program and designated by the County Board, or (c) one each from (a) and (b) above.

7.0 Distributing and Collecting Ballots

- 7.1 The Supervisors of Polls appointed under V above shall obtain the ballots from the office of the Board of District Supervisors and take them to the designated voting place.
- 7.2 The Supervisors of Polls shall determine the eligibility of those voting and maintain a roster of names of those voting.
- 7.3 At the close of the voting period, the Supervisors of Polls shall seal the ballot box and deliver the ballot box and the roster of names of those voting to the County Board of Supervisors.

8.0 Qualification of Voters

- 8.1.1 ~~In Kent and New Castle Counties, Landowners~~ who shall declare in writing that they hold title to any land in the Supervisor area holding an election shall be eligible to vote.
- 8.1.2 ~~In Sussex County, landowners who shall declare in writing that they hold title to any land in Sussex County shall be eligible to vote in all Supervisor area elections.~~
- 8.2 When land is jointly owned, for example husband and wife, each owner shall be eligible to vote.
- 8.3 Landowners shall be entitled to only one vote regardless of the number of tracts of land owned.
- 8.4 In the case of corporations, only one vote may be cast regardless of the number of owners or number of tracts of land owned.
- 8.5 The written statement indicating ownership by a corporation shall include an affirmation that no other person is voting for the corporation.

9.0 Voting Places

There shall be at least (3) but not more than five (5) polling places located within the Supervisor Area holding an election.

10.0 Hours of Voting

- 10.1 Urban Supervisor Areas – The voting place shall be open between the hours of 2:00 p.m. and 8:00 p.m.
- 10.2 Farmer Supervisor Areas – The voting place shall be open for a period of not less than six (6) hours, the precise hours to be designated by the Board of District Supervisors and publicized as required in XI below.

11.0 Counting Ballots

- 11.1 The County Board of Supervisors, in executive session, excluding incumbent supervisor candidates, shall count the ballots cast, check the number of ballots cast against the number of names on the roster of voters, and determine who has been elected.
- 11.2 They shall then seal the ballot boxes and forward the ballots and the roster of names for each voting place to the Director of Soil and Water Conservation with a report on the result of the election.

12.0 Notice of Pending Election

- 12.1 Public notice shall be given at least one (1) week in advance of the election. Such notice shall appear in at least two (2) newspapers distributed in the County. The notice shall include:
 - 12.1.1 the names of the candidates for the County Board of Supervisors;
 - 12.1.2 the date of the election;
 - 12.1.3 the hours the voting places will be open; and
 - 12.1.4 the location of the voting places.
- 12.2 In addition, posters announcing the coming election shall be displayed at each of the voting places at least one (1) week in advance of the election.

13.0 Action When Only One Candidate is Nominated

In the event that there is only one (1) nomination for a candidate to the Board of District Supervisors after due notice has been given and the time for nomination has elapsed, the Board of District Supervisors shall not hold an election, but shall declare the nominee elected, provided he meets all legal requirements. They shall so notify the Director of Soil and Water Conservation and they shall also give public notice of their actions.

DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION

1100 Board of Dental Examiners

Statutory Authority: 24 Delaware Code, Section 1106(a)(1) (24 Del.C. §1106(a)(1))
24 DE. Admin. Code 1100

PUBLIC NOTICE

1100 Board of Dental Examiners

The Board of Dentistry and Dental Hygiene ("the Board") in accordance with 24 Del.C. § 1106(a)(1) has proposed amendments to Rule 4.0 Acupuncture and Rule 8.0 Certificate Requirements. The proposed amendments delete existing Rule 4.0 as it is an outdated provision related to acupuncture. The amendments also modify the examination to reflect the change from a specific score to a pass/fail standard. The Board is replacing the deleted Rule 4.0 with a new Rule 4.0 that sets for the criteria required for a specialty rotation to satisfy the requirements of the general practice residency required by 24 Del.C. §1122(a)(3). Finally, the Board is requesting that the Registrar use his editorial powers to change the name of the Board throughout the regulations to reflect the Board's new name. The changes arise as the result of the Board's Sunset review in the last legislative session.

A public hearing will be held on March 24, 2011 at 4:45 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Dentistry and Dental Hygiene, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

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

1100 Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene

1.0 Supervision: Definitions - There are 3 recognized levels of supervision:

"Dental Technician" - Any person not licensed to practice dentistry in this State, engaged in the business of constructing, altering, repairing or duplicating full dentures ("plates"), partial dentures, splints, orthodontic appliances, fixed bridges or any other prosthetic appliances.

"Direct Supervision" - The dentist is present in the office, personally examines the patient and specifically authorized the work to be performed. The dentist checks the work before the patient leaves the office.

"General Supervision" - A dentist may or may not be present in the office while the work is performed. The dentist authorizes the work to be performed. Emergency care and consultant services are provided by an "on-call" dentist not present in the treatment facility, if the primary dentist is not present.

“Indirect Supervision” - A dentist is present in the office and generally authorizes the work to be performed. The dentist may examine the patient, either before or after work is performed. The dentist is available for consultation during the patient visit.

2.0 Auxiliary Personnel

- 2.1 Expanded Duties: A legally licensed and registered dentist may delegate to competent dental auxiliary personnel, those procedures for which the dentist exercises direct supervision and full responsibility except as follows:
 - 2.1.1 Those procedures which require professional judgment and skill, such as diagnosis and treatment planning, and the cutting of hard and/or soft tissues, or any intra-oral procedure which would lead to the fabrication of an appliance and/or restoration which, when received by the patient, would come in direct contact with hard or soft tissue and which could result in tissue irritation or injury.
 - 2.1.2 Those procedures allocated by the Dental Code to registered dental hygienists.
- 2.2 Interpretation of Regulation - Competency of the dental auxiliary personnel must be determined by the individual dentist in assigning specific duties. The dentist is given full responsibility in deciding the scope of work to be allocated to the auxiliary personnel.
- 2.3 Training of Auxiliary Personnel - Adequate training of dental auxiliary personnel will be the responsibility of the dentist.
- 2.4 Assignment of Duties - Following are some of the procedures that may be assigned to auxiliary personnel under the conditions and provisions stated above:
 - Take and develop x-rays. This involves placing an x-ray film in the patient's mouth and exposing that film.
 - Give and demonstrate home-care procedures to the patient, including those procedures the patient is expected to carry out in preventive care.
 - Placing a rubber dam.
 - Placing cotton rolls.
 - Taking impressions for study models.
 - Removal of excess cements from dental restorations and appliances with hand instruments only.
 - Removal of temporary medicinal fillings or packs under direct orders of the dentist.
- 2.5 Responsibilities - In summary, the Dental Board places full responsibility for the work done by auxiliary personnel directly upon the dentist. Violations of the regulations will be subject to penalties as spelled out in 24 **Del.C.** §1131(5).

3.0 Prescriptions to Dental Technicians

- 3.1 Written Prescriptions - Any dentist who uses the services of a dental technician in this State shall furnish him/her with a written prescription, which shall contain:
 - 3.1.1 the name and address of the technician,
 - 3.1.2 the patient's name and/or identification number,
 - 3.1.3 the date on which the prescription was written,
 - 3.1.4 a prescription of the work to be done,
 - 3.1.5 specification of the type and quality of materials to be used and
 - 3.1.6 signature of the dentist and his/her license number.
- 3.2 Record of Prescriptions - The dentist shall retain a duplicate copy thereof for inspection by the Board or its agent for a period of two years of the original.
- 3.3 The Dental Technician as an Auxiliary - Dentists employing a dental technician as an auxiliary within the confines of his/her office, may elect to maintain the required date of the prescription as an entry on the patient's record, in lieu of duplicating the prescription form to the technician.

4.0 **Acupuncture Qualifications of Applicant: Residency Requirements [24 Del.C. §1122(a)(3)]**

~~—is considered to be an experimental procedure to be researched by qualified investigators, only in institutions having a committee on human research, and only on patients who have given written informed consent.~~

- 4.1 An applicant for licensure as a dentist must have completed 1 year as a dental intern within a general practice residency accredited by the Commission on Dental Accreditation (CODA).
- 4.2 An applicant who has completed a CODA approved specialty residency of 4 years or more will be deemed to have satisfied the general practice residency requirement.
- 4.3 An applicant who has completed a CODA approved specialty residency of less than 4 years must demonstrate that the specialty residency program meets the following criteria:
 - 4.3.1 The program must meet the goals, objectives, proficiencies and competencies set forth in Standard 2.4 of the CODA Accreditation Standards for Advanced Education Programs in General Practice Residency, ©2007.
 - 4.3.2 The program must include a rotation of at least 70 hours in anesthesia and a rotation of at least 70 hours in medicine.
- 4.4 An applicant for licensure by reciprocity who has had at least 3 years of a active dental practice in another state or territory of the United States is not required to provide evidence of a general practice or specialty residency.

5.0 **Supervision**

- 5.1 Conditions Applicable to General Supervision - A licensed dental hygienist, by virtue of having passed a licensure examination and being duly licensed by the State, is capable of performing those services allowed by law under supervision, the following conditions shall exist:
- 5.2 Advance Notice to Patient - The patient is notified, as soon as it is known, that the dentist will not be present, and is given the option to reschedule to a time when the dentist will be present in the office.
- 5.3 Dentist Review of Records - The dentist shall review the treatment records of each patient prior to and following the patient treatment.
- 5.4 Patient Contraindications - Patients for whom it is medically or dentally contraindicated, will not be scheduled when the dentist is not present.
- 5.5 Office Requirements - A second office employee shall be present in the treatment facility at all times when patient care is performed. This is both for safety and security reasons.
- 5.6 Practice in a Public Health Institution - A licensed dental hygienist, per 24 Del.C. §1157(c), may operate under the general direction of a dentist in an institution, provided that all of the conditions of general supervision are met.

6.0 **Continuing Professional Education - Dentists**

All persons licensed to practice dentistry in the State of Delaware shall be required to acquire 50 hours of continuing professional education (CPE) credit and to successfully complete a current course in cardiopulmonary resuscitation (CPR) every two (2) years. The CPR course must encompass hands on clinical participation. On-line courses will not be accepted to satisfy the CPR requirement. Examples of acceptable courses include, but are not limited to, courses offered by the American Red Cross and the American Heart Association. All dentists, upon initial licensure in Delaware and prior to registration renewal, shall be given a written notice of these CPE requirements.

- 6.1 Proof of successful completion of the requisite CPE credits is required for registration renewal every two years.
- 6.2 Said CPE requirements shall become effective May 1, 1988. Proof of CPE credits must be submitted by March 1 of every two (2) even years.
- 6.3 It shall be the responsibility of the candidate for re-licensure to submit to the Board of Dental Examiners Dentistry and Dental Hygiene, evidence of his/her compliance with these requirements. The Division of Professional Regulation shall notify the candidate at least 30 days in advance of the

need to renew his/her license, and shall request that the candidate submit evidence of compliance with the CPE requirements stated herein, along with other fees and documents required. However, failure to be notified by such agency shall not relieve the licensee of this obligation.

- 6.4 Not more than ten (10) hours of the fifty (50) hour biennial CPE requirement may be satisfied by self-study without testing from sources approved by the Board which shall include but not be limited to:
- 6.4.1 Reading dental textbooks
 - 6.4.2 Reading dental tape journals
 - 6.4.3 Viewing and listening to dental audio-visual materials.
- 6.5 CPE credits may be granted upon proof of successful completion of:
- 6.5.1 Scientific CPE programs or courses and/or the scientific sessions of meetings sponsored or approved by:
 - 6.5.1.1 American Dental Association, its constituents and components
 - 6.5.1.2 American Dental Hygienists' Association, its constituents and components
 - 6.5.1.3 American Dental Assisting Association, its constituents and components
 - 6.5.1.4 Recognized national, regional, state and local dental and dental hygiene specialty organizations
 - 6.5.1.5 Recognized dental and dental hygiene study clubs
 - 6.5.1.6 Accredited dental and dental hygiene CPE programs offered by dental and dental hygiene schools.
 - 6.5.1.7 Approved hospital programs.
 - 6.5.1.8 Such other organizations and associations as may be approved by the Board.
 - 6.5.2 In addition to the maximum of ten (10) hours of the CPE requirement which may be satisfied by self-study without testing and certification, a maximum of twenty (20) hours of the total CPE requirements may be fulfilled by self-study with test and certificate of completion from bona fide dental educational sources including but not limited to:
 - 6.5.2.1 Dental journals
 - 6.5.2.2 Dental textbooks
 - 6.5.2.3 Dental video and audio tape presentations
 - 6.5.2.4 Dental mail-in courses
 - 6.5.2.5 Dental courses presented on the Internet
 - 6.5.2.6 Dental lectures and courses presented via electronic media including computer disks where CPE credits are not specified, one (1) hour of credit will be given for each hour of scientific session attended.
- 6.6 Special Provisions
- 6.6.1 A dentist, employed as a faculty member in a recognized school of dentistry, dental hygiene, dental assisting or any dentally-related field will be allowed not more than ten (10) hours credit for teaching per year.
 - 6.6.2 A dentist presenting a CPE course shall be allowed the hours involved in preparation and presentation on a one-time-per-course basis for a maximum of ten (10) hours for the two-year period.
 - 6.6.3 Table Clinics will be allowed, one (1) hour of credit per hour of presentation for a maximum of two (2) hours.
 - 6.6.4 Twelve (12) hours of credit shall be allowed for a scientific article published in a component or state society journal. 25 hours of credit shall be allowed for a scientific article published in a national journal or for a published scientific textbook or a chapter therein.
 - 6.6.5 Any public health dentally-related presentation will be allowed one (1) hour of credit per hour of participation for a maximum of two (2) hours for the two year period.
 - 6.6.6 Practice management or personal self-improvement courses shall be limited to a total of ten (10) hours for the two (2) year period.

- 6.6.7 The Board reserves the right to approve any and all activities deemed appropriate for CPE credit. The Board also reserves the right and is the final word to disapprove any activities submitted for credit which it deems inappropriate.
- 6.6.8 All dentists licensed to practice in Delaware shall be given written notice of these CPE requirements when receiving their initial license.
- 6.6.9 For existing holders of an Unrestricted Permit for anesthesia, at least twelve (12) hours of the required CPE credits must be taken on an Anesthesia topic by the end of the six (6) year re-evaluation period (i.e. by the end of the third biennial licensure renewal period).
- 6.6.10 For existing holders of a Restricted I Permit, at least six (6) hours of the required CPE credits must be taken on an Anesthesia topic by the end of the six (6) year re-evaluation period (i.e. by the end of the third biennial license renewal period).
- 6.7 Exceptions
- 6.7.1 An exception will be granted to any dentist who can demonstrate to the Board an acceptable cause as to why he/she should be relieved of this obligation. Exemptions will be granted only in unusual or extraordinary circumstances. Licensees must petition the Board for exemptions. Should the Board deny the request, the licensee must complete the requirements. Examples of circumstances for which the Board might grant exemptions include prolonged illness, extended absence from the country, or the like.
- 6.7.2 An individual initially licensed by the Board within the last 2 years shall meet the following schedule of reporting CPE credits for license renewal:
- 6.7.2.1 If, as of March 1st of the year for license renewal, the licensee has been licensed for less than 1 year, zero hours of CPE is required for license renewal; for licensees who are 1 or more but less than 2 years from their initial licensure, one-half of the required CPE must be presented; for individuals 2 years or more from their initial licensure, the full CPE requirement must be presented for renewal.
- 6.8 Failure to Comply
- When the Board deems someone to be deficient in CPE requirements, the following procedure shall be followed:
- 6.8.1 The licensee for renewal shall be notified by the Division of Professional Regulation ("Division") by certified mail that a deficiency exists. The deficiency shall be specifically described by the Division.
- 6.8.2 The licensee's registration will not be renewed until he/she submits proof that the described deficiency has been corrected. Upon submission of satisfactory proof of correction of said deficiency, the licensee shall be eligible for registration renewal.
- 6.9 Continuing Professional Education (CPE) - Dental Hygienists
- All persons licensed to practice dental hygiene in the State of Delaware shall be required to acquire twenty-four (24) hours of CPE credit and successfully complete a current course in cardiopulmonary resuscitation (CPR) every two (2) years. The CPR course must encompass hands-on clinical participation. On-line courses will not be accepted to satisfy the CPR requirement. Examples of acceptable courses include, but are not limited to, courses offered by the American Red Cross and the American Heart Association. All Dental hygienists, upon initial licensure and prior to registration renewal, shall be given written notice of these CPE requirements.
- 6.9.1 Proof of successful completion of the requisite CPE credits is required for registration renewal every two (2) years.
- 6.9.2 Said CPE requirements shall become effective May 1, 1988. Proof of CPE credits must be submitted by March 1st of every two (2) even years.
- 6.9.3 It shall be the responsibility of the candidate for re-licensure to submit to the Board of ~~Dental Examiners, Dentistry and Dental Hygiene~~ evidence of his/her compliance with these requirements. The Division of Professional Regulation shall notify the candidate at least 30 days in advance of the need to renew his/her license, and shall request that the candidate submit evidence of compliance with the CPE requirements state herein, along with other fees and documents

required. However, failure to be notified by such agency shall not relieve the licensee of this obligation.

6.9.4 CPE credits may be granted upon proof of successful completion of programs including, but not limited to, the following categories:

6.9.4.1 Scientific CPE programs or courses and/or scientific sessions of meetings sponsored or approved by:

6.9.4.1.1 American Dental Hygienists Association, its constituents and components

6.9.4.1.2 American Dental Association, its constituents and components

6.9.4.1.3 American Dental Assisting Association, its constituents, and components

6.9.4.1.4 Recognized national, regional, state, and local dental and dental hygiene specialty societies

6.9.4.1.5 Recognized dental and dental hygiene study clubs

6.9.4.1.6 Accredited dental and dental hygiene schools

6.9.4.1.7 Approved hospital programs

6.9.4.1.8 Such other organizations and associations as may be approved by the Board

6.9.4.2 A maximum of five (5) hours of the total twenty-four (24) hour requirement may be satisfied by self-study without testing from sources approved by the Board which shall include but not be limited to:

6.9.4.2.1 Reading of dental or dental hygiene journals

6.9.4.2.2 Reading dental or dental hygiene textbooks

6.9.4.2.3 Viewing and listening to dental or dental hygiene audio-visual materials

6.9.4.3 In addition to the maximum of five (5) hours which may be satisfied by self-study without testing, a maximum of ten (10) hours of the total twenty-four (24) hour requirement may be fulfilled by self-study with test and certificate of completion from bona fide dental hygiene educational sources including but not limited to:

6.9.4.3.1 Dental or dental hygiene journals

6.9.4.3.2 Dental or dental hygiene textbooks

6.9.4.3.3 Dental or dental hygiene video and audio tape presentations

6.9.4.3.4 Dental or dental hygiene mail-in courses

6.9.4.3.5 Dental or dental hygiene courses presented on the Internet

6.9.4.3.6 Dental or dental hygiene lectures and courses presented via electronic media including computer disks

Where CPE credits are not specified, one (1) hour of CPE credit will be given for each hour of scientific session attended.

The final approval of acceptable dental hygiene CPE credits shall be made by the Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene in consultation with the Dental Hygiene Advisory Committee.

6.10 Special Provisions

6.10.1 A dental hygienist, employed as a faculty member in a recognized school of dentistry, dental hygiene or dental assisting, will be allowed not more than five (5) hours credit for teaching per year.

