
Delaware Register of Regulations

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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 February 15, 2022.

*Cover Photo
Dover, Delaware*



INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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DELAWARE REGISTER OF REGULATIONS

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

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

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

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

CITATION TO THE DELAWARE REGISTER

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

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

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

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

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
April 1	March 15	4:30 p.m.
May 1	April 15	4:30 p.m.
June 1	May 16	4:30 p.m.
July 1	June 15	4:30 p.m.
August 1	July 15	4:30 p.m.
September 1	August 15	4:30 p.m.

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

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Symbol Key

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

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 AGRICULTURE**THOROUGHBRED RACING COMMISSION**Statutory Authority: 3 Delaware Code, Section 10103(c) (3 **Del.C.** §10103(c))3 **DE Admin. Code** 1001**PUBLIC NOTICE****1001 Thoroughbred Racing Rules and Regulations**Summary

The Thoroughbred Racing Commission proposes to amend its Regulations adopted in accordance with Title 3, Chapter 101. The purpose of the proposed regulations is to amend Rule 13.1.3 to change the existing open claiming rule. Other regulations issued by the Thoroughbred Racing Commission are not affected by this proposal. The Thoroughbred Racing Commission is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

Comments

A copy of the proposed regulations is being published in the March 1, 2022 edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: http://regulations.delaware.gov/services/current_issue.shtml.

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Thoroughbred Racing Commission at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before April 1, 2022. Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Regulation

On or after April 1, 2022, following review of the public comment, the Thoroughbred Racing Commission will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received.

Effective Date of Amendments to Regulations

If adopted by the Thoroughbred Racing Commission, the amendments shall take effect ten days after being published as final in the *Delaware Register of Regulations*.

Delaware Thoroughbred Racing Commission
Sarah A. Crane, Executive Director

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

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 806RFA 03-01-22.pdf>

1001 Thoroughbred Racing Rules and Regulations (Break in Continuity of Sections)

13.0 Claiming Races

13.1 Owners Entitled:

- 13.1.1 In claiming races, any horse, unless declared ineligible under Rule 13.20, is subject to claim for its entered price by any Owner in good standing, and who has started a horse at the race meeting at which the claim is made.
- 13.1.2 An Owner may claim out of the race in which he first starts a horse.
- 13.1.3 A new Owner, i.e., an individual, partnership, corporation or any other authorized racing interest who has not held an Owner's license ~~in any racing jurisdiction during the prior year from the Commission or a previously licensed owner that has no current ownership~~, is eligible to claim by obtaining an "Open Claiming License" from the Commission.

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

[1001 Thoroughbred Racing Rules and Regulations](#)

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 3003A (14 Del.C. §3003A)

14 DE Admin. Code 934

PUBLIC NOTICE

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

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

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 Del.C. § 3003A, the Secretary of Education intends to amend 14 DE Admin. Code 934 Regulations for Family and Large Family Child Care Homes. This regulation is being amended for the following reasons, as well

as to comply with the *Delaware Administrative Code Drafting and Style Manual*:

- Requiring immediate access to the family and large family home during the hours of operation;
- Requiring a State business license or verification of tax-exempt status for licensure and renewals;
- Beginning January 1, 2023, increasing the fine for unlicensed care to \$1000 or imprisoned not more than 6 months;
- Allowing for Office of Child Care Licensing (OCCL) to investigate complaints typically investigated by other entities if the complaint involves a violation of OCCL's regulations;
- Requiring the licensee, non-emergency substitute, and large family staff to complete OCCL's approved health and safety training;
- No longer requiring property insurance for large family child care homes;
- Adding information about OCCL procedures regarding suspension;
- Requiring a licensee to follow all federal, state, and local laws and regulations;
- Requiring OCCL to be notified of accidental ingestion of a medication or a drug while at the center that results in medical attention;
- For infants age four months or older, stating semi-solid foods may be fed as requested by the parent or guardian and are required once an infant is six months old rather than 8 months unless the parent or guardian provides documentation from the infant's health care provider stating otherwise;
- Changing the breast milk regulations to comply with the Center for Disease Control's guidelines to state, "Thawed, previously frozen breast milk may be kept at room temperature for one to two hours. Breast milk must be used within two hours after a feeding has finished. Expressed breast milk must be returned to the parent if it is in an unsanitary bottle, partially used, or if it has been unrefrigerated for more than four hours or within two hours after a feeding has finished. Refrigerated, unused, freshly expressed breast milk that was never frozen must be returned to the parent after four days.";
- Adding additional requirements and explanations of safety hazards to children:

A licensee shall ensure toys and equipment used by the children are sturdy, safely assembled, hazard-free, and not recalled. Toys and equipment may not cause children to become trapped or have rough edges, sharp corners, pinch and crush points, splinters, or exposed bolts. Equipment in poor condition must be repaired, removed, or made inaccessible to children. A licensee shall take the following measures to prevent hazards to children in care:

