
Delaware Register of Regulations

Issue Date: July 1, 2024

Volume 28 - Issue 1, Pages 1-70



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

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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

INFORMATION ABOUT THE DELAWARE REGISTER OF 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.

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
August 1	July 15	4:30 p.m.
September 1	August 15	4:30 p.m.
October 1	September 15	4:30 p.m.
November 1	October 15	4:30 p.m.
December 1	November 15	4:30 p.m.
January 1	December 15	4:30 p.m.

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ERRATA

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 **Del.C.** §6604(1))
1 **DE Admin. Code** 710

ERRATA

710 Ambulance Service Regulations

* **Please Note:** The Delaware State Fire Prevention Commission regulation, 1 **DE Admin. Code** 710, was published as proposed in the *Delaware Register of Regulations*, 27 **DE Reg.** 566 (02/01/24). New subsection 12.2.9 and subsection 15.2.1 were inadvertently published incorrectly.

Subsection 12.2.9 was published as:

~~7.3.9 12.2.9~~ AED Requirements. Upon placing an AED on any ~~Water Ambulance~~ water ambulance, the BLS ~~Ambulance Service~~ ambulance service providers shall comply with the Delaware Early Defibrillation Program ~~Administrative Policies~~ administrative policies as established by the OEMS.

Section 12.2.9 should have read:

~~7.3.9 12.2.9~~ AED Requirements. Upon placing an AED on any ~~Water Ambulance~~ water ambulance, the BLS ~~Ambulance Service~~ ambulance service providers shall comply with the Delaware Early Defibrillation Program ~~Administrative Policies~~ administrative policies as established by the OEMS.

Subsection 15.2.1 was published as:

15.2.1 All fixed-site providers shall have a fixed office, aid station, medical area, mobile aid station, or other area to work out of. The fixed office area shall not be a private dwelling and shall meet the approval of the Commission.

Subsection 15.2.1 should have read:

15.2.1 All fixed-site providers shall have a fixed office, aid station, medical area, mobile aid station, or other area to work out of. The fixed office area shall not be a private dwelling and shall meet the approval of the Commission.

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

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

Statutory Authority: 29 Delaware Code, Section 1134 (29 **Del.C.** §1134)
16 **DE Admin. Code** 4110

ERRATA

4110 Pharmacists Dispensing and Administering Contraceptives

* **Please Note:** The Department of Health and Social Services, Division of Public Health regulation, 16 **DE Admin. Code** 4110 Pharmacists Dispensing and Administering Contraceptives, was published as final in the *Delaware Register of Regulations*, 27 **DE Reg.** 609 (02/01/24). Subsection 3.1.2.1 was inadvertently published incorrectly.

Subsection 3.1.2.1 was published as:

3.1.2.1 A training program offered ~~from~~ by from an ACPE-accredited provider of continuing pharmacy education; or

Subsection 3.1.2.1 should have read:

3.1.2.1 A training program offered ~~from~~ by an ACPE-accredited provider of continuing pharmacy education; or

The effective date for this regulation remains the same as published in the February 2024 *Register*.

PROPOSED REGULATIONS

Symbol Key

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

Proposed Regulations

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

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 1716E and 1716F (14 **Del.C.** §§1716E & 1716F)
14 **DE Admin. Code** 545

PUBLIC NOTICE

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

545 K to 12 Counseling Programs

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §§1716E and 1716F, the Delaware Department of Education developed amendments to 14 **DE Admin. Code** 545 K to 12 Counseling Programs. This regulation is being amended to add charter schools and a timeline specific to submission of a charter school's counseling plan, to allow for a new school counselor (when the only school counselor in the building), or counselor of a new school building to submit the counseling plan the August following their start or open date, and to make minor corrections. This requirements of the proposed regulation will be effective for charter schools on August 15, 2026.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, 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 August 1, 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 amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected by having appropriate counseling plans in place.

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

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

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

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated. By statute, the Department is authorized to promulgate regulations to implement and enforce 14 **Del.C.** §§1716E and 1716F.

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

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

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no costs to 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/july2024/proposed/28 DE Reg 8RFA 07-01-24.pdf>

545 K to 12 Counseling Programs**1.0 Content**

Pursuant to 14 **Del.C.** §§1716E and 1716F, this regulation sets forth the requirement that Delaware public schools implement a school counseling program and submit a plan to the Department in order to ensure the mental health services unit funding is used in accordance with the law.

4-0 2.0 Definitions

"**American School Counselor Association**" or "**ASCA**" means the national organization that supports school counselors' efforts to help students focus on academic, career and ~~social/emotional~~ social and emotional development so they achieve success in school and are prepared to lead fulfilling lives as responsible members of society.

"**ASCA National Model**" means a framework for implementing a comprehensive, data driven school counseling program. The model identifies K-12 ~~College- and Career- Readiness~~ College-, Career- and Life-Readiness Standards for every student in the domains of academic, career and ~~social/emotional~~ social and emotional development. The model is made up of ~~four~~ 4 components: Define, Manage, Deliver and Assess.

"**Department**" means the Delaware Department of Education.

2.0 3.0 School District Counseling Programs and Written Plans

~~2.4~~ 3.1 Every school in each district shall implement a comprehensive school counseling program aligned with the American School Counselor Association's (ASCA) National Model.

~~2.2~~ 3.2 Every school in each district shall have a written plan, using the model templates provided by the Department, for the school counseling program that:

~~2.2.1~~ 3.2.1 Is implemented by a school counselor who is licensed and certified in accordance with the applicable Professional Standards Board regulations 14 Del.C. Ch. 12.

~~2.2.2~~ 3.2.2 Utilizes nationally recognized student standards as defined by the ASCA National Model.

~~2.2.3~~ 3.2.3 Aligns vertically K-12 within the district or charter school.

~~2.2.4~~ 3.2.4 Contains all four 4 components of the ASCA National Model as follows:

~~2.2.4.1~~ 3.2.4.1 The Define component, which consists of the ASCA Mindsets and Behavior Standards for Student Success, ASCA Ethical Standards for School Counselors and the ASCA School Counselor Professional Standards and Competencies.

~~2.2.4.2~~ 3.2.4.2 The Manage component, which provides organizational tools and assessments designed to guide, target, structure and construct a school counseling program to get results.

~~2.2.4.3~~ 3.2.4.3 The Deliver component, which defines the methods school counselors use to provide activities and services to students and for students through the ~~two~~ 2 broad categories of direct and indirect services.

~~2.2.4.4~~ 3.2.4.4 The Assess component, which ensures regular analysis of data to determine program effectiveness in measurable terms and inform program decisions.

~~2.2.5~~ 3.2.5 Is on file at the district office and in the school.

~~2.2.6~~ 3.2.6 Is reviewed annually and updated as needed by the school counselor in collaboration with the school counselor's building administrator and district or charter school supervisor.

3.0 4.0 Reporting Requirements and Timelines

~~3.4~~ 4.1 Annually, by August 15, every district school shall electronically submit their schools' plans plan to the Department, except as provided in subsections 4.1.1 and 4.1.2. The plans shall reflect any updates pursuant to ~~2.2.6~~ above subsection 3.2.6.

4.1.1 For any school where there is only 1 school counselor and that school counselor's start date is after August 1st, that school's plan will be due by August 15th of the following year.

4.1.2 For any newly opened school, their school counseling plan submissions will start the August following their first year of operation.

~~3.2~~ 4.2 The Department may periodically monitor for alignment to the requirements in ~~2.0~~ Section 3.0.

5.0 Effective Date for Charter Schools

The requirements of this regulation shall apply to charter schools effective August 15, 2026. Beginning with the August 15, 2026 submission, every charter school shall be subject to the requirements of this regulation.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 922

PUBLIC NOTICE

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

922 Children with Disabilities Subpart A, Purposes and Definitions

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §122(b), the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 922 Children with Disabilities Subpart A, Purposes and Definitions. This regulation is being amended to add definitions that help clarify changes made to 14 **DE Admin. Code** 923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies, as well as 14 **DE Admin. Code** 925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs. Other grammatical changes were made to comply with the *Delaware Administrative Code Drafting and Style Manual*.

The Department will hold public hearings, which are available in person or virtually, on the proposed regulation changes as follows:

Tuesday, July 23, 2024 from 5:00 p.m. - 5:30 p.m., Delaware Department of Education, 2nd Floor, Cabinet Room, 401 Federal Street, Dover, DE 19901. Virtual meeting details and the ability to register in advance can be found here: <https://publicmeetings.delaware.gov/#/meeting/79052>.

Tuesday, July 30, 2024 from 12:00 p.m. - 12:30 p.m. - Delaware Department of Education, 2nd Floor, Cabinet Room, 401 Federal Street, Dover, DE 19901. Virtual meeting details and the ability to register in advance can be found here: <https://publicmeetings.delaware.gov/#/meeting/79053>.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, 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 September 3, 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. NOTE: IDEA regulations are out for comment for 60 days.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help improve student achievement as measured against state achievement standards as they protect students with disabilities by providing appropriate definition and purpose of services.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected, especially those students with disabilities.

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

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

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

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

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

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

***Please Note:**

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

<https://regulations.delaware.gov/register/july2024/proposed/28 DE Reg 11RFA 07-01-24.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/july2024/proposed/28 DE Reg 11 07-01-24.htm>

OFFICE OF THE SECRETARY

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

PUBLIC NOTICE

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

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

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §122(b), the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies. This regulation is being amended to update Section 16.0 Placements so that it aligns with 14 **DE Admin. Code** 925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs. Other grammatical changes were made to comply with the *Delaware Administrative Code Drafting and Style Manual*.

The Department will hold public hearings, which are available in person or virtually, on the proposed regulation changes as follows:

Tuesday, July 23, 2024 from 5:00 p.m. - 5:30 p.m., Delaware Department of Education, 2nd Floor, Cabinet Room, 401 Federal Street, Dover, DE 19901. Virtual meeting details and the ability to register in advance can be found

here: <https://publicmeetings.delaware.gov/#/meeting/79052>.

Tuesday, July 30, 2024 from 12:00 p.m. - 12:30 p.m. - Delaware Department of Education, 2nd Floor, Cabinet Room, 401 Federal Street, Dover, DE 19901. Virtual meeting details and the ability to register in advance can be found here: <https://publicmeetings.delaware.gov/#/meeting/79053>.

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C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help improve student achievement as measured against state achievement standards especially those students with disabilities.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected especially those students with disabilities.

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

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

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

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

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

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

*Please Note:

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

<https://regulations.delaware.gov/register/july2024/proposed/28 DE Reg 12RFA 07-01-24.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/july2024/proposed/28 DE Reg 12 07-01-24.htm>

PROPOSED REGULATIONS

OFFICE OF THE SECRETARY

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

PUBLIC NOTICE

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

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

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 Del.C. §122(b), the Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs. This regulation is being amended to ensure alignment with current practice. The following sections have been revised: Additional Requirements for Evaluations and Re-Evaluations, Determination of Eligibility, Individualized Education Program (IEP), IEP Team, When IEPs Shall Be In Effect, Development, and Review of IEP, Educational Placement in the Least Restrictive Environment, and High School Graduation. Other grammatical changes were made to comply with the *Delaware Administrative Code Drafting and Style Manual*.

The Department will hold public hearings, which are available in person or virtually, on the proposed regulation changes as follows:

Tuesday, July 23, 2024 from 5:00 p.m. - 5:30 p.m., Delaware Department of Education, 2nd Floor, Cabinet Room, 401 Federal Street, Dover, DE 19901. Virtual meeting details and the ability to register in advance can be found here: <https://publicmeetings.delaware.gov/#/meeting/79052>.

Tuesday, July 30, 2024 from 12:00 p.m. - 12:30 p.m. - Delaware Department of Education, 2nd Floor, Cabinet Room, 401 Federal Street, Dover, DE 19901. Virtual meeting details and the ability to register in advance can be found here: <https://publicmeetings.delaware.gov/#/meeting/79053>.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, 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 September 3, 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. NOTE: IDEA regulations are out for comment for 60 days.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help improve student achievement as measured against state achievement standards especially students with disabilities.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected especially students with disabilities.

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

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

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

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

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

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

***Please Note:**

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

<https://regulations.delaware.gov/register/july2024/proposed/28 DE Reg 14RFA 07-01-24.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/july2024/proposed/28 DE Reg 14 07-01-24.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 Del.C. §§122(b)(15) & 303)

PUBLIC NOTICE

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

1030 Student Athlete Eligibility: Amateur Status

A. TYPE OF REGULATORY ACTION REQUESTED

Adoption of a New Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §§122(b)(15) and 303(b)(1)d, the Delaware Interscholastic Athletic Association Board of Directors ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposes the adoption of 14 **DE Admin. Code** 1030 Student Athlete Eligibility: Amateur Status. The proposed regulations set forth what student athletes may and may not do to retain amateur status and participate in interscholastic athletics. The Board will also be proposing to repeal existing sections from 14 **DE Admin. Code** 1009 regarding amateur status. Further, the proposed regulations define "name, image, and likeness" in Delaware and allow student athletes to earn compensation from the use of the name, image, and likeness. Finally, the proposed regulations mandate that if any students earn compensation from their name, image, and likeness, the student shall in no way include images of or references to the member school they attend.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, 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/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before August 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 new regulation help improve student achievement as measured against state achievement standards? The new regulation concerns the requirements for amateur status in athletic activities and name, image likeness compensation. It is not designed to help improve student achievement as measured against state achievement standards.

2. Will the new regulation help ensure that all students receive an equitable education? The new regulation concerns the requirements for amateur status in athletic activities and name, image likeness compensation. It is not designed to help to ensure students in Delaware public schools receive an equitable education.

3. Will the new regulation help to ensure all students' health and safety are adequately protected? The new regulation will help to help ensure that all students' health and safety are adequately protected as it keeps in place protections against students participating in athletics professionally or for compensation.

4. Will the new regulation help to ensure that all students' legal rights are respected? The new regulations will ensure that Delaware student athletes have the same legal rights as students in 37 other states, including the surrounding states.

5. Will the new regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The new regulation does not change authority or flexibility of decision makers at the local board and school level. By statute (14 Del.C. § 303(b)), DIAA develops rules and regulations relating to high school interscholastic athletics for schools in Delaware, including the regulation of athletic programs of all public schools and such nonpublic schools that elect to become full or associate DIAA Member Schools. The Board enforces the regulations (14 Del.C. §304).

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

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Board enforces the regulations relating to interscholastic athletics in Delaware (14 Del.C. §304).

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

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

10. What is the cost to the state and to the local school boards of compliance with the new regulation? The new regulation concerns eligibility requirements for students. There is no cost to the state or local school boards for complying with the new 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/july2024/proposed/28 DE Reg 15RFA 07-01-24.pdf>

1030 Student Athlete Eligibility: Amateur Status

1.0 Content

In accordance with 14 Del.C. §303, this regulation sets forth the requirement that students maintain amateur status in order to be eligible to participate in interscholastic athletics at the middle and high school levels.

2.0 Definitions

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

"Member School" means a full or associate member school of the DIAA.

"Name, image, and likeness" means a student athlete's name, image, or likeness which readily identifies the student athlete and includes symbols, words, or designs.

3.0 Eligibility: Amateur Status

3.1 Purpose of the Amateur Status Rule - The purpose of the amateur status rule is to promote amateurism, stimulate participation for the sake of the game itself, help prevent exploitation of students, and encourage students to engage in athletic competition for physical, mental, and social benefits.

3.2 Amateur Status Rule - A student shall not participate in an interscholastic sport unless the student is considered an amateur in that sport. A student forfeits amateur status if the student does any of the following in subsections 3.2.1 through 3.2.7.

3.2.1 The student plays on or against a professional team, which is defined as a team having 1 or more members who have received or are receiving directly or indirectly monetary consideration for their athletic services.

3.2.2 The student signs a professional contract, accepts reimbursement for expenses to attend a professional tryout, or receives financial assistance in any form from a professional sports organization.

3.2.3 The student enters a competition under an assumed name. The surname and given name used by any student in the student's first game of interscholastic competition shall be used during the remainder of the student's interscholastic career. Any change in spelling or use of another name shall be regarded as an attempt to evade the amateur status rule unless the change has been properly certified by the student to the administrative head. For the purpose of this regulation, administrative head means the chief or head individual in charge of a DIAA Member School, traditionally referred to or generally known as the principal or headmaster.

3.2.4 The student receives remuneration of any kind or accepts reimbursement for expenses in excess of the actual and necessary costs of transportation, meals, and lodging for participating in a team or individual competition or an instructional camp or clinic. Reimbursement for the aforementioned expenses is permitted only if all of the participants receive the same benefit.

3.2.5 The student receives cash or a cash equivalent (such as a savings bond or certificate of deposit), merchandise (except as permitted by subsection 4.1.4 of 14 DE Admin. Code 1009) or a merchandise discount, (except for a discount arranged by the student's school for part of a team uniform), a reduction or waiver of fees, a gift certificate, or other valuable consideration as a result of the student's participation in an organized competition or instructional camp or clinic. Accepting an event program or a complimentary item (such as t-shirt, hat, or equipment bag) that is inscribed with a reference to the event, has an aggregate retail value of no more than \$150, and is provided to all of the participants, shall not jeopardize the student's amateur status.

3.2.6 The student sells or pawns awards received.

3.2.7 The student uses the student's athletic status to promote or endorse a commercial product or service on the internet; in a newsprint, radio, television advertisement or any other form of media; or by personal appearance.

3.3 A student who forfeits the student's amateur status is ineligible to participate at the interscholastic level in the sport in which the violation occurred. The student may be reinstated after a period of up to the number of days in the school year provided that during the suspension, the student complies with all of the requirements of this regulation. The suspension shall date from the time of the last offense.

3.4 Notwithstanding subsections 3.2 and 3.3, a student may earn compensation from the use of the student's name, image, and likeness provided that the compensation is not contingent on specific athletic performance or achievement, is not provided as an incentive to enroll or remain enrolled at a

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specific school and is not provided by the school or any person acting as an agent for the school. If a student earns compensation from the use of the student's name, image, and likeness, the student shall follow the requirements in subsections 3.4.1 through 3.4.5.

- 3.4.1 The student shall not use marks, including the Member School logos, school name, school mascot, or any trademarked DIAA logos or acronyms.
- 3.4.2 The student shall not wear Member School apparel or equipment which includes school name, school logo, school mascot, or any apparel displaying trademarked DIAA logos or acronyms.
- 3.4.3 The student shall not use a Member School facility for the purpose of name, image, and likeness compensation.
- 3.4.4 The student shall not endorse tobacco, alcohol, or gambling products.
- 3.4.5 If the student signs an agency contract under 24 Del.C. §5409, the student shall inform the athletic director for the student's Member School of the existence of the contract not later than 72 hours after entering into the contract or before the next scheduled athletic event in which the student may participate, whichever occurs first.
- 3.5 Accepting compensation for teaching lessons, coaching, or officiating shall not jeopardize the student's amateur status.

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), 1210(b)(1), and 1212(a) (14 Del.C. §§1203, 1205(b), 1210(b)(1), & 1212(a))
14 DE Admin. Code 1503

PUBLIC NOTICE

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

1503 Comprehensive Educator Induction Programs

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), 1210(b), and 1212, the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1503 Comprehensive Educator Induction Programs. The regulation concerns mentoring requirements for licensed educators in Delaware public schools. The proposed amendments include amending the titles of Sections 3.0 and 7.0, clarifying subsections 3.3, 9.3, 14.1.4, and 14.1.12, and amending subsection 10.4 to remove the reference to the mentoring playbook and replace it with Department-provided resources. In addition, Section 18.0, which concerns the effective date of the current regulation, is proposed to be stricken.

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 August 1, 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 requirements for comprehensive educator induction programs 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 requirements for comprehensive educator induction programs 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 mentoring requirements 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 mentoring requirements 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.

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 Department collects data from schools to evaluate comprehensive educator induction programs and reports such data to the Board upon the Board's request (Section 17.0).

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 are no additional expected costs to the state and 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/july2024/proposed/28 DE Reg 18RFA 07-01-24.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/july2024/proposed/28 DE Reg 18 07-01-24.htm>

PROPOSED REGULATIONS

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), 1211, 1213, and 1218(k) (14 Del.C. §§1203, 1205(b), 1211, 1213 & 1218(k))
14 DE Admin. Code 1511

PUBLIC NOTICE

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

1511 Continuing License

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), 1211, 1213, and 1218(k) the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1511 Continuing License. The regulation concerns the requirements for the issuance, renewal, and retention of a Continuing License in accordance with 14 Del.C. §§1211, 1213, and 1218(k). The proposed amendments include adding the term professional learning throughout the proposed regulation, updating language concerning Comprehensive Educator Induction Programs so that the regulation is consistent with 14 DE Admin. Code 1503, revising Section 6.0, and making other clarifying or nonsubstantive changes throughout the regulation.

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 August 1, 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 requirements in Sections 4.0, 5.0, and 6.0 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 requirements in Sections 4.0, 5.0, and 6.0 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 license 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 license 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 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 a Continuing License but whose effectiveness is documented by the district or school. Section 8.0 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 Sections 7.0 and 9.0 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 and 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/july2024/proposed/28 DE Reg 20RFA 07-01-24.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/july2024/proposed/28 DE Reg 20 07-01-24.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 1551

PUBLIC NOTICE

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

1551 Business, Finance, or Marketing Education 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 1551 Business, Finance, or Marketing Education Teacher. The regulation concerns the requirements for a Business, Finance, or Marketing Education Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments in this regulation include revising subsection 4.1.1.4, 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 5.3.2. The revisions to subsection 4.1.1.4 and striking subsection 5.3.2 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. In addition, in Section 2.0, the definition of "Regionally Accredited" has been revised based on the changes the U.S. Department of Education made to its recognition of accrediting bodies and the term "Employing Authority" has been revised to eliminate a redundant phrase. Also, subsection 6.2 has been added to clarify Section 6.0.

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 August 1, 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 Business, Finance, or Marketing Education 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/july2024/proposed/28 DE Reg 21RFA 07-01-24.pdf>

1551 Business, Finance, or Marketing Education Teacher
(Break in Continuity of Sections)

2.0 Definitions

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

(Break in Continuity Within Section)

"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.

(Break in Continuity Within Section)

"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.

(Break in Continuity of Sections)

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 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in business, finance, or marketing 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

4.1.1.2 Satisfactorily completed an alternative routes for licensure or certification program to teach business, finance, or marketing education as provided in 14 **Del.C.** §§1260 - 1266; or

4.1.1.3 Satisfactorily completed a Department-approved educator preparation program in business, finance, or marketing education; or

4.1.1.4 ~~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, earned a bachelor's degree from a Regionally Accredited college or university in any content area and also satisfactorily completed 15 college credits related to business, finance, or marketing 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 Business, Finance, or Marketing 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 Business, Finance, or Marketing 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 Business, Finance, or Marketing Teacher Standard Certificate of which at least 6 credits focus on pedagogy and as approved by the Department. A course is applicable to the Business, Finance, or Marketing 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.~~

4.1.1.4.1 ~~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.~~

4.1.1.4.2 ~~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~~

PROPOSED REGULATIONS

~~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.~~

~~4.1.1.4.3 For the purpose of subsection 4.1.1.4, 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.~~

~~4.1.1.4.4 Professional development hours may be approved if the applicant shows that the activity meets all of the following criteria:~~

~~4.1.1.4.4.1 Relevant courses from a Regionally Accredited college or university in business, finance, or marketing education are not available to the applicant online or in the applicant's county of residence; and~~

~~4.1.1.4.4.2 The activity is grounded in research and current best practices as judged by the Department's content specialist in business, finance, or marketing education; and~~

~~4.1.1.4.4.3 The activity is documented by the provider to provide knowledge and skills that are required for the business, finance, or marketing education certification; and~~

~~4.1.1.4.4.4 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 achieved a minimum score of 154 on the Praxis Subject Assessment - Business Education: Content Knowledge (ETS Test Code # 5101). Notwithstanding the foregoing, if the applicant did not achieve the minimum score, the applicant shall meet the requirements set forth in 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge.

4.2 For an applicant who holds at least 1 content area Standard Certificate, the applicant shall have achieved a minimum score on an examination as provided in subsection 4.1.2. Notwithstanding the foregoing, if the applicant did not achieve the minimum score, the applicant shall meet the requirements set forth in 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge.

5.0 Application Requirements

(Break in Continuity Within Section)

5.3 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Business, Finance, or Marketing Education Teacher Standard Certificate:

5.3.1 Official transcript from the applicant's Regionally Accredited college or university.

5.3.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

5.3.1.2 Sealed paper transcripts may be submitted.

5.3.1.3 The Department will not accept copies of transcripts; and

~~5.3.2 Documents verifying successful completion of Department-approved professional development, if applicable; and~~

~~5.3.3~~ 5.3.2 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and

~~5.3.4~~ 5.3.3 Additional documentation as required by the Department.

(Break in Continuity Within Section)

6.0 Secretary of Education Review

6.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Business, Finance, or Marketing Education Teacher Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Business, Finance, or Marketing

Education Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.

6.2 The request shall be approved as provided in subsections 6.2.1 and 6.2.2.

~~6.1.4~~ 6.2.1 For school districts, requests shall be approved by the superintendent of the school district.

~~6.1.2~~ 6.2.2 For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.

***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/july2024/proposed/28 DE Reg 21 07-01-24.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 1557

PUBLIC NOTICE

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

1557 Technology and Engineering 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 1557 Technology and Engineering Teacher. The regulation concerns the requirements for a Technology and Engineering Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments in this regulation include revising subsection 4.1.1.4, 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 5.3.2. The revisions to subsection 4.1.1.4 and striking subsection 5.3.2 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. In addition, in Section 2.0, the definition of "Regionally Accredited" has been revised based on the changes the U.S. Department of Education made to its recognition of accrediting bodies and the term "Employing Authority" has been revised to eliminate a redundant phrase. Also, subsection 4.1.2 has been revised to add an additional assessment as an option and subsection 6.2 has been added to clarify Section 6.0.

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 August 1, 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 Technology and Engineering 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/july2024/proposed/28 DE Reg 25RFA 07-01-24.pdf>

1557 Technology and Engineering Teacher (Break in Continuity of Sections)

2.0 Definitions

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

(Break in Continuity Within Section)

"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.

(Break in Continuity Within Section)

"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.~~

(Break in Continuity of Sections)

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 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in Technology and Engineering 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
 - 4.1.1.2 Satisfactorily completed an alternative routes for licensure or certification program to teach Technology and Engineering Education as provided in 14 **Del.C.** §§1260 - 1266; or
 - 4.1.1.3 Satisfactorily completed a Department-approved educator preparation program in Technology and Engineering Education; or
 - 4.1.1.4 ~~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, earned a bachelor's degree from a Regionally Accredited college or university in any content area and also satisfactorily completed 15 college credits 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 related to Technology and Engineering Education of which at least 6 credits focus on pedagogy. If the applicant has been issued an Initial License and a Technology and Engineering 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 Technology and Engineering 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 Technology and Engineering Teacher Standard Certificate of which at least 6 credits focus on pedagogy and as approved by the Department. A course is applicable to the Technology and Engineering 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.~~
- 4.1.1.4.1 ~~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.~~
 - 4.1.1.4.2 ~~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.~~
 - 4.1.1.4.3 ~~For the purpose of subsection 4.1.1.4, 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.~~
 - 4.1.1.4.4 ~~Professional development hours may be approved if the applicant shows that the activity meets all of the following criteria:~~

PROPOSED REGULATIONS

- 4.1.1.4.4.1 ~~Relevant courses from a Regionally Accredited college or university in Technology and Engineering Education are not available to the applicant online or in the applicant's county of residence; and~~
- 4.1.1.4.4.2 ~~The activity is grounded in research and current best practices as judged by the Department's content specialist in Technology and Engineering Education; and~~
- 4.1.1.4.4.3 ~~The activity is documented by the provider to provide knowledge and skills that are required for the Technology and Engineering certification; and~~
- 4.1.1.4.4.4 ~~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 achieved a minimum score of 159 on the Praxis Subject Assessment - Technology Education (ETS Test Code # 5051) on 1 of the following examinations. Notwithstanding the foregoing, if the applicant did not achieve the minimum score, the applicant shall meet the requirements set forth in 14 DE Admin. Code 1519 Multiple Measures for Demonstrating Content Knowledge.~~
- 4.1.2.1 A minimum score of 159 on the Praxis Subject Assessment - Technology Education (ETS Test Code # 5051); or
- 4.1.2.2 A minimum score of 157 on the Praxis Subject Assessment - Technology and Engineering Education (ETS Test Code # 5053).
- 4.1.2.3 Notwithstanding subsections 4.1.2.1 and 4.1.2.2, if the applicant did not achieve the minimum score, the applicant shall meet the requirements set forth in 14 DE Admin. Code 1519 Multiple Measures for Demonstrating Content Knowledge.
- 4.2 For an applicant who holds at least 1 content area Standard Certificate, the applicant shall have achieved the minimum score on ~~the examination~~ 1 of the examinations as provided in subsection 4.1.2. Notwithstanding the foregoing, if the applicant did not achieve the minimum score, the applicant shall meet the requirements set forth in 14 DE Admin. Code 1519 Multiple Measures for Demonstrating Content Knowledge.

5.0 Application Requirements

(Break in Continuity Within Section)

- 5.3 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Technology and Engineering Teacher Standard Certificate:
- 5.3.1 Official transcript from the applicant's Regionally Accredited college or university.
- 5.3.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
- 5.3.1.2 Sealed paper transcripts may be submitted.
- 5.3.1.3 The Department will not accept copies of transcripts; and
- 5.3.2 ~~Documents verifying successful completion of Department-approved professional development, if applicable; and~~
- ~~5.3.3~~ 5.3.2 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and
- ~~5.3.4~~ 5.3.3 Additional documentation as required by the Department.

(Break in Continuity Within Section)

6.0 Secretary of Education Review

- 6.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Technology and Engineering Teacher Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Technology and Engineering Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.
- 6.2 The request shall be approved as provided in subsections 6.2.1 and 6.2.2.

~~6.1.4~~ 6.2.1 For school districts, requests shall be approved by the superintendent of the school district.

~~6.1.2~~ 6.2.2 For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.

***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/july2024/proposed/28 DE Reg 25 07-01-24.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

Pharmacists as Providers

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 3.1-A page 3.1 Addendum, specifically, to add the role of pharmacist as a provider type.

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 July 31, 2024. Please identify in the subject line: Pharmacists as Providers

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 Pharmacists as Providers.

Statutory Authority

- Delaware Code Title 24, Chapter 25, subchapter 1, § 2502
- 42 CFR 440
- 42 CFR 447

Background

This change proposes to add coverage and reimbursement for services within the pharmacists' scope of practice and state regulations.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to add the role of pharmacist as a provider type.

Summary of Proposed Changes

Effective September 1, 2024, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan regarding Pharmacists as Providers, specifically, to add the role of pharmacist as a provider type.

PROPOSED REGULATIONS

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 July 31, 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	\$25,250	\$105,000
Federal funds	\$48,750	\$145,000

*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/july2024/proposed/28 DE Reg 29RFA 07-01-24.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/july2024/proposed/28 DE Reg 29 07-01-24.htm>

OFFICE OF MANAGEMENT AND BUDGET Division of Facilities Management

Statutory Authority: 29 Delaware Code, Section 6908(a)(6) (29 Del.C. §6908(a)(6))
19 DE Admin. Code 4104

PUBLIC NOTICE

4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects

Pursuant to the authority provided by 29 Del. C. § 6908(a)(6), the Office of Management and Budget established regulations that require contractors and subcontractors to implement a program of mandatory drug testing for

employees who work on Large Public Works Contracts funded all or in part with public funds. The regulations established the mechanism, standards and requirements of a Mandatory Drug Testing Program that was incorporated by reference into all Large Public Works Contracts awarded pursuant to 29 Del. C. § 6962.

New Castle County has a drug testing requirement set forth in New Castle County Ordinance 2.05/395 for all construction projects which mirrors the drug testing program imposed by the State of Delaware. Currently, contractors and subcontractors must comply with both programs, for all Large Public Works projects located in New Castle County. This is duplicative and costly. The New Castle County drug testing program is comparable to the one imposed by the State. The purpose of the proposed regulation amendment is to allow the State to accept New Castle County drug tests that are up to six months old in lieu of requiring contractors and subcontractors to have new tests done for all Large Public Works projects located in New Castle County.

Public Comment Period

The Division of Facilities Management of the Office of Management and Budget will take written comments on the proposed amendment to Regulation 4104-5.0 by close of business (4:30 p.m. EST) on or before July 31, 2024. The public may submit their comments to:

Jennifer Coverdale
Director, Division of Facilities Management
Office of Management and Budget
122 Martin Luther King Jr. Blvd. S
Dover, DE 19901
jennifer.coverdale@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/july2024/proposed/28 DE Reg 30RFA 07-01-24.pdf>

4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects (Break in Continuity of Sections)

5.0 Drug Testing Requirements – Frequency for the Testing of Employees

- 5.1 Initial Drug Testing - Employees commencing work on a Jobsite must be tested with the exception that an Employee who has passed a random or scheduled drug test within the past 180 days from the date of commencing work or an Employee who passed a pre-employment drug test administered pursuant to an Contractor's or Subcontractor's Program, or who possesses a certification no more than 6 months old under the then current New Castle County ordinance 2.05/395 - Alcohol and Drug Testing of Employees of Contractors working on Public Works Projects and Jobsites, and is subject to testing as part of a Contractor's or Subcontractor's ongoing Program or as part of a Consortium shall be permitted to work at the Jobsite without further testing; however, the Employee is still subject to random testing.

***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/july2024/proposed/28 DE Reg 30 07-01-24.htm>

PROPOSED REGULATIONS

DEPARTMENT OF SAFETY AND HOMELAND SECURITY OFFICE OF THE MARIJUANA COMMISSIONER

Statutory Authority: 4 Delaware Code, Section 1331 (4 Del.C. §1331)

PUBLIC NOTICE

5001 Rules of the Office of the Marijuana Commissioner

Summary

In compliance with Delaware's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 4 of the Delaware Code, Chapter 13, Section 1331, the Office of the Marijuana Commissioner proposes to adopt regulations. This regulation establishes the standards for issuing marijuana establishment licenses, social equity businesses, and a retail sales tax. They also include a system for inspection, tracking, packaging, and testing marijuana to ensure the marijuana products are safe.

Proposed regulations for the Office of the Marijuana Commissioner were first published in the May 1, 2024 *Delaware Register of Regulations*, and comments accepted until June 3, 2024. As a result of the comments received, the Office of Marijuana Commissioner determined to withdraw the regulations published in 27 **DE Reg.** 859 (05/01/24), which will no longer be considered in favor of the new proposed regulations. The new proposed regulations include the following changes:

1. Additional child protection measures under Packaging and Labeling Requirements and Advertising;
2. Additional details on operating manual requirements and required personnel training;
3. Additional details on quality assurance and quality control programs;
4. Additional guidance on requirements during temporary seed-to-sale tracking failures;
5. Requirement that vehicles transporting marijuana plants, marijuana, and marijuana flower be equipped with a GPS tracking device;
6. Procedures for refusal of shipments;
7. Additional guidance on advertising and audience composition requirements;
8. Allowance for co-location of manufacturing facilities and retail establishments provided certain conditions are met; and
9. Technical fixes throughout including: elimination of duplicative subsections and correction of misnumbering, relocation of subsections for more logical flow, and grammatical corrections.

Comments

Copies of the proposed regulations will be published in the July 1, 2024 edition of the Delaware Register of Regulations, accessible online at <http://regulations.delaware.gov>. Copies are also posted on the Office of the Marijuana Commissioner's website at <https://omc.delaware.gov>. Any person who wishes to make any written suggestions, compilations of data, briefs or other written materials concerning the proposed new regulations must submit same to Taylor Shannon, Delaware Office of the Marijuana Commissioner, Thomas Collins Building, 3rd Floor, Suite 1-A, 540 S Dupont Hwy, Dover, DE 19901 or by email to OMC@delaware.gov. All submissions from the public will be posted on the Office of the Marijuana Commissioner's website at <https://omc.delaware.gov>. Pursuant to 29 **Del.C.** §10118(a), the final date to receive written comments is July 31, 2024.

Adoption of Proposed Regulation

On or after July 31, 2024, following review of any public comments received, the Office of the Marijuana Commissioner will determine whether to adopt the proposed rules as originally published or make additional changes.

Effective Date of Amendments to Regulations

If adopted by the Office of the Marijuana Commissioner, the amendments shall take effect 10 days after being published as final in the Delaware Register of Regulations.

Robert Coupe, Marijuana Commissioner

***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/july2024/proposed/28 DE Reg 32RFA 07-01-24.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/july2024/proposed/28 DE Reg 32 07-01-24.htm>

DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION

Board of Podiatry

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

PUBLIC NOTICE

500 Board of Podiatry

The Delaware Board of Podiatry, pursuant to 24 Del.C. §506(a)(1), proposes to revise its regulations. The proposed amendments to the regulations eliminate the requirement that an inactive license must be renewed biennially.

The Board will hold a public hearing on the proposed rule change on September 4, 2024 at 5:00 p.m., in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 and virtually. The virtual link will be published on the meeting agenda at least seven days prior to the hearing. Written comments should be sent to Michelle Loper, Administrator of the Delaware Board of Podiatry, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until September 19, 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/july2024/proposed/28 DE Reg 33RFA 07-01-24.pdf>

500 Board of Podiatry (Break in Continuity of Sections)

5.0 Licenses (In-Training, Lapse/Renewal, Inactive)

(Break in Continuity Within Section)

5.3 Inactive Status

5.3.1 A licensee may be placed on inactive status by the Board for a fixed period of no more than ~~five (5)~~ 5 years. Requests for inactive status shall be made, in writing, to the Board ~~and requests which exceed one (1) year shall be renewed biennially at the time of regular license renewals.~~ After application to the Board and payment of a renewal fee, an inactive licensee may obtain a new license and re-enter active practice after completion of the continuing education requirements below.

5.3.1.1 Inactive status for one (1) year or less: 16 CE hours.

5.3.1.2 Inactive status for more than one (1) year: 32 CE hours, completed within 24 months prior to reapplication.

PROPOSED REGULATIONS

***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/july2024/proposed/28 DE Reg 33 07-01-24.htm>

DIVISION OF PROFESSIONAL REGULATION

Board of Professional Counselors of Mental Health and Chemical Dependency Professionals

Statutory Authority: 24 Delaware Code, Section 3006(a)(1) (24 **Del.C.** §3006(a)(1))
24 **DE Admin. Code** 3000

PUBLIC NOTICE

3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals

The Delaware Board of Mental Health and Chemical Dependency Professionals, pursuant to 24 **Del.C.** § 3006(a)(1), proposes to revise its regulations. The proposed amendments to the regulations seek to clarify what is required of a master's degree that is not in clinical mental health counseling in order for that degree to be deemed acceptable to the Board under 24 **Del.C.** § 3032(a)(1). The proposed regulations also clarify that face-to-face supervision or counseling includes live video conferencing. Other changes were made to ensure compliance with the Delaware Administrative Code Drafting and Style Manual.

The Board will hold a public hearing on the proposed rule change on August 28, 2024 at 12:00 p.m., in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 and virtually. The virtual link will be published on the meeting agenda at least seven days prior to the hearing. Written comments should be sent to Maya Echols, Administrator of the Delaware Board of Mental Health and Chemical Dependency Professionals, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until September 13, 2024.

***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/july2024/proposed/28 DE Reg 34RFA 07-01-24.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/july2024/proposed/28 DE Reg 34 07-01-24.htm>

PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Sections 209(a)(1) (26 **Del.C.** §§209(a)(1))
26 **DE Admin. Code** 3007

PUBLIC NOTICE

3007 Electric Service Reliability and Quality Standards

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 26 **Del.C.** §§209(a)(1), the Delaware Public Service Commission (the "Commission" or "PSC") proposes to revise 26 DE Admin. Code. 3007 *Electric Service Reliability and Quality Standards* (the "Regulation") for regulatory enhancement and public benefit.

This Regulation requires electric distribution companies ("EDCs") subject to the Commission's jurisdiction to engage in distribution planning and to submit annual reports prepared with the input of Commission Staff ("Staff")

and the Delaware Division of the Public Advocate ("DPA"). EDCs, Staff, and the DPA have engaged in four annual distribution planning cycles. Staff and DPA have consistently maintained that EDCs ignore their input with respect to distribution system improvements, replacements, or repairs that could be done at less cost to ratepayers without sacrificing service reliability. Staff drafted the proposed amendments to this Regulation to address these concerns.

A copy of the proposed amendments to this Regulation is being published in the July 2024 issue of the *Delaware Register of Regulations*. The proposed amendments are also addressed in Commission Order No. 10457 in PSC Docket No. 18-9035, and can be found in the PSC's electronic filing system, Delafile, located at <http://delafile.delaware.gov/> by searching for Docket No. 18-9035. If you wish to obtain written copies of the Order and proposed regulation, please contact the PSC at (302)736-7500. Copies in excess of the first twenty (20) pages are \$0.10 per page. Payment is expected prior to copying (if you wish the copies to be mailed) or at the time the copies are retrieved (if you retrieve them in person).

Pursuant to 29 *Del. C.* § 10118(a), interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Commission by filing such comments electronically in Delafile at <http://delafile.delaware.gov/> and filling out the "Public Comment Form" located under "Public Links." Written comments may also be mailed to: Crystal Beenick, Public Service Commission, Cannon Building, 861 Silver Lake Blvd., Suite 100, Dover, DE 19904, or via email to crystal.beenick@delaware.gov, with the subject line "Docket 18-0935." Written comments will be accepted until August 15, 2024, pursuant to 29 *Del. C.* § 10118(a). **There will be a public hearing on the proposed amendments to the Regulation on July 31, 2024 at 1:00 p.m. at the hearing room located at 861 Silver Lake Blvd., Suite 100, Dover, DE 19904. To be considered at the July 31, 2024, hearing, however, written comments must be submitted on or before July 19, 2024.**

Following review of the public comment, the Commission will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received. If adopted by the Commission, the amendments shall take effect ten days after being published as final in the Delaware Register of Regulations.

IN THE MATTER OF THE PETITION
OF THE PUBLIC SERVICE COMMISSION
STAFF AND DELAWARE DIVISION OF THE
PUBLIC ADVOCATE TO ESTABLISH A
REGULATION FOR DISTRIBUTION
SYSTEM INVESTMENT PLANS FOR
DELAWARE ELECTRIC AND NATURAL
GAS UTILITIES (FILED JULY 2, 2018)

PSC REGULATION DOCKET NO. 18-0935

ORDER NO. 10457

AND NOW, this 22nd day of May 2024, the Public Service Commission ("Commission") determines and orders the following:

WHEREAS, under the provisions of 26 *Del. C.* § 209(a)(1) and 29 *Del. C.* § 10114, the Commission is authorized to grant or deny proceedings for the adoption, amendment, or repeal of a regulation upon the motion of an agency member; and

WHEREAS, the Commission previously promulgated regulations requiring electric distribution companies ("EDCs") subject to its jurisdiction to engage in distribution planning and to submit annual reports prepared with the input of Commission Staff ("Staff") and the Delaware Division of the Public Advocate ("DPA") (see 26 *Del. Admin. C.* §§ 3007 et seq.) (the "Regulations"); and

WHEREAS, the EDC, Staff, and the DPA have engaged in four annual distribution planning cycles; and

WHEREAS, Staff and the DPA have filed comments on each of the four plans that the EDC has submitted, which comments have consistently maintained that the EDC ignores their input with respect to distribution system improvements, replacements, or repairs that could be done at less cost to ratepayers without sacrificing service reliability; and

PROPOSED REGULATIONS

WHEREAS, Commission Staff ("Staff") submits that the current Regulations are not accomplishing the intended goal of reducing the cost of distribution system improvements through collaboration between the EDC, Staff, and the DPA; and

WHEREAS, Staff has drafted amendments to the Regulations, which are attached hereto as Exhibit "A;" and

WHEREAS, the Commission, on its own motion, hereby reopens Docket No. 18-0935 to consider Staff's proposed amendments to the Regulations and to approve their publication in the Delaware Register of Regulations for public comment;

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

1. That, for the reasons set forth above, and pursuant to 26 *Del. C.* § 209 and 29 *Del. C.* § 10114, the Commission authorizes the publication of the revisions to the *Electric Service Reliability and Quality Standards* in the *Delaware Register of Regulations* for public comment. A redlined version of the proposed amendments to the Regulations (26 *Del. Admin. C.* §§ 3007 et seq.) is attached to this Order as Exhibit "A."

2. That, as mandated by the *Delaware Register of Regulations* formatting requirements, Commission Staff is authorized to perform any necessary nonsubstantive edits to conform Exhibit "A" to the *Delaware Register of Regulations Style Manual* for July 1, 2024, submission.

3. That, pursuant to 29 *Del. C.* § 10115(a), the Secretary shall transmit a copy of this Order, with the attached exhibits, to the Registrar of Regulations for publication in the July 1, 2024, edition of the *Delaware Register of Regulations*.

4. That, pursuant to 26 *Del. C.* § 102A, the Secretary shall cause the form of public notice attached as Exhibit "B" to be published on the Commission's website located at <https://dep.sc.delaware.gov/> on or before July 1, 2024. In accordance with 26 *Del. C.* § 10115(c), the Secretary shall mail a copy of this Order, with its exhibits, to the Division of the Public Advocate and to all persons or entities who have made written requests for advance notice of this Commission's rule-making proceedings. The Secretary shall file a certification of the completion of these tasks by July 10, 2024.

5. That pursuant to 26 *Del. C.* § 209(a) and 29 *Del. C.* § 10118(a), the Commission will hold a public hearing on the proposed amendments on Wednesday, July 31, 2024, beginning at 1:00 PM at 861 Silver Lake Blvd., Hearing Room, Dover, Delaware 19904. The Commission will conduct the meeting as set forth in the attached form of public notice. Pursuant to 29 *Del. C.* § 10118(a), interested persons or entities may submit written suggestions, compilations of data, briefs, or other written materials concerning these proposed amendments on or before August 15, 2024. **To be considered at the July 31, 2024, hearing, however, written comments must be submitted on or before July 19, 2024.**

6. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Dallas Winslow, Chairman
Joann Conaway, Commissioner
Harold B. Gray, Commissioner
Manubhai Karia, Commissioner (absent)
K. F. Drexler, Commissioner

ATTEST: Crystal Beenik, Secretary

***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/july2024/proposed/28 DE Reg 34aRFA 07-01-24.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/july2024/proposed/28 DE Reg 34a 07-01-24.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.

DELAWARE RIVER BASIN COMMISSION

Statutory Authority: 53 Delaware Laws, Chapter 71, Approved May 26, 1961 (Delaware River Basin Compact); United States Public Law 87-328, approved September 27, 1961, 75 Statutes at Large 688.

FINAL RULE

Rules of Practice and Procedure

Proposed: *Delaware Register of Regulations* on October 1, 2023 (27 Del. Reg. 206-217).

Adopted: June 5, 2024, by the Delaware River Basin Commission, Pamela M. Bush, Esq., Commission Secretary.

Filed: June 17, 2024, as a final regulation.

Effective: July 22, 2024.

Summary: The Delaware River Basin Commission is amending its Rules of Practice and Procedure to: resolve ambiguities around the automatic termination of project approvals issued by the Commission and make conforming amendments to related provisions as appropriate; update the Commission's Water Resources Program and Project Review procedures to better conform them to current practice; remove incorrect references to the Federal Freedom of Information Act in the Commission's regulations providing for access to public records; align pronouns with the Commission's policies regarding diversity, inclusion, and belonging; and correct certain cross-references.

Contact: Pamela M. Bush, Esquire, Commission Secretary and Assistant General Counsel, at pam.bush@drbc.gov (preferred) or 609-477-7203.

Supplementary Information: The Delaware River Basin Commission ("DRBC" or "Commission") is a Federal-interstate compact agency formed by the enactment of concurrent legislation by four states and the United States in 1961¹ to manage the water resources of the Delaware River Basin (the "Basin") without regard to political boundaries. The Commission's members are, *ex officio*, the governors of the states of Delaware, New Jersey, New York, and Pennsylvania, and the Division Engineer of the U.S. Army Corps of Engineers North Atlantic Division, who represents the United States.

Background

The Commission's Rules of Practice and Procedure ("RPP"), comprising part 401 of title 18 of the Code of Federal Regulations, govern the adoption and revision of the Commission's Comprehensive Plan and Water Resources Program, exercise of the Commission's authority pursuant to the provisions of Article 3.8 of the Delaware River Basin Compact (the "Compact"), and other actions of the Commission mandated or authorized by the Compact, including but not limited to the administration of public access to records and information in the Commission's possession.

On September 28, 2023, the Commission published a proposed rule (88 FR 66722) to amend the RPP to: resolve ambiguities around the automatic termination of project approvals issued by the Commission and make conforming amendments to related provisions as appropriate; update the Commission's Water Resources Program and Project Review procedures to better conform them to current practice; remove incorrect references to the Federal Freedom of Information Act in the Commission's regulations providing for access to public records; and align pronouns with the Commission's policies regarding diversity, inclusion, and belonging. A notice of the proposed amendments appeared in the Delaware Register of Regulations, 27 Del. Reg. 196, 206, on October 1, 2023, the New Jersey Register, 55 N.J.R. 2179(a), on October 16, 2023, the New York Register, 45 N.Y. Reg. 9, on October 11, 2023, and the Pennsylvania Bulletin, 53 Pa. B. 6698, on October 28, 2023.

¹United States Public Law 87-328, Approved Sept. 27, 1961, 75 Statutes at Large 688; 53 Delaware Laws, Ch. 71, Approved May 26, 1961; New Jersey Laws of 1961, Ch. 13, Approved May 1, 1961; New York Laws of 1961, Ch. 148, Approved March 17, 1961; Pennsylvania Acts of 1961, Act. No. 268, Approved July 7, 1961.

Opportunity for public input on the proposed rules was provided during a comment period that ran from September 28, 2023, through November 30, 2023. In addition to soliciting written comments, the Commission accepted oral comment at two hearings conducted via Zoom and telephone. The Commission received a total of 209 public comment submissions, consisting of 199 written submissions and ten oral comments. The submissions typically consisted of a set of comments from a single individual or organization, and they typically addressed more than one aspect or provision of the proposed amendments. In many instances, a single submission included a set of comments by two or more individuals or organizations. Some submissions consisted of petitions or a set of comments with multiple signers. Similar or identical comments were in many instances submitted by individual commenters using form letters or template language provided by others. Commenters were not limited to a single submission, and some commenters offered two or more submissions. The "199" figure represents the number of individual written submissions the Commission received during the comment period without regard to the number of comments within a submission, the number of signers on a single submission, or the number of individuals making a joint submission.

The Commission reviewed all comments and supporting material it received during the comment period. The staff, in consultation with the Commissioners, prepared a Comment and Response Document summarizing the comments on the proposed rule and setting forth the Commission's responses and revisions in detail. By Resolution No. 2024 - 06 on June 5, 2024, the Commission adopted the Comment and Response Document simultaneously with its adoption of the final rule.

Changes from the Proposed Rule

The final rule differs from the proposed in the following respects:

Action on request for extension. The final rule provides that the Commissioners, not the Executive Director, will approve or deny all requests for extended or renewed approval under amended § 401.41(a) and (b), respectively. In conjunction with this change, rather than establishing a prescribed extension term of five years, as originally proposed, the final rule at § 401.41(a) provides for the Commissioners to grant an extension of *up* to five years.

Eligibility for extension. Under the final rule, to qualify for extension of a docket approval that would otherwise expire under § 401.41, in addition to demonstrating that approved activities, site conditions, and the Comprehensive Plan have not materially changed, the docket holder (project sponsor) will be required to demonstrate that it is diligently pursuing the project, which can be shown through its planning, construction or project operational activities, its project expenditures, its efforts to secure government approvals necessary for the project, or its active participation in appeals of government decisions on its applications for government approvals.

The docket holder will not be required to demonstrate that it has expended a fixed, minimum dollar amount, a proposal to which commenters objected. Nor will the docket holder be obligated to show that it has expended a substantial sum in relation to the project cost, as the rule originally provided, or that it has expended a fixed percentage representing a substantial sum in relation to the total cost of the project, as some commenters proposed. In the Commission's view, those approaches are impracticable where the project costs consist primarily of construction costs, and where the sponsor could not lawfully or reasonably commence construction because all final approvals have not been secured.

Public process. In accordance with the final rule, the Commission will publish notice that it has received a request for a docket extension under § 401.41(a) and provide an opportunity for written comment of at least ten days' length on whether the docket holder has demonstrated all elements requisite for an extension-i.e., that the approved activities, site conditions, and Comprehensive Plan have not materially changed, and that the project sponsor has diligently pursued the project in reliance on the Commission's approval. The project sponsor will be afforded an opportunity to respond to the comments received but will not be obligated to do so. The Commission will provide notice at least ten days prior to the date of a business meeting at which the Commissioners consider action on a request pursuant to § 401.41(a).

Public hearing. The final rule provides that a public hearing on a request for a docket extension under § 401.41(a) will be held if three or more Commission members request such a hearing in writing to the Executive Director or by vote at a public meeting.

Administrative continuance. Under the final rule, a docket that is the subject of a request for extension under § 401.41(a) filed at least 90 days before the docket's expiration will be administratively continued pending final Commission action on the request in the event that such action occurs after the otherwise effective date of termination.

Construction complete. The final rule clarifies that if the activities authorized by the Commission's docket are limited to construction activities, an extension in accordance with § 401.41(a) is no longer required once construction is complete. Because some dockets issued for construction activities impose ongoing obligations on docket holders, the final rule further clarifies that the expiration of the docket, including any approved extension, does not eliminate ongoing docket obligations expressly identified as such in the docket approval.

Language of final § 401.41(b). The final language adopted for § 401.41(b) has been modified from the originally proposed language to more accurately reflect that the burden is on the docket holder to demonstrate eligibility for an extension under § 401.41(a).

Process for re-application. Under the final rule, if a request for extension under § 401.41(a) is denied, and the project sponsor wishes to apply for renewal of its docket approval under paragraph (b), the project sponsor must do so by a date to be established by the Commission. In this situation, the docket approval is not thereafter administratively continued automatically. However, the Commission may, in its discretion, administratively extend the docket approval in whole or in part for a period ending on or before the date on which the Commission renders

a final decision on the sponsor's renewal application.

Correcting Amendments

On October 8, 1987, the Commission redesignated portions of the Rules of Practice and Procedure (52 FR 37602). The final rule that contained the redesignation inadvertently failed to update certain cross-references affected by the redesignation. This final rule corrects those cross-references. The affected provisions are 18 CFR 401.108(c), 401.109(a), (d), and (e), 401.113, and 401.115(b).

Additional Materials

Additional materials can be found on the Commission's website at: https://www.nj.gov/drbc/about/regulations/finalrule_RPPamendments.html. These include links to Resolution No. 2024 - 06 of June 5, 2024 adopting the final rule and incorporating a clean copy of the rule text; the Commission's Comment and Response Document; a mark-up comparing the final to the proposed rule text; a mark-up comparing the final to the former rule text; and copies of the comments received.

The Commission's notice of proposed rulemaking and proposed rule text can be found on the Commission's website at: https://www.nj.gov/drbc/meetings/proposed/notice_RPP_amendments.html.

Pamela M. Bush,
Commission Secretary/Assistant General Counsel
Dated: June 17, 2024

***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/july2024/final/28 DE Reg 37 07-01-24.htm>

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 Del.C. §6604(1))
1 DE Admin. Code 710

ORDER

710 Ambulance Service Regulations

Nature of the Proceedings

Pursuant to 16 Del. C. § 6604(1), the Delaware State Fire Prevention Commission proposed to revise Regulation 710 Ambulance Service Standards (the "Regulations"). The proposed changes to the Regulations included updated language and labels. The proposed changes to the Regulations add Emergency Medical Responder and Field Training Officer positions, as well as list specific crimes that could result in discipline.

Summary of the Evidence

The proposed amendments to the Regulations were published in the Delaware Register of Regulations on February 1, 2024. A written comment period was held open through March 4, 2024. The Commission proposed an additional amendment, only related to a prospective EMT's age. This age-related amendment was published in the Delaware Register of Regulations on April 1, 2024. A written comment period was held open through May 3, 2024. The Commission accepted all written comments received before May 3, 2024. The written comments, which are on file with the Commission, from the following individuals and fire companies: (1) Mark Harris of the Claymont Fire Company and (2) Eric J. "Ceaser" Haley of the Claymont fire Company (the "Written Comments").

Findings of Fact

At the Commission's regularly scheduled monthly meeting on May 21, 2024, the Commission discussed the Written Comments. Some of the Written Comments identified typographical errors. Many of the Written Comments discussed subsections not subject to amendments at this time.

Pursuant to discussions held during the Commission's May meeting the Commission voted to approve most of the amendments to the Regulations as proposed. The Commission voted to correct the typographical errors found in subsections 13.4.2, 18.3.4, and 18.7.1, to delete 18.8.1.8, and exclude the language regarding fines in 11.1.6.8. Finally, the Commission voted to update the referenced NFPA section in 12.1.1.3.

Pursuant to Section 10118(b)(3) of Title 29 regarding the State's greenhouse gas emissions reduction targets and resiliency to climate change, assessment is not practical for this regulation.

Decision of the Commission

For the reasons discussed above, the Commission concludes it is appropriate to approve the amendments with minor edits listed. As indicated during the May meeting, the Commission will consider some of the concerns brought up about subsections not undergoing amendment in the future. The final proposed amendments are reflected in Exhibit A.

These amendments shall become effective July 11, 2024.

IT IS SO ORDERED, this 14th day of June 2024, by the Commission:

Delaware State Fire Prevention Commission

/s/ Ron Marvel, Chairman

/s/ William Kelly, Vice Chairman

/s/ Lynn Truitt

/s/ Richard Perillo

/s/ Joseph J. Leonetti, Sr.

/s/ Ken Ryder, Jr.

/s/ Jeffrey Eisenbrey

***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 April 2024 issue of the *Register* at page 719 (27 DE Reg. 719). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/july2024/final/28 DE Reg 40 07-01-24.htm>

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 Del.C. §6604(1))
1 DE Admin. Code 710

ORDER

710 Ambulance Service Regulations

Nature of the Proceedings

Pursuant to 16 Del. C. § 6604(1), the Delaware State Fire Prevention Commission proposed to revise Regulation 710 Ambulance Service Standards (the "Regulations"). The proposed changes to the Regulations included updated language and labels. The proposed changes to the Regulations add Emergency Medical Responder and Field Training Officer positions, as well as list specific crimes that could result in discipline.

Summary of the Evidence

The proposed amendments to the Regulations were published in the Delaware Register of Regulations on February 1, 2024. A written comment period was held open through March 4, 2024. The Commission proposed an additional amendment, only related to a prospective EMT's age. This age-related amendment was published in the Delaware Register of Regulations on April 1, 2024. A written comment period was held open through May 3, 2024. The Commission accepted all written comments received before May 3, 2024. The written comments, which are on file with the Commission, from the following individuals and fire companies: (1) Mark Harris of the Claymont Fire Company and (2) Eric J. "Ceaser" Haley of the Claymont fire Company (the "Written Comments").

Findings of Fact

At the Commission's regularly scheduled monthly meeting on May 21, 2024, the Commission discussed the Written Comments. Some of the Written Comments identified typographical errors. Many of the Written Comments discussed subsections not subject to amendments at this time.

Pursuant to discussions held during the Commission's May meeting the Commission voted to approve most of the amendments to the Regulations as proposed. The Commission voted to correct the typographical errors found in subsections 13.4.2, 18.3.4, and 18.7.1, to delete 18.8.1.8, and exclude the language regarding fines in 11.1.6.8. Finally, the Commission voted to update the referenced NFPA section in 12.1.1.3.

Pursuant to Section 10118(b)(3) of Title 29 regarding the State's greenhouse gas emissions reduction targets and resiliency to climate change, assessment is not practical for this regulation.

Decision of the Commission

For the reasons discussed above, the Commission concludes it is appropriate to approve the amendments with minor edits listed. As indicated during the May meeting, the Commission will consider some of the concerns brought up about subsections not undergoing amendment in the future. The final proposed amendments are reflected in Exhibit A.

These amendments shall become effective July 11, 2024.

IT IS SO ORDERED, this 14th day of June 2024, by the Commission:

Delaware State Fire Prevention Commission

/s/ Ron Marvel, Chairman

/s/ William Kelly, Vice Chairman

/s/ Lynn Truitt

/s/ Richard Perillo

/s/ Joseph J. Leonetti, Sr.

/s/ Ken Ryder, Jr.

/s/ Jeffrey Eisenbrey

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

***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/july2024/final/28 DE Reg 41 07-01-24.htm>

DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(a) and 8905(a) (14 **Del.C.** §§122(a) & 8905(a))
14 **DE Admin. Code** 235

ORDER

235 Teacher of the Year Award

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del. C.** §122(a) and 14 **Del. C.** §8905(a), the Secretary of Education seeks to amend 14 **DE Admin. Code** 235 Teacher of the Year Award. This regulation is being amended to add former Teachers of the Year as individuals who will read submitted portfolios as part of the evaluation and selection process for the annual Teacher of the Year Award. Other grammatical changes were made as needed to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on May 1, 2024. No written comments were received for this regulation.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 235 Teacher of the Year Award to add former Teachers of the Year as individuals who will read submitted portfolios as part of the evaluation and selection process for the annual Teacher of the Year Award. Other grammatical changes were made as needed to comply with the *Delaware Administrative Code Drafting and Style Manual*.

III. ASSESSMENT OF IMPACT

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.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 235 Teacher of the Year Award. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 235 Teacher of the Year Award attached hereto as *Exhibit "A"* is hereby amended.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 235 Teacher of the Year Award amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 **DE Admin.** 235 Teacher of the Year Award in the Administrative Code of Regulations for the Department of Education.

VI. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on June 11, 2024. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 11th day of June 2024.

FINAL REGULATIONS

Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 11th day of June 2024.

*Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 802 (27 DE Reg. 802). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/july2024/final/28 DE Reg 43 07-01-24.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(3), 122(b)(8), 181, and 183 (14 Del.C. §§122(b)(3), 122(b)(8), 181 & 183)
14 DE Admin. Code 506

ORDER

506 Policies for Dual Enrollment and Awarding Dual Credit

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§122(b)(3), 122(b)(8), 181, and 183, the Delaware Department of Education ("Department"), including the Delaware Higher Education Office, developed amendments to 14 DE Admin. Code 506 Dual Enrollment and Awarding Dual Credit. The regulation requires public schools to develop policies concerning dual enrollment in a high school and postsecondary institution and awarding dual credit. The proposed amendments are to Section 4.0, which concerns quality assurance and granting of postsecondary credit, and are consistent with HB 116 of the 152nd General Assembly. HB 116 was signed into law on February 28, 2024 and is effective August 1, 2024.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on April 1, 2024. The Department did not receive any written comments concerning the proposed amendments.

II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSION 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 any assessment of the impact of the proposed regulation is not practical.

III. FINDINGS OF FACTS

The Department finds that it is appropriate to amend 14 DE Admin. Code 506 Dual Enrollment and Awarding Dual Credit. In addition, the Department finds that Chapter 90E of Title 14 was added to the Delaware Code and the proposed regulation is consistent with the statute that will go into effect on August 1, 2024.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code 506 Dual Enrollment and Awarding Dual Credit, subject to the State Board of Education's approval. On May 16, 2024, the State Board of Education approved amending 14 DE Admin. Code 506 Dual Enrollment and Awarding Dual Credit. Therefore, pursuant to 14 Del.C. §§122(b)(3), 122(b)(8), 181, and 183, 14 DE Admin. Code 506 Dual Enrollment and Awarding Dual Credit attached hereto as *Exhibit "A"* is hereby amended.

Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 506 Dual Enrollment and Awarding Dual Credit hereby amended shall be in effect for a period of five years from the effective date of this order unless it is amended or repealed sooner.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 506 Dual Enrollment and Awarding Dual Credit amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 **DE Admin. Code** 506 Dual Enrollment and Awarding Dual Credit in the *Administrative Code of Regulations* for the Department of Education.

VI. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 16th day of May 2024.

Department of Education

Mark A. Holodick, Ed.D., Secretary of Education
Approved this 16th day of May 2024

State Board of Education

/s/ Shawn Brittingham, President	/s/ Harvey Kenton, Jr.
/s/ Deborah Stevens, Vice President	/s/ Provey Powell, Jr.
(Absent) Candice Fifer	/s/ Wali W. Rushdan, II
/s/ Meredith L. Griffin, Jr.	

***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 April 2024 issue of the *Register* at page 727 (27 DE Reg. 727). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/july2024/final/28 DE Reg 44 07-01-24.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** 15000, 18000

ORDER

Continuous Eligibility and Removal of Premiums for CHIP

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend the Division of Social Services Manual (DSSM) 15300.4, 18300, 18600, 18700, 18800.1, 18800.2, and Title XXI CHIP State Plan Sections 1, 4, 8 and 9, specifically, to provide 12 months of continuous eligibility for children under age 19 in CHIP (with limited exceptions) and to remove the premium requirement for

the CHIP program. 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 May 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by May 31, 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 XXI CHIP State Plan and Division of Social Services Manual (DSSM) regarding Continuous Eligibility and Removal of Premiums for CHIP.

