
Delaware Register of Regulations

Issue Date: November 1, 2024

Volume 28 - Issue 5, Pages 333-406

IN THIS ISSUE:

Errata

Regulations:

Proposed

Final

General Notices

Calendar of Events &
Hearing Notices



Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the *Register* contains all documents required to be published, and received, on or before October 15, 2024.

Cover Photo
Dover Sunset
Credit: Arun Reddy

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

DELAWARE REGISTER OF REGULATIONS

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

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

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

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

CITATION TO THE DELAWARE REGISTER

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

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

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

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

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

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

335

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
December 1	November 15	4:30 p.m.
January 1	December 15	4:30 p.m.
February 1	January 15	4:30 p.m.
March 1	February 15	4:30 p.m.
April 1	March 15	4:30 p.m.
May 1	April 15	4:30 p.m.

Published by
DIVISION OF LEGISLATIVE SERVICES

Mark J. Cutrona, Director

Holly Vaughn Wagner, Deputy Director

Office of the Registrar of Regulations:

Yvette W. Smallwood, Registrar of Regulations
Erika Schrader, Assistant Registrar of Regulations
Arun Reddy, IT Support
Natalie White, Legal Publications Editor
Leanne Voshell, Legal Publications Editor

Legislative Print Shop:

Robert Lupo, Graphics and Printing Supervisor
Nathan Poore, Graphics and Printing Technician
Quran Hernandez, Graphics and Printing Technician

TABLE OF CONTENTS

Cumulative Tables.....	338
------------------------	-----

ERRATA

DEPARTMENT OF FINANCE	
Office of the State Lottery	
203 Video Lottery and Table Game Regulations.....	342
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL	
Division of Fish and Wildlife	
3900 Wildlife.....	342
DEPARTMENT OF STATE	
Division of Professional Regulation	
103 Regulations Governing Charitable Gaming Other Than Raffles.....	344

PROPOSED

DEPARTMENT OF EDUCATION	
Professional Standards Board	
1519 Multiple Measures for Demonstrating Content Knowledge.....	346
1521 Elementary Teacher.....	348
1565 World Language Teacher.....	352
DEPARTMENT OF HEALTH AND SOCIAL SERVICES	
Division of Medicaid and Medical Assistance	
Title XIX Medicaid State Plan - Cellular and Gene Therapy.....	358
Title XIX Medicaid State Plan - Medicaid Recovery Audit Contractor's (RAC) Program.....	362
Title XIX Medicaid State Plan - Personal Needs Allowance.....	364
DEPARTMENT OF INSURANCE	
Office of the Commissioner	
1401 Medical Malpractice Review Panel Rules.....	369
DEPARTMENT OF LABOR	
Division of Paid Leave	
1401 Rules Defining and Regulating the Healthy Delaware Families Act, Family and Medical Leave Insurance Program and the Division of Paid Leave.....	373
DEPARTMENT OF STATE	
Division of Professional Regulation	
1700 Board of Medical Licensure and Discipline.....	375
OFFICE OF THE STATE TREASURER	
Cash Management Policy Board	
1201 Statement of Objectives and Guidelines for the Investment of State of Delaware Funds.....	377

TABLE OF CONTENTS

337

FINAL

DEPARTMENT OF AGRICULTURE

Delaware Jockeys' Health and Welfare Benefit Board

1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations..... 381

Delaware Nutrient Management Commission

1201 Nutrient Management Certification Regulations..... 384

DEPARTMENT OF EDUCATION

Office of the Secretary

1009 DIAA High School Interscholastic Athletics..... 385

DEPARTMENT OF FINANCE

Office of the State Lottery

203 Video Lottery and Table Game Regulations..... 386

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Division of Medicaid and Medical Assistance

Title XIX Medicaid State Plan - Retroactive Eligibility..... 387

Division of Public Health

4306 Stroke System Regulation..... 390

DEPARTMENT OF STATE

Division of Professional Regulation

103 Regulations Governing Charitable Gaming Other Than Raffles..... 391

2600 Examining Board of Physical Therapists and Athletic Trainers..... 395

2930 Council on Real Estate Appraisers..... 396

GENERAL NOTICES

DEPARTMENT OF STATE

Division of Professional Regulation

1800 Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners 399

DEPARTMENT OF TRANSPORTATION

Division of Transportation Solutions

Senate Bill 89 as amended by Senate Amendment 1 - Church Road (S20A)..... 399

Senate Bill 89 as amended by Senate Amendment 1 - Williamsville Road (K116)/(K443)... 400

CALENDAR OF EVENTS/HEARING NOTICES

Delaware River Basin Commission; Notice of Public Hearing and Quarterly Business Meeting..... 402

Department of Education; Notice of Monthly Public Meeting..... 402

Dept. of Health and Social Services, Div. of Medicaid and Medical Assistance;
Notices of Public Comment Periods..... 402-403

Department of Insurance, Office of the Commissioner; Notice of Public Comment Period..... 403

Department of Labor, Division of Paid Leave; Notice of Public Comment Period..... 404

Department of State, Division of Professional Regulation;
Notice of Public Hearing and Public Comment Period..... 405

Office of the State Treasurer, Cash Management Policy Board; Notice of Public Comment Period. 405

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

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

DELAWARE RIVER BASIN COMMISSION

Rules of Practice and Procedure..... 28 **DE Reg.** 37 (Final)

DELAWARE STATE FIRE PREVENTION COMMISSION

710 Ambulance Service Regulations..... 28 **DE Reg.** 40 (Final)
 28 **DE Reg.** 41 (Final)

DEPARTMENT OF AGRICULTURE

Delaware Forest Service

401 Forest Service Erosion and Sedimentation Regulations..... 28 **DE Reg.** 81 (Prop.)
 28 **DE Reg.** 287 (Final)

Delaware Jockeys' Health and Welfare Benefit Board

1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations..... 28 **DE Reg.** 82 (Prop.)

Delaware Nutrient Management Commission

1201 Nutrient Management Certification Regulations..... 28 **DE Reg.** 174 (Prop.)

Delaware Standardbred Breeder's Fund

502 Standardbred Breeders' Fund Regulations..... 28 **DE Reg.** 111 (Final)

Office of the Secretary

601 Delaware Pesticide Rules and Regulations..... 28 **DE Reg.** 252 (Prop.)

DEPARTMENT OF EDUCATION

Office of the Secretary

101 State Assessment System..... 28 **DE Reg.** 220 (Final)
 235 Teacher of the Year Award..... 28 **DE Reg.** 43 (Final)
 275 Charter Schools..... 28 **DE Reg.** 254 (Prop.)
 288 Standards for Professional Learning..... 28 **DE Reg.** 288 (Final)
 290 Approval of Educator Preparation Programs 28 **DE Reg.** 112 (Final)
 291 Alternative Routes to Certification (ARTC) Programs 28 **DE Reg.** 114 (Final)
 506 Policies for Dual Enrollment and Awarding Dual Credit..... 28 **DE Reg.** 44 (Final)
 545 K to 12 Counseling Programs..... 28 **DE Reg.** 8 (Prop.)
 28 **DE Reg.** 290 (Final)
 729 School Custodians..... 28 **DE Reg.** 115 (Final)
 815 Health Examinations and Screening..... 28 **DE Reg.** 223 (Final)
 922 Children with Disabilities Subpart A, Purposes and Definitions..... 28 **DE Reg.** 11 (Prop.)
 923 Children with Disabilities Subpart B General Duties and
 Eligibility of Agencies..... 28 **DE Reg.** 12 (Prop.)
 925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination,
 Individualized Education Programs..... 28 **DE Reg.** 14 (Prop.)
 1008 DIAA Junior High and Middle School Interscholastic Athletics 28 **DE Reg.** 116 (Final)
 1009 DIAA High School Interscholastic Athletics 28 **DE Reg.** 117 (Final)
 28 **DE Reg.** 119 (Final)
 28 **DE Reg.** 176 (Prop.)
 1021 DIAA Committees..... 28 **DE Reg.** 257 (Prop.)
 1023 DIAA Sportsmanship 28 **DE Reg.** 84 (Prop.)
 28 **DE Reg.** 292 (Final)

1024 DIAA Member Schools.....	28 DE Reg. 86 (Prop.)
1028 Student Athlete Eligibility: Enrollment and Attendance	28 DE Reg. 293 (Final)
1029 Student Athlete Eligibility: Transfers	28 DE Reg. 120 (Final)
1030 Student Athlete Eligibility: Amateur Status.....	28 DE Reg. 124 (Final)
1035 In-Season Athletic Activities and Contact	28 DE Reg. 15 (Prop.)
1043 Officials	28 DE Reg. 294 (Final)
1211 Career-Based Scholarship Program	28 DE Reg. 126 (Final)
1216 Educator Support Scholarship Program	28 DE Reg. 127 (Final)
1217 Mental Health Services Scholarship	28 DE Reg. 128 (Final)
Professional Standards Board	
1503 Comprehensive Educator Induction Programs.....	28 DE Reg. 130 (Final)
1511 Continuing License.....	28 DE Reg. 131 (Final)
1531 Middle Level English Language Arts Teacher.....	28 DE Reg. 18 (Prop.)
1532 Middle Level Mathematics Teacher.....	28 DE Reg. 296 (Final)
1533 Middle Level Science Teacher.....	28 DE Reg. 20 (Prop.)
1534 Middle Level Social Studies Teacher.....	28 DE Reg. 297 (Final)
1539 Health Education Teacher.....	28 DE Reg. 298 (Final)
1540 Secondary English Language Arts Teacher.....	28 DE Reg. 300 (Final)
1542 Secondary Mathematics Teacher.....	28 DE Reg. 301 (Final)
1543 Secondary Science Teacher.....	28 DE Reg. 304 (Final)
1544 Secondary Social Studies Teacher.....	28 DE Reg. 304 (Final)
1549 Dance Teacher.....	28 DE Reg. 297 (Final)
1550 Agriscience Teacher.....	28 DE Reg. 297 (Final)
1551 Business, Finance, or Marketing Education Teacher.....	28 DE Reg. 261 (Prop.)
1557 Technology and Engineering Teacher.....	28 DE Reg. 263 (Prop.)
1558 Theatre Teacher.....	28 DE Reg. 264 (Prop.)
1560 Visual Arts Teacher	28 DE Reg. 266 (Prop.)
1563 Music Teacher.....	28 DE Reg. 266 (Prop.)
1564 Physical Education Teacher.....	28 DE Reg. 133 (Final)
1591 School Principal and Assistant School Principal.....	28 DE Reg. 133 (Final)
1592 Certified Central Office Personnel.....	28 DE Reg. 268 (Prop.)
1593 Superintendent and Assistant Superintendent.....	28 DE Reg. 21 (Prop.)
1594 Special Education Director.....	28 DE Reg. 306 (Final)
1596 Charter School Leader.....	28 DE Reg. 25 (Prop.)
1598 Delaware Professional Development Standards.....	28 DE Reg. 307 (Final)

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Division of Medicaid and Medical Assistance

Continuous Eligibility and Removal of Premiums for CHIP:	
DSSM 15300.4, 18300, 18600, 18700, 18800.1, and 18800.2.....	28 DE Reg. 45 (Final)
Title XIX Medicaid State Plan - Imported Drugs	28 DE Reg. 141 (Final)
Title XIX Medicaid State Plan - Medicaid Workers with Disabilities (MWD) Premiums: DSSM 17000.....	28 DE Reg. 48 (Final)
Title XIX Medicaid State Plan - Pharmacists as Providers.....	28 DE Reg. 29 (Prop.)
Title XIX Medicaid State Plan - Third Party Liability.....	28 DE Reg. 224 (Final)
Title XIX Medicaid State Plan - Vaccines.....	28 DE Reg. 51 (Final)
Title XXI CHIP State Plan: CHIP Vaccines	28 DE Reg. 274 (Prop.)
	28 DE Reg. 139 (Final)

Division of Public Health

4103 Inherited Metabolic Disorders.....	28 DE Reg. 276 (Prop.)
4106 Practice of Non-Nurse Midwifery.....	28 DE Reg. 202 (Prop.)
4204 Care and Transportation of the Dead.....	28 DE Reg. 204 (Prop.)
4306 Stroke System Regulation.....	28 DE Reg. 205 (Prop.)
4465 Delaware Radiation Control Regulations.....	28 DE Reg. 312 (Final)
4466 Radiation Technologists/Technicians (Certification).....	28 DE Reg. 313 (Final)
4470 State of Delaware Medical Marijuana Code.....	28 DE Reg. 279 (Prop.)

Division of Social Services

Determining Child Care Copayments: DSSM 11004.7.....	28 DE Reg. 53 (Final)
Paying for Absent Days and Holidays in Child Care: DSSM 11006.4.1.....	28 DE Reg. 55 (Final)

DEPARTMENT OF HUMAN RESOURCES

Division of Statewide Benefits

2007 Disability Insurance Program Rules and Regulations.....	28 DE Reg. 57 (Final)
--	-----------------------

DEPARTMENT OF INSURANCE

Office of the Commissioner

611 Automobile Insurance Premium Refunds	28 DE Reg. 144 (Final)
--	------------------------

DEPARTMENT OF JUSTICE

Fraud and Consumer Protection Division

104 Privacy Policies for Commercial Online Sites, Services, and Applications	28 DE Reg. 280 (Prop.)
--	------------------------

DEPARTMENT OF LABOR

Division of Employment & Training

1103 Worker Adjustment and Retraining Notification (WARN) Regulations.....	28 DE Reg. 92 (Prop.)
--	-----------------------

Division of Industrial Affairs

1342 Health Care Practice Guidelines:.....	28 DE Reg. 146 (Final)
PART A Carpal Tunnel Syndrome Guidelines	
PART B Chronic Pain Treatment Guidelines	
PART C Cumulative Trauma Disorder Medical Treatment Guidelines	
PART D Low Back Treatment Guidelines	
PART E Shoulder Treatment Guidelines	
PART F Cervical Treatment Guidelines	
PART G Lower Extremity Treatment Guidelines	

Division of Paid Leave

1401 Rules Defining and Regulating the Healthy Delaware Families Act, Family and Medical Leave Insurance Program and the Division of Paid Leave.....	28 DE Reg. 147 (Final)
--	------------------------

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Division of Air Quality

1104 Particulate Emissions from Fuel Burning Equipment.....	28 DE Reg. 93 (Prop.)
1105 Particulate Emissions from Industrial Process Operations	28 DE Reg. 95 (Prop.)
1109 Emissions of Sulfur Compounds From Industrial Operations	28 DE Reg. 99 (Prop.)
1114 Visible Emissions	28 DE Reg. 103 (Prop.)
1130 Title V State Operating Permit Program	28 DE Reg. 149 (Final)

Division of Fish & Wildlife

3504 Striped Bass Possession Size Limit; Exceptions.....	28 DE Reg. 58 (Final)
3519 Atlantic Croaker Recreational Possession Limit.....	28 DE Reg. 314 (Final)
3519 Atlantic Croaker Recreational Possession Limit.....	28 DE Reg. 316 (Final)

DEPARTMENT OF SAFETY AND HOMELAND SECURITY**Office of the Marijuana Commissioner**

5001 Rules of the Office of the Marijuana Commissioner.....	28 DE Reg. 32 (Prop.)
	28 DE Reg. 226 (Final)
	28 DE Reg. 317 (Final)

DEPARTMENT OF STATE**Division of Professional Regulation**

103 Regulations Governing Charitable Gaming Other Than Raffles	28 DE Reg. 105 (Prop.)
500 Board of Podiatry.....	28 DE Reg. 33 (Prop.)
1100 Board of Dentistry and Dental Hygiene.....	28 DE Reg. 60 (Final)
	28 DE Reg. 62 (Final)
1700 Board of Medical Licensure and Discipline.....	28 DE Reg. 106 (Prop.)
1900 Board of Nursing.....	28 DE Reg. 284 (Prop.)
	28 DE Reg. 324 (Final)
3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals.....	28 DE Reg. 34 (Prop.)
3700 Board of Examiners of Speech/Language Pathologists, Audiologists & Hearing Aid Dispensers.....	28 DE Reg. 286 (Prop.)
5200 Board of Examiners of Nursing Home Administrators	28 DE Reg. 109 (Prop.)
5300 Board of Massage and Bodywork.....	28 DE Reg. 110 (Prop.)

Office of the Alcoholic Beverage Control Commissioner

601 (Formerly Rule 35.1) Gathering Licenses.....	28 DE Reg. 318 (Final)
Rule 701 (Formerly Rule 51) A Rule Requiring the Biennial Renewal of Wholesale, Retail, and Annual Gathering Licenses.....	28 DE Reg. 320 (Final)
Rule 702 (formerly Rule 51.1) A Rule Requiring the Biennial Renewal of Supplier's Licenses.....	28 DE Reg. 320 (Final)
Rule 1008 (Formerly Rule 19.1) Bottle Clubs - Licensing and Operation.....	28 DE Reg. 321 (Final)

Public Service Commission

3007 Electric Service Reliability and Quality Standards.....	28 DE Reg. 34 (Prop.)
--	-----------------------

DEPARTMENT OF TRANSPORTATION**Division of Transportation Solutions**

2409 Procedures for Establishment of Fee Simple Ownership by the State of Delaware for Abandoned Right of Way Easements.....	28 DE Reg. 217 (Prop.)
---	------------------------

OFFICE OF MANAGEMENT AND BUDGET**Division of Facilities Management**

4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects.....	28 DE Reg. 30 (Prop.)
	28 DE Reg. 228 (Final)
	28 DE Reg. 326 (Final)

ERRATA

DEPARTMENT OF FINANCE OFFICE OF THE STATE LOTTERY

Statutory Authority: 29 Delaware Code, Section 4805 (29 **Del.C.** §4805)
10 **DE Admin. Code** 203

ERRATA

203 Video Lottery and Table Game Regulations

* **Please Note:** The Department of Finance, Office of the State Lottery regulation, 10 **DE Admin. Code** 203 Video Lottery and Table Game Regulations, was published as proposed in the *Delaware Register of Regulations*, 27 **DE Reg.** 751 (04/01/24). The following provision was inadvertently published incorrectly:

Subsection 4.19 was published as:

4.19 Non-gaming vendors and gaming excursion providers shall be licensed for ~~an initial a term of 3 years and succeeding renewal terms of 4 years.~~ The initial term of a license for a non-gaming vendor or a gaming excursion provider shall expire and be renewable on the last day of the month on the ~~third~~ fourth anniversary of the issuance date. ~~The renewal term for a non-gaming vendor or a gaming excursion provider shall expire and be renewable on the last day of the month on the fourth anniversary of the issuance date.~~

Subsection 4.19 should have read:

4.19 Non-gaming vendors and gaming excursion providers shall be licensed for ~~an initial a term of 3 years and succeeding renewal terms of 4 years.~~ The initial term of a license for a non-gaming vendor or a gaming excursion provider shall expire and be renewable on the last day of the month on the ~~third~~ fourth anniversary of the issuance date. ~~The renewal term for a non-gaming vendor or a gaming excursion provider shall expire and be renewable on the last day of the month on the fourth anniversary of the issuance date.~~

This regulation is corrected and being published as a final regulation in the November 2024 *Register*.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 102, 103, 758, and 801 (7 **Del.C.** §§102, 103, 758 & 801)
7 **DE Admin. Code** 3900

ERRATA

3900 Wildlife

* **Please Note:** The Department of Natural Resources and Environmental Control, Division of Fish and Wildlife, regulation 7 **DE Admin. Code** 3900 Wildlife, was published as final in the *Delaware Register of Regulations*, 27 **DE Reg.** 874 (05/01/24). The following provisions were inadvertently published incorrectly:

Subsection 7.2.1 was published as:

7.2.1 Attaching Tags ~~or~~ and Punching Deer Harvest Report Cards. Each licensed person who hunts and kills a deer shall, immediately after ~~the~~ killing and before removing the deer from the location of the killing, ~~attach an approved tag to the deer or~~ punch/cut the appropriate ~~section~~ portion of their approved Deer Harvest Report Card and record in ink the date of harvest on the ~~tag or~~ Deer Harvest Report Card. An approved tag ~~on a Deer Harvest Report Card~~ shall mean an Antlerless ~~Antlerless~~ Deer Tag ~~or Doe Tag~~ received with the hunting license, a Delaware Resident Quality

Buck Deer Tag, a Delaware Resident Hunter's Choice Deer Tag, a Delaware ~~Non-Resident~~ Nonresident Quality Buck Deer Tag, a Delaware ~~Non-Resident~~ Nonresident Antlered Deer Tag, an Antlerless Deer Damage Tag, or an Antlerless Tag purchased in addition to the hunting license tags. Any unlicensed person not required to secure a license shall ~~make and attach a tag to the deer that contains the person's name, license exempt number (LEN), address and reason for not having a valid Delaware hunting license or~~ punch/cut the appropriate section portion of their Deer Harvest Report Card Deer Harvest Report Cards shall remain in a hunter's possession at all times while hunting deer.

Subsection 7.2.1 should have read:

- 7.2.1 Attaching Tags ~~or~~ and Punching Deer Harvest Report Cards. Each licensed person who hunts and kills a deer shall, immediately after ~~the~~ killing and before removing the deer from the location of the killing, ~~attach an approved tag to the deer or~~ punch/cut the appropriate section portion of their approved Deer Harvest Report Card and record in ink the date of harvest on the ~~tag or~~ Deer Harvest Report Card. An approved tag on a Deer Harvest Report Card shall mean an Antlerless Antlerless Deer Tag ~~or Doe Tag~~ received with the hunting license, a Delaware Resident Quality Buck Deer Tag, a Delaware Resident Hunter's Choice Deer Tag, a Delaware ~~Non-Resident~~ Nonresident Quality Buck Deer Tag, a Delaware ~~Non-Resident~~ Nonresident Antlered Deer Tag, an Antlerless Deer Damage Tag, or an Antlerless Tag purchased in addition to the hunting license tags. Any unlicensed person not required to secure a license shall ~~make and attach a tag to the deer that contains the person's name, license exempt number (LEN), address and reason for not having a valid Delaware hunting license or~~ punch/cut the appropriate section portion of their Deer Harvest Report Card. Deer Harvest Report Cards shall remain in a hunter's possession at all times while hunting deer.

Subsection 7.2.3 was published as:

- 7.2.3 Registering Deer. Each person who hunts and kills a deer shall, within 24 hours of killing said deer, register their deer by phone or over the internet through systems authorized by the Division. Deer taken to a ~~processor or~~ processor, taxidermist, or given to another person must be registered before the animal ~~is delivered, even if this occurs within the 24-hour timeframe~~ transferred. After registering a deer, hunters will be given a deer registration number. This number must be recorded in ink on the approved tags or the hunter's approved Deer Harvest Report Card listed in subsection 7.2.1 of this section. It shall be unlawful to knowingly enter incorrect information when registering a deer.

Subsection 7.2.3 should have read:

- 7.2.3 Registering Deer. Each person who hunts and kills a deer shall, within 24 hours of killing said deer, register their deer by phone or over the internet through systems authorized by the Division. Deer taken to a ~~processor or~~ processor, taxidermist, or given to another person must be registered before the animal ~~is delivered, even if this occurs within the 24-hour timeframe~~ transferred. After registering a deer, hunters will be given a deer registration number. This number must be recorded in ink on the approved tags or the hunter's approved Deer Harvest Report Card listed in subsection 7.2.1 of this section. It shall be unlawful to knowingly enter incorrect information when registering a deer.

Subsection 7.6.1 was published as:

- 7.6.1 Importation. It shall be unlawful to import or possess any carcass or part of a carcass of any member of the family Cervidae (deer) originating from a state, Canadian province, country or any portion of the aforementioned jurisdictions thereof as determined by the Division, in which Chronic Wasting Disease has been ~~found in free-ranging or captive Cervids.~~ It shall be unlawful to import any carcass or part of a carcass of any member of the family Cervidae from a captive facility including those where cervids were released or confined in an enclosed (fenced) facility for the

purpose of being hunted. Notwithstanding the foregoing, the following parts may be imported into the state:

Subsection 7.6.1 should have read:

- 7.6.1 Importation. It shall be unlawful to import or possess any carcass or part of a carcass of any member of the family Cervidae (deer) originating from a state, Canadian province, country or any portion of the aforementioned jurisdictions thereof as determined by the Division, in which Chronic Wasting Disease has been found ~~in free ranging or captive Cervids.~~ It shall be unlawful to import any carcass or part of a carcass of any member of the family Cervidae from a captive facility including those where cervids were released or confined in an enclosed (fenced) facility for the purpose of being hunted. Notwithstanding the foregoing, the following parts may be imported into the state:

Subsection ~~20.3~~ was published as:

- ~~20.3~~ Anyone that releases [game birds into the wild for the purposes of being hunted, domestically raised quail] must provide the location of the release to the Division and obtain approval prior to releasing any birds.

Subsection ~~20.3~~ should have read:

- ~~20.3~~ Anyone that releases [~~game birds into the wild for the purposes of being hunted, domestically raised quail~~] must provide the location of the release to the Division and obtain approval prior to releasing any birds.

The effective date for the final order and regulation appearing in the May 2024 *Register* remains the same. For the current version of 3900 Wildlife, see:

<https://regulations.delaware.gov/AdminCode/title7/3000/3900/3900.shtml>

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Board of Charitable Gaming

Statutory Authority: 28 Delaware Code, Section 1507 (28 Del.C. §1507)
10 DE Admin. Code 103

ERRATA

103 Regulations Governing Charitable Gaming Other Than Raffles

* **Please Note:** The Department of State, Division of Professional Regulation, Board of Charitable Gaming, regulation, 10 **DE Admin. Code** 103 Regulations Governing Charitable Gaming Other Than Raffles was published as proposed in the *Delaware Register of Regulations*, 28 **DE Reg.** 105 (08/01/24). The following provision was inadvertently published incorrectly:

Section 1.0 was published as:

“**Function**” is means a licensed event of Charitable Gambling occurrence of charitable gaming maintained and conducted by a ~~Sponsoring Organization~~ sponsoring organization for the disposal of awards of merchandise, cash, or its equivalent by means of “Game” a game as defined in this section. This includes without limitation thereto, so-called Las Vegas, Casino, or Monte Carlo Nights.

Section 1.0 should have read:

“**Function**” is means a licensed event of Charitable Gambling occurrence of charitable gaming maintained and conducted by a ~~Sponsoring Organization~~ sponsoring organization for the disposal of awards of merchandise, cash,

or its equivalent by means of “~~Game~~” a game as defined in this section. This includes ~~without limitation thereto~~, so-called Las Vegas, Casino, or Monte Carlo Nights.

This regulation is corrected and being published as a final regulation in the November 2024 *Register*.

Symbol Key

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

Proposed Regulations

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

DEPARTMENT OF EDUCATION
PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1220 (14 **Del.C.** §§1203, 1205(b), & 1220)
14 **DE Admin. Code** 1519

PUBLIC NOTICE**Educational Impact Analysis Pursuant to 14 Del. C. §122(d)****1519 Multiple Measures for Demonstrating Content Knowledge****A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge. The regulation sets forth alternative means of demonstrating content knowledge for applicants of certain content area Standard Certificates who do not achieve the minimum score specified in the regulation for the Standard Certificate sought. The proposed amendments in this regulation include revising Sections 1.0 and 4.0 to be consistent with changes that were made to the regulations concerning Standard Certificates; amending the definition of "Regionally Accredited" in Section 2.0; and adding subsection 3.5, which concerns the Elementary Dual Language Immersion Teacher Standard Certificate (14 **DE Admin. Code** 1568).

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before December 2, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The alternative means of demonstrating content knowledge set forth in Sections 4.0 and 5.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The alternative means of demonstrating content knowledge set forth in Sections 4.0 and 5.0 are designed to improve the quality of the educator workforce, which will help to ensure students in Delaware public schools receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses alternative means of demonstrating content knowledge for applicants of certain content area Standard Certificates who do not achieve the minimum score specified in the regulation for the Standard Certificate sought and is not designed to help ensure students' health and safety is protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses alternative means of demonstrating content knowledge for applicants of certain content area Standard Certificates who do not achieve the minimum score specified in the regulation for the Standard Certificate sought and is not designed to help ensure students' legal rights are respected.

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

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 6.0 apply to individual applicants.

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

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

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

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

***Please Note:**

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 346RFA 11-01-24.pdf>

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 346 11-01-24.htm>

PROPOSED REGULATIONS

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1220 (14 Del.C. §§1203, 1205(b), & 1220)

14 DE Admin. Code 1521

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del. C. §122(d)

1521 Elementary Teacher

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §§1203, 1205(b), and 1220, the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1521 Elementary Teacher. The regulation concerns the requirements for an Elementary Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include revising the definitions of "Employing Authority" and "Regionally Accredited" in Section 2.0; eliminating a redundant phrase in subsection 3.2; revising the examinations in Section 4.0; and amending subsections 5.3.3 and 5.4.1.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before December 2, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

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

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

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

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

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

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

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in

the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 Del.C. Ch. 12 relating to licensure and certification of educators.

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

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

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

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 348RFA 11-01-24.pdf>

1521 Elementary Teacher (Break in Continuity of Sections)

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

"Department" means the Delaware Department of Education.

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

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

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

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

"Regionally Accredited" means ~~educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education~~ institutional accreditation from an agency that was designated as a regional accreditor before July 1, 2020, and is currently recognized by the U.S. Secretary of Education as a reliable indicator of the institution's educational quality.

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

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

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

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 **Del.C.** §1220(a), the Department shall issue an Elementary Teacher Standard Certificate to an applicant who:
- 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 meets the requirements set forth in Section 4.0 of this regulation; or
 - 3.1.2 Has met the requirements for an educator's license in Delaware and holds a Valid and Current License or Certificate in elementary education issued by another state or jurisdiction.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for an Elementary Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include ~~but are not limited to~~ conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials, until the applicant provides evidence of the investigation's resolution.

4.0 Prescribed Education, Knowledge, and Skill Requirements

- 4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have satisfied 1 of the following education requirements:
- 4.1.1.1 Obtained and currently maintain an Early Childhood/Generalist certificate from the National Board for Professional Teaching Standards; or
 - 4.1.1.2 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in elementary education from an educator preparation program approved or recognized by the Council for the Accreditation of Educator Preparation (CAEP) or a state where the state approval body employed the appropriate standards; or
 - 4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach grades K to 6 as provided in 14 **Del.C.** §§1260 - 1266; or
 - 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in elementary education.
- 4.1.2 The applicant shall have achieved a minimum score on ~~4 of the following examinations:~~
- 4.1.2.1 ~~On the Praxis Subject Assessment—Elementary Education: Multiple Subjects (ETS Test Code # 5001), the applicant shall have achieved a minimum score on each of the following subtests:~~
 - 4.1.2.1.1 ~~A minimum score of 157 on the Reading and Language Arts Subtest (ETS Test Code # 5002); and~~
 - 4.1.2.1.2 ~~A minimum score of 157 on the Mathematics Subtest (ETS Test Code # 5003); and~~
 - 4.1.2.1.3 ~~A minimum score of 155 on the Social Studies Subtest (ETS Test Code # 5004); and~~
 - 4.1.2.1.4 ~~A minimum score of 159 on the Science Subtest (ETS Test Code # 5005); or~~
 - 4.1.2.2 ~~On the Praxis Elementary Education: Content Knowledge for Teaching (ETS Test Code # 7801), the applicant shall have achieved a minimum score on each of the following subtests prior to August 31, 2020:~~
 - 4.1.2.2.1 ~~A minimum score of 156 on the Reading and Language Arts CKT Subtest (ETS Test Code # 7802); and~~
 - 4.1.2.2.2 ~~A minimum score of 143 on the Mathematics CKT Subtest (ETS Test Code # 7803); and~~
 - 4.1.2.2.3 ~~A minimum score of 144 on the Science CKT Subtest (ETS Test Code # 7804); and~~
 - 4.1.2.2.4 ~~A minimum score of 155 on the Social Studies Subtest (ETS Test Code # 7805); or~~

- 4.1.2.3 ~~On the Praxis Elementary Education: Content Knowledge for Teaching (ETS Test Code # 7811), the applicant shall have achieved a minimum score on each of the following subtests:~~
- 4.1.2.3.1 ~~A minimum score of 156 on the Reading and Language Arts CKT Subtest (ETS Test Code # 7812); and~~
 - 4.1.2.3.2 ~~A minimum score of 143 on the Mathematics CKT Subtest (ETS Test Code # 7813); and~~
 - 4.1.2.3.3 ~~A minimum score of 144 on the Science CKT Subtest (ETS Test Code # 7814); and~~
 - 4.1.2.3.4 ~~A minimum score of 153 on the Social Studies CKT Subtest (ETS Test Code # 7815); or~~
- 4.1.2.4 ~~The applicant shall have achieved a minimum score on each of the following subtests:~~
- 4.1.2.4.1 ~~4.1.2.1 Reading Language Arts Content Area - A minimum score of 157 on the Praxis Subject Assessment - Elementary Education: Reading Language Arts Subtest (ETS Test Code # 5002) or (ETS Test Code #5002) prior to January 1, 2027 when the examination will no longer be accepted by the Department, a minimum score of 156 on the Praxis Elementary Education: Content Knowledge for Teaching Reading and Language Arts CKT Subtest (ETS Test Code # 7802 or 7812) (ETS Test Code #7812) prior to January 1, 2027 when the examination will no longer be accepted by the Department, or a minimum score of 159 on the Praxis - Teaching Reading: Elementary (ETS Test Code #5205); and~~
 - 4.1.2.4.2 ~~4.1.2.2 Mathematics Content Area - A minimum score of 157 on the Praxis Subject Assessment - Elementary Education: Mathematics Subtest (ETS Test Code # 5003) or a minimum score of 143 on the Praxis Elementary Education: Content Knowledge for Teaching Mathematics CKT Subtest (ETS Test Code # 7803 or 7813 #7813); and~~
 - 4.1.2.4.3 ~~4.1.2.3 Social Studies Content Area - A minimum score of 155 on the Praxis Subject Assessment - Elementary Education: Social Studies Subtest (ETS Test Code # 5004) or a minimum score of 155 on the Praxis Elementary Education: Content Knowledge for Teaching Social Studies Subtest (ETS Test Code #7805) or a minimum score of 153 on the Social Studies CKT Subtest (ETS Test Code # 7815); and~~
 - 4.1.2.4.4 ~~4.1.2.4 Science Content Area - A minimum score of 159 on the Praxis Subject Assessment - Elementary Education: Science Subtest (ETS Test Code # 5005) or a minimum score of 144 on the Praxis Elementary Education: Content Knowledge for Teaching Science CKT Subtest (ETS Test Code # 7804 or 7814 #7814).~~
- 4.1.2.5 ~~4.1.3 Notwithstanding subsections 4.1.2.1 through 4.1.2.4 subsection 4.1.2, if the applicant did not achieve the minimum score on an examination in 1 of the 4 content areas, the applicant shall meet the requirements set forth in 14 DE Admin. Code 1519 Multiple Measures for Demonstrating Content Knowledge. 14 DE Admin. Code 1519 does not apply to applicants who take the Praxis - Teaching Reading: Elementary (ETS Test Code #5205).~~
- 4.2 For an applicant who holds at least 1 content area Standard Certificate, the applicant shall have achieved the minimum scores on ~~4~~ of the examinations as provided in subsection 4.1.2. Notwithstanding the foregoing, if the applicant did not achieve the minimum score on an examination in 1 of the 4 content areas, the applicant shall meet the requirements set forth in 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge. 14 DE Admin. Code 1519 does not apply to applicants who take the Praxis - Teaching Reading: Elementary (ETS Test Code #5205).

5.0 Application Requirements

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

PROPOSED REGULATIONS

- 5.2 If the applicant is also applying for the issuance or renewal of an educator's license or paraeducator's permit, the applicant must disclose the applicant's criminal conviction history upon application. Failure to disclose a criminal conviction history is grounds for denial of the license or permit application as specified in 14 Del.C. §1219 and it could delay the processing or result in the denial of the application for an Elementary Teacher Standard Certificate.
- 5.3 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for an Elementary Teacher Standard Certificate:
- 5.3.1 Evidence of obtaining and maintaining an Early Childhood/Generalist certificate from the National Board for Professional Teaching Standards, if applicable; and
- 5.3.2 Official transcript from the applicant's Regionally Accredited college or university.
- 5.3.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
- 5.3.2.2 Sealed paper transcripts may be submitted.
- 5.3.2.3 The Department will not accept copies of transcripts; and
- 5.3.3 Official scores on the ~~Praxis Subject Assessment or Praxis Elementary Education: Content Knowledge for Teaching~~ examinations as provided in subsection 4.1.2; and
- 5.3.4 Additional documentation as required by the Department.
- 5.4 For an applicant who holds at least 1 content area Standard Certificate, the following documentation is required in the application for an Elementary Teacher Standard Certificate:
- 5.4.1 Official scores on the ~~Praxis Subject Assessment or Praxis Elementary Education: Content Knowledge for Teaching~~ examinations as provided in subsection 4.2; and
- 5.4.2 Additional documentation as required by the Department.
- 5.5 For applicants who have met the requirements for licensure as an educator in Delaware and hold a Valid and Current License or Certificate in elementary education from another state or jurisdiction, the following documentation is required in the application for an Elementary Teacher Standard Certificate:
- 5.5.1 An official copy of the Valid and Current License or Certificate; and
- 5.5.2 Additional documentation as required by the Department.