- o To prevent cuts, abrasions, and punctures, equipment, materials, and other objects on the premises that have sharp edges, protruding nails, bolts, or other dangers must be repaired, removed, or made inaccessible to children. Sharp edges on natural wooden equipment must be sanded;
- o To prevent burns, equipment, materials, or products that may be hot enough to injure a child must be made inaccessible to children;
- o To prevent sheering, crushing, or pinching, broken or cracked equipment, materials, and objects must be repaired, removed, or made inaccessible to children;
- o To prevent entrapment, freezers, refrigerators, washers, dryers, compost bins, and other entrapment dangers must be inaccessible to children unless being actively supervised;
- o To prevent tripping, uneven indoor or outdoor walkways, damaged flooring or carpeting, or other tripping hazards must be removed or repaired;
- o To prevent injuries and death, large objects that pose a risk of falling or tipping must be securely anchored. Large objects include, but are not limited to, televisions, dressers, bookshelves, wall cabinets, sideboards or hutches, and wall units; and
- o To prevent injuries, equipment in poor condition (rusty parts, flaking paint, or other dangers) must be repaired, removed, or made inaccessible to children.
- Aligning the regulations and study guide on what is considered a medication error;
- Renaming behavior management to behavior supports;
- Raising the acceptable food temperature to comply with the Division of Public Health;
- Clarifying the prohibition of portable sinks outdoors;
- Clarifying the prohibition of accordion and pressure gates in any area of the home;
- Requiring a licensee to design effective positive behavioral supports or to make reasonable accommodations to comply with provisions in an Individualized Family Service Plan (IFSP) or Individualized Education Plan (IEP);
- Raising the acceptable food temp to comply with DPH from 40° F to 41° F or colder;

- Requiring a licensee to design effective positive behavioral supports or to make reasonable accommodations to comply with provisions in an Individualized Family Service Plan (IFSP) or Individualized Education Plan (IEP);
- Prohibiting the use of air fresheners due to health concerns;
- Aligning the regulations and study guide on what is considered a medication error. Medication errors include giving the wrong medication, giving the wrong dose, failing to give the medication at the correct time or at all, giving medication to the wrong child, giving the medication by the wrong route, or giving medication without documenting the administration;
- Changing provisional license issuance to be time-limited;
- Adding the approved training topic of disability non-discrimination, accommodations, or modifications;
- Requiring annual training to be completed at least 30 days before license expiration;
- Requiring comprehensive background checks to be conducted every five years for household members, staff, and adult volunteers;
- Requiring an eligibility or provisional eligibility determination to be received by the licensee before a person becomes a household member, staff member, or adult volunteer at the home;
- Beginning July 1, 2023, within 45 days of enrollment, obtaining parent or guardian consent or denial to complete the Department's approved developmental and social emotional screening tool, or documentation giving the licensee consent to complete the screening tool, if the parent or guardian fails to do so. Screenings must be conducted annually for each child who has not begun kindergarten or a higher grade, unless the parent or guardian does not consent;
- Beginning January 2023, with parent consent, requiring the developmental and social emotional screening tool to be conducted annually until the child enters kindergarten or a higher grade; and
- Changes to comply with the Drafting Manual.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before April 1, 2022 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, https://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, located at the address listed above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not 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 and safe 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. The amended regulation clarifies the minimum health and safety standards for family and large family child care homes.
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. The amended regulation aligns

child care regulations with more recent state and federal health and safety law.

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:**

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 807RFA 03-01-22.pdf>

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

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

PROFESSIONAL STANDARDS BOARD

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

14 DE Admin. Code 1550

PUBLIC NOTICE

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

1550 AgriScience Teacher

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1550 AgriScience Teacher. The regulation concerns the requirements for an Agriscience Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include revising the title of the regulation; adding and striking defined terms in Section 2.0; clarifying the requirements for issuing an Agriscience Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining an Agriscience Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns requests for the Secretary of Education to review standard certificate applications; adding Section 7.0, which concerns the validity of an Agriscience Teacher Standard Certificate; adding Section 8.0, which concerns disciplinary actions; adding Section 9.0, which concerns recognizing past certificates that were issued by the Department; and adding Section 10.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address.

Persons wishing to present their views regarding this matter may do so in writing by the close of business (4:30 p.m.) on or before April 1, 2022 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement

standards? The education, knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.

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

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

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

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

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 810RFA 03-01-22.pdf>

1550 ~~AgriScience~~ Agriscience Teacher

1.0 Content

- 4-1 This regulation shall apply to the issuance of a ~~Standard Certificate, an Agriscience Teacher Standard Certificate~~ pursuant to 14 **Del.C.** §1220(a), ~~for AgriScience Teacher. This certification is required for grades 9 to 12, and in grades 6 to 8 in a Middle Level school~~ Standard Certificate is required to teach agriscience in grades 5 to 12 in a Delaware public school.
- 4-2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

PROPOSED REGULATIONS

2.0 Definitions

- 2.1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~
- 2.2 The following ~~word~~ words and ~~term~~ terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:
- "Department" means the Delaware Department of Education.
- "Educator" means a person licensed and certified by the State under 14 Del.C. Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.
- "Employing Authority" means any entity which employs educators, and includes, but is not limited to, school districts, charter schools, boards of directors, and management companies.
- "Immorality" means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.
- "License" means a credential which authorizes the holder to engage in the practice for which the license is issued.
- ~~"Passing Score"~~ means a minimum score as established by the Professional Standards Board, in consultation with the Department and with the approval of the State Board of Education.
- "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.
- "Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.
- "Standards Board" means the Professional Standards Board established pursuant to 14 Del.C. §1201.
- "Valid and Current License or Certificate" means a current full or permanent certificate or license as an educator issued by another state or jurisdiction. This means the applicant is fully credentialed by having met all of the requirements for full licensure or certification as an educator in another state or jurisdiction and is in good standing in that state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a an Agriscience Teacher Standard Certificate ~~as an AgriScience Teacher~~ to an educator applicant who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced ~~License; License~~ or a Standard or Professional Status Certificate issued by the Department prior to August 31, ~~2003; 2003~~ and meets the requirements in Section 4.0 of this regulation; or
- 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto;~~ and Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as an agriscience teacher issued by another state or jurisdiction.
- 3.1.3 ~~Has satisfied the additional requirements in this regulation.~~
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for an Agriscience Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as

Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

4.0 **Additional Prescribed Education, