

# DELAWARE RIVER BASIN COMMISSION

## PUBLIC NOTICE

The Delaware River Basin Commission held a public hearing on **Wednesday, November 13, 2019** beginning at **1:30 p.m.** A business meeting will be held on **Wednesday, December 11, 2019** beginning at **10:30 a.m.** The hearing and meeting are open to the public and will be held at the Washington Crossing Historic Park Visitor Center, 1112 River Road, Washington Crossing, Pennsylvania 18977. For more information, visit the DRBC web site at [www.drbc.gov](http://www.drbc.gov) or contact Pamela M. Bush, Commission Secretary and Assistant General Counsel, at 609-883-9500 extension 203.

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## DEPARTMENT OF EDUCATION

### PUBLIC NOTICE

The State Board of Education will hold its monthly meeting December 19, 2019 at 5:00pm in the Townsend Building Cabinet Room, 401 Federal St., Dover, DE.

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## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### Division of Medicaid and Medical Assistance

#### PUBLIC NOTICE

#### Drug Utilization Review (DUR)

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) is proposing to amend Title XIX Medicaid State Plan regarding the DUR, specifically, to update provisions included in section 1004 of the SUPPORT Act.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to [Nicole.M.Cunningham@delaware.gov](mailto:Nicole.M.Cunningham@delaware.gov), or by fax to 302-255-4413 by 4:30 p.m. on December 31, 2019. Please identify in the subject line: Drug Utilization Review (DUR)

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.

**\* Please Note: The Proposed Regulation for Drug Utilization Review (DUR), published in the September 1, 2019 issue of the Delaware Register of Regulations (21 DE Reg. 184), is being republished as Proposed to provide additional public notice and comment due to substantive changes.**

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## Division of Medicaid and Medical Assistance

### PUBLIC NOTICE

#### DSSM 80000 Authorization and Regulation of Medicaid/CHIP Accountable Care Organizations

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Division of Social Services Manual (DSSM) regarding Accountable Care Organizations, specifically, to set standards for the authorization and regulation for Medicaid/CHIP beneficiaries in the State of Delaware to improve health outcomes while reducing costs.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to [Nicole.M.Cunningham@delaware.gov](mailto:Nicole.M.Cunningham@delaware.gov), or by fax to 302-255-4413 by 4:30 p.m. on December 31, 2019. Please identify in the subject line: Authorization and Regulation of Medicaid/CHIP Accountable Care Organizations.

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.

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**Division of Public Health**  
**Health Promotion and Disease Prevention**

**PUBLIC NOTICE**

**4202 Control of Communicable and Other Disease Conditions**

Pursuant to 16 **Del.C.** §122(3)a. and §707, Health Promotion and Disease Prevention (HPDP), Division of Public Health, Department of Health and Social Services, is proposing revisions to the regulations governing Control of Communicable and Other Disease Conditions. On December 1, 2019, the Division of Public Health plans to publish as “proposed” revisions to the Control of Communicable and Other Disease Conditions regulations. The revisions include a change to outbreak reporting requirements and technical corrections.

Copies of the proposed regulations are available for review in the December 1, 2019 edition of the Delaware *Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit them to Alanna Mozeik by Thursday, January 2, 2020, at:

Alanna Mozeik  
Division of Public Health  
417 Federal Street  
Dover, DE 19901  
Email: [Alanna.Mozeik@delaware.gov](mailto:Alanna.Mozeik@delaware.gov)  
Phone: (302) 744-4951

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**Division of Public Health**

**PUBLIC NOTICE**

**4458 State of Delaware Food Code Regulations**

Pursuant to 16 **Del.C.** §122(3)u.1, Health Systems Protection, Division of Public Health, Department of Health and Social Services, is proposing revisions to the regulations governing the State of Delaware Food Code. On December 1, 2019, the Division of Public Health plans to publish as “proposed” amended State of Delaware Food Code regulations. Due to the extensive number of amendments, the Division has concluded that the current State of Delaware Food Code regulations should be repealed and replaced in their entirety with the U.S. Food and Drug Administration’s 2017 Food Code with amendments.