6.10.2 A dental hygienist presenting a CPE course shall be allowed the hours involved in preparation and presentation on a one-time-per-course basis for a maximum of five (5) credits for the two-year period.

6.10.3 Table clinics will be allowed one (1) hour of credit per hour of presentation for a maximum of two (2) hours.

6.10.4 Twelve (12) hours of credit shall be granted for a scientific article published in a component or state society journal. Twelve (12) hours of credit shall be allowed for a scientific article published in a national journal or for a published scientific textbook or a chapter therein.

- 6.10.5 A dental hygienist giving public education instruction in a school will receive credit up to one (1) hour per year.
- 6.10.6 Practice management or personal self-improvement courses shall be limited to five (5) hours for the two (2) year period.
- 6.10.6.1 Practice management, personal self-improvement and computer courses shall be limited to 2.5 hours a year for a total of five(5) hours for the two year period.
- 6.10.7 The Board reserves the right to approve any and all activities deemed appropriate for CPE credit. The Board also reserves the right and is the final word to disapprove any activities submitted for credit which it deems inappropriate.
- 6.10.8 All dental hygienists licensed to practice in Delaware shall be given written notice of these CPE requirements when receiving their initial license.
- 6.11 Exceptions
- 6.11.1 An exception will be granted to any dental hygienist who can demonstrate to the Board an acceptable cause as to why he/she should be relieved of this obligation. Exemptions will be granted only in unusual or extraordinary circumstances. Licensees must petition the Board for exemptions. Should the Board deny the request, the licensee must complete the requirements. Examples of circumstances for which the Board might grant exemptions include prolonged illness, extended absence from the country, or the like.
- 6.11.2 An individual initially licensed by the Board within the last 2 years shall meet the following schedule of reporting CPE credits for license renewal:
- 6.11.2.1 If, as of March 1st of the year for license renewal, the licensee has been licensed for less than 1 year, zero hours of CPE is required for license renewal; for licensees who are 1 or more but less than 2 years from their initial licensure, one-half of the required CPE must be presented; for individuals 2 years or more from their initial licensure, the full CPE requirement must be presented for renewal.
- 6.12 Failure to Comply
- When the Board deems someone to be deficient in CPE requirements, the following procedure shall be followed:
- 6.12.1 The licensee for registration renewal shall be notified by the Division by certified mail that a deficiency exists. The deficiency shall be specifically described by the Division.
- 6.12.2 The licensee's registration will not be renewed until he/she submits proof that the described deficiency has been corrected. Upon submission of satisfactory proof of correcting said deficiency, a licensee shall be eligible for registration renewal.
- 5 DE Reg. 1251 (12/01/01)**
9 DE Reg. 1583 (04/01/06)

7.0 Anesthesia Regulations:

- 7.1 Definitions:
- The following definitions are taken from the **Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry**, American Dental Association, Council on Dental Education (July 1993). These terms refer to the extent of a drug's depressant effect upon the central nervous system and should not be confused with the route by which the drug is administered.
- 7.1.1 Analgesia -- the diminution or elimination of pain in the conscious patient.
- 7.1.2 Local Anesthesia -- the elimination of sensations, especially pain, in one part of the body by the topical application or regional injection of a drug.
- 7.1.3 Conscious Sedation -- a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command and that is produced by a pharmacologic or non-pharmacologic method or a combination thereof.

In accord with this definition, the conscious patient is also defined as "one who has intact protective reflexes, including the ability to maintain an airway, and who is capable of rational response to question or command." The drugs and techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely.

For purposes of these regulations, Conscious Sedation Permits shall be divided into two classifications:

Restricted Permit I -- Conscious Sedation induced by parenteral or enteral or rectal routes. This is not to include the usual and customary pre-operative oral sedation.

Restricted Permit II -- Conscious Sedation induced by nitrous oxide inhalation.

7.1.4 Deep Sedation -- is a controlled state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to verbal command, and is produced by a pharmacologic or non-pharmacologic method or combination thereof.

7.1.5 General Anesthesia -- is a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacologic or non-pharmacologic method or a combination thereof.

The same level of advanced training is necessary for the administration of both Deep Sedation and General Anesthesia.

7.1.6 Adverse Occurrences -- any mortality or other incident occurring in the out-patient facilities of such dentist which results in temporary or permanent physical or mental injury requiring hospitalization of said patient during, or as a direct result of, the conscious sedation, or deep sedation, or general anesthesia related thereto.

7.2 Conscious Sedation:

7.2.1 No dentist shall employ or use Conscious Sedation, Restricted Permit I or Restricted Permit II, for dental patients unless such dentist possesses a permit of authorization issued by the Delaware State Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene. The dentist holding such a permit shall be subject to review and such permit must be renewed biennially.

7.2.2 In order to receive such a permit, the dentist shall produce evidence showing that he or she:

7.2.2.1 For Restricted Permit I Conscious Sedation:

7.2.2.1.1 Has completed a minimum of 60 hours of instruction, including management of at least 20 patients per participant (to achieve competency in this technique).

7.2.2.1.2 Must be certified in CPR as documented by the American Heart Association or the American Red Cross. Advanced Cardiac Life Support Certification is encouraged.

7.2.2.1.3 Must also have a properly equipped facility for the administration of Restricted Permit I Conscious Sedation, staffed with a supervised team of auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident thereto. Adequacy of the facility and competence of the team is to be determined by the Anesthesia Advisory Consultants appointed by the Board. A certified registered nurse anesthetist may be utilized for Restricted Permit I Conscious Sedation only if the dentist also possesses such a permit.

7.2.3 A list of emergency drugs and equipment that should be on hand would consist of the following:

7.2.3.1 Agents capable of treating:

7.2.3.1.1 hypotension and bradycardia

7.2.3.1.2 allergy/bronchospasm

7.2.3.1.3 seizures

7.2.3.1.4 narcotic-induced respiratory depression (e.g., narcotic antagonists)

7.2.3.1.5 angina pectoris

7.2.3.1.6 adrenal insufficiency (e.g., steroids)

7.2.3.1.7 nausea

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- 7.2.3.2 Equipment necessary to provide artificial respiration and assist in airway maintenance.
- 7.2.3.3 Equipment necessary to establish an intravenous infusion and to inject medications.
- 7.2.4 For Restricted Permit II Conscious Sedation:
- 7.2.4.1 Has completed a minimum of 14 instructional hours including supervised clinical experience in managing patients (in a course required to achieve competency in nitrous oxide inhalation sedation).
- 7.2.4.2 Must also show certification in cardio-pulmonary resuscitation as certified by the American Heart Association or the American Red Cross.
- 7.3 Deep Sedation and General Anesthesia (Unrestricted Permit):
- 7.3.1 No dentist shall employ or use deep sedation or general anesthesia for his/her dental patients unless such dentist possesses a permit of authorization issued from the Delaware State Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene. This permit also includes all Conscious Sedation techniques. The dentist holding such a permit shall be subject to review and such permit must be renewed biennially.
- 7.3.2 In order to receive such a permit, the dentist must produce evidence showing that he/she:
- 7.3.2.1 Has completed a minimum of two years of advanced training in anesthesiology and related academic subjects (or its equivalent) beyond the undergraduate dental school level in a training program as described in Part II of the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry or, is a Diplomate of the American Board of Oral and Maxillofacial Surgeons, or has satisfactorily completed a residency in Oral and Maxillofacial Surgery at an institution approved by the Council of Dental Education, American Dental Association, or is a fellow of the American Dental Society of Anesthesiology, or employs or works in conjunction with a trained M.D. or D.O. who is a member of the anesthesiology staff of an accredited hospital, provided that such anesthesiologist must remain on the premises of the dental facility until any patient given a general anesthetic or deep sedation regains consciousness. A certified registered nurse anesthetist may be utilized for deep sedation or general anesthesia only if the dentist also possesses an Unrestricted Permit.
- 7.3.2.2 Has a properly equipped facility for the administration of deep sedation and general anesthesia, staffed with a supervised team of auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team is determined by the Anesthesia Advisory Committee Consultants appointed by Delaware State Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene.
- 7.3.2.3 And is certified in Advanced Cardiac Life Support by the American Heart Association.
- 7.4 Facility and Staff Requirements:
- 7.4.1 Inspections: Prior to the issuance of a permit for Restricted Permit I (parenteral, enteral, or rectal Conscious Sedation) or an Unrestricted Permit (Deep Sedation or General Anesthesia), the Board shall require an on-site inspection of the facility, equipment and personnel to determine if, in fact, the aforementioned requirements have been met. The evaluation shall be carried out in a manner described by the Board. The evaluation shall be carried out by the Anesthesia Advisory Consultants appointed by the Board. Each office that the dentist utilizes for Restricted Permit I Conscious Sedation or Deep Sedation or General Anesthesia requires individual inspection and must meet the requirements of that permit for which the dentist is applying.
- 7.4.2 Anesthesia Advisory Consultants:
- 7.4.2.1 The Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene shall appoint a team of Advisory Consultants and alternates who will visit the facility concurrently to conduct the on-site inspection and evaluation of the facilities, equipment and personnel of a licensed dentist applying for written authorization to administer or to employ another to administer Restricted Permit I Conscious Sedation, or Deep Sedation or General Anesthesia (Unrestricted Permit). The Advisory Consultants shall also aid the Board in the adoption of

criteria and standards relative to the regulation and control of Conscious Sedation, Deep Sedation and General Anesthesia. The Anesthesia Advisory Consultants shall utilize the "Guidelines for the use of conscious sedation, deep sedation and general anesthesia for Dentist", as approved by the American Dental Association in October 1996, or any current update thereof. If the applicant has been satisfactorily evaluated by another similar organization (e.g., the Delaware Society of Oral and Maxillofacial Surgeons which uses the AAOMS Office Anesthesia Evaluation Manual Standards), then the Board may accept this evaluation and not require additional on-site evaluation.

7.4.2.2 If the results of the initial evaluation of an applicant are deemed unsatisfactory, upon written request of the applicant, a second evaluation shall be conducted by a different team of consultants.

7.4.3 Re-evaluation: The Board may at any time re-evaluate credentials, facilities, equipment, personnel and procedures of a licensed dentist who has previously received a written authorization or permit from the Board to determine if he/she is still qualified to have such written authorization. If the Board determines that the licensed dentist is no longer qualified to have such written authorization, it may revoke or refuse to renew such authorization, after an opportunity for a hearing is given to the licensed dentist.

7.5 Report of Adverse Occurrences:

7.5.1 All licensed dentists engaged in the practice of dentistry in the State of Delaware must submit a complete report within a period of thirty (30) days to the Delaware State Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene of any mortality or other incident occurring in the outpatient facilities of such dentist which results in temporary or permanent physical or mental injury requiring hospitalization of said patient during, or as a direct result of, the Conscious Sedation or Deep Sedation or General Anesthesia related thereto.

7.5.2 Failure to comply with this rule when said occurrence is related to the use of Conscious Sedation or Deep Sedation or General Anesthesia may result in the loss of such permit described above, and will be considered unprofessional conduct.

7.6 Applications and Reapplications:

7.6.1 A dentist who desires to obtain a permit to administer Conscious Sedation, Deep Sedation, or General Anesthesia shall submit an application on the form provided by the Board, pay the permit fee, and meet the requirements for the permit described herein.

7.6.2 A dentist who desires to renew a permit shall submit a renewal application on the form provided by the Board and pay the permit renewal fee. Re-inspection of the facility, equipment, and staff shall not be necessary unless new techniques or criteria arise, as determined by the Board with the aid of the Anesthesia Advisory Committee.

7.6.3 A permit issued by the Board under these regulations will expire at the same time as the permit holder's dental license and may be renewed biennially at the same time as the dental license is renewed.

1 DE Reg. 852

8.0 Certificate Requirement [24 Del.C. §1122(a)(4)]

An applicant for a license to practice dentistry shall submit to the Board a Certificate issued by the National Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene showing he/she has completed achieved a passing score on the National Board Examination. ~~with a score of at least 80 on each of Part I and Part 2 of the Examination. (2/13/97).~~

9.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

9.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

- 9.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.
- 9.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).
- 9.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.
- 9.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in section 9.8.
- 9.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
- 9.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
- 9.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.
- 9.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
- 9.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.
- 9.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the

treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

- 9.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 9.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- 9.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
- 9.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 9.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- 9.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.
- 9.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

10.0 Eligibility to Take the Practical (Clinical) Examination

Authority:

Pursuant to Title 24, Section 1106(a)(1), The Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene is empowered to formulate rules and regulations to implement or clarify Chapter 11 relating to dentistry and dental hygiene.

Purpose:

This regulation clarifies eligibility to take the practical (clinical) examination in dentistry and dental hygiene administered by the Board.

- 10.1 No person shall be eligible to take the practical (clinical) examination in dentistry administered by the Delaware Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene unless the applicant has received a degree in dentistry from an accredited dental college or university accredited by the Commission on Dental Accreditation of the American Dental Association.
- 10.2 No person shall be eligible to take the practical (clinical) examination in dental hygiene administered by the Delaware Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene unless the applicant has graduated from a dental hygiene college or university program accredited by the Commission on Dental Accreditation of the American Dental Association of at least 2 academic years' duration or has graduated, prior to 1953, from a dental hygiene program of at least 1 year's duration which program had been approved by the Board at the time of the person's graduation.
- 10.3 The Board reserves the right to waive the requirement set forth above in sections 10.1 and 10.2 if the Applicant can establish to the satisfaction of the Board's Credentialing Committee that he or she is a student in good standing in an educational facility accredited by the Commission on Dental Accreditation of the American Dental Association and will graduate within sixty (60) days of the administration of the practical (clinical) examination with a degree in dentistry or dental hygiene.

9 DE Reg. 77 (7/1/05)

11.0 Crimes Substantially Related to the Practice of Dentistry and Dental Hygiene.

Authority:

Pursuant to 74 **Del. Laws.** c.262, (Senate Bill No. 229 of the 142nd General Assembly, 2004, as amended), the Board was directed to promulgate regulations specifically identifying those crimes which are substantially related to the practice of dentistry and dental hygiene.

Purpose:

The Board of ~~Dental Examiners~~ Dentistry and Dental Hygiene believes that the State of Delaware has a compelling public policy interest in ensuring that its licensed professionals not only have specified levels of educational and professional competence but also possess sufficient character and judgment necessary to practice safely in their chosen fields and to do so in a manner which will not undermine the community's confidence in the expertise and professionalism of the members of the profession. Licensed professionals, particularly those in health care related fields, often come into contact with clients and patients and other members of the public at times when they may be sick, infirmed or otherwise extremely vulnerable to undue influence or other forms of misuse, fraud and abuse. It is therefore critical that all reasonable steps are taken to determine, to the extent possible, that the regulation of such professionals takes into consideration not only the individual's technical competence but his or her demonstrated propensity to behave in a way that does not expose the client population to risk or diminish legitimate expectations of honest and honorable behavior by such licensed health care professionals. Therefore, the Board finds that for purposes of licensing, renewal, reinstatement and discipline, the conviction of any of the following crimes, or of the attempt to commit or a conspiracy to commit or conceal the following crimes or substantially similar crimes in another state or jurisdiction, is deemed to be substantially related to the practice of Dentistry and Dental Hygiene in the State of Delaware without regard to the place of conviction:

Definitions.

"Conviction", unless otherwise defined by specific statute, means a verdict of guilty by whether entered by a judge or jury, or a plea of guilty or a plea of nolo contendere or other similar plea such as a "Robinson" or "Alford" plea unless the individual has been discharged under §4218 of Title 11 of the **Delaware Code** (probation before judgment) or under §1024 of Title 10 (domestic violence diversion program) or by §4764 of Title 16 (first offenders controlled substances diversion program).

"Substantially similar crimes in another state or jurisdiction" includes all crimes prohibited by or punishable under Title 18 of the United States Code Annotated (U.S.C.A.) such as, but not limited to, Federal Health Care offenses.

- 11.1 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

- 11.1.1 §601. Offensive touching;
- 11.1.2 §602. Menacing;
- 11.1.3 §603. Reckless endangering in the second degree;
- 11.1.4 §604. Reckless endangering in the first degree;
- 11.1.5 §605. Abuse of a pregnant female in the second degree;
- 11.1.6 §606. Abuse of a pregnant female in the first degree;
- 11.1.7 §611. Assault in the third degree;
- 11.1.8 §612. Assault in the second degree;
- 11.1.9. §613. Assault in the first degree;
- 11.1.10 §614. Assault on a sports official;
- 11.1.11 §615. Assault by abuse or neglect;
- 11.1.12 §616. Gang Participation;
- 11.1.13 §621. Terroristic threatening;
- 11.1.14 §622. Hoax devices

- 11.1.15 §625. Unlawfully administering drugs;
- 11.1.16 §626. Unlawfully administering controlled substance or counterfeit substance or narcotic drugs;
- 11.1.17 §627. Prohibited acts as to substances releasing vapors or fumes;
- 11.1.18 §628. Vehicular assault in the second degree;
- 11.1.19 §629. Vehicular assault in the first degree;
- 11.1.20 §630. Vehicular homicide in the second degree;
- 11.1.21 §630A. Vehicular homicide in the first degree;
- 11.1.22 §631. Criminally negligent homicide;
- 11.1.23 §632. Manslaughter;
- 11.1.24 §633. Murder by abuse or neglect in the second degree;
- 11.1.25 §634. Murder by abuse or neglect in the first degree;
- 11.1.26 §635. Murder in the second degree;
- 11.1.27 §636. Murder in the first degree;
- 11.1.28 §645. Promoting suicide;

Abortion and Related Offenses

- 11.1.29 §651. Abortion;
- 11.1.30 §653. Issuing abortifacient articles;

Sexual Offenses

- 11.1.31 §763. Sexual harassment;
- 11.1.32 §764. Indecent exposure in the second degree;
- 11.1.33 §765. Indecent exposure in the first degree;
- 11.1.34 §766. Incest;
- 11.1.35 §767. Unlawful sexual contact in the third degree;
- 11.1.36 §768. Unlawful sexual contact in the second degree;
- 11.1.37 §769. Unlawful sexual contact in the first degree;
- 11.1.38 §770. Rape in the fourth degree;
- 11.1.39 §771. Rape in the third degree;
- 11.1.40 §772. Rape in the second degree;
- 11.1.41 §773. Rape in the first degree;
- 11.1.42 §776. Sexual extortion;
- 11.1.43 §777. Bestiality;
- 11.1.44 §778. Continuous sexual abuse of a child;

- 11.1.45 §780. Female genital mutilation;

Kidnapping and Related Offenses

- 11.1.46 §781. Unlawful imprisonment in the second degree;
- 11.1.47 §782. Unlawful imprisonment in the first degree;
- 11.1.48 §783. Kidnapping in the second degree;
- 11.1.49 §783A. Kidnapping in the first degree;
- 11.1.50 §785. Interference with custody;

Coercion

- 11.1.51 §791. Acts constituting coercion.

- 11.2 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**:

Arson and Related Offenses

- 11.2.1 §801. Arson in the third degree;
- 11.2.2 §802. Arson in the second degree;

- 11.2.3 §803. Arson in the first degree;
- 11.2.4 §804. Reckless burning or exploding;
- 11.2.5 §805. Cross or religious symbol burning;
- 11.2.6 §811. Criminal mischief;
- Criminal Trespass and Burglary
- 11.2.7 §820. Trespassing with intent to peer or peep into a window or door of another;
- 11.2.8 §821. Criminal trespass in the third degree;
- 11.2.9 §822. Criminal trespass in the second degree;
- 11.2.10 §823. Criminal trespass in the first degree;
- 11.2.11 §824. Burglary in the third degree;
- 11.2.12 §825. Burglary in the second degree;
- 11.2.13 §826. Burglary in the first degree;
- 11.2.14 §828. Possession of burglar's tools or instruments facilitating theft;
- Robbery
- 11.2.15 §831. Robbery in the second degree;
- 11.2.16 §832. Robbery in the first degree;
- 11.2.17 §835. Carjacking in the second degree;
- 11.2.18 §836. Carjacking in the first degree;
- Theft and Related Offenses
- 11.2.19 §840. Shoplifting; class G felony;
- 11.2.20 §840A. Use of illegitimate retail sales receipt or Universal Product Code Label;
- 11.2.21 §841. Theft;
- 11.2.22 §842. Theft; lost or mislaid property; mistaken delivery;
- 11.2.23 §843. Theft; false pretense;
- 11.2.24 §844. Theft; false promise;
- 11.2.25 §845. Theft of services;
- 11.2.26 §846. Extortion;
- 11.2.27 §848. Misapplication of property;
- 11.2.28 §849. Theft of rented property;
- 11.2.29 §850. Use, possession, manufacture, distribution and sale of unlawful telecommunications and access devices;
- 11.2.30 §851. Receiving stolen property;
- 11.2.31 §853. Unauthorized use of a vehicle;
- 11.2.32 §854. Identity theft;
- 11.2.33 §859. Larceny of livestock;
- 11.2.34 §860. Possession of shoplifter's tools or instruments facilitating theft;
- Forgery and Related Offenses
- 11.2.35 §861. Forgery; class F felony;
- 11.2.36 §862. Possession of forgery devices;
- Offenses Involving Falsification of Records
- 11.2.37 §871. Falsifying business records;
- 11.2.38 §872. Falsifying business records;
- 11.2.39 §873. Tampering with public records in the second degree;
- 11.2.40 §876. Tampering with public records in the first degree;
- 11.2.41 §877. Offering a false instrument for filing;
- 11.2.42 §878. Issuing a false certificate;

Bribery Not Involving Public Servants

11.2.43 §881. Bribery;

11.2.44 §882. Bribe receiving;

Frauds on Creditors

11.2.45 §891. Defrauding secured creditors;

11.2.46 §892. Fraud in insolvency;

11.2.47 §893. Interference with levied-upon property;

Other Frauds and Cheats

11.2.48 §900. Issuing a bad check;

11.2.49 §903. Unlawful use of credit card;

11.2.50 §903A. Reencoder and scanning devices;

11.2.51 §906. Deceptive business practices;

11.2.52 §907. Criminal impersonation;

11.2.53 §907A. Criminal impersonation, accident related;

11.2.54 §907B. Criminal impersonation of a police officer;

11.2.55 §908. Unlawfully concealing a will;

11.2.56 §909. Securing execution of documents by deception;

11.2.57 §910. Debt adjusting;

11.2.58 §911. Fraudulent conveyance of public lands;

11.2.59 §912. Fraudulent receipt of public lands;

11.2.60 §913. Insurance fraud;

11.2.61 §913A. Health care fraud;

11.2.62 §914. Use of consumer identification information;

11.2.63 §915. Use of credit card information;

11.2.64 §916. Home improvement fraud;

11.2.65 §917. New home construction fraud;

Offenses Relating to Recorded Devices

11.2.66 §920. Transfer of recorded sounds;

11.2.67 §921. Sale of transferred recorded sounds;

11.2.68 §922. Improper labeling;

Computer Related Offenses

11.2.69 §932. Unauthorized access;

11.2.70 §933. Theft of computer services;

11.2.71 §934. Interruption of computer services;

11.2.72 §935. Misuse of computer system information;

11.2.73 §936. Destruction of computer equipment;

11.2.74 §937. Unrequested or unauthorized electronic mail or use of network or software to cause same;

11.2.75 §938. Failure to promptly cease electronic communication upon request;

Offenses relating to marriage.

11.2.76 §1001. Bigamy;

11.2.77 §1003. Contracting a bigamous marriage outside of the State.

11.3 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**:

Child Welfare; Sexual Offenses, Animal Offenses

11.3.1 §1100. Dealing in children;

11.3.2 §1101. Abandonment of child;

- 11.3.3 §1102. Endangering the welfare of a child;
- 11.3.4 §1105. Endangering the welfare of an incompetent person;
- 11.3.5 §1106. Unlawfully dealing with a child;
- 11.3.6 §1107. Endangering children;
- 11.3.7 §1108. Sexual exploitation of a child;
- 11.3.8 §1109. Unlawfully dealing in child pornography;
- 11.3.9 §1111. Possession of child pornography;
- 11.3.10 §1112. Sexual offenders; prohibitions from school zones;
- 11.3.11 §1112A Sexual solicitation of a child;
- 11.3.12 §1113 Criminal non-support and aggravated criminal non-support;
- 11.3.13 §1114. Body-piercing; tattooing or branding;
- 11.3.14 §1114A. Tongue-splitting;
- 11.3.15 §1116. Sale or distribution of tobacco products to minors;
- 11.3.16 §1325. Cruelty to animals;
- 11.3.17 §1326. Animals; fighting and baiting prohibited;
- 11.3.18 §1327. Maintaining a dangerous animal.
- 11.4 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:
 - Bribery and Improper Influence
 - 11.4.1 §1201. Bribery;
 - 11.4.2 §1203. Receiving a bribe;
 - 11.4.3 §1205. Giving unlawful gratuities;
 - 11.4.4 §1206. Receiving unlawful gratuities;
 - 11.4.5 §1207. Improper influence;
 - 11.4.6 §1211. Official Misconduct;
 - 11.4.7 §1212. Profiteering;
 - Perjury, Escape and related offenses
 - 11.4.8 §1221. Perjury in the third degree;
 - 11.4.9 §1222. Perjury in the second degree;
 - 11.4.10 §1223. Perjury in the first degree;
 - 11.4.11 §1233. Making a false written statement;
 - 11.4.12 §1239. Wearing a disguise during commission of a felony;
 - 11.4.13 §1240. Terroristic threatening of public officials or public servants;
 - 11.4.14 §1244. Felony hindering prosecution;
 - 11.4.15 §1245. Felony false reporting an incident
 - 11.4.16 §1246. Compounding a crime;
 - 11.4.17 §1248. Felony obstructing control and suppression of rabies;
 - 11.4.18 §1249. Felony abetting violation of driver's license restrictions;
 - 11.4.19 §1250. Offenses against law-enforcement animals;
 - 11.4.20 §1252. Felony escape;
 - 11.4.21 §1253. Escape after conviction.
 - 11.4.22 §1254. Assault in a detention facility;
 - 11.4.23 §1256. Felony promoting prison contraband;
 - 11.4.24 §1257A. Felony use of an animal to avoid capture;
 - 11.4.25 §1259. Sexual relations in a detention facility;

11.4.26 §1260. Felony misuse of prisoner mail;
Offenses Relating to Judicial and Similar Proceedings

11.4.27 §1261. Bribing a witness;

11.4.28 §1262. Bribe receiving by a witness;

11.4.29 §1263. Tampering with a witness;

11.4.30 §1263A. Interfering with child witness;

11.4.31 §1264. Bribing a juror;

11.4.32 §1265. Bribe receiving by a juror;

11.4.33 §1266. Tampering with a juror;

11.4.34 §1267. Misconduct by a juror;

11.4.35 §1269. Tampering with physical evidence.

11.5 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 individual's ability to make health care decisions or advise upon health care related matters for other individuals.

Disorderly Conduct and Related Offenses

11.5.1 §1302. Riot;

11.5.2 §1304. Hate crimes;

11.5.3. §1312A. Felony Stalking;

11.5.4 §1313. Malicious interference with emergency communications;

11.5.5 §1325. Felony Cruelty to Animals;

11.5.6 §1326. Animals, fighting and baiting prohibited.

11.5.7 §1327. Felony maintaining a dangerous animal;

11.5.8 §1332. Abusing a corpse;

11.5.9 §1333. Trading in human remains and associated funerary objects

11.5.10 §1335. Felony violation of privacy;

11.5.11 §1336. Wiretapping and electronic surveillance;

11.5.12 §1338. Bombs, incendiary devices, Molotov cocktails and explosive devices;

11.5.13 §1339. Adulteration;

Offenses Involving Public Indecency

11.5.14 §1351. Promoting prostitution in the third degree;

11.5.15 §1352. Promoting prostitution in the second degree;

11.5.16 §1353. Promoting prostitution in the first degree;

Obscenity

11.5.17 §1361. Obscenity; acts constituting.

11.6 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:

11.6.1 §4751. Prohibited acts A;

11.6.2 §4752. Prohibited acts B;

11.6.3 §4752A. Unlawful delivery of noncontrolled substance;

11.6.4 §4753. Prohibited acts C;

11.6.5 §4753A. Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, L.S.D., or designer drugs;

- 11.6.6 §4754. Prohibited acts D;
- 11.6.7 §4754A. Possession and delivery of noncontrolled prescription drug.
- 11.6.8 §4755. Prohibited acts E;
- 11.6.9 §4756. Prohibited acts;
- 11.6.10 §4757. Hypodermic syringe or needle; delivering or possessing; disposal; exceptions;
- 11.6.11 §4758. Keeping drugs in original containers;
- 11.6.12 §4761. Distribution to persons under 21 years of age;
- 11.6.13 §4761A. Purchase of drugs from minors;
- 11.6.14 §4767. Distribution, delivery, or possession of controlled substance within 1,000 feet of school property;
- 11.6.15 §4768. Distribution, delivery or possession of controlled substance in or within 300 feet of park, recreation area, church, synagogue or other place of worship;
- 11.6.16 §4774. Drug paraphernalia.
- 11.7 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:
 - Offenses Involving Deadly Weapons and Dangerous Instruments
 - 11.7.1 §1442. Carrying a concealed deadly weapon;
 - 11.7.2 §1443. Carrying a concealed dangerous instrument;
 - 11.7.3 §1444. Possessing a destructive weapon;
 - 11.7.4 §1445. Felony unlawfully dealing with a dangerous weapon;
 - 11.7.5 §1447. Possession of a deadly weapon during commission of a felony;
 - 11.7.6 §1447A. Possession of a firearm during commission of a felony;
 - 11.7.7 §1448. Possession and purchase of deadly weapons by persons prohibited;
 - 11.7.8 §1448A. Criminal history record checks for sales of firearms;
 - 11.7.9 §1449. Wearing body armor during commission of felony;
 - 11.7.10 §1450. Receiving a stolen firearm;
 - 11.7.11 §1451. Theft of a firearm;
 - 11.7.12 §1452. Unlawfully dealing with knuckles-combination knife;
 - 11.7.13 §1453. Unlawfully dealing with martial arts throwing star;
 - 11.7.14 §1454. Giving a firearm to person prohibited;
 - 11.7.15 §1455. Engaging in a firearms transaction on behalf of another;
 - 11.7.16 §1456. Unlawfully permitting a minor access to a firearm;
 - 11.7.17 §1457. Felony Possession of a weapon in a Safe School and Recreation Zone;
 - 11.7.18 §1458. Removing a firearm from the possession of a law enforcement officer;
 - 11.7.19 §1459. Possession of a weapon with a removed, obliterated or altered serial number;
 - 11.7.20 §1471. Prohibited Acts; Offenses Involving Organized Crime and Racketeering
 - 11.7.21 §1504. Criminal Penalties for Organized Crime & Racketeering;
 - Offenses Involving Intimidation of Victims or Witnesses
 - 11.7.22 §3533. Aggravated act of intimidation;
- 11.8 Other Crimes
 - Title 16 Health and Safety
 - 11.8.1 §1136. Abuse or neglect of a patient or resident of a nursing facility;
 - 11.8.2 §4751. Prohibited acts A;
 - 11.8.3 §4752. Prohibited acts B;
 - 11.8.4 §4752A. Unlawful Delivery of Noncontrolled Substance;
 - 11.8.5 §4753. Prohibited acts C;

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- 11.8.6 §4753A. Trafficking in Marijuana, Cocaine, Illegal Drugs, Methamphetamine, Lysergic Acid Diethylamide, Designer Drugs or 3,4-Methylenedioxymethamphetamine
 - 11.8.7 §4754. Prohibited acts D
 - 11.8.8 §4754A. Possession and Delivery of NonControlled Prescription Drug.
 - 11.8.9 §4755. Prohibited Acts
 - 11.8.10 §4756. Prohibited Acts
 - 11.8.11 §4757. Hypodermic syringe or needle; delivering or possessing; disposal; exceptions; penalties
 - 11.8.12 §4758. Keeping drugs in original containers;
 - 11.8.13 §4761. Distribution to persons under 21 years of age; penalties;
 - 11.8.14 §4761A. Purchase of drugs from minors; penalties;
 - 11.8.15 §4767. Distribution, delivery, or possession of controlled substance within 1,000 feet of school property; penalties; defenses;
 - 11.8.16 §4768. Distribution, delivery or possession of controlled substance in or within 300 feet of park, recreation area, church, synagogue or other place of worship; penalties; defenses;
 - 11.8.17 §4771. Drug paraphernalia;
 - 11.8.18 §4774. Penalties;
Title 23 Navigation and Waters
 - 11.8.19 §2302. Operation of a vessel or boat while under the influence of intoxicating liquor and/or drugs;
 - 11.8.20 §2305. Second, Third and Fourth Offense Penalties; jurisdiction;
Title 30 State Taxes
 - 11.8.21 §571. Attempt to evade or defeat tax; class E felony;
 - 11.8.22 §572. Failure to collect or pay over tax; class E felony;
 - 11.8.23 §573. Failure to file return, supply information or pay tax; class A misdemeanor;
 - 11.8.24 §574. Fraud and false statements; class E felony;
Title 31 Welfare
 - 11.8.25 §1007. Felony Penalties;
Title 21 Motor Vehicles
 - 11.8.26 §2118A. Unlawful possession or manufacture of proof of insurance, penalties;
 - 11.8.27 §2133. Penalties; jurisdiction of justices of the peace;
 - 11.8.28 §2315. False statements; penalty;
 - 11.8.29 §2316. Altering or forging certificate of title, manufacturer's certificate of origin, registration card, vehicle warranty or certification sticker or vehicle identification plate
 - 11.8.30 §2620. False statements; incorrect or incomplete information;
 - 11.8.31 §2751. Unlawful application for or use of license or identification card;
 - 11.8.32 §2752. False statements;
 - 11.8.33 §2760. Duplication, reproduction, altering, or counterfeiting of driver's licenses or identification cards;
 - 11.8.34 §2814. Additional penalty when convicted of an offense which would render an individual a habitual offender;
 - 11.8.35 §3107. False statements;
 - 11.8.36 §4177. Felony Driving a vehicle while under the influence or with a prohibited alcohol content; evidence; arrests; and penalties;
 - 11.8.37 §4177M. Operating a commercial motor vehicle with a prohibited blood alcohol concentration or while impaired by drugs;
 - 11.8.38 §4202. Felony Duty of driver involved in accident resulting in injury or death to any person; penalty;
 - 11.8.39 §4601. Introduction, sale, distribution or advertisement for sale to public of motor vehicle master keys; penalties;

- 11.8.40 §4603. Reporting of keys; penalties;
- 11.8.41 §4604. Possession of motor vehicle master keys, manipulative keys, key-cutting devices, lock picks or lock picking devices and hot wires; penalty; class E felony;
- 11.8.42 §6704. Receiving or transferring stolen vehicle; penalty;
- 11.8.43 §6705. Removed, falsified or unauthorized identification number on vehicle, bicycle or engine; removed or affixed license/registration plate with intent to misrepresent identity; penalty;
- 11.8.44 §6708. Possession of blank title; blank registration card; vehicle identification plate; warranty sticker and registration card; class E felony; penalty;
- 11.8.45 §6709. Removal of warranty or certification stickers; vehicle identification plates; confidential vehicle identification numbers; penalty; class E felony;
- 11.8.46 §6710. Unlawful possession of assigned titles, assigned registration cards, vehicle identification plates and warranty stickers; penalty; class E felony;
- Title 3 Agriculture
- 11.8.47 §1224. Unlawful Acts **(Only to include crimes related to fraud and conspiracy)**;
- 11.8.48 §8713. Felony offenses
- 11.8.49 §10049. Fraudulent Written Statements;
- 11.8.50 §10050. Fraudulent Certificate of Registration or Eligibility Documents;
- 11.8.51 §904. Offenses Concerning Certain Persons;
- Title 6 Commerce and Trade
- 11.8.52 §4619. Felony Prohibition of Intimidation;
- Title 7 Conservation
- 11.8.53 §1717. Unauthorized Acts against a Service Guide or Seeing Eye Dog;
- 11.8.54 §6003. Felony Permits Required;
- Title 11 Crimes
- 11.8.55 §2402. Felony Interception of Communications Generally; Divulging Contents of Communications;
- 11.8.56 §2403. Manufacture, Possession or Sale of Intercepting Device;
- 11.8.57 §2410. Breaking and Entering, Etc. to Place or Remove Equipment;
- 11.8.58 §2412. Obstruction, Impediment or Prevention of Interception;
- 11.8.59 §2422. Divulging Contents of Communications;
- 11.8.60 §3534. Attempt to Intimidate;
- 11.8.61 §8523. Felony Violation of Reporting Provision;
- 11.8.62 §8562. Felony Failure of Child Care Provider to Obtain Information or Providing False Information;
- 11.8.63 §8572. Penalties for Providing False Information when Seeking School Employment;
- 11.8.64 §9016. Filing False Claim under Victims' Compensation Fund
- Title 12 Descendants' Estates
- 11.8.65 §210. Alteration, Theft or Destruction of Will
- Title 16 Health & Safety
- 11.8.66 §2513. Felony Penalties Relating To Improper Health-Care Decisions;
- 11.8.67 §7112. Felony Penalties for Violations of Chapter;
- 11.8.68 §7416. Penalties for Violating Statute Governing Radiation Control;
- Title 24 Professions and Occupations
- 11.8.69 §903. Deadly Weapons Dealers – Sale to Persons under 21 or Intoxicated Persons;
- Title 31 Welfare
- 11.8.70 §3913. Felony Violations – Knowing or Reckless Abuse of an Infirm Adult.
- 11.9 Any crime which is a violation of either Title 24, Chapter 11 (Board of Dental Examiners) as it may be amended from time to time or of any other statute which requires the reporting of a medical/dental situation or condition to state, federal or local authorities or a crime which constitutes a violation of the

dental or hygiene practice act of the state in which the conviction occurred or in which the dentist or dental hygienist is licensed.

- 11.10 The Board reserves the jurisdiction and authority to modify this regulation as and if it becomes necessary to either add or delete crimes including such additions as may be required on an emergency basis under 29 **Del.C.** §10119 to address imminent peril to the public health, safety or welfare.

9 DE Reg. 77 (7/1/05)

DIVISION OF PROFESSIONAL REGULATION

Statutory Authority: 24 Delaware Code, Section 4416(b)(1) (24 **Del.C.** §4416(b)(1))
24 DE Admin. Code 4400

PUBLIC NOTICE

4400 Delaware Manufactured Home Installation Board

Pursuant to 24 **Del.C.** §4416(b)(1), the Manufactured Home Installation Board has proposed revisions to its rules and regulations.