Background

Prior to the CAA 2023, states had the option to provide continuous eligibility (CE) for children in Medicaid and/or CHIP. Under section 5112 of the Consolidated Appropriations Act of 2023 (CAA), all states are required to provide 12 months of continuous coverage for children under 19 in Medicaid and Children's Health Insurance Program (CHIP) with limited exceptions. The provisions are effective January 1, 2024.

The 12-month CE period for begins on the effective date of the child's last eligibility determination at application or renewal.

Sections 1902(e)(12) and 2107(e)(1)(K) of the Social Security Act (the Act), as modified by Section 5112 of the Consolidated Appropriations Act, 2023 (CAA, 2023), provide for limited exceptions to the requirement that all states provide 12 months of continuous eligibility for children regardless of any changes in circumstances that otherwise would result in loss of coverage.

On October 27, 2023, CMS issued guidance that the existing regulatory option at 42 CFR § 457.342(b) for states operating a separate CHIP to consider non-payment of premiums as an exception to CE would end on December 31, 2023, and states are no longer permitted to terminate the Medicaid or CHIP eligibility of a child under age 19 during a CE period for non-payment of premiums. As such, DMMA is proposing to remove the premium requirement for the CHIP program.

Statutory Authority

- The Consolidated Appropriations Act of 2023 (CAA)
- 42 CFR 457.342

Purpose

The purpose of this proposed regulation is to provide 12 months of continuous eligibility for children under age 19 in CHIP (with limited exceptions) and to remove the premium requirement for the CHIP program.

Summary of Proposed Changes

Effective January 1, 2024, the DHSS/DMMA proposes to amend the Division of Social Services Manual (DSSM) and Title XXI CHIP State Plan regarding continuous eligibility for children enrolled in CHIP, specifically, to provide 12 months of continuous eligibility for children enrolled in CHIP and remove the premium requirement.

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 May 31, 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	Federal Fiscal Year 2025
General (State) funds	\$1,783,562.45	\$2,850,476.78
Federal funds	\$4,541,127.09	\$7,434,226.06

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.

Comment: Council supports the proposed amendment as it will promote family financial stability. Additionally, Council would encourage DMMA to insert a comma following "eligibility" in exception 4 to continuous eligibility in subsection 18800.1.

Agency Response: DMMA appreciates the support and agrees with interpretation requiring the insertion of the comma.

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)
- League of Women Voters of Delaware

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 May 2024 *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 XXI CHIP State Plan regarding Continuous Eligibility and Removal of Premiums for CHIP, specifically, to provide 12 months of continuous eligibility for children enrolled in CHIP and remove the premium requirement and shall be final effective July 11, 2024.

6/12/2024 | 3:38 PM EDT

Date of Signature

Josette D. Manning Esq.
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/july2024/final/28 DE Reg 45 07-01-24.htm>

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 17000

ORDER

Medicaid Workers with Disabilities (MWD) Premiums

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Division of Social Services Manual (DSSM) and Title XIX Medicaid State Plan regarding Medicaid Workers with Disabilities (MWD) Premiums, specifically, to remove the requirement of premiums for participation in the MWD Program and to provide clarity to other sections of the MWD regulations. 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 May 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by May 31, 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 Medicaid Workers with Disabilities Premiums.

Background

The Consolidated Appropriations Act (CAA) of 2023 requires states to provide 12-months continuous eligibility to children under the age of 19 in Medicaid and Childrens Healthy Insurance Program (CHIP). This requirement is regardless of the Medicaid program the child is enrolled in. Medicaid for Workers with Disabilities (MWD) may include eligible individuals within the ages 16-65. Under Delaware's current MWD program, individuals are required to pay a monthly premium, depending on their income.

Sections 1902(e)(12) and 2107(e)(1)(K) of the Social Security Act (the Act), as modified by Section 5112 of the Consolidated Appropriations Act, 2023 (CAA, 2023), provide for limited exceptions to the requirement that all states provide 12 months of continuous eligibility for children regardless of any changes in circumstances that otherwise would result in loss of coverage.

On October 27, 2023, CMS issued guidance explaining that states will no longer be permitted to terminate the Medicaid or CHIP eligibility of a child under age 19 during a CE period for non-payment of premiums.

Statutory Authority

- 42 CFR 435.926 (d)
- The Consolidated Appropriations Act (CAA) 2023

Purpose

The purpose of this proposed regulation is to remove the requirement of premiums for participation in the MWD Program, and to provide clarity to other sections of the MWD regulations.

Summary of Proposed Changes

Effective July 1, 2024, the DHSS/DMMA proposes to amend the Division of Social Services Manual (DSSM) and Title XIX Medicaid State Plan to remove the requirement of premiums for participation in the MWD Program, and to provide clarity to other sections of the MWD regulations.

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 May 31, 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	Federal Fiscal Year 2025
General (State) funds	\$237	\$952
Federal funds	\$353	\$1411

Summary of Comments Received with Agency Response and Explanation of Changes

The following comments were received:

Comment: Comments were received encouraging DMMA to make information regarding the MWD program more accessible to potential MWD eligible individuals.

Agency Response: DMMA is working to update information available regarding the MWD program.

Comment: There were comments supporting the proposed changes to the Regulations and State Medicaid Plan for the elimination of premiums for Medicaid for Workers with Disabilities (MWD).

Agency Response: DMMA appreciates the support.

Comment: Comments were received that a spouse's unearned income is not factored in for the unearned income step of a MWD applicant's eligibility, but rather only in the total countable income.

Agency Response: We agree with the commenters. However, the regulation is not substantively changing with the revision, but seeks to provide clarity by removing reference to a set dollar figure for the unearned income exclusion.

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

- State Council for Persons with Disabilities (SCPD)
- The Arc of Delaware
- Governor's Advisory Council for Exceptional Citizens (GACEC)

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 May 2024 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) and Title XIX Medicaid State Plan regarding Medicaid Workers with Disabilities Premiums, specifically, to remove the requirement of premiums for participation in the MWD Program and to provide clarity to other sections of the MWD regulations and shall be final effective July 11, 2024.

6/14/2024 | 12:45 PM EDT

Date of Signature

Josette D. Manning Esq.
Cabinet Secretary, DHSS

***Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 848 (27 DE Reg. 848). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/july2024/final/28 DE Reg 48 07-01-24.htm>

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

ORDER

Third Party Liability

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 Third Party Liability, specifically, to comply with Consolidated Appropriations Act of 2022 (CAA), 2022 and Senate Bill (SB) 220. 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 May 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by May 31, 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 regarding Third Party Liability.

Background

Medicaid is generally the "payer of last resort," meaning that Medicaid only pays claims for covered items and services if there are no other liable third-party payers for the same items and services. When Medicaid beneficiaries have one or more additional sources of coverage for health care services, third-party liability (TPL) rules govern the legal obligation of such third parties. Section 1902(a)(25)(A) of the Social Security Act defines third-party payers as health insurers, managed care organizations, and group health plans, among others.

The federal Consolidated Appropriations Act of 2022 (CAA 2022), enacted March 15, 2022, increased state flexibility with respect to TPL. Section 202 of the CAA, 2022 amended section 1902(a)(25)(I) of the Act to require a state plan for medical assistance to provide assurances satisfactory to the Secretary that the state has state laws in place that bar responsible third-party payers (other than Medicare plans) from refusing payment for an item or service solely on the basis that such item or service did not receive prior authorization under the third-party payer's rules. Specifically, if the responsible third party requires prior authorization for an item or service furnished to a Medicaid-eligible individual, the responsible third party must accept the authorization provided by the state that the item or service is covered under the state plan (or waiver of such plan) for such individual, as if such authorization was made by the third party for such item or service. Authorization by the state means that the item or service an individual received (and for which third-party reimbursement is being sought) is a covered service or item under the Medicaid state plan (or waiver of such plan) for that individual.

On March 28, 2024, Senate Bill 220 of the 152nd General Assembly, An Act to Amend Title 18 Relating to Health Insurance for Children And Persons On Medicaid received enough votes to pass the both the Senate and House, moving the bill forward for Governor's signature. This bill updates the provisions of Title 18, § 4003 to make them consistent with federal law contained in the Consolidated Appropriations Act of 2022.

Statutory Authority

- Section 1902(a)(25)(A) of the Social Security Act
- Consolidated Appropriations Act of 2022 (CAA 2022)

Purpose

The purpose of this proposed regulation is to comply with current law revise the Medicaid State Plan to align with the CAA, 2022 requirements and SB 220.

Summary of Proposed Changes

Effective April 1, 2024, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan regarding Third Party Liability, specifically, to comply with CAA, 2022 and SB 220.

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 May 31, 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

This change will result in a cost avoidance therefore there is no fiscal impact.

Summary of Comments Received with Agency Response and Explanation of Changes

There were no public comments received.

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 May 2024 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan Attachment 4.11-A - Attachment 7.7.C Supplement to Attachment 4.22, specifically, to comply with the Consolidated Appropriations Act of 2022 and Senate Bill 220 of the 152nd Delaware General Assembly and shall be final effective July 11, 2024.

6/12/2023 | 3:39 PM EDT

Date of Signature

Josette D. Manning Esq.
Cabinet Secretary, DHSS

Supplement to Attachment 4.2.2

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

STATE LAWS REQUIRING THIRD PARTIES TO PROVIDE
COVERAGE ELIGIBILITY AND CLAIMS DATA

1902(A)(25)(I)	The State has in effect laws that require third parties to comply with the provisions, including those which require third parties to provide the State with coverage, eligibility and claims data, of 1902(A)(25)(I) of the Social Security Act.
	<u>The Medicaid agency ensures that laws are in effect that bar liable third-party payers from refusing payment for an item or service solely on the basis that such item or service did not receive prior authorization under the third-party payer's rules. These laws comply with the provisions of section 202 of the Consolidated Appropriations Act, 2022.</u>

TN No. SPA # <u>08-002 24-0010</u>	Approval Date <u>September 24, 2008</u>
Supersedes	
TN No. # <u>N/A 08-002</u>	Effective Date <u>July 1, 2008 April 1, 2024</u>

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 11000

ORDER

Determining Child Care Copayments

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services (DSS) initiated proceedings to amend Division of Social Services Manual (DSSM) regarding Determining Child Care Copayments, specifically, to amend the Division of Social Services Manual (DSSM) regarding Determining Child Care Copayments. 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 May 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the

proposed regulations to be produced by May 31, 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

Effective for services provided on and after July 11, 2024, Delaware Health and Social Services (DHSS) /Division of Social Services (DSS) proposes to amend the Division of Social Services Manual (DSSM) to amend determining child care copayments.

Statutory Authority

45 CFR 98

Background

DSSM 11004.7 Determining Child Care Copayments explains how childcare copayments are determined for families who receive Purchase of Care. The policy is being amended in response to federal changes to the child care subsidy program which requires copayments to be capped at 7% of a family's gross income. The policy is also being amended to expand the list of criteria which can be used to waive copays. Through this amendment, families who fall at or below 150% of the FPL will have their copays waived.

Purpose

The purpose of this proposed regulation is to amend determining child care copayments.

Public Notice

In accordance with the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/ DSS 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 May 31, 2024.

Fiscal Impact Statement

	Federal Fiscal Year 2024	Federal Fiscal Year 2025
General (State) funds	\$4,130,000	\$4,130,000
Federal funds	\$1,770,000	\$1,770,000

Summary of Comments Received with Agency Response and Explanation of Changes

There were no public comments received.

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

The DSS 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 May 2024 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend DSSM 11004.7 regarding Determining Child Care Copayments, specifically, to clarify internal policy and procedures, is adopted and shall be final effective July 11, 2024.

6/14/2024 | 7:35 AM EDT

Date of Signature

Josette D. Manning Esq.
Cabinet Secretary, DHSS

***Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 854 (27 DE Reg. 854). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/july2024/final/28 DE Reg 53 07-01-24.htm>

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)
16 DE Admin. Code 11000

ORDER

Paying for Absent Days and Holidays in Child Care

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services (DSS) initiated proceedings to amend Division of Social Services Manual (DSSM) regarding Paying for Absent Days and Holidays in Child Care, specifically, to amend the Division of Social Services Manual (DSSM) regarding Paying for Absent Days and Holidays in Child Care. 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 May 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by May 31, 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

Effective for services provided on and after July 11, 2024, Delaware Health and Social Services (DHSS) /Division of Social Services (DSS) proposes to amend the Division of Social Services Manual (DSSM) to amend paying for absent days and holidays in child care.

Statutory Authority

45 CFR 98.45(l)(2)(iii)

Background

DSSM 11006.4.1 Paying for Absent Days and Holidays explains provider payments for absent days and holidays during authorized child care.

The policy is being revised to increase the number of absents for which providers can be reimbursed from 5 to 10 days.

Purpose

The purpose of this proposed regulation is to amend paying for absent days and holidays in child care.

Public Notice

In accordance with the *state* public notice requirements of Title 29, Chapter 101 of the Delaware Code, DHSS/DSS 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 May 31, 2024.

Fiscal Impact Statement

	Federal Fiscal Year 2024	Federal Fiscal Year 2025
General (State) funds	\$2,100,000	\$2,100,000
Federal funds	\$900,000	\$900,000

Summary of Comments Received with Agency Response and Explanation of Changes

There were no public comments received.