(Break in Continuity of Sections)

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 348 11-01-24.htm>

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1220 (14 Del.C. §§1203, 1205(b), & 1220)
14 DE Admin. Code 1565

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del. C. §122(d)

1565 World Language Teacher

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §§1203, 1205(b), and 1220, the Professional Standards Board ("Board"), acting in

consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1565 World Language Teacher. The regulation concerns the requirements for a World Language Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments in this regulation include revising subsection 4.1.1.5, which concerns the requirements for an applicant who has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, and striking subsection 5.3.3. The revisions to subsection 4.1.1.5 and striking subsection 5.3.3 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. Additional proposed amendments include, in Section 2.0, revising the definition of "Regionally Accredited" based on the changes the U.S. Department of Education made to its recognition of accrediting bodies and the term "Employing Authority" to eliminate a redundant phrase; amending subsection 3.2 to eliminate a redundant phrase; adding the Japanese: World Language Praxis Subject Assessment to subsection 4.1.2.1.6; adding the Oral Proficiency Interview - Computer (OPIc) assessment to subsection 4.1.2.2.1 and Section 5.0; and adding subsection 4.1.2.3, which concerns the World Language - American Sign Language Standard Certificate.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before December 2, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

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

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

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

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

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

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

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

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

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

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

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 352RFA 11-01-24.pdf>

1565 World Language Teacher (Break in Continuity of Sections)

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

"Department" means the Delaware Department of Education.

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

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

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

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

"Regionally Accredited" means institutional accreditation from an agency that was designated as a regional accreditor before July 1, 2020, and is currently recognized by the U.S. Secretary of Education as a reliable indicator of the institution's educational quality.

"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.

"Target Language" means, for the purpose of this regulation, the specific world language in which the Standard Certificate is requested and issued. World language means any language other than English that is used by peoples around the world for communicating information and ideas and transmitting its culture or cultures, including American Sign Language (ASL), Latin, and Greek.

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

3.0 Issuance of a Standard Certificate

3.1 In accordance with 14 **Del.C.** §1220(a), the Department shall issue a World Language Teacher Standard Certificate to an applicant who:

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 meets the requirements set forth in Section 4.0 of this regulation; or

- 3.1.2 Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a world language teacher issued by another state or jurisdiction.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a World Language Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include ~~but are not limited to~~ conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

4.0 Prescribed Education, Knowledge, and Skill Requirements

- 4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have satisfied 1 of the following education requirements:
- 4.1.1.1 The applicant shall have obtained a World Languages certificate in the Target Language from the National Board for Professional Teaching Standards; or
- 4.1.1.2 The applicant shall have earned a bachelor's, master's, or doctoral degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in the Target Language from an educator preparation program approved or recognized by the Council for the Accreditation of Educator Preparation (CAEP) or a state where the state approval body employed the appropriate standards; or
- 4.1.1.3 The applicant shall have satisfactorily completed an alternative routes for licensure or certification program to teach world language as provided in 14 **Del.C.** §§1260 - 1266; or
- 4.1.1.4 The applicant shall have satisfactorily completed a Department-approved educator preparation program in world language education; or
- 4.1.1.5 ~~If the applicant is applying for an Initial License after the applicant completed a minimum of 91 days of successful long term substitute teaching in a Delaware public school as provided in subsection 4.1.3.1 of 14 **DE Admin. Code** 1510, the applicant earned a bachelor's degree from a Regionally Accredited college or university in any content area and also satisfactorily completed 15 college credits in world language education of which at least 6 credits focus on pedagogy or an equivalent number of hours in professional development with 1 credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department. If the applicant has been issued an Initial License and a World Language Teacher Emergency Certificate after the applicant has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, as provided in subsection 4.1.3.1 of 14 **DE Admin. Code** 1510, in order to be issued the World Language Teacher Standard Certificate, the applicant shall have satisfactorily completed 15 college credits from a Regionally Accredited college or university in generic or content-specific education courses that are applicable to the World Language Teacher Standard Certificate of which at least 6 credits focus on pedagogy and as approved by the Department. A course is applicable to the World Language Teacher Standard Certificate if the course is equivalent to a course that is included in the curriculum of an equivalent education degree from a program approved by the Department.~~
- 4.1.1.5.1 The applicant, in consultation with the applicant's Employing Authority, shall select the ~~15 credits or the equivalent number of hours in professional development subject to the Department's approval.~~
- 4.1.1.5.2 ~~If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the 15 credits or the equivalent number of hours in professional development in consultation with the Department and subject to the Department's approval.~~

PROPOSED REGULATIONS

- ~~4.1.1.5.3 For the purpose of subsection 4.1.1.5, professional development means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change the participants' attitudes, insights, and perspectives and ultimately results in improved professional practice.~~
- ~~4.1.1.5.4 Professional development hours may be approved if the applicant shows that the activity meets all of the following criteria:~~
- ~~4.1.1.5.4.1 Relevant courses from a Regionally Accredited college or university in the Target Language are not available to the applicant online or in the applicant's county of residence; and~~
- ~~4.1.1.5.4.2 The activity is grounded in research and current best practices as judged by the Department's content specialist in world language; and~~
- ~~4.1.1.5.4.3 The activity is documented by the provider to provide knowledge and skills that are required for the world language certification; and~~
- ~~4.1.1.5.4.4 The activity is part of a professional development program that includes knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.~~
- 4.1.2 The applicant shall have demonstrated oral and written proficiency in the Target Language by achieving the minimum score on 1 of the following examinations:
- 4.1.2.1 For the Praxis Subject Assessment:
- 4.1.2.1.1 A minimum score of 164 on the Chinese (Mandarin): World Language (ETS Test # 5665); or
- 4.1.2.1.2 A minimum score of 162 on the French: World Language (ETS Test # 5174); or
- 4.1.2.1.3 A minimum score of 163 on the German: World Language (ETS Test # 5183); or
- 4.1.2.1.4 A minimum score of 152 on the Latin (ETS Test # 5601); or
- 4.1.2.1.5 A minimum score of 168 on the Spanish: World Language (ETS Test # 5195); or
- 4.1.2.1.6 A minimum score of 156 on the Japanese: World Language (ETS Test #5661); or
- 4.1.2.2 Based on the American Council on the Teaching of Foreign Languages (ACTFL) Proficiency Guidelines:
- 4.1.2.2.1 Achieving a minimum level of Intermediate High on the ACTFL Oral Proficiency Interview (OPI) or the Oral Proficiency Interview - Computer (OPIc) in the Target Language, and
- 4.1.2.2.2 Achieving a minimum level of Intermediate High on the ACTFL Writing Proficiency Test (WPT) in the Target Language.
- 4.1.2.3 An applicant who is applying for a World Language - American Sign Language Standard Certificate shall have achieved a minimum score of 3 on the American Sign Language Proficiency Interview. 14 DE Admin. Code 1519 Multiple Measures for Demonstrating Content Knowledge does not apply to applicants who do not achieve the minimum score on the American Sign Language Proficiency Interview.
- 4.1.3 Notwithstanding the requirement in subsection 4.1.2, if the applicant did not achieve the minimum score on 1 of the Praxis Subject Assessments in subsection 4.1.2.1, the applicant shall meet the requirements set forth in 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge. 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge does not apply to applicants who do not achieve the minimum levels on the ACTFL as provided in subsection 4.1.2.2.
- 4.2 For an applicant who holds at least 1 content area Standard Certificate, the applicant shall have demonstrated oral and written proficiency in the Target Language as provided in subsection 4.1.2 of this regulation. Notwithstanding the requirement in subsection 4.1.2, if the applicant did not achieve the minimum score on 1 of the Praxis Subject Assessments in subsection 4.1.2.1, the applicant shall meet the requirements set forth in 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge. 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content

Knowledge does not apply to applicants who do not achieve the minimum levels on the ACTFL as provided in subsection 4.1.2.2.

- ~~4.3 Notwithstanding the requirements in subsections 4.1 and 4.2 of this regulation, for an applicant who is applying for a World Language American Sign Language Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.3.1 and 4.3.2.~~
- ~~4.3.1 The applicant shall have satisfactorily completed 15 college credits related to teaching and learning American Sign Language of which at least 6 credits focus on pedagogy or an equivalent number of hours in professional development with 1 credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department as provided in subsections 4.1.1.5.1 through 4.1.1.5.4.~~
- ~~4.3.2 The applicant achieved a minimum score of 3 on the American Sign Language Proficiency Interview. **14 DE Admin. Code 1519 Multiple Measures for Demonstrating Content Knowledge** does not apply to applicants who do not achieve the minimum score on the American Sign Language Proficiency Interview.~~

5.0 Application Requirements

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for an Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 If the applicant is also applying for the issuance or renewal of an educator's license or paraeducator's permit, the applicant must disclose the applicant's criminal conviction history upon application. Failure to disclose a criminal conviction history is grounds for denial of the license or permit application as specified in **14 Del.C. §1219** and it could delay the processing or result in the denial of the application for a World Language Teacher Standard Certificate.
- 5.3 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a World Language Teacher Standard Certificate:
- 5.3.1 Evidence of obtaining a World Languages certificate from the National Board for Professional Teaching Standards, if applicable; and
- 5.3.2 Official transcript from the applicant's Regionally Accredited college or university.
- 5.3.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
- 5.3.2.2 Sealed paper transcripts may be submitted.
- 5.3.2.3 The Department will not accept copies of transcripts; and
- ~~5.3.3 Documents verifying successful completion of Department-approved professional development, if applicable; and~~
- ~~5.3.4 5.3.3~~ Official scores on the Praxis Subject Assessment or ACTFL OPI or OPIc and WPT as provided in subsection 4.1.2; and
- ~~5.3.5 5.3.4~~ Additional documentation as required by the Department.
- 5.4 For an applicant who holds at least 1 content area Standard Certificate, the following documentation is required in the application for a World Language Teacher Standard Certificate:
- 5.4.1 Official scores on the Praxis Subject Assessment or ACTFL OPI or OPIc and WPT as provided in subsection 4.2; and
- 5.4.2 Additional documentation as required by the Department.
- 5.5 For an applicant who is applying for a World Language Teacher - American Sign Language Standard Certificate, the following documentation is required with the application:
- 5.5.1 Official transcript from the applicant's Regionally Accredited college or university;
- 5.5.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
- 5.5.1.2 Sealed paper transcripts may be submitted.

PROPOSED REGULATIONS

- 5.5.1.3 The Department will not accept copies of transcripts; and
- 5.5.2 Documents verifying successful completion of Department-approved professional development, if applicable; and
- 5.5.3 Official scores on the American Sign Language Proficiency Interview; and
- 5.5.4 Additional documentation as required by the Department.
- 5.6 For applicants who have met the requirements for licensure as an educator in Delaware and hold a Valid and Current License or Certificate as a world language teacher from another state or jurisdiction, the following documentation is required in the application for a World Language Teacher Standard Certificate:
- 5.6.1 An official copy of the Valid and Current License or Certificate; and
- 5.6.2 Additional documentation as required by the Department.

(Break in Continuity of Sections)

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 352 11-01-24.htm>

DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

PUBLIC NOTICE

Cellular and Gene Therapy

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan Attachment 4.19-B pages 14 and 14a, specifically, to change pricing logic for clotting factors and specialty medications to control cost.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs, or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 2, 2024. Please identify in the subject line: Cellular and Gene Therapy

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

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Cellular and Gene Therapy.

Statutory Authority

- Executive Order 14087
- CMS Rule 2434-F

Background

The CGT Access Model was developed by the Centers for Medicare and Medicaid Services (CMS) in response to

President Biden's Executive Order 14087 and aims to improve the lives of people with Medicaid living with rare and severe diseases by increasing access to potentially transformative treatments. Cellular and gene therapies are a rapidly growing class of one-time treatments, many of which are developed to treat rare and severe diseases, such as sickle cell disease. They can correct underlying causes of a disease, address symptoms, and halt disease progression. However, the high cost of these treatments makes it difficult for state Medicaid agencies to pay for them. Initially, the model will focus on access to gene therapy treatments for people living with sickle cell disease, a genetic blood disorder that disproportionately affects African Americans. This will change pricing logic for clotting factors and specialty medications to control cost in these 2 high price drug categories.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to update the definition of an outpatient drug and participate in the CGT Access model with CMS.

Summary of Proposed Changes

Effective July 1, 2025, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan to change pricing logic for clotting factors and specialty medications to control cost.

Public Notice

In accordance with the *federal* public notice requirements established in Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gives public notice and provides an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on December 2, 2024.

Centers for Medicare and Medicaid Services Review and Approval

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

Provider Manuals and Communications Update

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

Fiscal Impact

There is no anticipated fiscal impact.

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 358RFA 11-01-24.pdf>

Attachment 4.19-B
Page 14

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES --

OTHER TYPES OF CARE REIMBURSEMENT FOR PHARMACEUTICALS

Overview

The Delaware Medical Assistance Program (DMAP) will reimburse pharmaceuticals using the lower of:

- ~~The usual and customary (U & C) charge to the general public for the product,~~
- 1. All prescribed drugs, devices, and supplies, including DMAP covered non-legend and legend products that are prescribed by an authorized prescriber, DMAP will reimburse using the following hierarchy methodology. National Average Drug Acquisition Cost (NADAC); if no NADAC, National Average Drug Acquisition Cost (NADAC),
- 2. Delaware Maximum Allowable Cost (DMAC); (DMAC). (Delaware Medicaid and Medical Assistance MAC) includes all types of medication, including specialty and hemophilia products). If no NADAC or DMAC, Actual Acquisition Cost (AAC).
- 3. Wholesale Acquisition Cost (WAC),
 - WAC for legend
 - WAC minus 2% for non-legend
- 4. The usual and customary charge submitted by the provider if it is lower.
- 5. Federal Supply Schedule purchased drugs will be reimbursed at the provider's actual acquisition cost.
- 6. Drugs acquired at Nominal Price (outside of 340B or Fee for Service) will be reimbursed at the provider's acquisition cost.
- 7. Long-term care pharmacy providers supplying covered drugs to participants in long-term care facilities shall be reimbursed as outlined in items 1-6 above in this section.
- 8. Drugs not distributed by a retail community pharmacy and distributed primarily through a Specialty Pharmacy, or the mail (such as specialty drugs) will be reimbursed as outlined in items 1-6 above in this section. DMAC is market based and includes all drug types.
- 9. Clotting factors from Specialty Pharmacy, Hemophilia Treatment Centers (HTC) will be reimbursed as outlined in items 1-6 in this section. DMAC is market based and includes all types of drugs.
- 10. Physician Administered Drugs (PAD) will be reimbursed as outlined in items 1-6 above in this section. DMAC is market based and includes all types of drugs.
- 11. Investigational Drugs that are prior authorized by DMAP will be reimbursed at AAC.

Medications listed on the High Investment Medication list are carved out of managed care and paid for by DMAP. All other services provided for the patient are the responsibility of the MCO. The High Investment Medication list is available on the DMMA pharmacy portal as www.medicare.dhss.Delaware.gov.

Delaware will pay for High Investment list medications by using the lesser of methodology:

- 1) Actual Acquisition Cost
- 2) Wholesale Acquisition Cost (WAC)
- 3) ASP + 6 % if available
- 4) Billed Charges

DMAP will meet the reimbursement of FUL defined drugs in the aggregate by reviewing that the NADAC does not exceed the FUL levels.

Methodology for establishing AAC is provided in the table on page Attachment 4.19-B Page 14a.

Attachment 4.19-B
Page 14 cont.

Entities that purchase Section 340B of the Public Health Service Act products must request to use these drugs for all DMAP patients, including Medicaid fee-for-service patients and for patients whose care is covered by Medicaid Managed Care Organizations.

Professional Dispensing Fee

There is one-time professional fee per thirty (30)-day period unless the class of drugs is routinely prescribed for a limited number of days.

Definitions

Delaware Maximum Allowable Cost (DMAC) - a maximum price set for reimbursement:

- When a single source product has Average Selling Prices provided by the manufacturer that indicates the WAC is exaggerated,
- When the NADAC does not reflect the most current cost of a multiple source drug, or
- If a single provider agrees to a special price.

TN No. SPA # 17-002 <u>24-0014</u>	Approval Date June 2, 2017
Supersedes	
TN No. SPA # 16-001 <u>17-002</u>	Effective Date January 1, 2017 <u>June 1, 2025</u>

Attachment 4.19-B
Page 14a

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES --
OTHER TYPES OF CARE
REIMBURSEMENT FOR PHARMACEUTICALS

Reimbursement Policy:

The lower of Usual and Customary or Actual Acquisition Cost (AAC) for Drug Reimbursement is derived using the methodology in the table below.

Category	Ingredient Cost	Professional Dispensing Fee
Brand Drug	NADAC	\$10
Generic Drug	NADAC	\$10
Drugs Without NADAC	WAC for legend and WAC-2% for non-legend; or a Delaware Maximum Allowable Cost (<u>DMAC</u>), whichever is lower.	\$10
340B Purchased Drug	AAC for dispensed drugs	\$10
	AAC for physician administered drugs	\$0
Contract 340B Pharmacy	Drugs acquired through the Federal 340B Drug Pricing Program and dispensed by 340B contract pharmacies are not covered.	N/A

PROPOSED REGULATIONS

Drugs purchased by 340B entities enrolled with DMMA as utilizing public health service products, which based on specific conditions, must purchase drugs outside of the 340B inventory when that drug is not available or eligible for 340B purchase.	NADAC	\$10
Federal Supply Schedule	AAC	\$10
Drugs Acquired at Nominal Price	AAC	\$10
Specialty Drugs-Mailed	AAC (Invoice price) <u>NADAC, DMAC or AAC, whichever is lower</u>	\$27
Drug Not Dispensed by Retail Pharmacy	NADAC, DMAC or WAC, whichever is lower.	\$10
Physician Administered Drugs	AAC based on invoice price if maximum unit cost is greater than or equal to \$50. For drugs where the maximum cost is less than \$50, the cost will be based on invoice price or the Medicare fee schedule. <u>NADAC, DMAC, WAC, whichever is lower. Medications below \$50, the cost will be based on the invoice price or the Medicare fee schedule.</u>	N/A
Clotting Factor	AAC (Invoice Price) <u>DMAC or AAC, whichever is lower</u>	\$27
Investigational Drugs (when prior authorized; as a general rule not covered products)	AAC	\$10
<u>Cellular and Gene Therapy Medication List</u>	<u>AAC or ASP + 6%, whichever is lower.</u>	<u>N/A</u>

TN No. SPA 23-0003 24-0014Approval Date ~~December 19, 2023~~

Supersedes

TN No. # 17-002 23-0003Effective Date ~~July 1, 2023~~ June 1, 2025

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

PUBLIC NOTICE

Medicaid Recovery Audit Contractor's (RAC) Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan General Program Administration and Table of Contents page 36a specifically, to request an extension of the exception from participation in the RAC Program.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs, or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 2, 2024. Please identify in the subject line: Medicaid Recovery Audit Contractor's (RAC) Program.