A public hearing on proposed revisions published on November 1, 2010 in the *Register of Regulations*, Volume 14, Issue 5 was held on November 22, 2010. The Manufactured Home Installation Board decided to make further revisions to the rules and regulations.

A public hearing to address these proposed revisions will be held on March 14, 2011 at 9:15 a.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Manufactured Home Installation Board, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board has proposed revisions to Rule 9.0. The Board's licensing law, Chapter 44 of Title 24 of the Delaware Code, provides that all manufactured home installations must be performed, at minimum, in compliance with the requirements of the United States Department of Housing and Urban Development ("HUD"). See 24 **Del.C.** §4421. The revisions to Rule 9.0 expressly incorporate HUD's installation requirements. In particular, the rules reference specific sections of the Code of Federal Regulations. The revisions also specify that, with respect to site suitability (Rule 9.2), site preparation (Rule 9.3) and foundation construction (Rule 9.4), where State, county or municipal standards are more stringent than HUD requirements, the installer shall comply with the more stringent standards.

These amendments will make explicit what is already included in the Board's licensing law and will, therefore, provide greater clarity and greater protection for the public.

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

4400 Delaware Manufactured Home Installation Board

(Break in Continuity of Sections)

9.0 Manufactured Home Installation Requirements

- 9.1 ~~Manufactured homes shall be installed in accord with Section 4421(b).~~
- 9.2 ~~Footers. Manufactured homes installed in this State shall be installed on piles or concrete footers. Concrete footers shall consist of a minimum of 3000 psi concrete and shall be a minimum of 24 inches in diameter, at least eight (8) inches thick and set two (2) feet deep from final grade where soil~~

PROPOSED REGULATIONS

conditions permit. Where the regulations of the Department of Housing and Urban Development, the manufacturer's installation instructions or manual, NCSB/ANSI code or the set of plans designed for the specific manufactured home under the seal of a registered professional engineer, as applicable under Section 4421(b), require more stringent standards, those standards shall apply.

- 9.3 ~~Anchoring. Manufactured homes installed in the State shall be anchored. Anchors shall be installed in accord with the regulations of the Department of Housing and Urban Development, the manufacturer's installation instructions or manual, NCSB/ANSI code or the set of plans designed for the specific manufactured home under the seal of a registered professional engineer, as applicable under Section 4421(b).~~
- 9.1 Manufactured homes shall be installed, at minimum, in accordance with Section 4421(b) of this chapter and all applicable regulations of the United States Department of Housing and Urban Development ("HUD)," as set forth in the Code of Federal Regulations ("C.F.R."). HUD requirements are available online at www.dpr.gov. With respect to site suitability (Rule 9.2), site preparation (Rule 9.3) and foundation construction (Rule 9.4), where State, county or municipal standards are more stringent than HUD requirements, the installer shall comply with the more stringent standards.
- 9.2 Site suitability. Pursuant to 24 C.F.R. §3285.103, prior to the initial installation of a new manufactured home, the installer shall verify that the design and construction of the home, as indicated on the design zone maps provided with the home, are suitable for the site location where the home is to be installed.
- 9.3 Site preparation.
- 9.3.1 Soil conditions. Pursuant to 24 C.F.R. §3285.201, the manufactured home's foundation shall be constructed on firm, undisturbed soil or fill compacted to at least 90 percent of its maximum relative density, and the site shall be graded to ensure adequate drainage. Pursuant to 24 C.F.R. §3285.202, the soil classification and bearing capacity shall be determined before the foundation is constructed and anchored.
- 9.3.2 Drainage. Pursuant to 24 C.F.R. §3285.203, drainage shall be provided to direct surface water away from the manufactured home to protect against erosion of the foundation supports and to prevent water build-up under the home. All drainage shall be diverted away from the home and must slope a minimum of one-half inch per foot away from the foundation for the first ten feet.
- 9.4 Foundation construction. Foundations for manufactured home installations shall be designed and constructed in accordance with 24 C.F.R. §§3285.301 - 3285.315 and must be based on site conditions, home design features, and the loads the home was designed to withstand, as shown on the home's data plate.
- 9.4.1 Piers. Pursuant to 24 C.F.R. §3285.302, the piers used shall be capable of transmitting vertical live and dead loads to the footing or foundation. Pier materials, design, loads, configuration and location shall meet the requirements set forth at 24 C.F.R. §§3285.303 - 3285.312.
- 9.4.2 Footings. Pursuant to 24 C.F.R. §3285.312, materials approved for footings shall provide equal load-bearing capacity and resistance to decay. Footings shall be placed on undisturbed soil or fill compacted to 90 percent of maximum relative density. A footing shall support every pier. Footing materials, placement, and sizing shall meet the requirements set forth at 24 C.F.R. §3285.310.
- 9.5 Anchoring. Pursuant to 24 C.F.R. §§3285.401 - 3285.406., the manufactured home shall be secured against the wind, including wind in the longitudinal direction, by use of anchor assembly type installations or by connecting the home to an alternative foundation system, as set forth at 24 C.F.R. §3285.301. Ground anchor installations shall meet the requirements for certification and testing, specifications, number and location set forth at 24 C.F.R. §3285.402.
- 9.6 Installation of optional features. Optional features, such as expanding rooms, appliances, and skirting, shall be installed pursuant to the requirements set forth at 24 C.F.R. §§3285.501 - 3285.505.
- 9.6.1 Comfort cooling systems. Pursuant to 24 C.F.R. §3285.503, when not provided and installed by the home manufacturer, any comfort cooling systems that are installed shall be installed according to the appliance manufacturer's installation standards. Installation of any comfort cooling system shall meet the requirements set forth at 24 C.F.R. §3285.503(a).
- 9.7 Ductwork, plumbing and fuel supply systems.

- 9.7.1 Ductwork connections. Multi-section homes with ductwork in more than one section require crossover connection to complete the ductwork system of the manufactured home. All ductwork connections shall be sealed to prevent air leakage. Installation, sealing and support of ductwork shall meet the requirements set forth at 24 C.F.R. §3285.606.
- 9.7.2 Plumbing.
- 9.7.2.1 Water supply. Multi-section homes with plumbing in both sections require water-line crossover connections to join all sections of the manufactured home. Crossover design requirements are set forth at 24 C.F.R. §3280.609. When the local water supply pressure exceeds 80 psi to the home, a pressure-reducing valve shall be installed. Standards for installation of the mandatory shutoff valve, freezing protection and testing procedures are set forth at 24 C.F.R. §3280.609.
- 9.7.2.2 Drainage system. Multi-section homes with plumbing in more than one section require drainage system connections to join all sections of the home. Installation, assembly, support and testing of drainage systems shall meet the requirements set forth at 24 C.F.R. §3285.604.
- 9.7.3 Fuel supply systems. The gas piping system in the home shall be designed for pressure that is at least 7 inches of water column and not more than 14 inches of water column. Installation, crossovers and testing shall meet the requirements set forth at 24 C.F.R. §3285.605.
- 9.8 Electrical systems. Pursuant to 24 C.F.R. §3285.701, multi-section homes with electrical wiring in more than one section require crossover connections to join all sections of the home. Pursuant to 24 C.F.R. §3285.702, exterior lighting fixtures, ceiling-suspended fans and chain-hung lighting fixtures shall be installed as required by their listings and 24 C.F.R. §3280. Installation, grounding and testing shall meet the requirements set forth at 24 C.F.R. §3285.702. Pursuant to 24 C.F.R. §3285.703, smoke alarms shall be functionally tested as required by the manufacturer instructions and shall be consistent with 24 C.F.R. §3280.208. Considerations concerning installation of telephone and cable TV are set forth at 24 C.F.R. §3285.906.
- 9.9 Exterior and interior close-up.
- 9.9.1 Exterior close-up. Pursuant to 24 C.F.R. §3285.801, exterior siding and roofing needed to join all sections of the manufactured home shall be installed according to manufacturer installation requirements consistent with 24 C.F.R. §§ 3280.305 and 3280.307. Weatherproofing and installation of hinged roofs and eaves shall meet the requirements of 24 C.F.R. §3285.801.
- 9.9.2 Structural interconnection of multi-section homes. Pursuant to 24 C.F.R. §3285.802, for multi-section homes, structural interconnections along the interior and exterior at the mate-line are required to join all sections of the home. Structural interconnection and closing of gaps shall meet the requirements set forth at 24 C.F.R. §3285.802.
- 9.9.3 Interior close-up. Pursuant to 24 C.F.R. §3285.803, all shipping blocking, strapping or bracing shall be removed from appliances, windows and doors. Installation of shipped-loose wall paneling shall meet the requirements of §3285.803.
- 9.9.4 Bottom board repair. The bottom board covering shall be inspected and repaired pursuant to the requirements of 24 C.F.R. §3285.804.
- 9.10 Skirting. Pursuant to 24 C.F.R. §3285.504, skirting, if installed, shall be of weather-resistant materials or provided with protection against weather deterioration at least equivalent to that provided by a coating of zinc on steel of not less than 0.30 oz./ft.² Installation of skirting shall meet the requirements set forth at 24 C.F.R. §3285.504.
- 9.11 Completion of operational checks and adjustments. Upon completion of installation, installer shall check all items listed in Rule 9.0 and shall make any needed adjustments to ensure compliance with all HUD requirements.

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

[4400 Delaware Manufactured Home Installation Board](#)

PROPOSED REGULATIONS

DEPARTMENT OF TRANSPORTATION DIVISION OF PLANNING

Statutory Authority: 17 Delaware Code, Sections 132, 137 and 149; 29 Delaware Code, Section 8404 (17 Del.C. §§132, 137 & 149 29 Del.C. §8404)
2 DE Admin. Code 2313

PUBLIC NOTICE

2313 Policies and Procedures for Acquisition of Certain Real Property Interests

Background

The Delaware Department of Transportation, through its Division of Planning, seeks to adopt regulations to ensure that its policies and procedures for the acquisition of real property are transparent, consistent, cost effective and fair.

The Department has broad statutory authority to acquire property in connection with state highway projects. However, an "Advanced Acquisition Committee" must review certain acquisitions of real property after the approval of the preferred alternative. The Department has adopted policies governing such acquisitions; nonetheless, these existing policies only apply to purchases of "fee simple" interests, and do not expressly apply to reservations. While the Committee has the statutory authority to determine whether certain advanced acquisitions are consistent with state planning goals, it does not currently have in place a process for reviewing the merits of such transactions.

The regulations below will implement specific recommendations for advanced acquisitions set forth in the Report of the Governor's Chief of Staff to Governor Markell dated January 7, 2011 (the "Report"). Specifically, the regulations will (1) require that the Committee review not only advanced acquisitions, but reservation agreements as well; (2) provide a process for the Committee to review the merits of advanced acquisitions and reservation agreements; (3) require the Department to obtain independent appraisal for advanced acquisitions and reservations; (4) require that advanced acquisitions and reservations be reviewed by legal counsel; (5) require that the terms of advanced acquisitions and reservations be reflected in an agreement signed by the Department and the property owner; and (6) set out the process for the Committee to conduct its consistency review of certain real property acquisitions proposed by the Department, as contemplated by 17 Del.C. §137(a)(2).

Public Comment Period

The Department will take written comments on the proposed Regulations Establishing Policies and Procedures for Acquisition of Certain Real Property Interests from February 1, 2011 through March 5, 2011. The proposed Regulations appear below.

Any requests for copies of the proposed Regulations, or any questions or comments regarding this document should be directed to:

Cleon L. Cauley, Sr., Deputy Secretary
Delaware Department of Transportation
P.O. Box 778
Dover, DE 19903
(302) 760-2303 (telephone)
(302) 739-2895 (fax)
cleon.cauley@state.de.us

2313 Policies and Procedures for Acquisition of Certain Real Property Interests.

1.0 Purpose.

The Department of Transportation has broad statutory authority to acquire public or private property and property rights in connection with the Department's jurisdiction. Traditionally, the Department has acquired the necessary property rights upon final right-of-way plan approval for a project. In certain instances, the best interests of the state and individual property owners may be better served if such interests are either acquired or reserved by the Department prior to right-of-way plan approval. The purpose of this regulation is to enumerate the specific policies and procedures governing the acquisition and reservation of certain real property by the Department. It also sets out the process for the Committee to conduct its consistency review of certain real property acquisitions proposed by the Department, as contemplated by 17 Del.C. §137(a)(2).

2.0 Definitions.

"Advanced acquisition" means the acquisition by the Department of any interest in real property prior to final right-of-way plan approval of the project for which such interest is being acquired. For purposes of this regulation and the Department's Real Estate Manual, "advanced acquisitions" shall also include, without limitation, reservations.

"Advanced Acquisition Committee" or "Committee" means the committee created pursuant to 17 Del.C. §137(a)(2) and comprised of the Secretary of the Department of Natural Resources and Environmental Control; the Secretary of the Department of Transportation, the Secretary of the Department of Agriculture; the Director of the Delaware Economic Development Office; the Governor's Chief of Staff; a member of the Senate designated by the President Pro Tempore of the Senate; a member of the House of Representatives designated by the Speaker of the House of Representatives; a member of the public designated by the President Pro Tempore of the Senate; and a member of the public designated by the Speaker of the House of Representatives.

"Consistency review" shall mean the review by the Committee pursuant to 17 Del.C. §137(a)(2) of acquisitions for new corridors, expansion of existing corridors, or the acquisition of real property as part of the Department's Corridor Capacity Preservation Program.

"Corridor" means a particular route of one or more highways of this State, serving predominantly statewide and/or regional travel needs. By way of example and not limitation, State Routes 1, 2, and 141, and U.S. Routes 13, 113, and 202 are corridors under this definition.

"Department" means the Delaware Department of Transportation.

"Expansion of existing corridors" means the proposed construction of additional through lanes for a minimum of three miles, such as to significantly increase the traffic-carrying capacity of a corridor already in existence at the time of the proposed capital improvement. By way of example and not limitation, the dualization of U.S. Route 113 between Milford and Georgetown, and the State Route 1 Third Lane project between Rehoboth Avenue Extended and the Five Points intersection with U.S. Route 9, would have been considered expansions of existing corridors under this definition at the time of their planning and construction.

"Hardship acquisition" shall mean an advanced acquisition to resolve a specific hardship imposed upon the owner as a result of a project including, without limitation, long-term leases and reservations between an owner and the Department. Hardship acquisitions shall include situations in which an owner must relocate for personal reasons (e.g., job transfer, death in the family, retirement plans or medical reasons) and is unable to sell his or her property as a result of a project.

"New corridor" means a proposed capital improvement for a corridor-level highway, all or substantially all of which is to be built on previously unused alignment. By way of example and not limitation, the tolled portion of State Route 1 through Kent and New Castle County would have been considered a new corridor under this definition, at the time of its planning and eventual construction.

"Owner" shall mean the owner of the real property interest, which the Department seeks to acquire or reserve.

“Preferred alternative” shall mean the alternative that the Department believes would fulfill its statutory mission and responsibilities giving consideration to economic, environmental, technical and other factors.

“Project” means an undertaking for a capital improvement by the Department for a new corridor, expansion of an existing corridor, or acquisition of real property as part of the Corridor Capacity Preservation, and which uses state and/or federal funds.

“Protective acquisition” shall mean an advanced acquisition to allow the Department to protect from development real property within a project area in instances where development would increase the eventual cost of property acquisition to taxpayers or would limit location alternatives for the project. Protective acquisitions shall include, without limitation, long-term leases and reservations to allow the Department to protect from development real property within a project area.

“Real Property” means a fee simple interest in real estate for any such acquisition, and shall also include any lesser property interest proposed for acquisition under the Corridor Capacity Preservation Program (17 Del.C. §145).

“Reservation” means a commitment by the Department to compensate an owner of any interest in real property, in exchange for an agreement by the owner to refrain from further developing his or her property or designated portions thereof.

3.0 Hardship Acquisition.

- 3.1 Depending upon the availability of funding, the Department may consider requests by owners for hardship acquisitions.
- 3.2 Written Request - The owner of the real property must submit to the Department a written request for a hardship acquisition.
- 3.1.1 A request for hardship acquisition of property located in New Castle County shall be submitted to the:
North District Real Estate Manager
Delaware Department of Transportation
250 Bear Christiana Road
Bear, DE 19701
- 3.1.2 A request for hardship acquisition of property located in Kent County or Sussex County shall be submitted to the:
South District Real Estate Manager
Delaware Department of Transportation
P.O. Box 778
Dover, DE 19903
- 3.3 Criteria. Upon receipt of a written request for a hardship acquisition, the Department and its legal counsel shall initiate an internal review process to determine whether the property meets the criteria set forth herein. At minimum, the request must demonstrate to the Department’s satisfaction that:
- 3.3.1 The property has been marketed for at least six (6) months; and
- 3.3.2 The realtor, or owner in absence of a realtor, must certify and provide evidence that he or she is unable to sell the property at a reasonable price as a result of the proposed project; and
- 3.3.3 The owner must be able to document a compelling reason for his or her move from the property, e.g., job transfer, death in the family, retirement plans or for medical reasons.
- 3.4 If an owner demonstrates to the Department’s satisfaction that a hardship acquisition is appropriate, then such proposed acquisition shall be considered in accordance with the procedures set forth in Section 5.0.

4.0 Protective Acquisition.

- 4.1 Depending upon the availability of funding, the Department may consider requests for protective acquisitions.
- 4.2 Written Request - All requests for a protective acquisition must be in writing.
- 4.2.1 A request for protective acquisition of property located in New Castle County shall be submitted to the:
North District Real Estate Manager
Delaware Department of Transportation
250 Bear Christiana Road
Bear, DE 19701
- 4.2.2 A request for protective acquisition of property located in Kent County or Sussex County shall be submitted to the:
South District Real Estate Manager
Delaware Department of Transportation
P.O. Box 778
Dover, DE 19903
- 4.3 Criteria. Upon receipt of a written request for a protective acquisition, the Department and its legal counsel shall initiate an internal review process to determine whether the property meets the criteria for a protective acquisition. At minimum, the request must demonstrate to the Department's satisfaction that:
- 4.3.1 Development would increase the ultimate cost of the acquisition to taxpayers; or
- 4.3.2 Development would limit location alternatives for a project.

5.0 Procedures for Review and Approval of Advanced Acquisitions.

- 5.1 For advanced acquisitions satisfying the criteria set forth in Section 3.2 or 4.2, as the case may be, the Department shall have an appraisal performed by its independent appraisers in accordance with the Department's Real Estate Manual.
- 5.2 Following receipt of the appraisal, the Department and its legal counsel shall discuss the potential terms of an agreement and the justifications therefor, including the nature of the interest to be acquired (i.e., acquisition, reservation, leasehold); the necessity of acquiring such interest and the existence of any alternative transactions; the fair market value of such interest; the amount of land required; the duration of the agreement; and such other factors as may be relevant. Following such discussion, counsel shall prepare a detailed term sheet reflecting the material terms of the proposed transaction.
- 5.3 The Department will present the term sheet to the Advanced Acquisition Committee at a scheduled meeting as soon as reasonably practicable. The Committee shall consider the terms of and rationale for the proposed transaction and may either approve, approve with conditions, or reject such transaction. If the Committee approves the proposed transaction or approves with conditions, the Department shall negotiate the final terms with the owner.
- 5.4 The material terms of all advanced acquisitions shall be reflected in an agreement prepared or reviewed by the Department's legal counsel and signed by the owner and an authorized representative of the Department. For any agreements enacted prior to the effective date of this regulation but for which no contract exists that (a) sets forth the material terms of such agreement and (b) is signed by both the Department and owner, the parties thereto shall execute an agreement in conformance with this Section 5.4 no later than May 31, 2011.

6.0 Consistency Review of Certain DeIDOT Real Property Acquisitions

- 6.1 The Committee shall conduct a consistency review for certain proposed real property acquisitions by the Department. These acquisitions consist of those real properties determined by the Department as necessary for its projects for new corridors, expansion of existing corridors, and real property affected

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by the Corridor Capacity Preservation Program. This review shall be conducted under the following time frames:

- 6.1.1 For the preferred alternative for existing corridors or the expansion of existing corridors – After the projects are approved by the Council on Transportation.
- 6.1.2 For the Department's Corridor Capacity Preservation Program – Prior to any real property acquisitions.
- 6.2 The consistency review shall confirm that the Department's proposed real property acquisitions further the State's overall goals for land use planning, as expressed by project authorizations and appropriations adopted by the General Assembly.
- 6.3 At the scheduled meeting for the consistency review, the Department shall present to the Committee such evidence as it deems necessary to demonstrate that the proposed acquisitions are consistent with state planning goals. This evidence shall include:
 - 6.3.1 a detailed visual depiction of the proposed acquisitions;
 - 6.3.2 the relevant project pages from the Capital Improvement Program adopted by the Council on Transportation, pursuant to 29 Del.C. Sections 8409 and 8419;
 - 6.3.3 the relevant project authorizations as described in the relevant Bond and Capital Improvements Acts adopted by the General Assembly;
 - 6.3.4 where applicable, the Department's adopted Corridor Capacity Preservation plan for the corridor for which the proposed acquisition would be made, along with other evidence showing how the acquisition furthers the Department's goals under that Program; and
 - 6.3.5 where applicable, the relevant project approvals obtained from the Federal Highway Administration.
- 6.4 If the Committee determines that the proposed acquisition is consistent with state planning goals, it shall then notify the Department in writing.
- 6.5 If the Committee determines that the proposed acquisition is not consistent with state planning goals, it shall then notify the Department in writing, with an explanation of the basis for the Committee's determination.

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 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 235

REGULATORY IMPLEMENTING ORDER

235 Teacher of the Year Award

I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks to reauthorize 14 DE Admin. Code 235 Teacher of the Year Award as part of the five-year review cycle.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on December 3, 2010, in the form hereto attached as *Exhibit "A"*. The Department did not receive comments related to this reauthorization.

II. Findings of Facts

The Secretary finds that it is appropriate to reauthorize 14 DE Admin. Code 235 Teacher of the Year Award as part of the five-year review cycle.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to reauthorize 14 DE Admin. Code 235 Teacher of the Year Award. Therefore, pursuant to 14 Del.C. §122, 14 DE Admin. Code 235 Teacher of the

Year Award attached hereto as *Exhibit "B"* is hereby reauthorized. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 235 Teacher of the Year Award hereby reauthorized 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** 235 Teacher of the Year Award reauthorized hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 235 Teacher of the Year Award in the *Administrative Code of Regulations* for the Department of Education.

V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on January 20, 2011. 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 20th day of January 2011.

Department of Education

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 20th day of January 2011

235 Teacher of the Year Award

This program shall be administered in accordance with 14 **De I.C.** Ch. 89, and the following rules and regulations.

1.0 Qualifications

To be considered for the Teacher of the Year award a person shall:

- 1.1 Have taught, continuously or intermittently, for an accumulative period of three years or more in a Delaware public school previous to the date of such person's nomination.
- 1.2 Have been formally nominated.
- 1.3 Be actively teaching in their district or charter school in this state at the time of their nomination.
- 1.4 Continue to actively teach in the nominating district or charter school for the duration of the school year of their nomination.
 - 1.4.1 If the nominee chooses to leave the district or charter school during the selection period the district or charter school shall submit another nominee.
- 1.5 Meet all the requirements for a Standard Certificate for the position held and hold a valid and current license, as approved by the Professional Standards Board, Department of Education and the State Board of Education.

7 DE Reg. 1178 (3/1/04)

9 DE Reg. 1182 (2/1/06)

2.0 Nominations

The following shall apply in preparing nominations in accordance with the requirements of the Act.

- 2.1 The Department of Education shall meet annually with the district coordinators of the Teacher of the Year Program and the representative for the charter schools for the purpose of providing them with

detailed instructions and proper forms for the presentation of nominees. Each district is invited to nominate one teacher employed by the district and the charter schools are invited to select one nominee to represent all of the charter schools.

- 2.1.1 Nominees shall be skillful and dedicated teachers, prekindergarten through grade 12. Administrative personnel such as principals and guidance counselors are not eligible to be considered for State Teacher of the Year. Nominees for State Teacher of the Year who are not actively engaged in teaching in a public school at the time at which observations are made pursuant to Section 2.2 below shall be disqualified.
- 2.2 Nominees shall submit a portfolio describing themselves and setting forth their positions on educational issues. Format will be based on the National Teacher of the Year program.
- 2.3 Following the submission of the portfolios, selected Department of Education staff members and selected former state and local district Teachers of the Year shall be assigned in pairs to read the portfolios of two nominees and observe those nominees in the classroom based on the criteria stipulated in the Teacher of the Year Program Guide that is updated each year. Another group of Department of Education Staff members shall be assigned to read all of the portfolios and rate them based on forms found in the Teacher of the Year Program Guide. Based on the numerical ratings from both the portfolio readers and from the observations, three nominees shall be identified as finalists for consideration by a panel of judges.
- 2.4 The panel of judges shall include: the current State Teacher of the Year; the President of the State Congress of Parents and Teachers; the President of the State Student Council Association; a member of the State Board of Education; a representative of the Chamber of Commerce; the President of the Delaware State Education Association; and the Chair of the Professional Standards Board or, if necessary, their designees.
- 2.5 The judges shall recommend one person for the Secretary of Education to declare as the State Teacher of the Year.

3 DE Reg. 104 (7/1/99)

7 DE Reg. 1178 (3/1/04)

9 DE Reg. 1182 (2/1/06)

OFFICE OF THE SECRETARY

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

REGULATORY IMPLEMENTING ORDER

710 Public School Employees Workday

I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks to reauthorize 14 **DE Admin. Code 710** Public School Employees Workday as part of the five-year review cycle.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on December 5, 2010, in the form hereto attached as *Exhibit "A"*. The Department did not receive comments on this reauthorization.

II. Findings of Facts

The Secretary finds that it is appropriate to reauthorize 14 **DE Admin. Code** 710 Public School Employees Workday as part of the five-year review cycle.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to reauthorize 14 **DE Admin. Code** 710 Public School Employees Workday. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 710 Public School Employees Workday attached hereto as *Exhibit "B"* is hereby reauthorized. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 710 Public School Employees Workday hereby reauthorized 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** 710 Public School Employees Workday reauthorized hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 710 Public School Employees Workday in the *Administrative Code of Regulations* for the Department of Education.

V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on January 20, 2011. 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 20th day of January 2011.

Department of Education

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 20th day of January 2011

710 Public School Employees Workday**1.0 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:

- 1.1 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.)
- 1.2 Aide and Paraprofessional, a minimum of 7 1/2 hours inclusive of 1/2 hour for lunch.
- 1.3 Custodian, a minimum of 8 hours inclusive of 1/2 hour for lunch.

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- 1.4 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.
 - 1.5 Food Service Manager, a minimum of 7 hours exclusive of lunch.
 - 1.6 Secretary, a minimum of 7 1/2 hours exclusive of lunch.

3 DE Reg. 1077 (2/1/00)

4 DE Reg. 1254 (2/1/01)

9 DE Reg. 1183 (2/1/06)

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

ORDER

Medicaid Recovery Audit Contractor Program

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to amend the Title XIX Medicaid State Plan regarding the *Medicaid Recovery Audit Contractor Program*. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the December 2010 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 31, 2010 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 proposal amends the Title XIX Medicaid State Plan to comply with section 6411 of the Affordable Care Act which amends section 1902(a)(42) of the Social Security Act (the Act) requiring States to establish programs to contract with RACs to audit payments to Medicaid providers by December 31, 2010.

Statutory Authority

The Patient Protection and Affordable Care Act, Public Law 111-148, Section 6411, *Expansion of the Recovery Audit Contractor (RAC) program*

Background

State Medicaid RACs

Under Section 1902(a)(42)(B)(i) of the Act, States and Territories are required to establish programs to contract with one or more Medicaid RACs for the purpose of identifying underpayments and overpayments and recouping overpayments under the State plan and under any waiver of the State plan with respect to all services for which payment is made to any entity under such plan or waiver. States must establish these programs in a manner consistent with State law, and generally in the same manner as the Secretary contracts with contingency fee contractors for the Medicare RAC program.

The Centers for Medicare and Medicaid Services (CMS) will allow States to maintain flexibility in the design of Medicaid RAC program requirements and the number of entities with which the States elect to contract within the parameters of the statutory requirements. There are a number of operational and policy considerations in State Medicaid RAC program design (some of which will be discussed in greater depth in future rulemaking) such as:

- a. Qualifications of Medicaid RACs;
- b. Required personnel - for example physicians and certified coders;
- c. Contract duration;
- d. RAC responsibilities;
- e. Timeframes for completion of audits/recoveries;
- f. Audit look-back periods;
- g. Coordination with other contractors and law enforcement;
- h. Appeals; and
- i. Contingency fee considerations.

Contingency Fees

Sections 1902(a)(42)(B)(ii)(I) and (II) of the Act provide that payments to Medicaid RACs are to be made only from amounts "recovered" on a contingent basis for collecting overpayments and in amounts specified by the State for identifying underpayments. CMS will not dictate contingency fee rates, but will establish a maximum contingency rate for which Federal Financial participation (FFP) will be available. This rate will be the highest contingency fee rate that is paid by CMS under the Medicare RAC program.

Appeals

Section 1902(a)(42)(B)(ii)(III) of the Act requires States to have an adequate process for entities to appeal any adverse decisions made by the Medicaid RACs. Each State has existing administrative appeals processes with respect to audits of Medicaid providers. So long as States are able to accommodate Medicaid RAC appeals within their existing Medicaid provider appeal structure, CMS is not requiring States to adopt a new administrative review infrastructure to conduct Medicaid RAC appeals.

Reporting

States will be required to report to CMS their contingency fee rates, along with other Medicaid RAC contract metrics such as the number of audits conducted, recovery amounts, number of cases referred for potential fraud, contract periods of performance, contractors' names, and other factors such as whether a State has implemented provider or service-specific Medicaid RACs. States will report certain elements of this information via the quarterly Form CMS-64, and other information via separate data reporting forms CMS will require.

Coordination

Section 1902(a)(42)(B)(ii)(IV)(cc) of the Act requires that CMS ensure that States and their Medicaid RACs coordinate their recovery audit efforts with other entities.

Summary of Proposal

In accordance with the statutory requirements of Section 6411 of the Affordable Care Act, the Division of Medicaid and Medical Assistance (DMM A) intends to submit a State plan amendment (SPA) through which Delaware will attest that it will establish a compliant Medicaid RAC program by December 31, 2010.

State programs to contract with Medicaid RACs are not required to be fully operational by December 31, 2010. However, CMS expects States to fully implement their RAC programs by April 1, 2011.

The provisions of this state plan amendment are subject to approval by the Centers for Medicare and Medicaid Services (CMS).

Fiscal Impact Statement

This revision imposes no increase in cost on the General Fund; however, there is the potential for administrative and system change costs.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE

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

Consistent with the "Background" section of this proposed regulation, the DMMA is required by a change in federal law (Affordable Care Act) to contract with one or more entities to conduct audits of Medicaid providers to identify overpayments and underpayments. The contractors would be paid for overpayments on a contingency fee basis out of amounts recovered. Contractors would be paid for underpayments based on a rate to be determined by DMMA. DMMA must amend the State Plan by December 31, 2010 to comply with federal law and ensure implementation by April 1, 2011.

SCPD has misgivings about a model in which the auditor is compensated through identification of overpayments. Logically, this may lead to any benefit of the doubt in "gray" areas being resolved against the medical provider and prompt "overzealous" collection. As a result, providers may simply withdraw from the Medicaid program. This concern is partially offset by the Plan amendment provision that the contractor would be "paid an equivalent percentage contingency fee for the identification of underpayments." However, in theory, audit results could be skewed if there are offsetting overpayments and underpayments. For example, it would be against the auditor's interests to identify offsetting overpayments and underpayments since the auditor could then be paid zero. The same zero payment occurs if no overpayment or underpayment is identified.

Since this initiative is prompted by CMS, SCPD endorses a Plan amendment by December 31, 2010. However, the Council recommends that DMMA adopt arrangements with audit contractors which promote application of principled restraint in audits. If medical providers are beset by auditors with a "fee-ding frenzy" orientation, the result may be a mass exodus from participation in the Medicaid program. Findings should be based on definitive evidence of incorrect payment and the appeal process could include some informal options which supplement the administrative hearing process.

Agency Response: The Recovery Audit Contractor (RAC) will be required to maintain quality customer service to providers as well as demonstrate that they have experience in successfully conducting audits. There will be reporting requirements, staffing requirements and processes; and, reports that will be approved by DMMA. DMMA will work closely with the RAC and the providers to ensure compliance with RAC and CMS requirements.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the December 2010 Register of Regulations should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation regarding the *Medicaid Recovery Audit Contractor Program* is adopted and shall be final effective February 10, 2011.

Rita M. Landgraf, Secretary, DHSS

DMMA FINAL ORDER REGULATION #11-04**REVISION:**

Revision:
OMB No.

CMS

**STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory DELAWARE****SECTION 4 – GENERAL PROGRAM ADMINISTRATION**

4.5 Medicaid Recovery Audit Contractor Program

<p><u>Citation</u></p>	
<p>Section 1902(a)(42)(B)(i) of the Social Security Act</p>	<p><input checked="" type="checkbox"/> The State has established a program under which it will contract with one or more recovery audit contractors (RACs) for the purpose of identifying underpayments and overpayments of Medicaid claims under the State plan and under any waiver of the State plan.</p> <p>____ The State is seeking an exception to establishing such program for the following reasons:</p>
<p>Section 1902(a)(42)(B)(ii)(I) of the Act</p>	<p>____ The State/Medicaid agency has contracts of the type(s) listed in section 1902(a)(42)(B)(ii)(I) of the Act. All contracts meet the requirements of the statute. RACs are consistent with the statute.</p> <p>Place a check mark to provide assurance of the following:</p> <p><input checked="" type="checkbox"/> The State will make payments to the RAC(s) only from amounts recovered.</p> <p><input checked="" type="checkbox"/> The State will make payments to the RAC(s) on a contingent basis for collecting overpayments.</p>
<p>Section 1902 (a)(42)(B)(ii)(II)(aa) of the Act</p>	<p>The following payment methodology shall be used to determine State payments to Medicaid RACs for identification and recovery of overpayments (e.g., the percentage of the contingency fee):</p> <p><input checked="" type="checkbox"/> The State attests that the contingency fee rate paid to the Medicaid RAC will not exceed the highest rate paid to Medicare RACs, as published in the Federal Register.</p> <p>____ The State attests that the contingency fee rate paid to the Medicaid RAC will exceed the highest rate paid to Medicare RACs, as published in the Federal Register. The State will only submit for FFP up to the amount equivalent to that published rate.</p> <p>____ The contingency fee rate paid to the Medicaid RAC that will exceed the highest rate paid to Medicare RACs, as published in the Federal Register. The State will submit a justification for that rate and will submit for FFP for the full amount of the contingency fee.</p> <p><input checked="" type="checkbox"/> The following payment methodology shall be used to determine State payments to Medicaid RACs for the identification of underpayments (e.g., amount of flat fee, the percentage of the contingency fee):</p>
<p>Section 1902 (a)(42)(B)(ii)(II)(bb) of the Act</p>	<p><i>The Medicaid RAC will be paid an equivalent percentage contingency fee for the identification of underpayments.</i></p> <p><input checked="" type="checkbox"/> The State has an adequate appeal process in place for entities to appeal any adverse determination made by the Medicaid RAC(s).</p> <p><input checked="" type="checkbox"/> The State assures that the amounts expended by the State to carry out the program will be amounts expended as necessary for the proper and efficient administration of the State plan or a waiver of the plan.</p>
<p>Section 1902 (a)(42)(B)(ii)(III) of the Act</p>	
<p>Section 1902 (a)(42)(B)(ii)(IV)(aa) of the Act</p>	<p><input checked="" type="checkbox"/> The State assures that the recovered amounts will be subject to a State's quarterly expenditure estimates and funding of the State's share.</p>
<p>Section 1902(a)(42)(B)(ii)(IV)(bb) of the Act</p>	<p><input checked="" type="checkbox"/> Efforts of the Medicaid RAC(s) will be coordinated with other contractors or entities performing audits of entities receiving payments under the State plan or waiver in the State, and/or State and Federal law enforcement entities and the CMS Medicaid Integrity Program.</p>
<p>Section 1902 (a)(42)(B)(ii)(IV)(cc) of the Act</p>	

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 7906(e) (16 Del.C. §7906(e))
16 DE Admin. Code 4455

ORDER

4455 Delaware Regulations Governing a Detailed Plumbing Code

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services (“DHSS”) initiated proceedings to adopt the State of Delaware Regulations Governing A Detailed Plumbing Code. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Chapter 79, §7906 (e).

On December 1, 2010 (Volume 14, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Delaware Code** Section 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by December 31, 2010, or be presented at a public hearing on December 22, 2010, after which time the DHSS would review information, factual evidence and public comment to the said proposed regulations.

No oral comments were made at the public hearing and no written comments were received during the public comment period. Therefore, no evaluation or summarization of comments is presented in the accompanying “Summary of Evidence.”

FINDINGS OF FACT:

There were no public comments received. 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 A Detailed Plumbing Code are adopted and shall become effective February 10, 2011, after publication of the final regulation in the *Delaware Register of Regulations*.

Rita M. Landgraf, Secretary

SUMMARY OF EVIDENCE

In accordance with Delaware Law, public notices regarding proposed Department of Health and Social Services (DHSS) Regulations Governing A Detailed Plumbing Code were published in the Delaware State News, the *News Journal* and the *Delaware Register of Regulations*.

The public comment period was open from December 1, 2010 through December 31, 2010. No comments were received on the proposed regulations during the public comment period and no changes have been made to the proposed regulations.

Verifying documents are attached to the Hearing Officer’s record. The regulation has been approved by the Delaware Attorney General’s office and the Cabinet Secretary of DHSS.

4455 Delaware Regulations Governing a Detailed Plumbing Code

1.0 State of Delaware Plumbing Code

These Regulations shall hereby be known as the “State of Delaware Plumbing Code”.