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

The DSS 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 May 2024 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend DSSM 11006.4.1 regarding Paying for Absent Days in Child Care, specifically, to clarify internal policy and procedures, is adopted and shall be final effective July 11, 2024.

6/14/2024 | 7:34 AM EDT

Date of Signature

Josette D. Manning Esq.
Cabinet Secretary, DHSS

11000 Child Care Subsidy Program**11006.4.1 Paying for Absent Days and Holidays in Child Care**

~~45 CFR 98.45(1)(2)(iii)~~

This policy explains provider payments for absent days and holidays during authorized child care.

- ~~The number of paid absent days per month for a child is the same as the number of days authorized for care in one week, up to a maximum of five days per month.~~ DSS will pay for a maximum of 10 absent days per month for an authorized child.
- DSS will pay for absent days for an authorized child after the family's copayment has been paid and there is a remaining balance due to the provider.
- DSS will pay for ~~up to five~~ a maximum of 10 absent days per month for an authorized child who does not have an assigned copayment.

4. DSS may pay for more than ~~five~~ 10 absent days per month for a child who is authorized for Special Needs Child Care and is absent due to the eligible child's or the eligible parent's or caretaker's verified disability or serious health condition.
5. DSS will pay for the ~~six~~ 6 major holidays per year that the provider has chosen. The authorized child must be attending the provider's site prior to the date of the holiday for the provider to receive payment for the holiday.

45 CFR 98.45 (l)(2)(iii)

See 11006.4.1 Paying for Absent Days and Holidays in Child Care - History

DEPARTMENT OF HUMAN RESOURCES DIVISION OF STATEWIDE BENEFITS

Statutory Authority: 29 Delaware Code, Section 5256 (29 Del.C. §5256)
19 DE Admin. Code 2007

ORDER

2007 Disability Insurance Program Rules and Regulations

Pursuant to House Bill No. 4 amended by House Amendment No. 1 (149th General Assembly) and further amended by Senate Bill 161 (152nd General Assembly), the Department of Human Resources and the Division of Statewide Benefits and Insurance Coverage of the Department of Human Resources was established effective July 1, 2017, having powers, duties and functions as follows:

"(1) With the exception of deferred compensation pursuant to Chapter 60A of this title and any other investment or retirement savings plan, the Director of Statewide Benefits and Insurance Coverage shall be responsible for the management and administration of all currently existing and future state employee benefits programs, including but not limited to group health, group life, flexible benefits, dental, vision, prescription, long-term care, disability, and supplemental benefits."

Epilogue language referenced below from Section 25 House Bill No. 195 (152nd General Assembly) allows the State Employee Benefits Committee (SEBC) to amend the Disability Insurance Program (DIP) Rules & Regulations.

"Section 25. Notwithstanding the provisions of the Administrative Procedures Act, 29 el. C. c. 101 or any other laws to the contrary, the State Employee Benefits Committee is authorized to amend the rules for Employees Eligible to Participate in the Group Health Insurance Program and the State Disability Insurance Program by approving such amendments and causing the amendments to be published in the Register of Regulations with such amendments to be effective as of the date of such publication unless otherwise specified by the State Employee Benefits Committee."

The SEBC 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 or any assessment of the proposed regulation is not practical.

Pursuant to the authority vested in the State Employee Benefits Committee (SEBC) by 29 Del.C. §§5256(4), 9602(b)(4), the SEBC hereby amends the Rules and Regulations for the State of Delaware Disability Insurance

Program (19 DE Admin. Code 2007), as shown on the attached version of such rules. The amendments shall have an effective date of July 1, 2024.

This order is effective May 29, 2024.

STATE OF DELAWARE
DEPARTMENT OF HUMAN RESOURCES

By: Faith L. Rentz
Director, Statewide Benefits and Insurance Coverage Office

Date: May 29, 2024

*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/july2024/final/28 DE Reg 57 07-01-24.htm>

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL
CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 903(e)(2)a.1 (7 Del.C. §903(e)(2)a.1)
7 DE Admin. Code 3504

Secretary's Order No.: 2024-F-0019

RE: Approving Final Regulation, pursuant to 7 Del. C. §903(e)(2)a.1, to Amend
7 DE Admin. Code 3504 - *Striped Bass Possession Size Limit; Exceptions*

Date of Issuance: June 10, 2024

Effective Date of the Amendment: 48 hours following publication of this Secretary's Order and regulation on the Department's website: <https://de.gov/dnrecorders>

Bass (Striped Bass; Black Sea Bass)
3504 Striped Bass Possession Size Limit; Exceptions

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 7 Del. C. §903(e)(2)a.1, and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory amendment.

Notwithstanding 29 Del.C. Ch. 101 (which sets forth the standardized procedures whereby a state agency shall promulgate regulations), the Department also has the statutory authority under 7 Del. C. §903(e)(2)a.1 to promulgate certain regulations in order to adopt a specified management measure for finfish, subject to 7 Del.C. Ch. 9, *Finfishing in Tidal Waters*, by the issuance of a Secretary's Order. The Department is allowed to follow this abbreviated regulatory promulgation process only in instances where the management measures are specified by, and ensures compliance or maintains consistency with, a fisheries management plan or rule established by the Atlantic States Marine Fisheries Commission ("ASMFC"), the *Atlantic Coastal Fisheries Cooperative Management Act*, the Mid-Atlantic Fishery Management Council, or the National Marine Fisheries Service.

Whenever the Department promulgates a regulation pursuant to 7 Del. C. §903(e)(2)a.1, it shall also (1) publish on its website a public notice with a copy of the Secretary's Order and final regulation that implements the specific management measure; and (2) file the Secretary's Order and regulation that implements the specified management measure in the next available issue of the *Delaware Register of Regulations*. The final regulation

becomes effective 48 hours after the Department has published the aforementioned public notice on its website, as mandated by 7 *Del. C.* §903(e)(2)a.2.

Background, Procedural History, and Findings of Fact

This order amends 7 DE Admin. Code 3504 - *Striped Bass Possession Size Limit; Exceptions* as part of an effort to reduce Striped Bass mortality in the recreational fishery by adopting a specified management measure approved by the Atlantic States Marine Fisheries Commission's ("ASMFC") Atlantic Striped Bass Management Board ("Board"). Specifically, this amendment reduces the slot length of a striped bass that maybe legally possessed by a recreational angler by one inch, from 20 - 25 inches to 20 - 24 inches, during Delaware's summer slot Striped Bass season. This order is required for Delaware to remain compliant with the implementation plan of ASMFC Addendum II to Amendment 7 to the Interstate Fishery Management Plan ("FMP") for Atlantic Striped Bass, approved by the Board on March 26, 2024. The implementation plan requires Delaware to enforce the recreational slot limit reduction by July 1, 2024, which is the start of the recreational summer slot Striped Bass season.

The estimated 2022 recreational striped bass removals (harvest plus dead discards) increased by 40% from the 2021 removals, which jeopardized the rebuilding of the striped bass population to the target level by 2029 and resulted in the emergency action taken in 2023. Addendum II builds upon the 2023 emergency action by changing the measures in the FMP to reduce fishing mortality and support stock rebuilding. Addendum II replaces the emergency action measures and adds additional measures upon its implementation by the states.

The Department has the statutory basis and legal authority to act with regard to the promulgation of the proposed amendments to 7 DE Admin. Code 3504 - *Striped Bass Possession Size Limit; Exceptions*, pursuant to 7 *Del. C.* §§901 (c & d) and 903(e)(2)a.1.

ORDER

In accordance with 7 *Del. C.* §903(e)(2)a.1, it is hereby ordered, this 10th day of June, 2024 that the above referenced amendments to 7 DE Admin. Code 3504 - *Striped Bass Possession Size Limit; Exceptions*, a copy of which is hereby attached, are supported by the evidence contained herein and are hereby adopted. The above referenced amendment shall take effect 48 hours following publication of this Secretary's Order and regulation on the Department's website in accordance with 7 *Del. C.* §903(e)(2)a.2.

Lisa Borin Ogden
for Shawn M. Garvin
Secretary

3500 Tidal Finfish Bass (Striped Bass; Black Sea Bass)

3504 Striped Bass Possession Size Limit; Exceptions.

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

- 1.0 Notwithstanding, the provisions of 7 **Del.C.** §929(b)(1), it is unlawful for any recreational fisherman to take and reduce to possession any striped bass that measures less than 28 inches in total length or any striped bass that measures greater than 31 inches in total length, except that a recreational hook and line fisherman may only take one striped bass measuring not less than 20 inches in total length and not greater than ~~25~~ 24 inches in total length from the Delaware River, Delaware Bay, or their tributaries during the months of July and August.
- 2.0 Notwithstanding, the provisions of 7 **Del.C.** §929(b)(1), it is unlawful for any commercial food fisherman to take and reduce to possession any striped bass that measure less than 28 inches in total length from the tidal waters of this State except that commercial gill net fishermen may take striped bass measuring no less than 20 inches in total length from the tidal waters of the Delaware River and Delaware Bay or their tributaries during the period from February 15 through May 31 or from the tidal waters of the Nanticoke River or its tributaries during the period from February 15 through March 31.
- 3.0 It is unlawful for any person to possess a striped bass except in accordance with Section 1.0 or 2.0 of this section or unless said striped bass is in one or more of the following categories:

FINAL REGULATIONS

- 3.1 It has affixed a valid strap tag issued by the Department to a commercial food fisherman and was legally taken and tagged by said commercial food fisherman; or
 - 3.2 It was legally landed in another state for commercial purposes and has affixed a valid tag issued by said state's marine fishery authority; or
 - 3.3 It entered Delaware packed or contained for shipment, either fresh or frozen, and accompanied by a bill-of-lading with a destination to a state other than Delaware; or
 - 3.4 It was legally taken and reduced to possession in another state for noncommercial purposes by the person in possession of said striped bass and there is affixed to either the striped bass or the container in which the striped bass is contained a tag that depicts the name and address of the person landing said striped bass and the date, location, and state in which said striped bass was landed; or
 - 3.5 It is the product of a legal aquaculture operation and the person in possession has a written bill of sale or receipt for said striped bass.
- 4.0 It is unlawful for any commercial finfisherman to possess any striped bass for which the total length has been altered in any way prior to selling, trading or bartering said striped bass.
 - 5.0 The words "land" and "landed" shall mean to put or cause to go on shore from a vessel.
 - 6.0 The words "take and reduce to possession" shall mean the removal of any striped bass from Delaware waters with the intent to keep or harvest the striped bass.
 - 7.0 It is unlawful for a commercial finfisherman authorized to fish during Delaware's commercial striped bass fishery to land any striped bass that measures less than 20 inches in total length.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Board of Dentistry and Dental Hygiene

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

ORDER

1100 Board of Dentistry and Dental Hygiene

FINAL ORDER ADOPTING REGULATION CHANGES

The Delaware Board of Dentistry and Dental Hygiene pursuant to 24 *Del. C.* § 1106(a)(1), proposed to revise its regulations. The proposed amendments to Regulation 8.1 eliminate the need for an inactive licensee to renew an inactive license.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Following publication in the Delaware Register of Regulations, Volume 27, Issue 6, on December 1, 2023, a public hearing was held on January 11, 2024, at a regularly scheduled meeting of the Delaware Board of Dentistry and Dental Hygiene to receive verbal comments regarding the Board's proposed amendments to its regulations. No comments were submitted at that time.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

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

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

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

There was no verbal testimony given at the public hearing on January 11, 2024. No written comments were received by the Board during the initial thirty-day public comment period; nor were any written comments received after the public hearing during the fifteen day 29 *Del. C. § 10118(a)* second public comment period.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.
2. There were no public comments provided to the Board during the two written public comment periods, or the public hearing.
3. Pursuant to 24 *Del. C. § 1106(a)(1)* the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.
4. The proposed changes to Regulation 8.1 eliminate the need for an inactive licensee to renew an inactive license.
5. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed changes to the Board's rules and regulations.
6. The Board 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.
7. Having received no public comments, the Board finds no reason to amend the regulations as proposed.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, pursuant to 24 *Del. C. § 1106(a)(1)* and for the reasons set forth above, the Board of Dentistry and Dental Hygiene does hereby ORDER that the regulations be, adopted and promulgated as set forth in the Delaware *Register of Regulations*. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, pursuant to 29 *Del. C. § 10118(g)*. The new regulations are attached hereto as Exhibit A.

SO ORDERED this 21st day of March 2024.