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

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Medicaid Recovery Audit Contractor's (RAC) Program.

Statutory Authority

- §1902(a)(42)(b) of the Social Security Act
- The Patient Protection and Affordable Care Act, Public Law 111-148, Section 6411, Expansion of the RAC Program
- 42 CFR §455 Subpart A
- 42 CFR §455 Subpart F

Background

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 Recovery Audit Contractors (RACs) to identify underpayments and overpayments, as well as recouping overpayments, under the Medicaid State Plan and any Medicaid State Plan Waivers. This applies 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 way as the Secretary contracts with contingency fee contractors for the Medicare RAC program.

Section 1902(a)(42)(B)(i) of the Act specifies that States shall establish programs under which they contract with Medicaid RACs subject to such exceptions or requirements as the Secretary may require for purposes of a particular State. This provision enables the Centers for Medicare and Medicaid Services (CMS) to vary the Medicaid RAC program requirements. For example, CMS may exempt a State from the requirement to pay Medicaid RACs on a contingent basis for collecting overpayments when State law expressly prohibits contingency fee contracting. However, another fee structure could be required under any such exception (e.g., a flat fee arrangement).

Summary of Proposal

Purpose

The purpose of this proposed regulation is to amend the RAC requirements.

Summary of Proposed Changes

Effective October 1, 2024, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan to request an extension of the exception from participation in the RAC program.

Public Notice

In accordance with the *federal* public notice requirements established in Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gives public notice and provides an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on December 2, 2024.

Centers for Medicare and Medicaid Services Review and Approval

PROPOSED REGULATIONS

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

Provider Manuals and Communications Update

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

Fiscal Impact

There is no anticipated fiscal impact.

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 362RFA 11-01-24.pdf>

Medicaid Recovery Audit Contractor's (RAC) Program

***Please Note: Due to formatting of certain amendments to the regulation, they are not being published here. Copies of the document is available at:**

<https://regulations.delaware.gov/register/november2024/proposed/36a page Amended.pdf>

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 20000

PUBLIC NOTICE

Personal Needs Allowance

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan Attachment 2.6-A page 4 and Attachment 2.6-A page 4 Addendum and Delaware Social Services Manual (DSSM) 20620.1 and 20995.1.1, specifically, to modify the personal needs allowance amount for individuals residing in long term care facilities.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs, or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 2, 2024. Please identify in the subject line: Personal Needs Allowance

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

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of

Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Personal Needs Allowance.

Statutory Authority

- §1902(a)(50), (q) of the Social Security Act
- §1924(d)(1) of the Social Security Act
- 42 CFR §435.725
- 42 CFR §435.733
- 42 CFR §435.832

Background

State Plan provisions require the Delaware Medical Assistance Program (DMAP) to provide a personal needs allowance (PNA) to Medicaid recipients residing in long-term care facilities. This PNA is intended to provide for clothing and other personal needs. The current PNA is \$50/month for individuals and \$100/month for married couples and was set in 2016. Delaware Medicaid and Medical Assistance (DMMA) recognizes that the cost-of-living has increased since 2016 and proposes to increase the PNA to offset some of the increased costs of personal needs for recipients. The new PNA will be \$75/month for individuals and \$150/month for married couples.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to amend the current personal needs allowance.

Summary of Proposed Changes

Effective January 1, 2025, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan and the DSSM to modify the personal needs allowance amount for individuals residing in long term care facilities.

Public Notice

In accordance with the *federal* public notice requirements established in Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gives public notice and provides an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on December 2, 2024.

Centers for Medicare and Medicaid Services Review and Approval

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

Provider Manuals and Communications Update

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

Fiscal Impact

	Federal Fiscal Year 2024	Federal Fiscal Year 2025
General (State) funds	\$278,116	\$285,600

PROPOSED REGULATIONS

Federal funds	\$419,793	\$425,556
---------------	-----------	-----------

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 364RFA 11-01-24.pdf>

Attachment 2.6-A
Page 4

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

ELIGIBILITY CONDITIONS AND REQUIREMENTS
42 CFR 435.725; 43 CFR 435.733; 42 CFR 435.832

B. Post-Eligibility Treatment of Institutionalized Individuals

The following amounts are deducted from the gross income when computing the application of an individual or couples' income to the cost of institutionalized care:

- 1. Personal Needs Allowance.
 - a. Aged, blind, disabled -
 - Individuals \$50 ~~\$75~~
 - Couples \$100 ~~\$150~~

For the following individuals with greater need

See Page 4 Addendum

- b. AFDC related -
 - Children \$50 ~~\$75~~
 - Adults \$50 ~~\$75~~
- c. Individuals under age 21 covered in this plan as specified in Item B.7 of ATTACHMENT 2.2-A Page 16. \$50 ~~\$75~~

TN No. SPA # 46-008 <u>24-0015</u>	Approval Date July 22, 2016
Supersedes	
TN No.SP- 388 #16-008	Effective Date July 1, 2016 <u>January 1, 2025</u>

Attachment 2.6-A
Page 4 Addendum

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE: DELAWARE
ELIGIBILITY CONDITIONS AND REQUIREMENTS
42 CFR 435.725; 43 CFR 435.733; 42 CFR 435.832

B. Post-Eligibility Treatment of Institutionalized Individuals (continued)

For the following individuals with a greater need (continued)

- d. ~~\$50/month~~ \$75/month for NF and ICF/IID residents engaging in frequent and regular rehabilitation out-of-facility activities.

- e. For nursing facility residents who are participating in gainful employment, the following amounts, not to exceed the adult foster care rate (551 benefit amount+ \$140), will be deducted from gross earned income:
 - i. Mandatory payroll deductions that are a condition of employment ~~including, but not limited to such as:~~
 - 1. Federal, State, and Local taxes
 - 2. FICA
 - 3. Union Dues
 - 4. Insurance Premiums
 - 5. Pension Contributions.

 - ii. ~~ii.~~ Transportation costs as paid to and from employment.

 - iii. ~~iii.~~ Clothing and personal needs allowance of \$75/month.

- f. For nursing facility residents requiring a court appointed guardian, the following amounts will be deducted from the gross income:
 - i. Monthly guardianship fees not to exceed \$100
 - ii. Initial establishment of a guardianship (~~to include attorney's fees~~) not to exceed \$750

The maximum amount of income to be protected will not exceed the amount required to maintain an individual in adult foster/residential care. This amount is currently the SSI benefit plus \$140.

TN No. SPA 22-0003 <u>24-0015</u>	Approval Date <u>09/22/2022</u>
Supersedes	
TN No. # 16-008 <u>22-0003</u>	Effective Date April 1, 2022 <u>January 1, 2025</u>

20000 Medicaid Long Term Care

20620.1 Personal Needs Allowance

Statutory Authority

42 CFR 435.725

42 CFR 435.733

42 CFR 435.832

20620.1.1 ~~\$50.00~~ \$75 per month of available income is to be protected for the Medicaid recipients recipient's direct personal needs; or

20620.1.2 If the recipient regularly attends a rehab/educational program off the grounds of ~~his or her~~ the recipient's long-term care facility, including employment for the purpose of rehabilitation in a sheltered workshop, ~~\$50.00~~ \$75 per month will be protected; or

20620.1.3 For long-term care facility residents who are participating in substantial gainful activity (SGA) (20 CFR 416.971), the following amounts, not to exceed the Adult Foster Care (AFC) rate will be deducted from gross earned income:

PROPOSED REGULATIONS

20620.1.3.1 Mandatory payroll deductions that are a condition of employment ~~including, but not limited to~~ such as:

- Federal, State and Local Taxes
- FICA
- Union Dues
- Insurance premiums
- Pension contributions
- Transportation costs as paid to & from work
- Clothing and personal needs allowance of \$75/month.

20620.1.3.2 If monthly earnings average more than the current SGA amount in a calendar year, this is considered SGA and the Division of Medical Assistance (DMMA) can allow a personal needs allowance of up to the AFC rate.

20620.1.3.3 If earnings average less than ~~\$300~~ \$400 a month in a calendar year, this is not ordinarily considered SGA and DMMA can allow the ~~\$50~~ \$75 personal needs allowance.

20620.1.3.4 If average earnings are between ~~\$300~~ \$400 and the current SGA amount, DMMA must consider other factors to determine whether or not the work constitutes SGA. Other factors include considering if the work is comparable to persons without disabilities in the community performing similar jobs.

20620.1.4 For nursing facility residents requiring a court appointed guardian, the following amounts will be deducted from the gross income:

- i. Monthly guardianship fees not to exceed ~~\$400~~ \$100;
- ii. Initial establishment of a guardianship (to include attorney's fees) not to exceed ~~\$750~~ \$750.

20995.1 Post - Eligibility Deductions

42 CFR §435.725; 42 CFR §435.733; 42 CFR §435.832

Post-eligibility determination is revised to allow the following deductions from the income of the institutional spouse. The deductions must be taken in the following order:

20995.1.1 Personal Needs Allowance for the ~~institutional spouse~~ Institutional Spouse. The personal needs allowance amount is \$30 per month for SSI recipients, and ~~\$50~~ \$75 per month for all others. If the institutionalized spouse is employed, personal needs may range from ~~\$50~~ \$75 up to the Adult Foster Care rate per month.

20995.1.2 Community Spouse Income Allowance

20995.1.2.1 The community spouse monthly income allowance is the amount of income necessary to bring the spouse's monthly otherwise available income up to the applicable percent of the FPL for two, plus an additional amount for excess shelter.

20995.1.2.2 The total amount available to the community spouse may not exceed "Cap for Minimum Monthly Maintenance Standard. This standard usually changes each January based on the Consumer Price Index for Urban Consumers.

20995.1.3 Family Allowance

20995.1.4 Items for which protection of income has been approved by the Long-Term Care Operation's Administrator ~~and/or~~ or incurred medical expenses of the institutionalized spouse.

DEPARTMENT OF INSURANCE OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Section 311 (18 Del.C. §311)

PUBLIC NOTICE

1401 Medical Malpractice Review Panel Rules

A. Type of Regulatory Action Required

Proposal to repeal Regulation 1401.

B. Synopsis of Subject Matter of Regulation

The Department of Insurance hereby gives notice of a proposal to repeal Regulation 1401, Medical Malpractice Review Panel Rules. Enacted on June 25, 1976, Regulation 1401 has become obsolete due to the passage of Senate Bill 208 (SB 208) by the 152nd General Assembly, signed by the Governor on August 29, 2024. SB 208 amended Chapter 68 of Title 18, repealing Subchapters III and V in their entirety and eliminating the use of medical review panels in medical negligence cases. The Superior Court of Delaware maintains exclusive jurisdiction over civil actions alleging healthcare medical negligence. As a result, the Insurance Commissioner finds it necessary to repeal Regulation 1401.

C. Notice of Public Comment

The proposed regulation appears below and may also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>. The Department will not be holding a public hearing on the proposed regulation.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed regulation. Any written submission in response to this notice and relevant to the proposed regulation must be received by the Department of Insurance no later than 4:30 p.m. EDT, the 2nd day of December, 2024 and should be directed to:

Alisa Pritchard, Regulatory Specialist
Delaware Department of Insurance
1351 West North Street, Suite 101
Dover, DE 19904
(302) 674-7379
Email: DOI-Legal@delaware.gov

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 369RFA 11-01-24.pdf>

1401 Medical Malpractice Review Panel Rules

1.0 ~~Rules and Regulations~~

~~Pursuant to 18 Del.C. §6806(b), the following rules are hereby published and adopted. They are applicable to any civil action alleging malpractice as defined in 18 Del.C. §6801(7).~~

2.0 ~~Purpose~~

~~The purpose of these rules is to carry out the provisions of 18 Del.C. Ch. 68.~~

3.0 ~~Definitions~~

~~The definitions established by 18 Del.C., §6801 are applicable to these rules.~~

4.0 Panelists

The Commissioner has established lists of panelists including physicians, attorneys, and lay persons as described in 18 ~~Del.C.~~ §6804. These may be inspected by interested persons at the Office of the Department of Insurance, 21 The Green, Dover, Delaware at any time during business hours. These lists shall be updated annually as of August 1 of each calendar year, commencing with August 1, 1977, by the Commissioner. Brief biographical material of each person on such lists is included.

5.0 Filling Vacancies

- 5.1 If any panel member should resign, die, withdraw, refuse, be disqualified, or otherwise be excused by the Court after having been selected pursuant to 18 ~~Del.C.~~ §6803, the chairperson of the panel (or, in his absence, the Superior Court) will, on satisfactory proof, declare the position on the panel vacant. Vacancies on any malpractice review panel will be filled in accordance with sections 5.2 and 5.3 of this section.
- 5.2 If the position on the panel is declared vacant prior to the commencement of the hearing, the parties shall select a substitute member from the same list, pursuant to the provisions of 18 ~~Del.C.~~ §6805, each party retaining any previously unused peremptory challenge.
- 5.3 If the position on the panel is declared vacant after the commencement of the hearing, the matter shall be re-heard before a new malpractice review panel selected in accordance with 18 ~~Del.C.~~ §6805, unless all parties, with the approval of the chairperson, agree to select a substitute member from the same list, or to proceed with less than a full panel.
- 5.4 The chairperson may direct, in cases expected to be protracted, provided such persons are willing to serve without compensation, that one additional physician, one additional attorney, and one additional lay person be selected to sit as alternate panel members. Alternate panel members shall replace panel members in the same category who, prior to the conclusion of the presentation of evidence, become or are found to be unable or disqualified to perform their duties. Alternate panel members shall be selected in the same manner, and shall have the same qualifications, and shall be subject to the same examination and challenges and shall take the same oath, and shall have the same privileges as regular panel members. They shall have the same functions and powers as the panel members whom they replace, if they so serve. An alternate panel member who does not replace a regular panel member shall be discharged after the panel retires to consider its decision. Each side is entitled to one peremptory challenge in addition to those otherwise allowed by law for each category (physician, attorney, lay person) of alternate members. The additional peremptory challenge may be used against an alternate panel member only, and the other peremptory challenges allowed by law shall not be used against an alternate panel member.

6.0 Disclosure of Interests

- 6.1 Any party to a proceeding before a malpractice review panel may propound, through the ex officio member of the panel, reasonable questions to a panel candidate if such questions are submitted to the ex officio member of the panel within ten days of the receipt of the list on which the candidate's name appears.
- 6.2 Any individual selected as a member of a malpractice review panel shall disclose to the non-voting, ex-officio member of the panel any circumstances which might affect his impartiality, including any bias or any past or present relationship with the parties, their counsel or their fellow panel members. The non-voting, ex-officio member of the panel shall promptly communicate such disclosure to the parties. The panel member will be disqualified from the panel upon application by the chairperson to the Court in the event of the existence of any circumstances which might affect the panel members' impartiality, unless all parties waive in writing, any presumption of bias on the part of the panel member by reason of the disclosure.
- 6.3 If a panel member knowingly fails to make the required disclosure contained in 6.2 of this section, the non-voting, ex-officio member of the panel will communicate the name of such individual to the Commissioner. The Commissioner, upon receipt of same shall strike the panel member's name from the appropriate list of panel candidates.

7.0 Hearing in Absence of a Party

The medical malpractice review panel may conduct a proceeding in the absence of any party who, after due notice, fails to be present at the proceeding.

8.0 Hearing Testimony under Oath

All testimony taken before a malpractice review panel shall be taken under oath.

9.0 Recording of Proceedings and Availability of Transcripts

- 9.1 All hearings before a malpractice review panel shall be reported by an official reporter designated by the non-voting, ex-officio member of the panel.
- 9.2 Parties desiring copies of the transcript of a hearing may obtain such copies from the designated official reporter upon payment of a reasonable fee therefor.
- 9.3 The non-voting, ex-officio member of the panel shall keep the record of the proceedings before the panel, including all exhibits and evidence introduced, but not including a transcript. The record shall be filed with the Prothonotary within ten days after the panel renders its opinion.

10.0 Compensation of Panelists and Expert Witnesses

- 10.1 Members of a malpractice review panel, and alternates who have replaced a member, and any expert witnesses called by the panel, shall be compensated pursuant to 18 ~~Del.C.~~, §6813. The non-voting, ex-officio member of the panel shall be responsible for preparing vouchers for the disbursement of compensation and other reasonable expenses to panel members and the expert witnesses called by the panel. The panel members and such expert witnesses shall substantiate all actual and necessary expenses incurred in such manner as is required by the ex-officio member of the panel. The ex-officio member of the panel shall submit all approved vouchers to the President Judge of the Superior Court.
- 10.2 Fees of the panel and reasonable fees of expert witnesses called by the panel, together with travel expenses, and the attendance fee of the designated official reporter, and other proper expenses, shall be paid by the State on vouchers submitted by the President Judge of the Superior Court.

11.0 Powers and Duties of Panel Chairperson

- 11.1 The chairperson of the malpractice review panel shall have primary responsibility for supervising the proceedings. The chairperson may make and enforce orders (unless overruled by a majority of the panel):
 - 11.1.1 limiting the type of evidence that is admissible in any proceeding before the panel, subject to 18 ~~Del.C.~~ §6808;
 - 11.1.2 limiting the number of witnesses whose testimony is similar or cumulative;
 - 11.1.3 regulating the number and length of addresses to the malpractice review panel; and
 - 11.1.4 limiting the number of attorneys representing the same party who may actively participate in any proceeding before the panel.

12.0 Convening of Panel

- 12.1 On and after June 25, 1976, any party to any civil action alleging malpractice as defined in 18 ~~Del.C.~~ §6801(7), at any time after the filing of an answer or any motion filed in lieu thereof, shall have the right to convene a malpractice review panel by filing a demand therefor with the Prothonotary, all parties to the civil action, and the Commissioner. The demand for the convening of such a malpractice review panel shall be in substantially the following form:

Name of Case: _____ Civil Action No. _____

PROPOSED REGULATIONS

The undersigned (name of petitioner), of (city) in (county), being a party to the above civil action alleging malpractice within the meaning of 18 ~~Del.C.~~ §6801(7), certifies that:

- 12.1.1 (patient's name) was a patient of (health care provider), on (date); and
- 12.1.2 Said (health care provider), in treating said (patient's name) for (nature of condition or disease), is alleged to have committed an act of malpractice in rendering or failing to render health care services to the injury of (patient's name) in that (short statement of incident and injury); and
- 12.1.3 A complaint and an answer have been filed in the above mentioned action (or a motion has been filed in lieu of an answer), copies of which are annexed hereto.

In consequence thereof, the undersigned petitioner hereby respectfully and in good faith requests that a panel be convened pursuant to 18 ~~Del.C.~~ §6802 for investigation of this matter.

Petitioner or Attorney for Petitioner

- 12.2 Upon receipt of a demand for convening a malpractice review panel, the Commissioner shall appoint a member of his staff as the ex-officio member of the panel. The ex-officio member, after consultation with the appropriate medical professional society, shall also designate the health care discipline involved. See 18 ~~Del.C.~~ §6804(a). The member of the Commissioner's staff so appointed shall, within five days of his appointment, advise all named parties where they may inspect copies of the various lists prepared and updated by the Commissioner, which lists contain the names and descriptions of potential panel members.
- 12.3 The members of the panel shall be selected from such lists in accordance with 18 ~~Del.C.~~ §6805 and the provisions of this rule. If the parties to the action do not, within ten days after receipt of such notice, agree in writing to the ex-officio member of the panel on the members of such panel, the ex-officio member of the panel shall so inform the Commissioner. The ex-officio member of the panel shall then promptly submit a list of each category of proposed panelists to the parties. The number of persons on each list will be calculated by the following formula: three times the number of parties plus two persons for each category. The parties shall exercise their peremptory challenges within ten days from receipt of the list, delivering these challenges to the ex-officio member of the panel who shall promptly select the panel from the remaining names on each list by lot.
- 12.4 Promptly after selection of the panel, the ex-officio member of the panel shall notify the parties of the date by which all evidence shall be submitted to the panel pursuant to 18 ~~Del.C.~~ §6807. The ex-officio member shall be responsible for presentation or delivery of such evidence or copies thereof to the panel members as expeditiously as feasible.
- 12.5 In the event a hearing is to be held, the ex-officio member of the panel, after consulting with the members selected for the panel and the parties, shall schedule it promptly. The parties to the proceeding shall be given not less than ten days' notice of such hearing. Either party may submit further evidence, in addition to that referred to in section 12.4 hereof, at that time.
- 12.6 A request for a continuance of the hearing may be made in writing to the chairperson. A continuance will be granted only upon good cause shown.

14.0 Decisions of the Panel

A majority vote of the malpractice review panel shall be required to decide the issues presented to it. The written findings of the panel shall conform to the requirements of 18 ~~Del.C.~~ §6811 and shall be rendered to the Court and the parties within thirty days after the hearing.

14.0 Direct Communications with Panel

Other than at hearings, the parties and their attorneys shall not directly communicate in any way with the panel candidates or panel members concerning the merits of the pending action, and any such communications from a party to a panel member or a panel candidate, other than at hearings, shall be directed to the ex-officio member of the panel for transmittal to the candidate or member. Any panel

~~candidate or panel member who is aware of any direct communication concerning the merits of a pending action shall promptly inform the ex-officio member of the panel.~~

45.0 Calendar of Panel Hearings

~~A calendar of all malpractice actions noticed for hearing shall be prepared by the Commissioner and retained at his office for the inspection of any interested persons.~~

46.0 Filing with Prothonotary

~~In the event that a motion for review has been filed by either party, the moving party shall forthwith give written directions in substantially the same form as required by Rule 7 of the Supreme Court of the State of Delaware to the designated official reporter to prepare a transcript of such parts of the proceedings not already on file as he deems necessary for inclusion in the record. Within five days after the motion for review has been filed, the moving parties shall serve upon all opposing attorneys and file with the Prothonotary a written statement showing compliance with this section. Such statement shall include the caption of the case, the name of the designated official reporter directed to prepare the transcript, the parts of the proceedings ordered transcribed, the date on which such direction was given, and the attorney's certification that the transcript ordered is essential to the review. Within five days after the receipt of the statement just described, or within fifteen days after the motion for review has been filed if no such statement is received from the attorney from the moving party, each other attorney shall give written directions to the designated court reporter to prepare a transcript for review of any part of the proceedings not already on file or on order by the moving party, as he deems necessary for inclusion in the record. Such attorney shall promptly serve upon all opposing attorneys and file with the Prothonotary a written statement substantially in the form specified by Rule 7 of the Supreme Court of the State of Delaware. In lieu of the transcript, the parties may prepare and sign an Agreed Statement of the substance of the testimony or other proceedings before the medical review panel as may be essential to the decision of the issues to be presented on the review.~~

47.0 Representation by Counsel

~~All parties may be represented at the hearing by counsel authorized to act for their respective clients, in which case notice of appearance shall be filed promptly by such attorneys, and all notices thereafter shall be served on the attorney rather than the party.~~

48.0 Effective Date

~~This Regulation shall become effective June 25, 1976.~~

DEPARTMENT OF LABOR
DIVISION OF PAID LEAVE

Statutory Authority: 19 Delaware Code, Section 105 (19 Del.C. §105)
19 DE Admin. Code 1401

PUBLIC NOTICE**1401 Rules Defining and Regulating the Healthy Delaware Families Act, Family and Medical Leave Insurance Program and the Division of Paid Leave**

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 19 Del.C. §105, the Delaware Department of Labor ("Department") proposes to introduce regulations concerning the establishment of the Healthy Delaware Families Act ("Act") and to set forth definitions, guidance, procedures, and standards for the implementation of the Act and its Family and Medical Leave Insurance Program ("PFML Insurance Program"). The Division of Paid Leave ("Division"), a separate division

within the Department, is established and will administer the Act, Program, and this regulation.

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

Christopher Counihan
Division Director, Division of Paid Leave
Delaware Department of Labor
248 Chapman Road, Suite C
Newark, DE 19702

Comments may also be directed via electronic mail to PFML@Delaware.gov. Any written submission in response to this notice and relevant to the proposed regulations must be received by the above contact at the Delaware Department of Labor no later than 4:00 p.m. EST, on December 2, 2024. The action concerning determination of whether to adopt the proposed regulations will be based upon consideration of the written comments and any other written materials filed by the public.

Background

The Department is authorized by the General Assembly of the State of Delaware, to establish rules and regulations for the administration of the Act. Administering this Act is accomplished with the establishment of the Division, PFML Insurance Program, and the Family and Medical Leave Insurance Appeal Board ("Board"). The Department is further authorized to adopt and promulgate rules and regulations not inconsistent with Title 19 or of any other law of the State; provided, however that no such rule or regulation shall extend, modify, or conflict with any law of this State or the reasonable implications thereof; and provided further, that such rules and regulations, as established by the Department, shall focus primarily on the Act, PFML Insurance Program, and Board.

Summary of Proposal

Overall, the proposed amendments to this Regulation implement the Act, PFML Insurance Program and Board by providing definitions, guidance, processes, and standards for employees, covered individuals, employers, and small businesses, as defined in the Act. The proposed rules outline procedures, processes, and eligibility standards for employees who apply to their employer for claims and benefits payments under the program and seek review from the Department, including an appeal of a denial to the Board. In addition, the proposed rules also set forth guidance, procedures, and processes for employers and small businesses, as defined in the Act, for their administration of the Act and the PMFL program.

As part of the implementation of the Family and Medical Leave Insurance Program, the State is designing an online administrative system, that will be made available for employers and others, to manage the program more efficiently. Employers will be able to use this online administrative system to make changes to the enrollment of their program, record their employee's hours and wages, and adjudicate their claim applications. In turn and based on that information, the online administrative system will advise the employers as to what the Department would do based on the information at hand. Our goal is to make the program as simple as possible for employers, employees, and others to use.

Statutory Authority 19 Del.C. §105.

19 **Del.C.** §105 enables the Delaware Department of Labor to adopt and promulgate rules and regulations consistent with Title 19 of the Delaware Code; provided, that no such rule or regulation shall extend, modify, or conflict with any law of the State of Delaware or the reasonable implications thereof.

***Please Note:**

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 373RFA 11-01-24.pdf>

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

regulation is available at:

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 373 11-01-24.htm>

DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

Board of Medical Licensure and Discipline

Statutory Authority: 24 Delaware Code, Sections 1713(a)(12) and 1770A (24 Del.C. §§1713(a)(12) & 1770A)
24 DE Admin. Code 1700

PUBLIC NOTICE

1700 Board of Medical Licensure and Discipline

The Delaware Board of Medical Licensure and Discipline ("Board"), pursuant to 24 Del.C. §1713(a)(12) and §1770A, proposes to amend its regulation to comply with a law change regarding the relationship between physicians and physician assistants. The proposed regulation replaces "supervision" with "collaboration" and clarifies when a physician is limited to collaborating with only four physician assistants.

The Regulatory Council for Physician Assistants ("Council") of the Board of Medical Licensure and Discipline will hold a public hearing on the proposed regulation change on December 3, 2024, 1:00 p.m., virtually and in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Alison Warren, Executive Director of the Delaware Board of Medical Licensure and Discipline, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 or at alison.warren@delaware.gov. Written comments will be accepted until December 18, 2024 pursuant to 29 Del.C. §10118(a).

The Board further has additional regulatory changes pending which were published in the August 1, 2024 *Register of Regulations*, Volume 28, Issue 2. In these pending revisions, the Board proposes to amend its regulation to clarify and implement 24 Del.C. §1790(a)(2), which authorizes a physician assistant, with a collaborative agreement with an appropriately-trained physician, to terminate, assist in the termination of, or attempt the termination of a human pregnancy before viability. The hearing took place on September 10, 2024, and deliberations will be conducted on December 3, 2024.

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 375RFA 11-01-24.pdf>

1700 Board of Medical Licensure and Discipline (Break in Continuity of Sections)

13.0 Physician Assistants

13.1 Definitions:

13.1.1 Rules and Regulations governing Physician Assistant (PA) practice in the State of Delaware. For information relative to the following categories refer to 24 Del.C. Ch. 17:

- 13.1.1.1 Definition of Physician Assistants
- 13.1.1.2 Criteria for Licensure
- 13.1.1.3 Licensure Fee
- 13.1.1.4 Prohibited Practices
- 13.1.1.5 Discipline
- 13.1.1.6 Scope of Practice
- 13.1.1.7 ~~Supervision of~~ Collaboration with Physician Assistants

PROPOSED REGULATIONS

- 13.1.1.7.1 The ~~supervising~~ collaborating physician cannot be involved in patient care in name only ~~and must provide adequate supervision~~. The ~~supervising~~ collaborating physician must be available for consultation, during the patient encounter, when necessary as defined under supervision in the 24 **Del.C. §1770A(3)** ~~§1770A(2)~~.
- 13.1.1.7.2 No ~~supervising~~ collaborating physician may ~~supervise~~ collaborate with more than 4 physician assistants at any 1 given time unless granted an exemption by the Board but may enter into collaborative agreements with more than 4 physicians assistants at a time. That is, a physician is only restricted to 4 physicians assistants during 1 shift or while performing clinical work. As provided in 24 **Del.C. §1771(f)** ~~and (h)~~ the Board may increase or decrease the number of physician assistants ~~being supervised with whom the physician collaborates~~. The Board may issue an exemption to increase the number of physician assistants ~~supervised by a physician with whom the physician collaborates~~ upon written application filed by the ~~supervising~~ collaborating physician demonstrating good cause for the request. Requests for exemption will be considered on a case-by-case basis. The requesting physician has the burden of demonstrating that the granting of an exemption will not endanger the public health, safety, or welfare.
- 13.1.1.7.3 Any physician desiring to ~~supervise~~ collaborate with an assistant who will perform acupuncture upon a patient shall make a medical evaluation of the patient and determine that acupuncture treatment is medically appropriate prior to the commencing of any acupuncture treatment by a physician assistant. ~~Such~~ The evaluation will be made on the patient's initial contact with the physician without referral. A physician assistant employed by a physician for the purpose of administering an acupuncture treatment to patients shall not administer ~~such~~ treatment unless an initial evaluation by the physician has been made. In addition, no subsequent acupuncture treatments of a patient shall occur unless the physician has requested ~~such~~ the treatment. No physician shall ~~supervise~~ collaborate with a physician assistant who administers acupuncture treatment to patients unless the physician is proficient in the field of acupuncture and ~~has assured himself~~ is assured that the physician assistant is also proficient in the administration of acupuncture treatment. A physician assistant who administers acupuncture treatment to patients at the direction of a physician shall administer ~~such~~ the treatment only within the physical confines of the physician's office at ~~such~~ times when the physician is physically present on the premises and immediately available for consultation.
- 13.1.2 Legend - For the purpose of these rules and regulations the term "legend" is defined as any drug containing the statement "Caution: Federal law prohibits dispensing without prescription" required by section 503(b)(4) of the Federal Food, Drug, and Cosmetic Act as part of the labeling of all prescription drugs (and only ~~such~~ prescription drugs). A "legend" drug is thus a prescription drug, III.B.3 and 24 **Del.C. §2502(22)**.
- 13.2 Biennial Renewal of License
- 13.2.1 Physician Assistants must renew their license on a biennial basis by payment of appropriate fees as established by 24 **Del.C. §1774A**.
- 13.2.2 Completion of required renewal form, and submission of documentation of one hundred (100) hours of Continuing Medical Education (CME), 50 hours of Category 1 during every 2 year cycle. A licensee who submits proof of holding current certification from the NCCPA shall be deemed to have met this requirement.
- 13.3 Prescriptive Authority
- 13.3.1 Prescriptive authority for the therapeutic drugs and treatments will include the following:
- 13.3.1.1 Prescriptive authority is a delegated medical service by the supervising physician.
- 13.3.1.2 Prescriptive authority will be practice specific of the supervising physician.

- 13.3.1.3 PAs may prescribe legend medication including Schedule II-V controlled substances, (as defined in the Controlled Substance Act). parenteral medications, medical therapeutics, devices and diagnostics.
- 13.3.1.4 PAs will be assigned a provider identifier number as outlined by the Division of Professional Regulation.
- 13.3.1.5 Controlled Substances registration will be as follows:
 - 13.3.1.5.1 PAs must register with the Drug Enforcement Agency (DEA) and use such DEA number for controlled substance prescriptions.
 - 13.3.1.5.2 PAs must register biennially with the Secretary of the Department of Health and Social Services in accordance with 16 **Del.C.** §4732(a).
- 13.3.1.6 Prescriptions must include the printed or legibly handwritten name of the PA. Prescriptions shall be written in accordance with 17 **Del.C.** §1764A and shall contain the following information clearly typed or written:
 - 13.3.1.6.1 The name and phone number of the prescriber;
 - 13.3.1.6.2 The name and strength of the drug prescribed;
 - 13.3.1.6.3 The quantity of the drug prescribed;
 - 13.3.1.6.4 The directions for the use of the drug;
 - 13.3.1.6.5 Date of issue.
- 13.3.1.7 PA prescriptions must include the Division of Professional Regulation provider identifier number.
- 13.3.1.8 PA prescriptions for a controlled substance must include the PAs DEA number, as well as the Division of Professional Regulation provider identifier number.
- 13.3.1.9 As a delegated authority by the supervising physician PAs may request and issue professional samples of legend and over-the-counter medications. Professional samples must be labeled in compliance with 24 **Del.C.** §2522(c).

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 375 11-01-24.htm>

OFFICE OF THE STATE TREASURER CASH MANAGEMENT POLICY BOARD

Statutory Authority: 29 Delaware Code, Section 2716 (29 **Del.C.** §2716)
1 DE Admin. Code 1201

PUBLIC NOTICE

1201 Statement of Objectives and Guidelines for the Investment of State of Delaware Funds

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

In accordance with the procedures set forth in 29 **Del.C.** Ch. 11, subch. III, and 29 **Del.C.** Ch. 101, the Cash Management Policy Board (the "Board") is proposing to amend previously adopted regulations governing the deposit and investment of State funds, as permitted by 29 **Del.C.** §2716.

STATUTORY BASIS AND LEGAL AUTHORITY TO ACT

29 **Del.C.** §2716.

OTHER REGULATIONS AFFECTED

None.

HOW TO COMMENT ON THE PROPOSED REGULATION

Members of the public may receive a copy of the proposed regulations at no charge by U.S. mail by writing, emailing, or calling Mr. Jordan Seemans at the Office of the State Treasurer ("OST"), 820 N. French St., Suite 201, Wilmington, Delaware 19801, Jordan.W.Seemans@delaware.gov, (302) 577-4211. Members of the public may present written comments on the proposed regulations by submitting such written comments to Mr. Seemans at the address above. Written comments must be received on or before December 31, 2024.

SUMMARY OF PROPOSED REGULATION

The Board is authorized to establish policies (a) for the investment of all money belonging to the State or on deposit from its political subdivisions, except money deposited in any State pension fund or the State deferred compensation program, and (b) to determine the terms, conditions, and other matters relating to those investments including the designation of permissible investments. See 29 **Del.C.** §2716(a).

The Board's existing regulations (the "Guidelines"), among other things, establish requirements related to the deposit of State funds in demand deposit accounts and establish permissible investments and percentage limits for State funds held for investment. See 1 **DE Admin. Code** 1201.

The proposed Guideline amendments will:

- " Increase to 30% the allowable investment limits for private placement securities (Rule 144A securities) held in liquidity accounts.
- " Increase to 2.5 years the average life limit on asset-backed securities held in reserve accounts.
- " Increasing the maximum maturity for any investment of State funds held in reserve accounts to eleven years and one month from the date of settlement.

The Guidelines apply to and govern the conduct of the State's approved investment managers and will have no direct impact on individuals or businesses that do not serve in such capacity for the State.