14 DE Reg. 37 (07/01/10)

2.0 Adoption of International Plumbing Code.

The State of Delaware Plumbing Code adopts, as if fully set forth herein, "The International Plumbing Code 2009" as amended herein:

- 2.1 Amend **Subsection 101.1** by deleting the subsection in its entirety.
- 2.2 Amend **Subsection 101.2** by deleting the subsection in its entirety and by inserting in lieu thereof the following: "The provisions of this Code shall apply to the erection, installation, alteration, repair, relocation, replacement, addition to, use or maintenance of plumbing systems within this jurisdiction."
- 2.3 Amend **Subsection 102.2** by deleting the subsection in its entirety and by inserting in lieu thereof the following: "The legal use and occupancy of any structure existing on the effective date of this Code, or for which it had been heretofore approved, may be continued without change except as may be specifically covered in this Code or deemed necessary by the Deputy Code Official(s) for the general safety and welfare of the occupants and the public.
- Exception:** Except that upon change of permit holder in facilities and operations regulated by the Delaware Division of Public Health such systems shall comply with the requirements of this Code and applicable regulations promulgated and standards established by the Delaware Division of Public Health."
- 2.4 Amend **Subsection 102.4** by deleting the second paragraph in its entirety.
- 2.45 Amend **Subsection 102.10** by deleting the words "local, state or federal law" and inserting in lieu thereof the following: "the Delaware Code."
- 2.56 Amend **Subsection 104.1** by deleting the subsection in its entirety and by inserting in lieu thereof the following: "For the purpose of this document the term "Code Official" refers to the Secretary of the Delaware Department of Health and Social Services, or his/her designee. "Plumbing Inspectors" shall have such duties and powers as are enumerated in Title 16, Section 7907 of the **Delaware Code** and shall have the authority of a Deputy Code Official as referenced in Section 103.3 of this Code."
- 2.67 ~~Amend **Subsection 10 6.6.3** by adding thereto a new numbered paragraph following numbered paragraph "3" to read as follows: "4. The State of Delaware Plumbing Code Office does not refund plumbing permit fees."~~ Amend **Subsection 10 6.1** by adding a new sentence at the end of the subsection paragraph to read as follows: "The Division of Public Health shall issue plumbing permits and a \$100 fee shall be assessed for all plumbing permits issued by the Division of Public Health. All revenue generated shall be retained by the Division of Public Health in order to defray costs associated with the plumbing inspection program."
- 2.7.1 Amend **Subsection 106.2** by adding thereto a new numbered paragraph following numbered paragraph "2" to read as follows: "3. No permit or fee is required by the Division of Public Health for the replacement of an existing fixture, piece of equipment or related piping, including but not limited to hot water heaters and water conditioning systems."
- 2.7.2 Amend **Subsection 106.2** by adding thereto a new numbered paragraph following paragraph "3" to read as follows: "4. The relocation of any plumbing fixture and related pipe requires a permit."
- 2.7.3 Amend **Subsection 106.2** by adding thereto a new numbered paragraph following paragraph "4" to read as follows: "5. Any new non potable fixture, piece of equipment, or system that connects to the potable water supply shall require a permit and shall meet the provisions of this Code."
- 2.7.4 Amend **Subsection 106.6.3** by adding thereto a new numbered paragraph following paragraph "3" to read as follows: "4. The Division of Public Health does not refund plumbing permit fees."
- 2.78 Amend **Subsection 108.1** by deleting the subsection in its entirety and by inserting in lieu thereof the following: "It shall be unlawful for any person to work as a licensed plumber in the State of Delaware unless such person has received a license from the Delaware Department of Administrative Services, Division of Professional Regulation, showing that said person has been duly licensed as a plumber, except as provided by Title 24, Section 1807(c) of the **Delaware Code**, and has a permit issued by the Delaware Division of Public Health.

Exception: The homeowner of a single-family residence occupied, or to be occupied by the homeowner and not for sale, rent or lease, may perform plumbing work only on such residence itself or auxiliary structures, and in compliance with a permit issued by the Delaware Division of Public Health, or applicable authority, and in compliance with all provisions of these regulations.”

- 2.89 Amend **Subsection 108.4** by deleting the subsection in its entirety and by inserting in lieu thereof the following: “Any person who shall violate any provisions of this Code, or shall fail to comply with the requirements thereof, or who shall install plumbing work in violation of an approved plan or directive of the Code Official or the Deputy Code Official(s), or of a permit or certificate issued under the provisions of this Code, shall be subject to penalties as provided by Title 16, Chapter 79 of the **Delaware Code.**”
- 2.910 Amend **Subsection 108.5** by deleting the words: “shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars” as it appears therein and inserting in lieu thereof the following: “shall be subject to penalties as provided by Title 16, Chapters 1 and 79 of the **Delaware Code.**”
- 2.4011 **Section 202 General Definitions**
- 2.4011.1 Amend **Section 202** by adding thereto a new definition after the definition “**Leader**” and before the definition “**Local Vent Stack**” to read as follows: “**Licensed Plumber.** A person who has complied with the provisions of the Delaware Division of Professional Regulation and the Board of Plumbing Examiners, and has further met the certification, testing, bonding, and licensing requirements of the jurisdiction in which he/she plans to engage in the business of plumbing. A Licensed Plumber shall be recognized as being responsible for all work performed under a plumbing permit issued by the Delaware Division of Public Health.”
- 2.4011.2 Amend **Section 202** by adding thereto a new definition after the definition “**Soil Pipe**” and before the definition “**Spillproof Vacuum Breaker**” to read as follows: “**Solvent cement.** The sealant used to connect pipes and fittings. This Code prohibits the use of all purpose glue in any reference to solvent cement.”
- 2.4011.3 Amend **Section 202** by adding thereto a new definition after the definition “**Sump Vent**” and before the definition “**Supports**” to read as follows: “**Supervision of Work.** Work completed under the permit of a licensed plumber while employed by the licensed plumber, or the same firm, partnership, corporation, or owners of the company as the licensed plumber.”
- 2.11.4 Amend **Section 202** by amending the definition of “**Building Drain**” by deleting the reference “30” between the words “extends” and “inches” and replacing with the words “5 feet”.
- 2.4412 Amend **Subsection 305.6.1** by deleting the subsection in its entirety.
- 2.4213 Amend **Subsection 312.3** by adding thereto after the last sentence the following: “In lieu of the presence of the Deputy Code Official witnessing the test, the Licensed Plumber may certify in writing upon a prescribed form that the plumbing system piping is in accordance with Section 312 of these regulations. This shall be applicable between November 1 and April 1 of each calendar year.”
- 2.4314 Amend **Subsection 312.4** by deleting the subsection in its entirety.
- 2.4415 Amend **Subsection 404.1** by deleting the subsection in its entirety and by inserting in lieu thereof the following: “All regulations pertaining to handicapped facilities in the International Plumbing Code will be governed by the most recent edition of the “American National Standards Institute (ANSI).”
- 2.4516 Amend **Section 407** by adding thereto a new subsection after subsection 407.4 to read as follows: “**407.5 Overflow devices.** Overflow devices on all bathtubs shall be evaluated by the Division of Public Health on a case by case basis.”
- 2.4617 Amend **Subsection 502.1** by adding thereto after the last sentence the following: “The first 12 inches of both hot and cold water lines shall be thermally rated for maximum water temperature produced by the hot water heater.”
- 2.4718 Amend **Subsection 504.6** by adding thereto a new numbered paragraph after numbered paragraph “13” to read as follows: “14. The discharge valve shall be equipped with an approved heat transfer fitting or metallic pipe.”
- 2.4819 Amend **Table 604.3** by adding thereto in the second row, first column, after the words “Bathtub, balanced-pressure, thermostatic or combination balanced pressure/thermostatic mixing valve” the following: “for hand held shower fixtures.”

- ~~2.19~~20 Amend **Table 605.3** by deleting in the parenthetical in the seventh row, first column after the words "Copper or copper-alloy tubing" the letters "M" and "WM".
- ~~2.20~~21 Amend **Table 605.4** by deleting in the parenthetical in the fifth row, first column after the words "Copper or copper-alloy tubing" the letters "M" and "WM".
- ~~2.21~~22 Amend **Subsection 605.16.2** by adding thereto after the words "above or below ground" the following sentence: "The use of all purpose glue is prohibited."
- ~~2.22~~23 Amend **Subsection 607.3** by adding thereto after the words "in accordance with Section 607.3.1 and 607.3.2" the following: "All public water installations shall be required to have an expansion tank installed."
- ~~2.23~~24 Amend **Subsection 608.3** by adding thereto a new subsection after subsection 608.3.1 to read: "608.3.2 **Special equipment, water supply protection.** There shall be sufficient space around special equipment for accessibility."
- ~~2.24~~25 Amend **Subsection 903.2** by adding thereto after the first sentence the following sentence: "The stack shall be no less than 2 inches in diameter."
- ~~2.25~~26 Amend **Subsection 903.3** by deleting the words "or to a stack-type air admittance valve in accordance with Section 917."
- ~~2.26~~27 Amend **Subsection 912.1** by deleting the last sentence in its entirety.
- ~~2.27~~28 Amend **Subsection 917.1** by adding thereto after the last sentence the following: "Air admittance valves shall be approved by the Deputy Code Official prior to use or installation."
- ~~2.28~~29 Amend **Section 919** by deleting the section in its entirety.
- ~~2.29~~30 Amend **Subsection 1003.3.4** by adding thereto in the last sentence after the words "shall be installed in accordance with the manufacturer's instructions" the following: "or be otherwise approved by the Code Official."
- ~~2.30~~31 Amend **Chapter 12** by deleting the Chapter in its entirety.

14 DE Reg. 37 (07/01/10)

3.0 Miscellaneous Provisions

- 3.1 **Procedures for License.** Every person desiring to register as a plumber engaged in the business of plumbing in the State of Delaware shall file an application with the Delaware Division of Professional Regulation.
- 3.2 **Variances**
- 3.2.1 **Permission for a variance.** Upon receipt of a written application for a variance, the Deputy Code Official may recommend granting written permission to vary from particular provisions set forth in these Regulations, when the extent of the variation is clearly specified and it is documented to the Secretary of the Delaware Department of Health and Social Services or his/her appointed designee's satisfaction that:
- 3.2.1.1 Such variation is necessary to obtain a beneficial use of an existing facility;
- 3.2.1.2 The variation is necessary to prevent a practical difficulty or unnecessary hardship; and
- 3.2.1.3 Appropriate alternative measures have been taken to protect the health and safety of the public and assure that the purpose of the provisions from which the variation is sought will be observed.
- 3.2.2 **Time for recommendation.** Within thirty (30) business days of the receipt of a written application for a variance, the Deputy Code Official shall recommend either: granting the variance, denying the variance or requesting further information from the applicant.
- 3.2.3 **Appeal of denial.** If the applicant has been denied a variance upon the recommendation of the Deputy Code Official, the applicant may appeal the decision by filing a written Notice of Appeal to the Secretary of the Delaware Department of Health and Social Services, or his/her designee.

14 DE Reg. 37 (07/01/10)

4.0 Special Provisions Regarding Plumbing For Food Establishments

- 4.1 **Scope.** These Special Provisions shall be followed in addition to and shall not supersede the International Plumbing Code, the Delaware Food Code or these Regulations.
- 4.2 **Use of Licensed Plumber.** All plumbing shall be installed by a licensed plumber under a valid, current plumbing permit in accordance with these Regulations.
- 4.3 **Water Supply and Sewage Disposal**
- 4.3.1 **No further evaluation.** Water Supply and Sewage Disposal Facilities served by a public water supply and sewage system do not require further evaluation.
- 4.3.2 **Private wells.** Private wells must comply with chemical and bacteriological standards; a satisfactory analysis is required before an operating permit may be issued.
- 4.3.3 **Individual systems.** Individual sewage disposal systems require the approval of the Department of Natural Resources and Environmental Control prior to operating the food establishment.
- 4.4 **Backflow Prevention**
- 4.4.1 **Air gap, supply.** An air gap between the water supply and the flood rim level of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 mm (1 inch). (See also DE Food Code, §5.202).
- 4.4.2 **Air gap, drainage.** A direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed, except that this requirement does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building, and except that this requirement does not apply to a warewashing machine with a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap. Equipment and fixtures utilized for the storage, preparation and handling of food shall discharge through an indirect waste pipe by means of an air gap. (See also IPC2009 § 802.1.1).
- 4.4.3 **Floor drains.** Floor drains located within walk-in refrigerators or freezers in food establishments shall be indirectly connected to the sanitary drainage system by means of an air gap except as allowed in IPC2009 § 2.24.3.2. (See also IPC2009, § 802.1.2)
- 4.4.4 **Backflow prevention device.** A backflow or back siphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (ASSE) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device. (See also DE Food Code, § 5-202.14).
- 4.4.5 **Plumbing fixtures.** The supply lines or fittings for every plumbing fixture shall be installed so as to prevent backflow. Plumbing fixture fittings shall provide backflow protection in accordance with ASSE A112.18.1. (See also IPC2009, § 608.2).
- 4.4.6 **Devices, appliances.** All devices that connect to the water supply shall be provided with protection against backflow. This includes devices used for food preparation and processing, steamers, the storage of ice or food, warewashing machines, and other food service equipment. (See also IPC2009, § 608.3)
- 4.4.7 **Hose connections.** Sillcocks, hose bibs, wall hydrants and other openings with a hose connection shall be protected by an atmospheric-type or pressure-type vacuum breaker or a permanently attached hose connection vacuum breaker. This subsection does not apply to water heater drain valve or clothes washing machines. (See also IPC2009, § 608.15.4.2).
- 4.4.8 **Beverage dispensers.** The water supply connection to carbonated beverage dispensers shall be protected against backflow by a backflow preventer conforming to ASSE 1022 or by an air gap. The portion of the backflow preventer device downstream from the second check valve and the piping downstream therefrom shall not be affected by carbon dioxide gas. (See also IPC2009, § 608.16.1).
- 4.5 **Utility Service Installation**

- 4.5.1 **Installation location.** Utility lines including gas, plumbing and electrical shall be installed inside walls, above ceilings or below floors whenever structurally practical, and in accordance with applicable code requirements.
- 4.5.1.1 **Front of wall lines.** If lines are run in front of walls, lines shall be installed with stand-off brackets or other secure mounting method, such that a minimum clearance of one inch (1") exists between line and wall.
- 4.5.1.2 **No floor installation.** Exposed horizontal utility service, including water supply and drain lines, may not be installed on the floor.
- 4.6 **Joint Sealing**
- 4.6.1 **Joint sealing.** Joints formed by fixtures in contact with walls or floors shall be sealed with an approved sealant. Where installation does not allow access for cleaning, fixtures shall be sealed to walls or adjoining equipment. Where not structurally practical, a minimum gap of one inch (1") shall exist between the fixture and walls or adjoining equipment.
- 4.7 **Toilet Facilities**
- 4.7.1 **Number required.** At least one (1) toilet and not fewer than the toilets required by law shall be provided. If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified by law. (See also DE Food Code, § 5-203.12).
- 4.7.2 **Handwashing facility.** A handwashing facility shall be located in, or immediately adjacent to, toilet rooms. (See also DE Food Code, § 5-204.11).
- 4.7.3 **Toilet room.** A toilet room shall be completely enclosed and provided with a tight-fitting and self-closing door, except that this requirement does not apply where a toilet room is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall. (See also DE Food Code, § 6-202.14).
- 4.7.3.1 **Location.** Toilet rooms shall be conveniently located and accessible to employees during all hours of operation (See also DE Food Code, § 6-402-11).
- 4.8 **Sinks**
- 4.8.1 **Water supply.** All sinks shall be supplied with hot and cold running water under pressure.
- 4.8.2 **Splashguard Dividers.** Where less than 18 inches lateral separation exists between sinks and adjacent fixtures, food contact surfaces or open storage shelving, a splashguard divider constructed of a material which is durable, easily cleanable, non-toxic and impervious to moisture shall be installed; such divider may be wall-attached or fixture-attached, and shall extend outward to the leading edge of the sink and extend vertically a minimum of 18 inches above the level plane of the sink bowl.
- 4.8.3 **Handwashing sinks.** These fixtures, when located in food preparation, food dispensing, beverage dispensing (including bar service area), food storage and warewashing areas, must be certified or classified under an approved industry standard for food equipment, such as NSF International, ETL Sanitation, UL for Sanitation, BISSC, or equivalent.
- 4.8.3.1 **Separate sink required.** A separate, single-compartment handwashing sink is REQUIRED in food preparation, food dispensing, and warewashing areas; and in, or immediately adjacent to, toilet rooms. Handsinks shall be installed within 25 travel feet within a direct line access of each primary work location.
- 4.8.3.2 **Temperature.** Tempered water temperature at a minimum of 100°F and a maximum of 110°F, delivered through a mixing valve or combination faucet, is REQUIRED.
- 4.8.3.3 **Faucets.** If installed, self-closing, slow-closing, or metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.
- 4.8.3.4 **No other purpose.** A handwashing sink may not be used for any other purpose.
- 4.9 **Food Preparation Sinks**
- 4.9.1 **Food preparation sinks.** Any sink in which food is washed or thawed under running water as part of the food preparation process must be certified or classified under an approved industry

standard for food equipment, such as NSF International, ETL Sanitation, UL for Sanitation, BISSC, or equivalent.

4.9.2 **No disposal.** A food preparation sink may not be used for disposal of mop water or liquid wastes.

4.9.3 **Required indirect drain line.** An indirect drain line connection through an air-gap is REQUIRED.

4.9.4 **Grease trap connection.** Connection to a properly sized grease trap is REQUIRED.

4.9.5 **Multiple compartments.** If a food preparation sink has two or more compartments, a separate wasteline connection from each sink compartment through an air gap into a floor sink is REQUIRED.

4.10 **Warewashing Sinks**

4.10.1 **Industry standard.** Warewashing sinks must be certified or classified under an approved industry standard for food equipment, such as NSF International, ETL Sanitation, UL for Sanitation, BISSC, or equivalent.

4.10.2 **Three compartments.** A sink of at least three separate compartments with covered corners and integral drainboards at each end shall be provided for manually washing, rinsing and sanitizing equipment and utensils. Each sink compartment shall be large enough to accommodate the immersion of the largest equipment item or utensil. **A chemical test kit that matches the type of sanitizing agent in use is required in the warewashing area.**

4.10.3 **No handwashing or disposal.** A warewashing sink may not be used for handwashing or disposal of liquid wastes.

4.10.4 **Grease trap connection.** Connection to a properly sized grease trap is REQUIRED.

4.10.5 **Alternative use provision for warewashing sink.** If the warewashing sink will be used for washing or thawing food, a separate wasteline connection from each sink compartment through an air-gap into a floor sink is REQUIRED. The installation of a properly sized grease trap downstream of the floor sink is REQUIRED. Alternative use of a warewashing sink for food preparation requires prior approval from the Delaware Division of Public Health.

4.11 **Service Sinks** (for use as a janitorial sink, utility sink or mop sink)

4.11.1 **Installation location.** Wherever practical, fixture service sink must be installed outside of the food preparation, food dispensing, food storage and warewashing areas.

4.11.2 **Industry standard.** Service sinks, when located in food preparation, food dispensing, food storage and warewashing areas, must be certified or classified under an approved industry standard for food equipment, such as NSF International, ETL Sanitation, UL for Sanitation, BISSC, or equivalent.

4.11.3 **Minimum number required.** A minimum of one service sink or receptor is REQUIRED on each floor level of food operations. This fixture may be a sink or a curbed receptor.

4.11.4 **Dual use.** The dual use of a utility sink as a handwashing sink is not approved in new construction, conversion of a structure to a food establishment, nor remodeling of an existing facility.

4.11.5 **Grease trap connection.** Connection to a grease trap is not required.

4.12 **Prewash Sinks.**

4.12.1 **Industry standard.** Prewash sinks must be certified or classified under an approved industry standard for food equipment, such as NSF International, ETL Sanitation, UL for Sanitation, BISSC, or equivalent.

4.12.2 **Grease trap connection.** Connection to a properly sized grease trap is REQUIRED.