Board of Dentistry and Dental Hygiene

/s/ Michael Nies, DDS, President	(Absent) Andrew Swiatowicz, DDS, Secretary
/s/ Erin Cox O'Leary, DDS	/s/ Norman Steward, DDS
(Absent) Anthony Vattilana, DDS	/s/ Carla Rawheiser, RDH,
/s/ Joseph Stormer, Public Member	/s/ Mike Cebric, Public Member
/s/ Lydia Massey, Public Member	/s/ Bonnie Thomas, RDH, Hygiene Advisory
(Absent) Tammy Beebe, RDH, Hygiene Advisory	

***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 December 2023 issue of the *Register* at page 413 (27 DE Reg. 413). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/july2024/final/28 DE Reg 60 07-01-24.htm>

FINAL REGULATIONS

DIVISION OF PROFESSIONAL REGULATION

Board of Dentistry and Dental Hygiene

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

ORDER

1100 Board of Dentistry and Dental Hygiene

FINAL ORDER ADOPTING REGULATION CHANGES

The Delaware Board of Dentistry and Dental Hygiene pursuant to 24 Del. C. § 1106(a)(1), proposed to revise its regulations. The proposed amendments to Board Regulations 5.1. and 5.2. clarify that limited licensees are subject to general supervision while training and eliminate redundancies in the Supervision regulations.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Following publication in the Delaware Register of Regulations, Volume 27, Issue 8, on February 1, 2024, a public hearing was held on May 16, 2024, at a regularly scheduled meeting of the Delaware Board of Dentistry and Dental Hygiene to receive verbal comments regarding the Board's proposed amendments to its regulations. No comments were submitted at that time.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

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

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

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

There was no verbal testimony given at the public hearing on May 16, 2024. No written comments were received by the Board during the initial thirty-day public comment period; nor were any written comments received after the public hearing during the fifteen day 29 Del. C. § 10118(a) second public comment period.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.
2. There were no public comments provided to the Board during the two written public comment periods, or the public hearing.
3. Pursuant to 24 Del. C. § 1106(a)(1) the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.
4. The proposed changes to Board Regulations 5.1. and 5.2. clarify that limited licensees are subject to general supervision while training and eliminate redundancies in the supervision regulations.
5. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed changes to the Board's rules and regulations.
6. The Board 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.
7. Having received no public comments, the Board finds no reason to amend the regulations as proposed.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, pursuant to 24 *Del. C.* § 1106(a)(1) and for the reasons set forth above, the Board of Dentistry and Dental Hygiene does hereby ORDER that the regulations be, adopted and promulgated as set forth in the Delaware *Register of Regulations*. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, pursuant to 29 *Del. C.* § 10118(g). The new regulations are attached hereto as Exhibit A.

SO ORDERED this 16th day of May 2024.

Board of Dentistry and Dental Hygiene

/s/ Michael Nies, DDS, President

/s/ Andrew Swiatowicz, DDS, Secretary

/s/ Erin Cox O'Leary, DDS

/s/ Norman Steward, DDS

(Absent) Anthony Vattilana, DDS

(Absent) Carla Rawheiser, RDH,

(Absent) Joseph Stormer, Public Member

/s/ Mike Cebric, Public Member

/s/ Lydia Massey, Public Member

(Absent) Bonnie Thomas, RDH, Hygiene Advisory

/s/ Annette Matoni, RDH, Hygiene Advisory

(Absent) Tammy Beebe, RDH, Hygiene Advisory

***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 February 2024 issue of the *Register* at page 584 (27 DE Reg. 584). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/july2024/final/28 DE Reg 62 07-01-24.htm>

GENERAL NOTICES

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF WATERSHED STEWARDSHIP

Statutory Authority: 7 Delaware Code, Section 4006(h) and (i) (7 **Del.C.** §4006(h) & (i))

NOTICE

General Notice - S&S Revised CCR Form

The Department of Natural Resources and Environmental Control (DNREC) Division of Watershed Stewardship Sediment and Stormwater Program has released a revised form as a regulatory guidance document for public review. This document supports **Regulation No. 5101 Sediment and Stormwater Regulations** (DSSR), as set forth at 7 *Del.C.* §4006(h) and (i).

The revised form and a description the change includes:

- Third Party Certified Construction Reviewer (CCR) Application revised include a statement on the suspension or revocation of a CCR certification in accordance with DSSR §6.0 and 7 *Del.C.* §4013(e)

The DNREC Sediment and Stormwater Program hereby provides notice of these regulatory guidance documents, pursuant to 7 *Del.C.* §4006(i), which incorporates the provisions of 7 *Del.C.* §6004. A public hearing will NOT be held unless the Secretary receives a meritorious request for a hearing within 15 days of date of this notice, ending July 16, 2024. A request for a public hearing shall be in writing and show familiarity with the regulatory guidance document and provide a reasoned statement of the regulatory guidance document's probable impact.

Questions regarding the revised regulatory guidance document may be directed to Bonnie Arvay, bonnie.arvay@delaware.gov.

PREPARED BY:

Bonnie W. Arvay

(302) 608-5458

bonnie.arvay@delaware.gov

***Please Note: Due to formatting of the form, it is not being published here. Copies of the document are available at:**

[http://regulations.delaware.gov/register/july2024/general/CCR Application - July 2024_fillable.pdf](http://regulations.delaware.gov/register/july2024/general/CCR%20Application%20-%20July%202024_fillable.pdf)

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 - Shawnee Acres Subdivision

June 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 all local streets in the Shawnee Acres subdivision

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

GENERAL NOTICES

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 - Wilmington Manor (West) Subdivision

June 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 all local streets in the Wilmington Manor (West) subdivision

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, August 7, 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, September 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
Pharmacists as Providers

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 3.1-A page 3.1 Addendum, specifically, to add the role of pharmacist as a provider type.

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 July 31, 2024. Please identify in the subject line: Pharmacists as Providers

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.

OFFICE OF MANAGEMENT AND BUDGET**Division of Facilities Management****PUBLIC NOTICE****4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects**

Pursuant to the authority provided by 29 *Del. C.* § 6908(a)(6), the Office of Management and Budget established regulations that require contractors and subcontractors to implement a program of mandatory drug testing for employees who work on Large Public Works Contracts funded all or in part with public funds. The regulations established the mechanism, standards and requirements of a Mandatory Drug Testing Program that was incorporated by reference into all Large Public Works Contracts awarded pursuant to 29 *Del. C.* § 6962.

New Castle County has a drug testing requirement set forth in New Castle County Ordinance 2.05/395 for all construction projects which mirrors the drug testing program imposed by the State of Delaware. Currently, contractors and subcontractors must comply with both programs, for all Large Public Works projects located in New Castle County. This is duplicative and costly. The New Castle County drug testing program is comparable to the one imposed by the State. The purpose of the proposed regulation amendment is to allow the State to accept New Castle County drug tests that are up to six months old in lieu of requiring contractors and subcontractors to have new tests done for all Large Public Works projects located in New Castle County.

Public Comment Period

The Division of Facilities Management of the Office of Management and Budget will take written comments on the proposed amendment to Regulation 4104-5.0 by close of business (4:30 p.m. EST) on or before July 31, 2024. The public may submit their comments to:

Jennifer Coverdale
Director, Division of Facilities Management
Office of Management and Budget
122 Martin Luther King Jr. Blvd. S
Dover, DE 19901
jennifer.coverdale@delaware.gov

DEPARTMENT OF SAFETY AND HOMELAND SECURITY**OFFICE OF THE MARIJUANA COMMISSIONER****PUBLIC NOTICE****5001 Rules of the Office of the Marijuana Commissioner****Summary**

In compliance with Delaware's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 4 of the Delaware Code, Chapter 13, Section 1331, the Office of the Marijuana Commissioner proposes to adopt regulations. This regulation establishes the standards for issuing marijuana establishment licenses, social equity businesses, and a retail sales tax. They also include a system for inspection, tracking, packaging, and testing marijuana to ensure the marijuana products are safe.

Proposed regulations for the Office of the Marijuana Commissioner were first published in the May 1, 2024 *Delaware Register of Regulations*, and comments accepted until June 3, 2024. As a result of the comments received, the Office of Marijuana Commissioner determined to withdraw the regulations published in 27 **DE Reg.** 859 (05/01/24), which will no longer be considered in favor of the new proposed regulations. The new proposed regulations include the following changes:

1. Additional child protection measures under Packaging and Labeling Requirements and Advertising;

2. Additional details on operating manual requirements and required personnel training;
3. Additional details on quality assurance and quality control programs;
4. Additional guidance on requirements during temporary seed-to-sale tracking failures;
5. Requirement that vehicles transporting marijuana plants, marijuana, and marijuana flower be equipped with a GPS tracking device;
6. Procedures for refusal of shipments;
7. Additional guidance on advertising and audience composition requirements;
8. Allowance for co-location of manufacturing facilities and retail establishments provided certain conditions are met; and
9. Technical fixes throughout including: elimination of duplicative subsections and correction of misnumbering, relocation of subsections for more logical flow, and grammatical corrections.

Comments

Copies of the proposed regulations will be published in the July 1, 2024 edition of the Delaware Register of Regulations, accessible online at <http://regulations.delaware.gov>. Copies are also posted on the Office of the Marijuana Commissioner's website at <https://omc.delaware.gov>. Any person who wishes to make any written suggestions, compilations of data, briefs or other written materials concerning the proposed new regulations must submit same to Taylor Shannon, Delaware Office of the Marijuana Commissioner, Thomas Collins Building, 3rd Floor, Suite 1-A, 540 S Dupont Hwy, Dover, DE 19901 or by email to OMC@delaware.gov. All submissions from the public will be posted on the Office of the Marijuana Commissioner's website at <https://omc.delaware.gov>. Pursuant to 29 **Del.C.** §10118(a), the final date to receive written comments is July 31, 2024.

Adoption of Proposed Regulation

On or after July 31, 2024, following review of any public comments received, the Office of the Marijuana Commissioner will determine whether to adopt the proposed rules as originally published or make additional changes.

Effective Date of Amendments to Regulations

If adopted by the Office of the Marijuana Commissioner, the amendments shall take effect 10 days after being published as final in the Delaware Register of Regulations.

Robert Coupe, Marijuana Commissioner

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
PUBLIC NOTICE
500 Board of Podiatry

The Delaware Board of Podiatry, pursuant to 24 **Del.C.** §506(a)(1), proposes to revise its regulations. The proposed amendments to the regulations eliminate the requirement that an inactive license must be renewed biennially.

The Board will hold a public hearing on the proposed rule change on September 4, 2024 at 5:00 p.m., in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 and virtually. The virtual link will be published on the meeting agenda at least seven days prior to the hearing. Written comments should be sent to Michelle Loper, Administrator of the Delaware Board of Podiatry, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until September 19, 2024.

DIVISION OF PROFESSIONAL REGULATION**PUBLIC NOTICE****3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals**

The Delaware Board of Mental Health and Chemical Dependency Professionals, pursuant to 24 **Del.C.** § 3006(a)(1), proposes to revise its regulations. The proposed amendments to the regulations seek to clarify what is required of a master's degree that is not in clinical mental health counseling in order for that degree to be deemed acceptable to the Board under 24 **Del.C.** § 3032(a)(1). The proposed regulations also clarify that face-to-face supervision or counseling includes live video conferencing. Other changes were made to ensure compliance with the Delaware Administrative Code Drafting and Style Manual.

The Board will hold a public hearing on the proposed rule change on August 28, 2024 at 12:00 p.m., in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 and virtually. The virtual link will be published on the meeting agenda at least seven days prior to the hearing. Written comments should be sent to Maya Echols, Administrator of the Delaware Board of Mental Health and Chemical Dependency Professionals, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until September 13, 2024.

PUBLIC SERVICE COMMISSION**PUBLIC NOTICE****3007 Electric Service Reliability and Quality Standards**

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 26 **Del.C.** §§209(a)(1), the Delaware Public Service Commission (the "Commission" or "PSC") proposes to revise 26 DE Admin. Code. 3007 *Electric Service Reliability and Quality Standards* (the "Regulation") for regulatory enhancement and public benefit.

This Regulation requires electric distribution companies ("EDCs") subject to the Commission's jurisdiction to engage in distribution planning and to submit annual reports prepared with the input of Commission Staff ("Staff") and the Delaware Division of the Public Advocate ("DPA"). EDCs, Staff, and the DPA have engaged in four annual distribution planning cycles. Staff and DPA have consistently maintained that EDCs ignore their input with respect to distribution system improvements, replacements, or repairs that could be done at less cost to ratepayers without sacrificing service reliability. Staff drafted the proposed amendments to this Regulation to address these concerns.

A copy of the proposed amendments to this Regulation is being published in the July 2024 issue of the *Delaware Register of Regulations*. The proposed amendments are also addressed in Commission Order No. 10457 in PSC Docket No. 18-9035, and can be found in the PSC's electronic filing system, Delafile, located at <http://delafile.delaware.gov/> by searching for Docket No. 18-9035. If you wish to obtain written copies of the Order and proposed regulation, please contact the PSC at (302)736-7500. Copies in excess of the first twenty (20) pages are \$0.10 per page. Payment is expected prior to copying (if you wish the copies to be mailed) or at the time the copies are retrieved (if you retrieve them in person).

Pursuant to 29 *Del. C.* § 10118(a), interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Commission by filing such comments electronically in Delafile at <http://delafile.delaware.gov/> and filling out the "Public Comment Form" located under "Public Links." Written comments may also be mailed to: Crystal Beenick, Public Service Commission, Cannon Building, 861 Silver Lake Blvd., Suite 100, Dover, DE 19904, or via email to crystal.beenick@delaware.gov, with the subject line "Docket 18-0935." Written comments will be accepted until August 15, 2024, pursuant to 29 *Del. C.* § 10118(a). **There will be a public hearing on the proposed amendments to the Regulation on July 31, 2024 at 1:00 p.m. at the hearing room located at 861 Silver Lake Blvd., Suite 100, Dover, DE 19904. To be considered at the July 31, 2024, hearing, however, written comments must be submitted on or before July 19, 2024.**

Following review of the public comment, the Commission will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received. If adopted by the Commission, the amendments shall take effect ten days after being published as final in the Delaware Register of Regulations.