The proposed Code will introduce several important changes to better serve and protect Delawareans. Changes include:

- New defined terms, including “Outdoor Spaces” which means, “a porch, patio, deck or other structure with less than two contiguous walls that does not require travel through any indoor areas, including for entrance and exit.”
- Allowance of dogs in Outdoor Spaces if a health or safety hazard will not result from the presence.
- Operations that are ordered to cease and desist due to an imminent health hazard will be required to remain closed for at least 24 hours.
- Amending food employee health reporting, restrictions and exclusions to disallow ill food employees from returning to work until 48 hours after being asymptomatic from an undiagnosed disease that resulted in vomiting and/or diarrhea.

Copies of the proposed regulations are available for review in the December 1, 2019 edition of the Delaware *Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

A public hearing will be held on Thursday, January 16 at 5:00 p.m. at the Department of Natural Resources and Environmental Control Richardson & Robbins Building Auditorium, located at 89 Kings Highway, Dover, Delaware 19901.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit them to Alanna Mozeik by Friday, January 31, 2020, at:

Alanna Mozeik  
Division of Public Health  
417 Federal Street  
Dover, DE 19901  
Email: [Alanna.Mozeik@delaware.gov](mailto:Alanna.Mozeik@delaware.gov)  
Phone: (302) 744-4951

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**Division of Public Health**  
**PUBLIC NOTICE**  
**4470 State of Delaware Medical Marijuana Code**

Pursuant to 16 Del.C. Ch. 49A, Office of Medical Marijuana (OMM), Division of Public Health, Department of Health and Social Services, is proposing revisions to the regulations governing the State of Delaware Medical Marijuana Code. On December 1, 2019, the Division of Public Health plans to publish as “proposed” revisions to the State of Delaware Medical Marijuana Code. The revisions include the establishment of requirements for Safety Compliance facilities, provisions for the production of edible medical marijuana products and limitations therein, compliance and enforcement procedures, random sampling procedures, the formation of a Compassionate Use patient card, and the addition of specific definitions and technical corrections.

Copies of the proposed regulations are available for review in the December 1, 2019 edition of the Delaware *Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit them to Alanna Mozeik by Thursday, January 2, 2020, at:

Alanna Mozeik  
Division of Public Health  
417 Federal Street  
Dover, DE 19901  
Email: [Alanna.Mozeik@delaware.gov](mailto:Alanna.Mozeik@delaware.gov)  
Phone: (302) 744-4951

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**DEPARTMENT OF INSURANCE**  
**Office of the Commissioner**  
**PUBLIC NOTICE**  
**802 Delaware Workplace Safety Regulation**

**A. Type of Regulatory Action Required**

Proposal of amendments to existing Regulation 802, Delaware Workplace Safety Regulation.

**B. Synopsis of Subject Matter of the Regulation**

The Delaware Department of Insurance (the Department) has been implementing its Workplace Safety Program since 1989. Through this program, the Department, in coordination with the Delaware Compensation Rating Bureau, offers Delaware employers an opportunity to lower workers’ compensation insurance premiums by participating in the Delaware Workplace Safety Program. Businesses may earn discounts of up to 19 percent by providing and maintaining a safe place to work. More information about the program may be found on the Department’s website at <https://insurance.delaware.gov/services/workplacesafetydiscount/>.

The Department is proposing to amend Regulation 802 to specifically emphasize the availability of discounts that may be available to those employers who otherwise qualify for the program and who implement a drug-free workplace program at their worksites.

The Department is also taking the opportunity of this proposal to strike out subsection 7.3 concerning inspections by the Department of Labor, since the Department of Labor does not conduct such inspections, and to make grammatical and formatting edits to the remainder of the regulation.

**C. Notice and Public Comment**

The Department does not plan to hold a public hearing on the proposed amendments to Regulation 802. The proposed new regulation appears below and may also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 31<sup>st</sup> day, December, 2019. Any such requests should be directed to:

Leslie W. Ledogar, Regulatory Specialist  
Delaware Department of Insurance

ATTN: Docket 4202-2019  
1351 West North St., Ste. 101  
Dover, DE 19904  
(302) 674-7379  
Email: [Leslie.Ledogar@delaware.gov](mailto:Leslie.Ledogar@delaware.gov)

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## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### Division of Air Quality

#### PUBLIC NOTICE

#### 1124 Control of Volatile Organic Compound Emissions

Since the early 1990s, Delaware's ambient air quality has been in nonattainment for the health based air quality standard for the pollutant ground-level ozone. Because gasoline vapors contain volatile organic compounds (VOC) and contribute to the formation of ground-level ozone, Delaware implemented, in 1993, 7 **DE Admin. Code** 1124 Section 26 and Section 36. Sections 26 and 36 contain requirements to control gasoline vapor emissions from gasoline tanks and motor vehicles at any gasoline dispensing facility (GDF) with a monthly throughput greater than 10,000 gallons (Stage I and Stage II vapor recovery). In addition, since 1998, automobile manufacturers have been required by the federal Clean Air Act (CAA) to install on-board refueling vapor recovery (ORVR) systems on new vehicles.