4.12.3 **Food waste grinder.** If a food waste grinder is installed on fixture prewash sink, the grease trap must be designed and rated for such application, or a solids interceptor is required upstream of the grease trap.

4.13 **Mechanical Warewasher**

4.13.1 **Industry standard.** Mechanical warewashers must be certified or classified under an approved industry standard for food equipment, such as NSF International, ETL Sanitation, UL for Sanitation, or equivalent.

- 4.13.2 **Warewashing machine.** A warewashing machine, using hot water or a chemical rinse to sanitize, may be installed. Large cookware which does not fit into the machine must be sanitized in a three compartment sink. Facilities without a three compartment sink w hose warewashers are found functioning improperly may be directed to temporarily close until the machine is repaired. **If a chemical sanitizing agent is used, a test kit that matches the chemical sanitizing agent is required.**
- 4.13.3 **Grease trap connection.** Connection to a grease trap is NOT APPROVED due to high temperature, pressure and detergents.
- 4.13.4 **Indirect drainline connection.** An indirect drainline connection through an air-gap is REQUIRED. (See paragraph below for alternative installation provision.)
- 4.14 **Alternative Installation Provision**
- 4.14.1 **Alternative installation provision for mechanical warewasher.** If approved by the Delaware Division of Public Health, a direct drainline connection may be installed if the machine wastewater outlet is located within five feet of a properly trapped vented floor drain and the machine outlet is connected to the inlet side of the same properly vented floor drain trap.
- 4.15 **Water Heater**
- 4.15.1 **Hot water supply.** The water heater shall be sized to provide hot water as required to supply both the continuous requirements and the hourly peak demands of the facility. The continuous and hourly demands are based on the type of equipment and number of fixtures consuming hot water as required for food operations.
- 4.15.2 **Total availability.** The total hot water availability in gallons per hour (gph) from a water heater is the sum of the unit storage capacity plus the recovery rate at a 100°F rise.
- 4.15.3 **Minimum storage capacity.** A fuel-fired (gas or oil) water heater in a food establishment shall have a minimum storage capacity of thirty (30) gallons; an electric water heater shall have a minimum storage capacity of forty (40) gallons. Storage capacities larger than the minimum shall be required, based on the type of equipment and number of fixtures consuming hot water.
- 4.16 **Grease Trap**
- 4.16.1 **Sizing.** The grease trap must be sized in accordance with PDI standard G101.
- 4.16.2 **Grease trap connection.** Connection to a properly sized grease trap is REQUIRED for all fixtures that discharge grease-laden waste, e.g. warewashing sinks, food prep sinks, pre-wash sinks for warewashers, woks, and other cooking equipment.
- 4.16.3 **Sizing procedures.** Follow these procedures for sizing a grease trap to a specific fixture:
- 4.16.3.1 Determine the liquid volume of the fixture in cubic inches (cu in) draining to the grease trap.
 - 4.16.3.2 Determine the liquid capacity of the fixture in gallons (gal).
 - 4.16.3.3 Determine the actual drainage load (75% of fixture capacity).
 - 4.16.3.4 Determine the unit flow rate minimum for drainage period of 2 minutes.
 - 4.16.3.5 Determine the unit liquid holding capacity minimum (40% of fixture capacity).
 - 4.16.3.6 Select a unit corresponding to minimum unit flow rate and liquid holding capacity.

Table 4.16.3a
EXAMPLE OF SIZING FOR GREASE TRAP SELECTION

<p>Select a grease trap for a three compartment warewashing sink with bowl dimensions of 18" W x 24" L x 12" D</p> <ol style="list-style-type: none"> 1. Volume = (18in x 24in x 12in) x 3 cmpts = (5,184 cu in) x 3 = 15,552 cubic inches 2. Capacity = Volume (cu in) / 231 (cu in/gal) = 15,552 / 231 = 67.3 gallons 3. Drainage load = 67.3 gal x 0.75 = 50.4, or approx. 50 gallons 4. Unit flow rate minimum = 50 gallons / 2 minutes = 25 gallons per minute (gpm) Unit liquid holding capacity minimum = 67.3 x 0.40 = 26.9 gallons 5. Select a grease trap with a minimum flow rate equal to or greater than 25 gpm The selected trap also must have a minimum liquid holding capacity of 26.9 gal.
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Table 4.16.3b
GREASE TRAP SIZING FOR TYPICAL SINK INSTALLATIONS

Bold column at far right applies P DI G101 formula to calculate minimum required grease trap flow rate in gallons per minute (gpm).

Width (in)	Length (in)	Depth (in)	Volume (cuin)	Volume (gal)	No of cmpts	Total vol (gal)	Working vol (75%)	Min Flow Rate (gpm)
W	L	D	W x L x D = Vc	Vc / 231 = Vg	#C	Vg x #C = Vtg	Vtg x 0.75 = Vw	Vw / 2min = MFR
16.0	19.0	10.5	3192	13.8	1	13.8	10	5
					2	27.6	21	10
					3	41.5	31	16
16.0	19.0	13.5	4104	17.8	1	17.8	13	7
					2	35.5	27	13
					3	53.3	40	20
16.0	20.0	14.0	4480	19.4	1	19.4	15	7
					2	38.8	29	15
					3	58.2	44	22
18.0	20.0	14.0	5040	21.8	1	21.8	16	8
					2	43.6	33	16
					3	65.5	49	25
18.0	24.0	12.0	5184	22.4	1	22.4	17	8
					2	44.9	34	17
					3	67.3	50	25
20.0	20.0	16.0	6400	27.7	1	27.7	21	10
					2	55.4	42	21
					3	83.1	62	31
22.0	24.0	16.0	8448	36.6	1	36.6	27	14

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					2	73.1	55	27
					3	109.7	82	41
24.0	24.0	16.0	9216	39.9	1	39.9	30	15
					2	79.8	60	30
					3	119.7	90	45"

9 DE Reg. 786 (11/01/05)

14 DE Reg. 37 (07/01/10)

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(3)u.1 (16 Del.C. §122(3)u.1)

ORDER

4458 State of Delaware Food Code Regulations (2011)

NATURE OF THE PROCEEDINGS

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt the 2011 State of Delaware Food Code. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Del.C. Ch. 101 and authority as prescribed by 16 Del.C. §122 (3) u.1. (e).

On December 1, 2010 (Volume 14, 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 December 31, 2010, or be presented at a public hearing on December 21, 2010, after which time the DHSS would review information, factual evidence and public comment to the said proposed regulations.

No oral comments were made at the public hearing and no written comments were received during the public comment period. Therefore, no evaluation or summarization of comments is presented in the accompanying "Summary of Evidence." Letters of endorsement were received from the Food and Drug Administration, Center for Food Safety and Applied Nutrition, and from Mr. Ciro C. Popiti, Esquire, a food and beverage attorney "who represents dozens of restaurants throughout the state".

FINDINGS OF FACT

There were no public comments received. 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 2011 State of Delaware Food Code is adopted and shall become effective February 10, 2011, after publication of the final regulation in the Delaware Register of Regulations.

RITA M. LANDGRAF, SECRETARY

SUMMARY OF EVIDENCE

In accordance with Delaware Law , public notices regarding proposed Department of Health and Social Services (DHSS) 2011 State of Delaware Food Code were published in the Delaware State News, the News Journal and the Delaware Register of Regulations.

The public comment period was open from December 1, 2010 through December 31, 2010. No comments were received on the proposed regulations during the public comment period and no changes have been made to the proposed regulations.

Verifying documents are attached to the Hearing Officer's record. The regulation has been approved by the Delaware Attorney General's office and the Cabinet Secretary of DHSS.

4458 State of Delaware Food Code Regulations (2011)

1.0 State of Delaware Food Code

- 1.1 **Name.** These Regulations shall hereby be known as the “State of Delaware Food Code”.
- 1.2 **Effective Date.** The State of Delaware Food Code shall be effective (to be determined).
- 1.3 **Prior Regulations Repealed.** All current or previous regulations or parts of regulations in conflict with this State of Delaware Food Code are hereby repealed.
- 1.4 **Location.** A copy of the complete State of Delaware Food Code is available for public view at the following locations:
 - 1.4.1 Jesse S. Cooper Building, 417 Federal St, Dover DE 19901
 - 1.4.2 <http://dhss.delaware.gov/dhss/dph/hsp/files/99fdcodetoc.pdf>
- 1.5 **Severability.** Should any part, sub-part, section, paragraph, sentence or phrase of this State of Delaware Food Code be declared unconstitutional or invalid by any competent authority, the remainder of this Code shall not be affected in anyway.

2.0 Adoption of United States Public Health Service 2009 Food Code

- 2.1 **The State of Delaware Food Code adopts, as if fully set forth herein, the “United States Public Health Service 2009 Food Code” excluding Annex 1 through Annex 7, as amended herein:**
 - 2.1.1 **Amend **Subpart 1-101.10** by inserting the words “State of Delaware” before the words “Food Code” and after the words “as the”.**
 - 2.1.2 **Amend **Subpart 1-102.10** by deleting the subpart in its entirety and by inserting in lieu thereof the following, “The purpose of this Code is to safeguard public health, reduce the risk of foodborne illness and provide to consumers food that is safe, unadulterated and honestly presented. The purpose is also to regulate, within the State of Delaware, the production, transportation, storage, processing, handling, preparation and consumer service of human food; the inspections of food establishments; the issuing and revocation of permits to food establishments; and the application of compliance and enforcement procedures.**
 - 2.1.3 **Subpart 1-201.10(B) Terms Defined**
 - 2.1.3.1 **Amend **Subpart 1-201.10(B)** by adding thereto a new defined term after the defined term “Prior Foundation Item” and before the defined term “Public water system” to read as follows: “**Private**” means a use or function that is intended for a particular individual or group, such as a celebration of a birthday, wedding, anniversary or funeral, and that is not intended for consumers as members of the general public.**
 - 2.1.3.2 **Amend **Subpart 1-201.10(B)** by deleting the definition for “Regulatory authority” and inserting in lieu thereof the following: “**Regulatory authority**” means the Secretary, Delaware Health and Social Services, or his/her authorized representative.**
 - 2.1.4 **Amend **Subpart 8-405.11(B)** by deleting the number “10” as it appears therein and inserting in lieu thereof the following number: “7”.**
 - 2.1.5 **Amend **Chapter 8** by adding thereto a new part “8-6” to read as follows:**

“8-6 Enforcement Procedures**8-601 Re-inspection Fee****8-601.10 Fee Assessment and Failure to Pay**

- (A) A re-inspection fee shall be assessed under one or more of the following circumstances:
- (1) Priority (P) or Priority Foundation (Pf) violations are shown to exist during a follow-up inspection.
 - (2) Core (c) violations are shown to exist on successive routine inspections.
 - (3) A complaint inspection requires a follow-up inspection to confirm compliance.
 - (4) An inspection is required to determine compliance with the terms of a corrective action plan or an administrative hearing.
 - (5) An inspection to determine the proper posting of a valid permit.
 - (6) Any other follow-up inspection deemed necessary by the Regulatory Authority to determine compliance with this Code.
- (B) The fee shall be that required by Chapter 1, Section 134 of Title 16 of the Delaware Code.
- (C) Failure to pay the re-inspection fee, as specified, shall result in the automatic suspension of the permit to operate a food establishment. The permit shall remain suspended until the Regulatory Authority receives full payment of all fees.

8-602 Administrative Action**8-602.10 General**

If the Regulatory Authority determines that a food establishment is operating without a valid permit; that one or more conditions exist which represent an Imminent Health Hazard; or that serious violations, repeat violations, or general unsanitary conditions are found to exist, administrative action may occur. Administrative action will be conducted in accordance with the law.

- (A) Operation without a Permit
- (1) Immediate Closure Order. If a food establishment is found operating without a valid permit as required by subpart 8-601.11 of this Code, the Regulatory Authority shall order the facility immediately closed.
 - (2) Notice of Closure. The closure shall be effective upon receipt of a written notice by the person in charge of the food establishment or an employee of the food establishment. A closure notice statement recorded on the inspection report by the representative of the Regulatory Authority constitutes a written notice.
 - (3) Duration of Closure. The food establishment shall remain closed until a permit application, applicable fees and any required plans have been received and approved by the Regulatory Authority.
- (B) Imminent Health Hazard(s)
- (1) Permit Suspension without Hearing. If some condition is determined to exist in a food establishment which presents an imminent health hazard to the public, the Regulatory Authority may suspend the operating permit of the food establishment without a prior hearing. The suspension shall be effective upon receipt of written notice by the person in charge of the food establishment or an employee of the food establishment. A suspension statement recorded on the inspection report by the Regulatory Authority constitutes a written notice.
 - (2) A permit issued pursuant to subpart (1) shall not be suspended for a period longer than ten (10) government business days without a hearing. Failure to hold a hearing within the ten (10) government business day period shall automatically terminate the suspension.

(3) Hearing Request. The permit holder of the food establishment may request, in writing, a hearing before the Regulatory Authority at any time during the period of suspension, for the purpose of demonstrating that the imminent health hazard(s) no longer exist. The request for hearing shall not stay the suspension.

(C) Serious Violations, Repeat Violations and General Unsanitary Conditions. When conditions exist in a food establishment that represent serious violations, repeat violations or general unsanitary conditions, the Regulatory Authority may initiate a corrective action plan or schedule a hearing.

8-603 Agency Emergency Actions

8-603.10 Examination of Food.

Food may be examined or sampled by the Regulatory Authority as often as necessary for enforcement of this Code.

8-603.20 Wholesome and Free from Spoilage.

All food shall be wholesome and free from spoilage. Food that is spoiled or unfit for human consumption shall not be kept on the premises. The established administrative procedures for the implementation and enforcement of the provisions of Chapter 33 of Title 16 of the Delaware Code, relating to the embargo of misbranded or adulterated food, and penalties shall be applicable to this subpart.

8-604 Penalties

8-604.10 Operation in Violation of Code.

Any person (or responsible officer of that person) who violates a provision of this Code, and any person (or responsible officer of that person) who is the holder of a permit or who otherwise operates a food establishment that does not comply with the requirements of this Code shall be subject to the provisions of Section 107 of Title 16 of the Delaware Code.

8-604.20 Refusal, Failure or Neglect to Comply with Order of the Regulatory Authority.

Any person (or responsible officer of that person) who violates a provision of this Code, and any person (or responsible officer of that person) who is the holder of a permit or who otherwise operates a food establishment that refuses, fails or neglects to comply with an order of the Regulatory Authority shall be subject to an administrative penalty of not less than \$100 and not more than \$1,000, together with costs.

8-604.30 Injunction.

The Regulatory Authority may seek to enjoin violations of this Code.

8-604.40 Public Notification.

A placard, as provided by the Division, shall be prominently displayed at all entrances of food establishments that have failed to obtain a valid permit or have a permit that is suspended, revoked, or expired.

FINAL REGULATIONS

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Chapter 5, §512
(31 Del.C., Ch. 5, §512)

ORDER

Delaware Temporary Assistance for Needy Families (TANF) Employment and Training Program

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to provide information of public interest with respect to the Delaware TANF Employment and Training Program regarding *Mandatory Participants*. The Department's proceedings 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 public comment pursuant to 29 **Delaware Code** Section 10115 in the December 2010 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 31, 2010 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSED CHANGE

The proposed change described below amends Delaware's Temporary Assistance for Needy Families (TANF) Employment and Training (E & T) Program policies in the Division of Social Services Manual (DSSM) regarding *Mandatory Participants*. This change clarifies the rules for parents accessing the right to be exempted from TANF E & T requirements when the parent is caring for their child who is less than 12 months old and the parent is a single custodian parent. The Code of Federal Regulations (CFR) at 45 CFR §261.2 (n)(2)(i) gives States the option to exempt parents caring for a child under 12 months of age for up to 12 months in the lifetime of the parent. The policy change eliminates the opportunity for parents with this exemption to volunteer to participate in E&T but maintains access to the E&T programs through mandatory participation.

Statutory Authority

45 CFR §261.2(n)(2)(i), *What definitions apply to this part?*

45 CFR §§261.22(c)(1) and (c)(2), *How will we determine a State's overall work rate?*

Summary of Proposed Change

Effective February 1, 2010, single custodian parents caring for a child under 12 months of age will be exempted from employment and training for up to a lifetime limit of 12 months. Single custodian caretakers are automatically granted an exemption from employment and training if months within their lifetime limit are available. This rule change allows a parent to request not to be exempted and to be mandatory for employment and training activities. Once a parent is mandatory she or he may not return to exempted status. A parent who is mandatory for employment and training will become exempted from E&T activities if a new biological/step/or adoptive child under 12 months of age enters the home.

The proposed changes affect the following policy sections:

DSSM 3006.1, *Mandatory Participants*

DSSM 3006.2, *TANF Employment and Training Participation and Participation Rates*

DSSM 300 6.2.1, *TANF Employment and Training Participants Who Count for TANF Participation According to the Provisions of Delaware's Temporary Assistance for Needy Families.*

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGES

The Governor's Advisory Council for Exceptional Citizens (GAC EC) and the State Council for Persons with Disabilities (SC PD) offered the following observations and recommendations summarized below. DSS has considered each comment and responds as follows:

As background, under the TANF program, most participants are required to engage in employment or training activities. By federal regulation, states are given the option of exempting parents of children under 12 months of age. The current DSS regulation [16 DE Admin Code 3006.1A] establishes such an exemption. DSS proposes to amend the regulation to explicitly authorize parents of children under 12 months of age to waive the exemption. GACEC and SCPD have the following observations.

First, DSS may wish to check the reference to 45 C.F.R. §261.2(n)(2)(i) at the beginning of Section 3006.1. Consistent with the attachments, the correct reference may be 45 C.F.R. §261.22(c).

Second, the Councils have previously promoted offering E&T-exempt participants the option of participating in the program on a voluntary basis. See discussion at 12 DE Reg. 793, 794 (December 1, 2008). The last two sentences in existing Section 3006.1 already recite that exempt individuals can volunteer to participate in the E&T program. The proposed amendments to §3006.1A provide some specific standards to implement this option in the context of parents of children under 12 months of age. The standards are prescriptive and require participants to meet E&T standards within 14 calendar days of waiving the exemption or face sanctions. The "Summary of Proposed Change" section also notes that participants cannot "opt in and out": "Once a parent is mandatory she or he may not return to exempted status." We recommend that DSS reconsider this approach in favor of allowing withdrawal of a waiver for good cause. Changed circumstances may affect a new parent's ability to care for a baby and participate in E&T activities. For example, relatives who agreed to provide free childcare may change their mind. The baby may develop a chronic illness or frequent sicknesses prompting the need for unanticipated parental involvement.

Agency Response: In regards to your recommendations regarding proposed regulations, as suggested the reference in the existing policy 3006.1 will be updated to reference the work-eligible definition at 45 CFR §261.2 (n) and the States' option to not mandate participation of a single parent caring for a child less than 12 months old at 45 CFR §261.22(c). Additionally, your agency recommended that DSS allow parents the opportunity to become exempt from work requirements following the waiver of their exemption if good cause exists. The TANF program currently considers the circumstances described in your letter for all mandatory employment and training participants. In the case of extended illness of a child, parents may be exempted from employment training if they provide verification from a healthcare provider that they are needed in the home to care for a child. Additionally, every TANF recipient may receive up to 2 absent days a month to accommodate short term crisis situations. Finally, in addition to state funded childcare services, TANF recipients can arrange to complete some job readiness assignments at home if a short term circumstance arises that prevents the participant from attending the program. Given these safeguards it is the Division's belief that the supports needed to address short term crises are currently available to all recipients.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the December 2010 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Delaware TANF Employment and Training Program policies regarding *Mandatory Participants* is adopted and shall be final effective February 10, 2011.