The Board believes that it has authority to promulgate deposit and investment policies without complying with the formal regulatory requirements of Delaware's Administrative Procedures Act, 29 **Del.C.** Ch.101 (the "APA"). The Board is promulgating amended regulations under the APA out of an abundance of caution, consistent with prior practices.

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 377RFA 11-01-24.pdf>

1201 Statement of Objectives and Guidelines for the Investment of State of Delaware Funds
(Break in Continuity of Sections)

6.0 Liquidity Accounts

(Break in Continuity Within Section)

- 6.3 **Permissible Investments and Percentage of Account Limitations.** State Funds held in Liquidity Accounts can be invested solely in the types of securities set out in this subsection 6.3. Each Liquidity Manager is further subject to limit the aggregate value of State Funds invested in each type of security held in the account under such manager's discretion to the "Percentage Limit" of such security type identified in this subsection 6.3, measured as a percentage of the total Liquidity Account value of State Funds under such manager's discretion.

(Break in Continuity Within Section)

6.3.4 Corporate Debt Instruments

- 6.3.4.1 Definition: Commercial paper, variable rate notes, and non-convertible bonds and debentures denominated in U.S. dollars and issued by a U.S. corporation or a non-domestic corporation subject to the laws of Japan, Canada, United Kingdom, the Netherlands, Germany, France, Switzerland, Australia, New Zealand, Sweden, or Norway. Such securities must be rated by at least two NRSROs and (i) in the case of commercial paper, must be rated not lower than "A-2" by S&P, "P-2" by Moody's and "F2" by Fitch and the senior long-term debt of the issuer must be rated not lower than "A-" by S&P, "A3" by Moody's and "A-" by Fitch (excluding asset-backed commercial paper that is rated A-1 or better) and (ii) in the case of notes, bonds and debentures, must be rated not lower than "A-" by S&P, "A3" by Moody's and "A-" by Fitch; provided that, any security that meets the foregoing rating standards and is backed fully by an irrevocable, unconditional letter of credit issued by a banking institution shall not be permissible hereunder unless such banking institution meets the definition of subsection 6.3.3.1 (in which case, any such securities will be deemed to be securities of both the corporate issuer and the banking institution for purposes of calculating the Percentage Limits set forth in subsections 6.3.4.2 and 6.3.3.2, respectively).
- 6.3.4.2 Percentage Limit: 50% in total; 25% in all non-domestic corporations; 25% in any one industry; 5% in any one issuer. Notwithstanding the foregoing, absent written permission from OST and prior Board approval, 144A private placement securities otherwise authorized under subsections 6.3.4.1 and 11.1.7 may not exceed ~~25%~~ 30% of any Liquidity Account.

(Break in Continuity Within Section)

7.0 Reserve Accounts

- 7.1 **Investment Objectives.** The Reserve Accounts have been established to provide funding over an intermediate horizon but must be available to meet unanticipated operating requirements of the State as they arise. The primary investment objectives are to maintain the safety of and maximize the return on such funds. Liquidity of such funds is a secondary consideration, but Reserve Managers are expected to invest State Funds in a manner to mitigate losses in connection with the need to liquidate investments for unforeseen operating requirements.
- 7.2 **Maturity Restrictions.** The maximum maturity for any investment of State Funds in the Reserve Accounts shall be ~~ten 11~~ years ~~and one month~~ from the date of settlement.
- 7.3 **Permissible Investments and Percentage of Account Limitations.** State Funds held in Reserve Accounts can be invested solely in the types of securities set out in this subsection 7.3. Each Reserve Manager is further subject to limit the aggregate value of State Funds invested in each type of security held in the account under such manager's discretion to the "Percentage Limit" of such security type identified in this subsection 7.3, measured as a percentage of the total Reserve Account value of State Funds under such manager's discretion.

(Break in Continuity Within Section)

7.3.10 Asset Backed Securities

- 7.3.10.1 Definition: Securities collateralized by pools of auto loan receivables, credit card receivables, and equipment loans; provided that (i) such securities have the highest credit rating from at least ~~two 2~~-NRSROs and (ii) an average life not to exceed ~~two 2~~ years and 6 months from the date of settlement (unless such securities are subject to periodic reset of coupon or interest rate, in which case the average life may not exceed ~~three 3~~ years from the date of settlement).
- 7.3.10.2 Percentage Limit: 10% in total, including securities defined in subsection 7.3.9.1.

7.3.11 Municipal Obligations

- 7.3.11.1 Definition: Taxable and tax-exempt securities issued by state and local governments and public authorities in the U.S., excluding securities issued by the State of Delaware, its local governments and public authorities; provided that such securities must be rated by at least

two NRSROs and must be rated not lower than “A-” by S&P, “A3” by Moody’s and “A-” by Fitch.

7.3.11.2 Percentage Limit: 20% in total; 5% in any one issuer.

7.3.12 Supranational Organizations or International Agencies

7.3.12.1 Definition: Any obligation issued by a supranational organization or international agency denominated in U.S. dollars under U.S. securities law for sale in the United States as well as globally; provided that such obligation is rated by at least two NRSROs and must not be rated lower than “A-” by S&P, “A3” by Moody’s and “A-” by Fitch. Supranational organizations include, but are not limited to, the World Bank, Asian Development Bank, Inter-American Development Bank, International Bank for Reconstruction and Development, International Finance Corporation, and the Agency for International Development.

7.3.12.2 Percentage Limit: 25% in total, 10% in any one agency.

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

<https://regulations.delaware.gov/register/november2024/proposed/28 DE Reg 377 11-01-24.htm>

Symbol Key

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

Final Regulations

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

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

DEPARTMENT OF AGRICULTURE

DELAWARE JOCKEYS' HEALTH AND WELFARE BENEFIT BOARD

Statutory Authority: 3 Delaware Code, Section 10171 (3 Del.C. §10171)
3 DE Admin. Code 1002

ORDER

1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations

I. NATURE OF THE PROCEEDINGS

Pursuant to its authority under 3 Del. C. §10171, the Delaware Jockeys' Health and Welfare Benefit Board sought to amend its regulations regarding eligibility for health coverage. The change to 2.1.1 reduces the minimum number of mounts for active jockeys to seventy-five. The change to 2.1.2.2 aligns the eligibility criteria for retired jockeys with the eligibility criteria for active jockeys during the relevant lookback period. Other regulations issued by the Delaware Jockeys' Health and Welfare Benefit Board are not affected.

Notice of a public comment period of at least thirty (30) days on the Delaware Jockeys' Health and Welfare Benefit Board's proposed amended regulations was published in the Delaware *Register of Regulations* for August 1, 2024 in accordance with 29 Del. C. §10118(a). This is the Delaware Jockeys' Health and Welfare Benefit Board's Decision and Order adopting the proposed amended regulations.

II. FINDINGS AND CONCLUSIONS

1. The public was given the required notice of the Delaware Jockeys' Health and Welfare Benefit Board's intention to adopt the proposed amended regulation and was given ample opportunity to provide the Delaware Jockeys' Health and Welfare Benefit Board with comments opposing the Delaware Jockeys' Health and Welfare Benefit Board's plan.

2. There were no public comments provided to the Delaware Jockeys' Health and Welfare Benefit Board during the written public comment period.

3. Pursuant to 3 **Del.C.** §10171 and 3 **DE Admin. Code** 1002, the Delaware Jockeys' Health and Welfare Benefit Board has authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

4. Thus, the Delaware Jockeys' Health and Welfare Benefit Board concludes that its consideration of the proposed amended regulation was entirely within its statutory authority and, having received no comments opposed to adoption, is now free to adopt the proposed amended regulation.

5. The Delaware Jockeys' Health and Welfare Benefit Board has reviewed the regulation and has determined that, if promulgated, the regulation would have a *de minimis* impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

III. DECISION AND ORDER CONCERNING THE REGULATIONS

AND NOW on this 15th day of October 2024, it is hereby ordered that:

1. The proposed amendments to the Delaware Jockeys' Health and Welfare Benefit Board's regulations are adopted;

2. The text of the final regulations shall be in the form attached hereto as Exhibit A, which remain unchanged as initially published in the August 1, 2024 *Delaware Register of Regulations*;

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

4. The Delaware Jockeys' Health and Welfare Benefit Board reserved to itself the authority to issue such other and further orders concerning its regulations as it deems appropriate.

Delaware Jockeys' Health and Welfare Benefit Board

Edward J. Stegemeier, Chairman

Robert E. Colton

Retired Jockey

(non-voting member)

Vince Halliday

W. Duncan Patterson, Ex-Oficio Member

Jockey Representative

Chair - DTRC

Kevin DeLucia

Keith O'Brien

Chief Financial Officer - Delaware Park

Jockeys' Guild

Bessie Gruwell

Executive Director - DTHA

1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations

1.0 Introduction

1.1 These regulations are authorized pursuant to 3 **Del.C.** §10171 and 29 **Del.C.** §4815(b)(4)c. which established a Delaware Jockeys' Health and Welfare Benefit Board (hereinafter "the Board") and Delaware Jockeys' Health and Welfare Benefit Fund (hereinafter "the Fund").

1.2 The Delaware Jockeys' Health and Welfare Benefit Board shall consist of 1 member of the Delaware Thoroughbred Racing Commission, 1 member from the licensed agent under Chapter 1010 of **Title 3** or Chapter 4 of **Title 28**, 1 member of the Delaware Horsemen's Association, 1 representative from the

organization that represents the majority of the jockeys who are licensed and ride regularly in Delaware, and 2 jockeys who are licensed and ride regularly in Delaware. The Chairman of the Thoroughbred Racing Commission shall serve as an *ex officio* member, and vote on matters in the event of a tie vote on any issue. All members shall be appointed by the Thoroughbred Racing Commission, and shall serve a two year term.

- 1.3 The Board shall elect a Chairperson from among the appointed members of the Board. The Chairperson shall serve a two year term and may serve consecutive terms. The Chairperson shall be the presiding officer at all meetings of the Board.
- 1.4 The Board shall administer the Fund pursuant to these regulations and other reasonable criteria for benefit eligibility.
- 1.5 A special fund of the State has been established and will be known as the "Delaware Jockeys' Health and Welfare Benefit Fund." The Fund shall consist of the proceeds transferred from the licensed video lottery agent and the purse account pursuant to 29 **Del.C.** §4815(b)(4)c. The proceeds transferred to the Fund will be maintained in an account established in the Department of Agriculture.
- 1.6 The Fund will be invested by the State Treasurer consistent with the investment policies established by the Cash Management Policy Board. All income earned by the Fund will be reinvested in the Delaware Jockeys' Health and Welfare Benefit Fund.
- 1.7 The Board shall use the Fund to provide for jockeys who regularly ride in Delaware, health benefits for active, disabled and retired jockeys. The Board may also expend usual and customary expenses for administrative purposes from the Fund.
- 1.8 The Thoroughbred Racing Commission's Administrator of Racing will provide administrative support to the Board and keep minutes of all the meetings of the Board and preserve all records of the Board. The Board's Office will be considered as part of the Office of the Thoroughbred Racing Commission.
- 1.9 The Board can propose to amend these regulations by an affirmative vote of the majority of the Board.

2.0 Eligibility Criteria for Health Coverage

- 2.1 The Board will pay from the Fund for health coverage for active jockeys who regularly ride in Delaware, eligible retired jockeys, and disabled Delaware jockeys.
 - 2.1.1 An Active Delaware Jockey, who regularly rides in Delaware, is eligible for health insurance coverage under the fund, if the jockey had ~~one hundred (100)~~ 75 mounts in a Delaware Park season at Delaware ~~Park; and Park.~~
 - ~~2.1.1.1~~ An Active Delaware Jockey who did not ride the qualifying number of mounts during a Delaware Park season due to circumstances beyond the control of the jockey may petition the Delaware Jockey's Health and Welfare Benefit Board for eligibility. The Delaware Jockey's Health and Welfare Benefit Board shall review the petition, and if in the discretion of the Board the circumstances warrant, may grant eligibility.
 - 2.1.2 A Retired Delaware Jockey is eligible for health insurance coverage under the Fund if:
 - 2.1.2.1 The Jockey was receiving health insurance coverage as a retired jockey provided by the Delaware Jockey's Health and Welfare Benefit Board health insurance plan on December 31, 2016; or
 - 2.1.2.2 The Jockey ~~rode a minimum of 100 mounts~~ met the minimum mount requirements at Delaware Park during the regular Delaware Park season for at least ten years.
 - 2.1.2.3 The Jockey is not licensed as a jockey in any racing jurisdiction.
 - 2.1.3 A disabled Delaware Jockey's spouse and dependents qualify for health benefits if the disabled jockey meets all of the following requirements:
 - 2.1.3.1 The jockey was an active participant in the Delaware Jockeys' Health and Welfare Fund benefit program at the time of the on-track accident that resulted in total and permanent disability; and
 - 2.1.3.2 Be deemed permanently disabled by Social Security and qualify for Medicare as a result of an injury sustained during the regular Delaware Park season on the premises of Delaware Park, and arising in the course of his/her participation as a licensed jockey.

- 2.2 An active jockey, a retired jockey or an eligible disabled jockey's family will be entitled to health coverage for one year beginning on the first day of the calendar year following the year the eligibility requirements have been met.
- 2.3 The Board will pay from the Fund for health coverage for the dependents of active jockeys who regularly ride in Delaware, eligible retired jockeys, and disabled Delaware jockeys.
- 2.3.1 Eligibility for coverage for dependents will be determined by the company providing the insurance coverage.
- 2.4 The Fund shall provide benefits secondary to Medicare or Medicaid for any member or an enrolled dependent of a member, who is eligible for Medicare or Medicaid health benefits.

DELAWARE NUTRIENT MANAGEMENT COMMISSION

Statutory Authority: 3 Delaware Code, Section 2220(a) (3 Del.C. §2220(a))
3 DE Admin. Code 1201

ORDER

1201 Nutrient Management Certification Regulations

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Delaware Nutrient Management Commission, pursuant to 3 Del.C. §2220(a), proposed to revise regulation 3 DE Admin. Code 1201, Section 8.0 to allow a certificate holder with excess continuing education credits to roll such credits from one renewal period to the next and to remove obsolete renewal regulations at 3 DE Admin. Code 1201, Section 11.0.

Notice of the proposed regulation was published in the *Register of Regulations* on September 1, 2024. The Commission did not receive any written public comment.

II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Nutrient Management Commission has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that if promulgated, the regulation would have a *de minimis* impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

III. FINDINGS OF FACTS

On October 1, 2024, the Nutrient Management Commission considered the written submittals. The Commission found that because there were no written public comments submitted, there was no basis to make any changes to the proposed regulation and voted to approve and adopt 3 DE Admin. Code 1201 Nutrient Management Certification Regulations.

IV. DECISION TO ADOPT THE REGULATION

For the foregoing reasons, the Commission concludes that it is appropriate to adopt 3 DE Admin. Code 1201 Nutrient Management Certification Regulations. Therefore, pursuant to 3 Del.C. § 2220(a), 3 DE Admin. Code 1201 Nutrient Management Certification Regulations, attached hereto as Exhibit A, are hereby adopted.

V. TEXT AND CITATION

The text of 3 DE Admin. Code 1201 Nutrient Management Certification Regulations adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 3 DE Admin. Code 1201 Nutrient Management Certification Regulations in the *Administrative Code of Regulations* for the Department.

VI. EFFECTIVE DATE OF ORDER

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

Regulations.

IT IS SO ORDERED the 1st day of October 2024.

Delaware Nutrient Management Commission

F. Kenneth Blessing, Jr., Chairman	Laura Hill, Vice Chairperson
Mark Adkins	Alan Bailey
(absent) Kenneth Horeis	(absent) Tyler Brown
Anna Fagan	(absent) Scott Webb
Jon Nichols, Jr.	Larry Jester
Bud O'Neill	N. Wayne Hudson
Garry Killmon	Tak Keen

*Please note that no changes were made to the regulation as originally proposed and published in the September 2024 issue of the *Register* at page 174 (28 DE Reg. 174). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/november2024/final/28 DE Reg 384 11-01-24.htm>

DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 303 (14 **Del.C.** §303)
14 **DE Admin. Code** 1009

ORDER

1009 DIAA High School Interscholastic Athletics

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** § 303, the Delaware Interscholastic Athletic Association ("DIAA") proposed to repeal subsection 2.3 of 14 **DE Admin. Code** 1009 DIAA High School Interscholastic Athletics because it has been incorporated into a new regulation, 14 **DE Admin. Code** 1030 Student Athlete Eligibility: Amateur Status.

Notice of the proposed repeal of subsection 2.3 was published in the *Register of Regulations* on September 1, 2024. On October 1, 2024, Joy McGrath, Head of School and Neil Cunningham, Athletic Director, at St. Andrew's School submitted a letter to the Board arguing that DIAA should not eliminate amateur status for student athletes. St. Andrew's stated that removing amateurism standards was irresponsible and that "of course school children are amateurs."

II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that that if promulgated, the regulation would have a de minimis impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

III. FINDINGS OF FACTS

On October 10, 2024, the DIAA Board considered the written submittals. The DIAA Board found that because the letter from St. Andrew's demonstrated a clear misunderstanding of the repeal of subsection 2.3 of 14 **DE Admin. Code** 1009, there was no basis to make any changes to the proposed regulation. The Board noted that DIAA was not eliminating amateur status for students but had simply moved the provisions related thereto to another section. DIAA's repeal of subsection 2.3 is not an elimination of amateurism in Delaware but rather the

FINAL REGULATIONS

removal of now redundant provisions. As a result, the Board voted to approve and amend 14 **DE Admin. Code** 1009 DIAA High School Interscholastic Athletics.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Board concludes that it is appropriate to amend 14 **DE Admin. Code** 1009 DIAA High School Interscholastic Athletics. Therefore, pursuant to 14 **Del.C.** § 303(b)(1), 14 **DE Admin. Code** 1009 DIAA High School Interscholastic Athletics, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of **14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics** amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1009 DIAA High School Interscholastic Athletics in the *Administrative Code of Regulations* for the Department.

VI. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 10th day of October 2024.

/s/ Douglas Thompson, Chairperson

/s/ Bradley Bley, D.O., FAAP, RMSK, CSCS

(absent) Dorrell Green

/s/ Bonnie Ingram-Grubb

/s/ Ted Laws

/s/ Ivan Neal

/s/ Susan Haberstroh

/s/ Jackie Griffith

(absent) Jason Miller, Vice Chairperson

/s/ Kevin Smith

/s/ Allison Alpaugh

/s/ Lenny Richardson

/s/ Matt Smith

/s/ Kevin Dickerson, Ed.D.

/s/ Christian Beretta

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

***Please note that no changes were made to the regulation as originally proposed and published in the September 2024 issue of the *Register* at page 176 (28 DE Reg. 176). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/november2024/final/28 DE Reg 385 11-01-24.htm>

DEPARTMENT OF FINANCE

OFFICE OF THE STATE LOTTERY

Statutory Authority: 29 Delaware Code, Section 4805 (29 **Del.C.** §4805)

10 **DE Admin. Code** 203

ORDER

203 Video Lottery and Table Game Regulations

The Director of the Office of the State Lottery ("Director") issues this Order to take effect ten (10) days after it has been published in the Delaware *Register of Regulations*:

1. Pursuant to her statutory authority, the Director proposed for adoption revisions to the Office of the State Lottery's existing video lottery and table games regulations (10 **DE Admin. Code** 205) to revise the term lengths of Gaming Licenses issued by the Lottery. Other regulations issued by the Director are not affected by this Order.

2. The statutory authority for these revisions is 29 **Del.C.** § 4805.

3. A copy of the proposed regulations was published in the April 1, 2024 edition of the Delaware *Register of*

Regulations and has been available for inspection in the Office of the State Lottery, 1575 McKee Road, Suite 102, Dover, Delaware 19904 during regular office hours.

4. The Director did not receive any written comments on the proposed regulations during the thirty-day period following publication of the proposed regulations on April 1, 2024.

5. The Director finds that the proposed changes as set forth in the April 2024 *Register of Regulations* should be adopted as submitted.

6. Pursuant to 29 **Del. C.** §10118(b)(3), this regulation has no impact on the achievement of the State's greenhouse gas emissions reduction targets or the State's resiliency to climate change. Such assessment is not practical for this regulation.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Director of the Office of the State Lottery does hereby ORDER that the regulations be, and that they hereby are, enacted as set forth below. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, in accordance with 29 **Del.C.** §10118(g).

Helene M. Keeley
Director
Office of the State Lottery

October 11, 2024
Date

***Please note that no changes were made to the regulation as originally proposed and published in the April 2024 issue of the *Register* at page 751 (27 DE Reg. 751). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/november2024/final/28 DE Reg 386 11-01-24.htm>

DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 14000, 15000

ORDER

Retroactive Eligibility

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Title XIX Medicaid State Plan regarding Retroactive Eligibility, specifically, to support our goal of expanding access to coverage, including coverage for those who need immediate care while applying for Medicaid. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the December 2023 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by January 2, 2024, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan and Division of Social Services Manual (DSSM) regarding Retroactive Eligibility.

Background

Federal regulation requires states to provide three months of retroactive eligibility for Medicaid, if an individual received Medicaid covered services and would have been eligible at the time the service was provided. Under the current Diamond State Health Plan (DSHP) 1115 Waiver of Section 1902(a)(34) of the Social Security Act, Delaware has an approved waiver of retroactive eligibility (meaning retroactive eligibility is not available) for most eligibility categories. In 2019 Delaware expanded the groups of members to which this waiver would no longer apply. As a result, retroactive eligibility is currently available to the following groups, if general financial and technical eligibility requirements are met:

- Individuals entitled to or eligible for one of the following Medicare Savings Program (excludes QMB)
 - Specified Low Income Medicare Beneficiaries (SLMB)
 - Qualifying Individuals (QI)
 - Qualified and Disabled Working Individuals (QDWI)
- Individuals residing in a nursing facility
- Individuals residing in an intermediate care facility for individuals with intellectual disabilities (ICF/IID) or for individuals with mental disease (ICF/IMD)
- Individuals in need of only the 30-day Acute Care Hospital Program (in no case should the effective date be earlier than the first day of hospitalization)
- Women eligible under the Breast and Cervical Cancer Treatment Group
- Individuals eligible under the Medicaid for Workers with Disabilities Group
- Pregnant and Postpartum Women
- Infants under age 1
- Individuals under the age of 19

Effective no later than [~~January 1, 2024~~ **January 1, 2025**], with the expiration of the current DSHP 1115 waiver, retroactive coverage is potentially available, if general financial and technical eligibility requirements are met, to all eligible DSHP and DSHP-Plus participants, with some exceptions. Individuals eligible under the Delaware Healthy Childrens Program (DHCP) continue to be ineligible for retroactive Medicaid.

Statutory Authority

- 42 CFR 435.915
- 42 CFR 435.916

Purpose

The purpose of this proposed regulation is to support expanding access to coverage for those who need immediate care while applying for Medicaid and to align the reconsideration period with the retroactive eligibility period.

Summary of Proposed Changes

Effective [~~January 1, 2024~~ **January 1, 2025**], DHSS/DMMA proposes to amend the Division of Social Services Manual (DSSM) and Title XIX Medicaid State Plan to support our goal of expanding access to coverage, including coverage for those who need immediate care while applying for Medicaid.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on January 2, 2024.

Centers for Medicare and Medicaid Services Review and Approval

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

Provider Manuals and Communications Update

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

Fiscal Impact Statement

	Federal Fiscal Year [2024 2025]	Federal Fiscal Year [2025 2026]
General (State) funds	\$2,301,877.72	\$2,274,934.35
Federal funds	\$9,222,325.66	\$9,249,269.03

Summary of Comments Received with Agency Response and Explanation of Changes

Comment: There were comments supporting the proposed changes.

Agency response: DMMA appreciates the support.

DMMA is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given by:

- Governor's Advisory Council for Exceptional Citizens (GACEC)
- Community Legal Aid Society Inc. (CLASI)

IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:

The DMMA Division Director has reviewed the proposed regulation as required by 29 Del. C. §10118(b)(3) and has determined that if promulgated, the regulation would have a de minimis impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the December 2023 *Register of Regulations* should be adopted with additions. The Department finds that the proposed does not require further public notice or comment under the APA because the amendments are non-substantive pursuant to 29 Del.C. §10118(c).

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) and Title XIX Medicaid State Plan regarding Retroactive Eligibility, specifically, to support our goal of expanding access to coverage, including coverage for those who need immediate care while applying for Medicaid and shall be final effective November 11, 2024.

10/14/2024 | 11:24 AM EDT

Date of Signature

Josette D. Manning, Esquire
Cabinet Secretary, DHSS

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

<https://regulations.delaware.gov/register/november2024/final/28 DE Reg 387 11-01-24.htm>

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 9705 (16 Del.C. §9705)

ORDER

4306 Stroke System Regulation

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("DHSS"), Division of Public Health (DPH) initiated proceedings to publish new proposed 4306 Stroke System Regulation. These proceedings were initiated pursuant to 29 Del.C. Ch. 101 and the authority as prescribed by 16 Del.C. §9705.

On September 1, 2024 (28 DE Reg. 205), DHSS published in the *Delaware Register of Regulations* its notice of the proposed regulation, pursuant to 29 Del.C. §10115. The Division of Public Health requested that written materials and suggestions from the public concerning the proposed regulation be delivered to DHSS by October 1, 2024, after which time DHSS would review information, factual evidence, and public comment to the proposed regulation.

One comment was received during the public comment period.

SUMMARY OF EVIDENCE:

In accordance with Delaware Law, public notice regarding proposed Department of Health and Social Services (DHSS) 4306 Stroke System Regulation was published in the *Delaware Register of Regulations*. Written comments were accepted on the proposed amendments to the regulation during the public comment period (September 1, 2024, through October 1, 2024).

The American Heart Association provided public comment, which extended appreciation to the Division of Public Health and highlighted the following:

"The repropoed Stroke System Regulation would add a Thrombectomy-Capable Stroke Center designation, formalize the Delaware State Stroke Registry, and ensure a robust stroke system evaluation that encompasses the entire scope of care provided to stroke patients within the State of Delaware from stroke onset through rehabilitation."

DPH response: The Division of Public Health appreciates the submission of comments regarding this regulation. DPH has reviewed these comments and has determined that no proposed changes shall be incorporated into the final regulation as proposed.

IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:

NOTE: Please be aware of Section 10118 (b)(3) of Title 29 of the Delaware Code which requires that each agency address impact on the State's greenhouse gas emissions reduction targets and resiliency to climate change.

Division of Public Health Director Steven Blessing has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

FINDINGS OF FACT:

No changes were made to the regulation since publication as proposed. The Department finds that the proposed regulation, as set forth in the attached copy, should be adopted in the best interest of the public of the State of Delaware.

THEREFORE, IT IS ORDERED, that new 4306 Stroke System Regulation shall become effective November 11, 2024, 10 days after publication of the final regulation in the *Delaware Register of Regulations*.

10/28/2024 | 2:34 PM EDT
Date

Josette D. Manning, Esquire
Cabinet Secretary
Delaware Department of Health and Social Services

***Please note that no changes were made to the regulation as originally proposed and published in the September 2024 issue of the *Register* at page 205 (28 DE Reg. 205). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/november2024/final/28 DE Reg 390 11-01-24.htm>

DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION

Board of Charitable Gaming

Statutory Authority: 28 Delaware Code, Section 1507 (28 Del.C. §1507)
10 DE Admin. Code 103

ORDER

103 Regulations Governing Charitable Gaming Other Than Raffles

After due notice in the *Delaware Register of Regulations* and two Delaware newspapers, a public hearing was held on August 28, 2024 at a scheduled meeting of the Delaware Board of Charitable Gaming ("Board") to receive comments regarding proposed amendments to the Board's rules and regulations.

Amendments are proposed to Section 1.0 to create definitions applicable to the other proposed amendments.

Amendments are proposed to add new subsections 6.4 and 11.2 for the purpose of establishing rules and regulations for a new type of game, referred to as "Queen of Hearts" with a progressive jackpot. This game would be available to qualified organizations through an annual license, subject to requirements set forth in the proposed amendments.

Amendments are proposed to subsection 8.1 to allow an increase in the number of permissible monthly charitable gaming functions for any qualified organization from 6 to 10.

Amendments are proposed to Sections 11.0 and 12.0 for the purpose of creating a requirement that prizes for games featuring progressive jackpots to be protected by an escrow account for cash prizes and an attestation from the sponsoring organization for non-cash prizes.

Additional revisions reflect technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

The proposed changes to the rules and regulations were published in the *Delaware Register of Regulations*, Volume 28, Issue 2 on August 1, 2024, giving notice of an August 28, 2024 public hearing at 10:00 a.m. Notice of the August 28, 2024 hearing was also published in the *News Journal* (Board Exhibit 1) and the *Delaware State News* (Board Exhibit 2). Pursuant to 29 Del.C. § 10118(a), the date to receive final written comments was September 12, 2024, 15 days following the public hearing. The Board deliberated on the proposed revisions at its regularly scheduled meeting on September 25, 2024.

Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

Board Exhibit 1: *News Journal* Affidavit of Publication.
Board Exhibit 2: *Delaware State News* Affidavit of Publication.
Board Exhibit 3: Written comments provided by AmVets Post 2.

No public comment was made during the hearing.

The Division of Professional Regulation has requested 6 months to implement the new regulations.

Findings of Fact and Conclusions

The public was given notice and an opportunity to provide the Board with comments in writing and by testimony on the proposed amendments to the Board's rules and regulations. The only public comment received came in the form of written remarks submitted by AmVets Post 2 (Board Exhibit 3).

In its submission, AmVets Post 2 stated that subsections 3.1.1 and 3.1.3.3, which are not proposed to be subject to substantive amendment make it challenging for sponsoring organizations to recruit and retain volunteers. AmVets Post 2 also offered comments concerning the new Queen of Hearts game rules, including subsections 6.4.1.5 (that the "exact" purpose of the proceeds may not be immediately known); 6.4.2.5 (that the sponsoring organizations should have more flexibility to determine the percentage of the prize pot available to win); 6.4.3.1 (that requiring a game board from a vendor is an unnecessary expense); and 6.4.3.4 - 6.4.3.7 (that the tickets sold should not need to comply unless the house rules permit a winner to be absent for the drawing). AmVets Post 2 also states that new escrow requirements imposed in amendments to sections 11.0 and 12.0 are needlessly burdensome and that a safe deposit box is sufficient security for safekeeping prizes not distributed in a single night.

The Board, in its deliberations, considered each of the points raised by AmVets Post 2's written submission. In response, the Board agreed that the second sentence of the new subsection 6.4.3.4 was included in error and not reflective of the Board's intent. In addition, the Registrar of Regulations identified non-substantive typographical errors in newly proposed subsections 6.4.1.2 and 12.4.2.2. These these changes to the amended regulation are found to be non-substantive for the purpose of 29 **Del.C.** §10118(c). The Board's chairperson found this change to the amended regulation to be non-substantive for the purpose of 29 **Del.C.** §10118(c). The Board found there was no need for any other revision based on the comments received and the deliberations held. The Board determined otherwise to adopt the amendment as published.

In its deliberations, the Board further considered the Division of Professional Regulation's request for 6 months to implement the amendments to the regulation and chose an effective date reflecting that request.

Pursuant to 28 **Del.C.** §1507, the Board has the statutory authority to promulgate rules and regulations related to the conduct of charitable gaming, the Board finds reason to amend the regulations as proposed and hereby takes action to do so.

The Board has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation on the achievement of the State's greenhouse gas emission reduction targets or on the State's resiliency to climate change is not practical in view of the nature of the proposed amendments.

Decision and Effective Date

The Board hereby adopts the changes to the rules and regulations with the non-substantive modifications described above, to be effective April 1, 2025. The new rules and regulations are attached.

IT IS SO ORDERED this 25th day of September 2024.

/s/ Ellen Magee, Public Member, Chairperson /s/ Linda Velott, State Lottery Office Member
/s/ Lynne Newlin, Non-Profit Member, Vice Chairperson [ABSENT] James Ascione, Public Member
/s/ William Jester, Delaware Volunteer Firefighter's Association Member

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

103 Regulations Governing Charitable Gaming Other Than Raffles (Break in Continuity of Sections)

6.0 Operation of Games

(Break in Continuity Within Section)

6.4 Rules Specific to Queen of Hearts

6.4.1 Disclosure. In any Queen of Hearts game conducted pursuant to Title 28 of the Delaware Code, the sponsoring organization must disclose the following information and prominently post it in at least 4 locations within the area where Queen of Hearts is being conducted. The sponsoring organization shall provide the same information to the Board, on a Board approved form, no fewer than 15 days prior to the start of each new Queen of Hearts game.

6.4.1.1 The name of the winning card;

6.4.1.2 A full and fair description of all prizes, including the prize fund **[any and]** consolation prizes;

6.4.1.3 If there is a minimum number of tickets to be sold, what that minimum is and the procedure to be employed to secure a refund in the event the minimum is not reached;

6.4.1.4 The drawing date for the game;

6.4.1.5 The exact nature of the charitable purpose for which proceeds will be used.

(Break in Continuity Within Section)

6.4.3 Conduct of Queen of Hearts

6.4.3.1 The game consists of a Queen of Hearts board.

6.4.3.2 The winning card must be designated by the house rules.

6.4.3.3 Queen of Hearts tickets may be sold only upon premises owned or exclusively leased by the sponsoring organization and at such times as the portion of the premises in which the tickets are sold is open only to members and their guests.

6.4.3.4 Sequentially numbered tickets may be sold at the price per ticket established by the sponsoring organization, and which shall show sufficient information to identify the ticket buyer, are deposited in the receptacle for the drawing.

6.4.3.5 The Queen of Hearts ticket shall have at least 2 parts, 1 of which is to be retained by the purchaser, and the other to be retained by the record keeper. **[The record keeper's part must at a minimum contain the purchaser's name and telephone number.]** All such parts shall be imprinted with sequential serial numbers.

6.4.3.6 The time and place of the drawing shall be posted in a visible location. Tickets may be sold during a prescribed time period before the drawing.

6.4.3.7 At a designated time and place, all the sold tickets are placed in a receptacle and a single ticket is drawn by a qualified member of the organization from all the tickets sold during the prescribed time period. If present, the ticket holder is allowed to choose 1 of the cards from the Queen of Hearts board. If the ticket holder is not present, the qualified member of the organization must select a card on the ticket holder's behalf in the manner provided by the house rules.

- 6.4.3.8 If the card chosen by the holder of the winning ticket is the designated winning card, then the holder wins all the money in the prize fund.
- 6.4.3.9 If the card chosen by the holder of the winning ticket is not the designated winning card, then the holder may still win another consolation prize as prescribed by the sponsoring organization provided the application so specifies and consolation prize amounts are listed with corresponding card. A second or third consolation prize may be awarded during the same drawing date if authorized by the sponsoring organization.
- 6.4.3.10 If the holder of the winning ticket does not choose the designated winning card from the Queen of Hearts board a new set of tickets is sold (with all prior tickets being eliminated), and the prescribed percentage of the additional proceeds is added to the prize fund. At the time and place set for the next drawing of tickets, the procedures are repeated the same as for the previous drawing and the entire accumulated prize fund is available to be won.

(Break in Continuity of Sections)

12.0 Reports After the Function

- 12.1 Within 30 days of the last day of the function, the member-in-charge shall submit a report to the Board that includes all information required by Title 28 of the **Delaware Code**.
- 12.2 When no function is held on a date a licensee is authorized to hold such a function, a report to that effect shall be filed with the Board.
- 12.3 If a licensee fails to timely file a report or if a report is not properly verified, no further license shall be issued to the licensee and any existing licensee shall be suspended until such time as the deficiency has been corrected.
- 12.4 For functions and games where all prizes are not awarded on a single day, the sponsoring organization shall submit an interim report to the Board, on a form approved by the Board, every 30 days from the first day of the function or game accounting for the safekeeping of prizes and money not yet awarded.
- 12.4.1 In the interim report the member-in-charge shall attest that all unawarded prizes are secured in a manner consistent with that disclosed in the sponsoring organization's application and approved by the Board.
- 12.4.2 In the interim report the member-in-charge shall attest that all money not yet awarded is held in a separate account in a federally insured banking institution that has offices in Delaware.
- 12.4.2.1 The account shall be designated solely for funds held in connection with the sponsoring organization's charitable gaming;
- 12.4.2.2 The account shall be identified to the Board at the time of the sponsoring ~~Organization's~~ organization's application;
- 12.4.2.3 The member-in-charge shall be a signatory on the account;
- 12.4.2.4 Except for the minimum balance required by the bank and money to cover bank fees, the account shall be used only for the purpose of complying with this regulation;
- 12.4.2.5 Any interest earned must be applied to the costs associated with maintaining the account or to increase proportionally the prize fund. The method for allocating interest shall be disclosed in the house rules for the function or game.

*Please note that no additional changes were made to the regulation as originally proposed and published in the August 2024 issue of the *Register* at page 105 (28 DE Reg. 105). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/november2024/final/28 DE Reg 391 11-01-24.htm>

DIVISION OF PROFESSIONAL REGULATION

EXAMINING BOARD OF PHYSICAL THERAPISTS AND ATHLETIC TRAINERS

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

ORDER

2600 Examining Board of Physical Therapists and Athletic Trainers

After due notice in the Delaware Register of Regulations and two Delaware newspapers, a public hearing was held on August 27, 2024 at a scheduled meeting of the Delaware Examining Board of Physical Therapists and Athletic Trainers ("Board") to receive comments regarding proposed amendments to the Board's regulation. The Board proposed to amend Section 11.0, pertaining to reactivation and reinstatement of licenses. The revisions specify the requirements that must be met to reactivate or reinstate a license with the objective of ensuring practitioner competence.

The proposed changes to the regulation were initially published in the *Delaware Register of Regulations*, Volume 27, Issue 12, on June 1, 2024. However, the hearing did not take place and was re-scheduled for August 27, 2024. Notice of the re-scheduled hearing was published in the *Delaware Register of Regulations* on August 1, 2024, Volume 28, Issue 2, the *News Journal* (Exhibit 1) and the *Delaware State News*. Exhibit 2. Pursuant to 29 Del.C. § 10118(a), the date to receive final written comments was September 11, 2024, 15 days following the public hearing. The Board deliberated on the proposed revisions at its regularly scheduled meeting on September 24, 2024.

Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

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

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

There were no comments presented by testimony at the public hearing on August 27, 2024. Further, no written comments were submitted.

Findings of Fact and Conclusions

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

Pursuant to 24 Del.C. § 2604(a)(1), the Board has the statutory authority to promulgate rules and regulations. The Board further has the statutory authority to make non-substantive changes "to alter style or form or to correct technical errors" *without* formal rule-making. 29 Del.C. § 10113(b)(4). Proposed revisions made to subsection 11.1 failed to strike certain superfluous language as previously determined by the Board. Consequently, after deliberations, the Board decided to strike that language as reflected in Exhibit A hereto. The revision is non-substantive in that it does not change the meaning of the subsection. As set forth in 24 Del.C. § 2607(b), inactive licensure status is limited to 5 years.

Decision and Effective Date

The Board has reviewed the proposed regulation as required by 29 Del.C. § 10118(b)(3) and has determined that any assessment of the impact of the proposed regulation on the State's resiliency to climate change is not practical. The Board further finds that the regulation shall be adopted as final in the form proposed in Exhibit A. In the

absence of comment, either by testimony or in writing, the Board adopts the amendments as proposed, with the non-substantive revision in subsection 11.1. These changes will become effective ten days following publication of this Final Order in the Delaware *Register of Regulations*.

IT IS SO ORDERED this 24th day of September 2024.

Delaware Examining Board of Physical Therapists and Athletic Trainers

/s/ Mary Mundrane-Zweiacher, Chairperson

/s/ Amber Bowman

/s/ James Malseed, Vice Chairperson

/s/ Sonja Brown

/s/ Joshua Weber

/s/ Prameela Kaza

/s/ Lynne Sturgill

/s/ Sherry Lambertson

/s/ Bethany Wisthoff

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

**2600 Examining Board of Physical Therapists and Athletic Trainers
(Break in Continuity of Sections)**

11.0 Reactivation and Reinstatement (24 Del.C. §2607)

- 11.1 Reactivation: Any person who has been registered in the State and is not actively engaged in the practice of physical therapy or athletic training in the State may, upon request, be placed on the inactive register ~~[for the remainder of the biennial licensure period. Subsequent requests for extensions of inactive status should be submitted biennially annually. Inactive status is limited to 5 years for a period of up to 5 years]~~. The Board may reactivate an inactive license if the Physical Therapist, Physical Therapist Assistant or Athletic Trainer:

***Please note that no additional changes were made to the regulation as originally proposed and published in the June 2024 issue of the *Register* at page 956 (27 DE Reg. 956). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/november2024/final/28 DE Reg 395 11-01-24.htm>

**DIVISION OF PROFESSIONAL REGULATION
Council on Real Estate Appraisers**

Statutory Authority: 24 Delaware Code, Section 4006(a)(1) (24 Del. C. §4006(a)(1))
24 DE Admin. Code 2930

ORDER

2930 Council on Real Estate Appraisers

After due notice in the *Delaware Register of Regulations* and two Delaware newspapers, a public hearing was held on July 16, 2024 at a scheduled meeting of the Delaware Council on Real Estate Appraisers ("Council") to receive comments regarding proposed amendments to the Council's rules and regulations.

Amendments are proposed to Regulation 2.0 because, starting on January 1, 2026, the qualifying education requirements for licensure and certification will include mandatory hours of study on the topics of valuation bias and fair housing laws and regulations. Continuing education requirements will also change to incorporate mandatory study of these subject matters.

Amendments are proposed to Regulation subsections 2.1.3.4.2.3, 4.1.1, 4.1.7, and 4.1.8 to provide clarification of how and by whom appraisal reports should be signed, including the proper abbreviations to be used by certified

and licensed appraisers when signing appraisal reports.

Amendments are proposed to Regulation 9.0. These propose to delete provisions regarding record-keeping which are superfluous because of the requirements of the Delaware Freedom of Information Act, 29 **Del.C.**, Chapter 100. The new Section 9.0 provides regulation regarding the registration, pursuant to 24 **Del.C.** §4022, of Appraisal Management Companies, which was previously not addressed within the Council's regulations.

Additional revisions are technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

The proposed changes to the rules and regulations were published in the *Delaware Register of Regulations*, Volume 27, Issue 12 on June 1, 2024, giving notice of a July 16, 2024 public hearing at 9:30 a.m. Notice of the July 16, 2024 hearing was also published in the *News Journal* (Council Exhibit 1) and the *Delaware State News* (Council Exhibit 2). Pursuant to 29 **Del.C.** § 10118(a), the date to receive final written comments was July 31, 2024, 15 days following the public hearing. The Council deliberated on the proposed revisions at its regularly scheduled meeting on September 17, 2024.

Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

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

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

No public comment was made during the hearing nor was any submitted in writing.

Findings of Fact and Conclusions

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

Pursuant to 24 **Del.C.** § 4006(a)(1), the Council has the statutory authority to promulgate rules and regulations related to the practice of real estate appraisal services in the State of Delaware. And, having received no comments concerning the proposed amendment, the Council finds reason to amend the regulations as proposed and hereby takes action to do so.

The Board has reviewed the proposed regulation as required by 29 **Del.C.** § 10118(b)(3) and has determined that any assessment of the impact of the proposed regulation on the achievement of the State's greenhouse gas emission reduction targets or on the State's resiliency to climate change is not practical in view of the nature of the proposed amendments.

Decision and Effective Date

The Council hereby adopts the changes to the rules and regulations as proposed, to be effective 10 days following publication of this Order in the *Register of Regulations*. The new rules and regulations are attached.

IT IS SO ORDERED this 17th day of September 2024.

Council of Real Estate Appraisers

/s/ Christopher Schneider, Chairperson, Professional Member /s/ Marilyn Berman, Professional Member

FINAL REGULATIONS

/s/ James Barezewski, Vice-Chairperson, Professional Member /s/ James Boston, Banking Member

/s/ Alexander Knight, Professional Member

/s/ Patricia Ennis, Public Member

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

***Please note that no changes were made to the regulation as originally proposed and published in the June 2024 issue of the *Register* at page 957 (27 DE Reg. 957). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/november2024/final/28 DE Reg 396 11-01-24.htm>

DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION

Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners Statutory Authority: 24 Delaware Code, Section 1806(a)(2) (24 Del.C. §1806(a)(2)) 24 DE Admin. Code 1800

NOTICE

1800 Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners

Pursuant to 24 Del.C. §1806(a)(2), the Delaware Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners has the authority to promulgate rules and regulations that carry out the objectives of Chapter 18 of Title 24.

The proposed addition of subsection 3.1.2.2.3 clarifies the testing required to qualify for a master HVACR license restricted. Amendments proposed to section 5.0 provide the Board with a process to audit licensees for completion of continuing education, which is required beginning with license renewal in 2026, and clarify requirements for continuing education. The other proposed amendments reflect technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

These proposed amendments were published on page 208a of the September 1, 2024 issue of the *Delaware Register of Regulations* (28 DE Reg. 208a (9/1/24)). The Board planned to hold a hearing on the proposed regulation changes on October 8, 2024, at 8:30 a.m., but the hearing was cancelled. As a result, the Board will now hold a public hearing on January 14, 2025 in the second-floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or to Monique.Griffith@delaware.gov.

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be January 29, 2025. The Board will deliberate on the public comments at its next regularly scheduled meeting thereafter.

DEPARTMENT OF TRANSPORTATION DIVISION OF TRANSPORTATION SOLUTIONS Traffic Engineering Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 Del.C. §4505(d)(1))

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Church Road (S20A)

October 3, 2024

Yvette Smallwood
Registrar of Regulations
411 Legislative Avenue
Dover, DE 19901

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 *Del. C.* §4505(d)(1), Notice is hereby given by Delaware Department of Transportation, Traffic Engineering Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 *Del. C.* §4505(c), for the following permanent traffic control device for the safe movement of traffic in the area:

"No Trucks Over 2 Axles Except Local Services" on Church Road (S20A) from Concord Pond Road (S524) to Baker Mill Road (S483)

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,
Peter Haag
Chief of Traffic Engineering

DIVISION OF TRANSPORTATION SOLUTIONS

Traffic Engineering Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 **Del.C.** §4505(d)(1))

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Williamsville Road (K116)/(K443)

September 12, 2024

Yvette Smallwood
Registrar of Regulations
411 Legislative Avenue
Dover, DE 19901

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 *Del. C.* §4505(d)(1), Notice is hereby given by Delaware Department of Transportation, Traffic Engineering Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 *Del. C.* §4505(c), for the following permanent traffic control device for the safe movement of traffic in the area:

- "No Trucks Over 2 Axles Except Local Services" on Williamsville Road (K116)/(K443) between US 13 Dupont Highway (K6) and DE 14 Milford Harrington Highway (K36)

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,
Peter Haag
Chief of Traffic Engineering

DELAWARE RIVER BASIN COMMISSION
PUBLIC NOTICE

The Delaware River Basin Commission will hold a public hearing on **Wednesday, November 6, 2024**, commencing at **1:30 p.m.** The public hearing will be conducted remotely. The draft docket decisions and draft resolutions that will be subjects of the public hearing, along with details about the remote platform and how to attend, will be posted on the Commission's website, www.drbc.gov, at least ten (10) days prior to the meeting date.

The Commission's quarterly business meeting will be held on **Thursday, December 5, 2024**, commencing at **10:30 a.m.** The business meeting also will be held remotely. An agenda, along with details about the remote platform and how to attend, will be posted on the Commission's website, www.drbc.gov, at least ten (10) days prior to the meeting date.

For additional information, including links to live streams of these events, please visit the DRBC website at www.drbc.gov or contact Patricia Hausler at patricia.hausler@drbc.gov.

Pamela M. Bush, J.D., M.R.P.
Commission Secretary and Assistant General Counsel

DEPARTMENT OF EDUCATION
PUBLIC NOTICE

The State Board of Education meets monthly, generally at 5:00pm on the third Thursday of the month. These meetings are open to the public. The Board rotates locations of regular meetings among the three counties.

The State Board of Education provides information about meeting dates and times, materials, minutes, and audio recordings on its website:

<https://education.delaware.gov/community/governance/state-board-of-education/sbe-monthly-meetings/>

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
PUBLIC NOTICE
Cellular and Gene Therapy

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan Attachment 4.19-B pages 14 and 14a, specifically, to change pricing logic for clotting factors and specialty medications to control cost.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs, or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 2, 2024. Please identify in the subject line: Cellular and Gene Therapy

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

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
PUBLIC NOTICE
Medicaid Recovery Audit Contractor's (RAC) Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan General Program Administration and Table of Contents page 36a specifically, to request an extension of the exception from participation in the RAC Program.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs, or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 2, 2024. Please identify in the subject line: Medicaid Recovery Audit Contractor's (RAC) Program.

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

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
PUBLIC NOTICE
Personal Needs Allowance

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan Attachment 2.6-A page 4 and Attachment 2.6-A page 4 Addendum and Delaware Social Services Manual (DSSM) 20620.1 and 20995.1.1, specifically, to modify the personal needs allowance amount for individuals residing in long term care facilities.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs, or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 2, 2024. Please identify in the subject line: Personal Needs Allowance

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

DEPARTMENT OF INSURANCE
OFFICE OF THE COMMISSIONER
PUBLIC NOTICE
1401 Medical Malpractice Review Panel Rules

A. Type of Regulatory Action Required
Proposal to repeal Regulation 1401.

B. Synopsis of Subject Matter of Regulation

The Department of Insurance hereby gives notice of a proposal to repeal Regulation 1401, Medical Malpractice Review Panel Rules. Enacted on June 25, 1976, Regulation 1401 has become obsolete due to the passage of Senate Bill 208 (SB 208) by the 152nd General Assembly, signed by the Governor on August 29, 2024. SB 208 amended Chapter 68 of Title 18, repealing Subchapters III and V in their entirety and eliminating the use of medical review panels in medical negligence cases. The Superior Court of Delaware maintains exclusive

jurisdiction over civil actions alleging healthcare medical negligence. As a result, the Insurance Commissioner finds it necessary to repeal Regulation 1401.

C. Notice of Public Comment

The proposed regulation appears below and may also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>. The Department will not be holding a public hearing on the proposed regulation.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed regulation. Any written submission in response to this notice and relevant to the proposed regulation must be received by the Department of Insurance no later than 4:30 p.m. EDT, the 2nd day of December, 2024 and should be directed to:

Alisa Pritchard, Regulatory Specialist
Delaware Department of Insurance
1351 West North Street, Suite 101
Dover, DE 19904
(302) 674-7379
Email: DOI-Legal@delaware.gov

DEPARTMENT OF LABOR
DIVISION OF PAID LEAVE
PUBLIC NOTICE

1401 Rules Defining and Regulating the Healthy Delaware Families Act, Family and Medical Leave Insurance Program and the Division of Paid Leave

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 19 **Del.C.** §105, the Delaware Department of Labor ("Department") proposes to introduce regulations concerning the establishment of the Healthy Delaware Families Act ("Act") and to set forth definitions, guidance, procedures, and standards for the implementation of the Act and its Family and Medical Leave Insurance Program ("PFML Insurance Program"). The Division of Paid Leave ("Division"), a separate division within the Department, is established and will administer the Act, Program, and this regulation.

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

Christopher Counihan
Division Director, Division of Paid Leave
Delaware Department of Labor
248 Chapman Road, Suite C
Newark, DE 19702

Comments may also be directed via electronic mail to PFML@Delaware.gov. Any written submission in response to this notice and relevant to the proposed regulations must be received by the above contact at the Delaware Department of Labor no later than 4:00 p.m. EST, on December 2, 2024. The action concerning determination of whether to adopt the proposed regulations will be based upon consideration of the written comments and any other written materials filed by the public.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Board of Medical Licensure and Discipline
PUBLIC NOTICE
1700 Board of Medical Licensure and Discipline

The Delaware Board of Medical Licensure and Discipline, pursuant to 24 **Del.C.** §1713(a)(12) and §1770A, proposes to amend its regulation to comply with a law change regarding the relationship between physicians and physician assistants. The proposed regulation replaces "supervision" with "collaboration" and clarifies when a physician is limited to collaborating with only four physician assistants.

The Regulatory Council for Physician Assistants of the Board of Medical Licensure and Discipline will hold a public hearing on the proposed regulation change on December 3, 2024, 1:00 p.m., virtually and in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Alison Warren, Executive Director of the Delaware Board of Medical Licensure and Discipline, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 or at alison.warren@delaware.gov. Written comments will be accepted until December 18, 2024 pursuant to 29 Del. C. §10118(a).

OFFICE OF THE STATE TREASURER
CASH MANAGEMENT POLICY BOARD
PUBLIC NOTICE

1201 Statement of Objectives and Guidelines for the Investment of State of Delaware Funds

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

In accordance with the procedures set forth in 29 **Del.C.** Ch. 11, subch. III, and 29 **Del.C.** Ch. 101, the Cash Management Policy Board (the "Board") is proposing to amend previously adopted regulations governing the deposit and investment of State funds, as permitted by 29 **Del.C.** §2716.

STATUTORY BASIS AND LEGAL AUTHORITY TO ACT

29 **Del.C.** §2716.

OTHER REGULATIONS AFFECTED

None.

HOW TO COMMENT ON THE PROPOSED REGULATION

Members of the public may receive a copy of the proposed regulations at no charge by U.S. mail by writing, emailing, or calling Mr. Jordan Seemans at the Office of the State Treasurer ("OST"), 820 N. French St., Suite 201, Wilmington, Delaware 19801, Jordan.W.Seemans@delaware.gov, (302) 577-4211. Members of the public may present written comments on the proposed regulations by submitting such written comments to Mr. Seemans at the address above. Written comments must be received on or before December 31, 2024.

SUMMARY OF PROPOSED REGULATION

The Board is authorized to establish policies (a) for the investment of all money belonging to the State or on deposit from its political subdivisions, except money deposited in any State pension fund or the State deferred compensation program, and (b) to determine the terms, conditions, and other matters relating to those investments including the designation of permissible investments. See 29 **Del.C.** §2716(a).

The Board's existing regulations (the "Guidelines"), among other things, establish requirements related to the deposit of State funds in demand deposit accounts and establish permissible investments and percentage limits for State funds held for investment. See 1 **DE Admin. Code** 1201.

The proposed Guideline amendments will:

- Increase to 30% the allowable investment limits for private placement securities (Rule 144A securities) held in liquidity accounts.
- Increase to 2.5 years the average life limit on asset-backed securities held in reserve accounts.
- Increasing the maximum maturity for any investment of State funds held in reserve accounts to eleven years and one month from the date of settlement.

The Guidelines apply to and govern the conduct of the State's approved investment managers and will have no direct impact on individuals or businesses that do not serve in such capacity for the State.

The Board believes that it has authority to promulgate deposit and investment policies without complying with the formal regulatory requirements of Delaware's Administrative Procedures Act, 29 **Del.C.** Ch.101 (the "APA"). The Board is promulgating amended regulations under the APA out of an abundance of caution, consistent with prior practices.