The ORVR system is effective for controlling gasoline vapor emissions from refueling the ORVR equipped vehicles. However, when Stage II vapor recovery equipped GDF's are refueling ORVR equipped vehicles, fresh air is ingested into the GDF gasoline storage tanks, which leads to vapor growth in the gasoline storage tanks and vapor emissions from those tanks through leaks and pressure relief valves. The CAA allows Delaware to phase-out Stage II vapor recovery requirements, provided overall emissions do not increase.

The Division of Air Quality (DAQ) of the Department of Natural Resources and Environmental Control (DNREC, or the Department) is proposing amendments to Section 26 and Section 36 to require (1) any new GDF to install a Stage I Enhanced Vapor Recovery (EVR) system, instead of a Stage II vapor recovery system, at construction, and (2) any existing GDF to decommission its Stage II vapor recovery system by December 31, 2021 and to install a Stage I EVR system by December 31, 2025. The proposed amendments will also require a regulated GDF to monitor vapor-tight status of its gasoline storage tanks by performing annual pressure decay tests or by installing a continuous pressure monitoring (CPM) system.

DAQ is also proposing to submit to EPA a revision to Delaware State Implementation Plan (SIP), entitled "Decommissioning Stage II Vapor Recovery Systems and Requiring Stage I Enhanced Vapor Recovery Systems at Gasoline Dispensing Facilities." The objectives of the proposed SIP revision are to (1) analyze the regulatory impacts of the above regulation amendments on Delaware's emissions of volatile organic compounds (VOC), and (2) demonstrate that the above regulatory amendments meet the anti-backsliding requirements of the CAA Sections 182(b)(2) and 110(I).

A public hearing will be held on January 8, 2020, beginning at 6:00 pm, in DNREC Auditorium, 89 Kings Highway, Dover, DE 19901. Persons wishing to comment on the proposed amendments may do so either orally or in written form at the public hearing on January 8, 2020. In lieu of attending the public hearing, written comment may be submitted to the Hearing Officer via the online comment form at <https://dnrec.alpha.delaware.gov/public-hearings/comment-form/>, via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or via USPS to the below address. The Department will accept public comment through the close of business on Thursday, January 23, 2020.

Theresa Newman, Hearing Officer  
DNREC – Office of the Secretary  
89 Kings Highway, Dover, DE 19901

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## DEPARTMENT OF SAFETY AND HOMELAND SECURITY

### Division of State Police

#### 1300 Board of Examiners of Private Investigators & Private Security Agencies

#### PUBLIC NOTICE

Notice is hereby given that the Board of Examiners of Private Investigators and Private Security Agencies, in accordance with 24 **Del.C.** Ch. 13 proposes to amend the following adopted rules in 24 **DE Admin. Code** 1300 Board of Examiners of Private Investigators and Private Security Agencies: Rule 1.0 Firearms, and Rule 4.0 Training Requirements. If you wish to view the complete Rule, contact Ms. Ashley N. Bauguess at (302) 672-5337. Any persons wishing to present views may submit them in writing, by January 2, 2020, to Delaware State Police, Professional Licensing Section, P. O. Box

430, Dover, DE 19903. The Board will hold its quarterly meeting Monday, January 27, 2020, 10:00am, at the Tatnall Building, 150 Martin Luther King, Jr. Boulevard South, Room 112, Dover, DE.

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**DEPARTMENT OF STATE**  
**Division of Professional Regulation**  
**2900 Real Estate Commission**  
**PUBLIC NOTICE**

Pursuant to 24 **Del.C.** §2906(a)(1), the Delaware Real Estate Commission has proposed revisions to its rules and regulations.