Rita M. Landgraf, Secretary, DHSS

DSS FINAL ORDER REGULATIONS #11-03 REVISIONS:

3006.1 Mandatory Participants

~~[(45 CFR §261.2 (n)(2)(i)) 45 CFR §261.22(c)]~~

All adult caretakers and other adults in the assistance unit who are not exempt must participate in Employment and Training related activities. The four possible exemptions are:

~~A. A single custodial parent caring for a child under 12 months of age. This exemption has a lifetime limit of 12 months.~~

A. A single custodial parent caring for a child less than 12 months of age may be exempted from employment and training activities for up to 12 months in the lifetime of the parent.

Single custodial parents who are caring for a child less than 12 months of age and who have not reached their 12 month limit will be exempted from employment and training activities unless they waive their employment and training exemption.

Parents who waive their employment and training exemption are subject to all the conditions and rules of the employment and training program. Parents who waive their employment and training exemption cannot be exempted for caring for a child less than 12 months of age again unless a new biological, step, or adopted child less than 12 months of age is added to the TANF case.

Parents who waive their employment and training exemption must meet the required employment training hours based on their family composition within 14 calendar days of waiving their exemption. Cases which fail to meet the employment and training requirement are subject to a full family sanction.

B. An individual determined unemployable by a health care professional.

C. On a case-by-case basis, clients who are victims of Domestic Violence. (see DSSM 3010.2.1 through DSSM 3010.2.5)

D. A parent caring for a disabled family member* who lives in the home.

* A parent or spouse can be excluded to care for a child or a spouse as long as the following conditions apply:

1. The parent is biological, adoptive or step.
2. The parent or spouse lives in the home with the child.
3. The need for such care is supported by medical documentation.
4. The spouse of a parent can use the caring for exemption even though the marriage is terminated by death or divorce.

Children age 16 or older who are not attending school must participate in work or other alternative activities, e.g., GED.

Individuals who are exempt from Employment and Training requirements can volunteer to participate in the Employment and Training Program. Individuals with disabilities will be afforded the same access, supports and opportunities, including reasonable accommodations, to participate in the Employment and Training programs.

3006.2 TANF Employment and Training Participation and Participation Rates

Under the Temporary Assistance ~~For~~ for Needy Families Block Grant, DSS is required to meet the following work participation rates with respect to all families that include an adult or minor child head of household receiving assistance:

ALL FAMILIES

Fiscal Year	Minimum Participation Rate	Required weekly hours of participation
2002 and after	50%	30 hours

TWO PARENT FAMILIES

Fiscal Year	Minimum Participation Rate	Required weekly hours of participation
1999 and after	90%	35 hours
		55 h rs a week if re ceiving Fe deral Child Care Subsidy

DSS may face a lower work participation rate if it experiences a net caseload reduction compared to FY 2005. Example: If it is determined that DSS' average monthly caseload in FY 2006 was 4 percentage points lower than average monthly caseloads in FY 2005, then, rather than having to meet a 50% work participation rate requirement in FY 2006, the rate would be lowered by 4 percentage points to 46%. To be counted toward meeting the work participation rate, each individual must meet the required number of hours each week.

Single parents who are not working 30 hours a week or making earning an equivalent of 30 hours a week times minimum wage are required to participate in work and/or work related activities. Participation in work and work related activities must equal at least a minimum average of 30 hours a week; and, at least 20 of the hours per week must come from participation in federally defined core activities.

Single parent/caretaker TANF recipients with a child in the TANF household under six are deemed to be engaged in work for a month if the recipient is engaged in federally defined core work activities for an average of at least 20 hours per week during the month.

Two-parent families where one parent is not working at least 35 hours a week or making earning the equivalent of 35 hours a week times minimum wage are required to participate in work and/or work related activities. Participation in work and work related activities must equal an average of at least 35 hours a week; and, at least 30 of the hours per week must come from participation in federally defined core activities.

Two-parent families who receive federally funded Purchase of Care services who are not working at least 55 hours a week or making earning the equivalent of 55 hours times minimum wage are required to participate in work and/or work related activities. Participation in work and work related activities for one parent must equal 35 hours a week. Combined hours of participation in work and work related activities must equal an average of at least 55 hours a week. Of the average 55 hours a week the participants must average at least 50 hours a week of federally defined core activities.

Teen parents are required to attend school, work, or participate in the employment and training activities. Secondary, post-secondary, vocational, training school, and participation in a GED program meets participation requirements for the month and is the equivalent to work. If they are not attending one of the above types of school or working for 30 hours a week they must participate in employment and training activities for 20 or 30 hours a week.

Single custodial parents with a child under 12 months of age are able to receive an exemption from Employment and Training requirements for a total of 12 months in their lifetime. ~~These 12 months can be used any time the parent has a child less than 12 months of age. Once the youngest child reaches 12 months of age, the parents are required to participate in Employment and Training. If they are already working the equivalent of their required Employment and Training hours (20, 30, 35, 55), the DCIS II system will code them as volunteers for Employment and Training.~~

REQUIRED EMPLOYMENT AND TRAINING HOURS

The monthly participation rate is calculated as follows:

Family Composition	Required Hours Per Week	Minimum Required Core Hours
Single Parent Family		
A. With child under 12 months*	0	0
B. <u>A.</u> With a child under 6 years old	20	20
C. <u>B.</u> No children under 6 years old	30	20
Two Parent Family		
A. Not receiving subsidized child care	35	30
B. Receiving subsidized child care	55	50
* subject to 12 month lifetime limit		

Numerator: # of TANF families with a work-eligible individual who meet the participation requirement for the month
divided by

Denominator: # of TANF families that include a work-eligible individual, less # of families sanctioned in that month for failure to participate in work (for up to 3 months in preceding 12 month period), less the number of non-needy caretaker households, less the number of single custodial parents opting to use one of the 12 months allowable exemptions for caring for a child under one year of age. A parent can only use this exemption for a total of 12 months in their his/her lifetime.

See 3006.2 TANF Employment and Training Participation and Participation Rates - History

3006.2.1 TANF Employment and Training Participants Who Count for TANF Participation

According to provisions of Delaware's Temporary Assistance for Needy Families, the following individuals must participate in work related activities and are included in the denominator for calculating the Federal participation rates.

- Work-eligible individuals as defined in DSS TANF policy;
- Work-eligible adults in the Time-Limited Temporary program;
- Work-eligible adults for whom the Contract of Mutual Responsibility specifies the employment-related activities that will be required;
- Work-eligible adults who are not exempt because they are medically unable to participate; and
- ~~Work-eligible adults who are not exempt because they used their 12-month limit of child care for a child under one year of age.~~
- Single custodial parents caring for a child less than 12 months of age who have waived their employment and training exemption or are no longer eligible for an exemption.

**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER****EXECUTIVE ORDER
NUMBER TWENTY-FOUR****TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES****RE: Recognizing the Statewide Responsibilities of The Delaware Mentoring Council**

WHEREAS, research shows that mentoring improves the social and academic well-being of children; and
WHEREAS, Delaware enjoys broad-based community support and involvement in education; and
WHEREAS, both school-based and community-based mentoring programs have been shown to be effective;
and

WHEREAS, statewide coordination and support of mentoring will ensure greater efficiency and effectiveness of mentoring programs;

NOW, THEREFORE, I, JACK A. MARKELL, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby DECLARE and ORDER that:

1. The Delaware Mentoring Council (the "Council") shall be recognized and established as the statewide organization responsible for the promotion and facilitation of mentoring programs for school-aged children.

2. The Council, in cooperation with the Office of the Lieutenant Governor and Delaware Department of Education, shall support a statewide mentoring network and promote both school-based and community-based mentoring that focuses on the building of academic, career, social and life skills.

3. The Council shall have twenty-eight voting members. Members shall be appointed by and serve at the pleasure of the Governor, except as provided herein. The Governor shall appoint the Chair(s) of the Council from among its members. The membership of the Council shall be composed of:

(a) Four representatives from state-wide mentoring provider organizations, which shall be defined as an organization that provides training and coordination to mentoring programs, meets best practices as defined by the Council, and places mentors in more than one program site, and which shall include, but not be limited to, Big Brothers Big Sisters Delaware and Connecting Generations;

(b) A representative from the Delaware Department of Education;

(c) Two representatives from other state government agencies, such as the Department of Health and Social Services Office of Volunteerism, the Delaware Department of Services for Children, Youth and Their Families, and the Delaware Economic Development Office;

(d) A representative appointed by and serving at the pleasure of the Lieutenant Governor;

(e) Three representatives from the field of education, preferably but not limited to, one from each county;

(f) Four persons representing the Delaware General Assembly, of whom one shall be appointed by and serve at the pleasure of each of the President Pro Tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives;

(g) Six representatives from the business community, preferably at least one from each county and including members of the Business Mentoring Alliance;

(h) Four representatives from Delaware institutions of higher learning; including one each from the University of Delaware, Delaware State University, Wilmington University, and Delaware Technical and Community College; and

(i) Three representatives from faith and community-based organizations, preferably, but not limited to, one from each county.

4. The Governor may appoint one or more honorary chairs of the Council, but any such honorary chair shall not vote on matters considered by the Council.

5. The Council shall have no more than fifteen non-voting members appointed by the voting members, and those non-voting members shall include parents, mentors and mentored youth and shall be appointed to such terms as the Council shall establish.

6. Throughout the State of Delaware, the Council shall:

(a) Promote the benefits of mentoring and the recruitment of mentors;

(b) Identify and promote "The Elements of Effective Practice for Mentoring" of MENTORTM, the National

Mentoring Partnership, for safe and effective mentoring programs;

(c) Oversee data collection and reporting regarding the status of mentoring in the state, including, but not limited to, the number of mentoring pairs and how many children are in need of a mentor;

(d) Work to ensure an adequate level of financial resources to support mentoring programs statewide, including fund raising and funds distribution;

(e) Support efforts to provide and improve training, match supervision, technical assistance and evaluation of mentoring programs;

(f) Coordinate centralized mentor and mentee training that is both accessible and affordable;

(g) Provide technical assistance to organizations interested in starting, strengthening or expanding a quality mentoring program;

(h) Coordinate statewide media campaigns, maintain a web site and serve as the coordinator of National Mentoring Month;

(i) Advocate and promote public policies that strengthen mentoring;

(j) Provide an annual report of its activities to the Governor each July after the execution of this order; and

(g) Conduct a full evaluation of its activities and administrative arrangements within five years of the execution of this order and provide a report to the Governor of its evaluation, which shall include a recommendation as to the continuation of the Council.

7. Executive Order No. 99, dated September 17, 1991, issued by Governor Michael N. Castle, and Executive Order No. 26, dated January 10, 2002, issued by Governor Ruth Ann Minner, are hereby rescinded.

APPROVED this 18th day of January, 2011

Jack A. Markell

Governor

DELAWARE STATE FIRE PREVENTION COMMISSION**706 Specific Occupancy Requirements
PUBLIC NOTICE**

In accordance with procedures set forth in 29 **Del.C.** Ch. 11, Subch. III and 29 **Del.C.**, Ch. 101, the Delaware State Fire Prevention Commission is proposing to adopt a regulation amending the current 706 Specific Occupancy Requirements Regulation by adding a new section 6.0 Hard-Wired Smoke Detector Program to Chapter 4 – Residential Smoke Detectors of the current *706 Specific Occupancy Requirements* Regulation.

The Delaware State Fire Prevention Commission will hold a public hearing at which members of the public may present comments on the proposed regulation on March 15, 2011 at 9:00 a.m. in the Delaware State Fire Prevention Chamber at the Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Additionally, members of the public may present written comments on the proposed regulation by submitting such written comments to Ms. Sherry Lambertson, Delaware State Fire Prevention Commission, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments must be received on or before March 7, 2011. Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing Ms. Sherry Lambertson at the address of the Delaware State Fire Prevention Commission set forth above.

DELAWARE STATE FIRE PREVENTION COMMISSION**710 Ambulance Service Regulations
PUBLIC NOTICE**

In accordance with procedures set forth in 29 **Del.C.** Ch. 11, Subch. III and 29 **Del.C.**, Ch. 101, the Delaware State Fire Prevention Commission is proposing to adopt a regulation amending the current 710 Ambulance Service Regulation by striking the current 710 Ambulance Service Regulation in its entirety and substituting in lieu thereof a new and revised 710 Ambulance Service Regulation.

The Delaware State Fire Prevention Commission will hold a public hearing at which members of the public may present comments on the proposed regulation on March 15, 2011 at 9:00 a.m. in the Delaware State Fire Prevention Chamber at the Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Additionally, members of the public may present written comments on the proposed regulation by submitting such written comments to Ms. Sherry Lambertson, Delaware State Fire Prevention Commission, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments must be received on or before March 7, 2011. Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing Ms. Sherry Lambertson at the address of the Delaware State Fire Prevention Commission set forth above.

DEPARTMENT OF AGRICULTURE**THOROUGHBRED RACING COMMISSION****1001 Thoroughbred Racing Rules and Regulations
PUBLIC NOTICE**

The Delaware Thoroughbred Racing Commission in accordance with 3 **Del.C.** §10103(c) has proposed changes to its rules and regulations. The proposal amends the rules and regulations to conform to recently revised national standards for the acceptable levels of phenylbutazone and oxyphenbutazone in thoroughbred race horses.

A public hearing will be held on March 15, 2011 at 10:00 a.m. in the second floor conference room of the Horseman's Office, located on the grounds of Delaware Park, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 where members of the public can offer comments. Anyone wishing to receive a copy of the proposed regulations may obtain a copy from the Delaware Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulation at its regularly scheduled meeting following the

public hearing.

DEPARTMENT OF EDUCATION
PUBLIC NOTICE

The State Board of Education will hold its monthly meeting on Thursday, February 17, 2011 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES
Temporary Assistance for Needy Families (TANF)
PUBLIC NOTICE

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend policies in the Division of Social Services Manual (DSSM) regarding Delaware's Temporary Assistance for Needy Families (TANF) programs, specifically, *removing workfare requirements, removing clock extensions, and clearly defining hours for one- and two-parent families.*

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by Wednesday, March 2, 2011.

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

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF SOIL AND WATER CONSERVATION

5105 Regulations Governing the Election of Members of County Board of Conservation District Supervisors
PUBLIC NOTICE

Current regulations contain a discrepancy between voter qualification in Kent and New Castle Counties as compared to voter qualification in Sussex County. In Kent and New Castle Counties, qualified voters must hold title to land in the Specified Board Supervisor area. In Sussex County, qualified voters must hold title to land in Sussex County. This modification would change voter eligibility standards in Sussex County to mirror those in Kent and New Castle Counties.

This modification was requested by the Sussex Conservation District Board of Supervisors and the Delaware Association of Conservation District in an effort to keep *Title 7, Chapter 39*, consistent and uniform throughout each of Delaware's three Conservation Districts.

Individuals may present their comments or request additional information by contacting Robert Palmer of the District Operations Section, Division of Watershed Stewardship, 89 Kings Highway, Dover, DE 19901, (302) 739-9921. A public hearing on these proposed amendments will be held on February 24, 2011 at 7:00 P.M. in the DNREC Auditorium, 89 Kings Highway, Dover, DE 19901. The record will remain open for written comments until 4:30 PM, March 26, 2011.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
1100 Board of Dental Examiners
PUBLIC NOTICE

The Board of Dentistry and Dental Hygiene ("the Board") in accordance with 24 **Del.C.** § 1106(a)(1) has proposed amendments to Rule 4.0 Acupuncture and Rule 8.0 Certificate Requirements. The proposed amendments delete existing Rule 4.0 as it is an outdated provision related to acupuncture. The amendments also modify the exam provision to reflect the change from a specific score to a pass/fail standard. The Board is replacing the deleted Rule 4.0 with a new Rule 4.0 that sets for the criteria required for a specialty rotation to satisfy the requirements of the general practice residency required by 24 **Del. C.** §1122(a)(3). Finally, the Board is requesting that the Registrar use his editorial powers to change the name of the Board throughout the regulations to reflect the Board's new name. The changes arise as the result of the Board's Sunset review in the last legislative session.

A public hearing will be held on March 24, 2011 at 4:45 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Dentistry and Dental Hygiene, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

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

DIVISION OF PROFESSIONAL REGULATION
4400 Delaware Manufactured Home Installation Board
PUBLIC NOTICE

Pursuant to 24 **Del.C.** §4416(b)(1), the Manufactured Home Installation Board has proposed revisions to its rules and regulations.

A public hearing on proposed revisions published on November 1, 2010 in the *Register of Regulations*, Volume 14, Issue 5 was held on November 22, 2010. The Manufactured Home Installation Board decided to make further revisions to the rules and regulations.

A public hearing to address these proposed revisions will be held on March 14, 2011 at 9:15 a.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Manufactured Home Installation Board, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board has proposed revisions to Rule 9.0. The Board's licensing law, Chapter 44 of Title 24 of the Delaware Code, provides that all manufactured home installations must be performed, at minimum, in compliance with the requirements of the United States Department of Housing and Urban Development ("HUD"). See 24 **Del.C.** §4421. The revisions to Rule 9.0 expressly incorporate HUD's installation requirements. In particular, the rules reference specific sections of the Code of Federal Regulations. The revisions also specify that, with respect to site suitability (Rule 9.2), site preparation (Rule 9.3) and foundation construction (Rule 9.4), where State, county or municipal standards are more stringent than HUD requirements, the installer shall comply with the more stringent standards.

These amendments will make explicit what is already included in the Board's licensing law and will, therefore, provide greater clarity and greater protection for the public.

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

**DEPARTMENT OF TRANSPORTATION
DIVISION OF PLANNING****2313 Policies and Procedures for Acquisition of Certain Real Property Interests
PUBLIC NOTICE**

The Delaware Department of Transportation, through its Division of Planning, seeks to adopt regulations to ensure that its policies and procedures for the acquisition of real property are transparent, consistent, cost effective and fair.

The regulations will implement specific recommendations for advanced acquisitions set forth in the Report of the Governor's Chief of Staff to Governor Markell dated January 7, 2011 (the "Report"). Specifically, the regulations will (1) require that the Committee review not only advanced acquisitions, but reservation agreements as well; (2) provide a process for the Committee to review the merits of advanced acquisitions and reservation agreements; (3) require the Department to obtain independent appraisal for advanced acquisitions and reservations; (4) require that advanced acquisitions and reservations be reviewed by legal counsel; (5) require that the terms of advanced acquisitions and reservations be reflected in an agreement signed by the Department and the property owner; and (6) set out the process for the Committee to conduct its consistency review of certain real property acquisitions proposed by the Department, as contemplated by 17 Del.C. §137(a)(2).

The Department will take written comments on the proposed Regulations Establishing Policies and Procedures for Acquisition of Certain Real Property Interests from February 1, 2011 through March 5, 2011. The proposed Regulations appear below.

Any requests for copies of the proposed Regulations, or any questions or comments regarding this document should be directed to:

Cleon L. Cauley, Sr., Deputy Secretary
Delaware Department of Transportation
P.O. Box 778
Dover, DE 19903
(302) 760-2303 (telephone)
(302) 739-2895 (fax)
cleon.cauley@state.de.us