A public hearing will be held on January 9, 2020 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Real Estate Commission, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to Danielle Cross, administrative specialist for the Commission, at the above address or at [danielle.cross@delaware.gov](mailto:danielle.cross@delaware.gov). Pursuant to 29 **Del.C.** §10118(a), the final date to receive written comments will be **January 24, 2020**, which is 15 days following the public hearing. The Commission will deliberate on all of the public comments at its next regularly scheduled meeting.

The Commission's proposed regulations include a new subsection 8.5 which sets forth requirements for real estate "teams". New subsection 9.0 addresses the scope of permissible activities under the property management licensure exemption. Revisions to the new Section 12.0, Renewal of Licenses, shorten the late renewal period from 60 to 30 days and clarify that the late renewal period is not an extension of the deadline to complete continuing education. Requirements for licensure reinstatement are amended. As set forth in the new subsection 14.13, new licensees will be required to complete twelve hours of education designed to assist individuals new to the real estate profession. Those twelve hours must be completed within 90 days after the date of initial licensure and will not count towards the continuing education required for license renewal. New licensees will also be required to complete the continuing education applicable to all licensees pursuant to the pro-ratio schedule. Finally, as set forth in the new subsection 14.6.7, a minimum fine of \$250 will be imposed for a finding of unjustified noncompliance with continuing education requirements, and a minimum fine of \$1,000 will be imposed for a second finding of unjustified noncompliance.

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**Division of Professional Regulation**  
**2925 Real Estate Commission Education Committee**  
**PUBLIC NOTICE**

Pursuant to 24 **Del.C.** §2906(a)(1), the Delaware Real Estate Commission has proposed revisions to the Real Estate Commission Education Guidelines (the "Guidelines").

A public hearing will be held on January 9, 2020 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Real Estate Commission, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to Danielle Cross, administrative specialist for the Commission, at the above address or at [danielle.cross@delaware.gov](mailto:danielle.cross@delaware.gov). Pursuant to 29 **Del.C.** §10118(a), the final date to receive written comments will be **January 24, 2020**, which is 15 days following the public hearing. The Commission will deliberate on all of the public comments at its next regularly scheduled meeting.

The Commission has proposed revisions to the Guidelines to provide that instructor and course application denials are subject to a written request for reconsideration. Instructor qualifications for pre-licensing, broker and continuing education courses have been revised to ensure instructor competence and experience. Pursuant to proposed amendments, continuing education programs must be a minimum of three hours and must be delivered in three hour increments. The proposed revisions emphasize that course sponsors and providers are responsible for the qualifications and conduct of course instructors and clarify that prelicensing school instructors may not use class time for recruiting purposes. Finally, the proposed changes require a prelicensing school to provide prospective students with notice that a criminal history may impact or pose a bar to licensure.

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**Public Service Commission**  
**PUBLIC NOTICE**

### 3007 Electric Service Reliability and Quality Standards

The Delaware Public Service Commission ("Commission") proposes to revise its Electric Service Reliability and Quality Standards, found in 26 **DE Admin. Code** 3007, *et seq.* You can review the proposed revised Regulations in the December 2019 issue of the *Delaware Register of Regulations*. You can also review the Order and the proposed revised Regulations in the Commission's electronic filing system Delafile at <http://delafire.delaware.gov> and for docket # input 18-0935. If you wish to obtain written copies of the Order and proposed revised Regulations, please contact the Commission at (302) 736-7500. Copies in excess of the first twenty pages are \$0.10 per page. Payment is expected prior to copying (if you wish the copies to be mailed) or at the time copies are retrieved (if you retrieve them in person).

The Commission will hold a public hearing on the proposed revised Regulations on Wednesday, January 8, 2020, at 1:00 p.m. during its regularly-scheduled meeting, in the Hearing Room, Cannon Building, 861 Silver Lake Boulevard, First Floor, Dover, Delaware 19904.

Written comments can be filed electronically in Delafile at <http://delafire.delaware.gov/> by filling out the Public Comment Form located under Public Links. Written comments can also be mailed to Matthew Hartigan, Delaware Public Service Commission, Cannon Building, 861 Silver Lake Boulevard, Suite 100, Dover, Delaware 19904 or via email to [matthew.hartigan@delaware.gov](mailto:matthew.hartigan@delaware.gov), with the subject line "Docket No. 18-0935." Written comments will be accepted through close of business on January 23, 2020 pursuant to 29 **Del.C.** §10118(a).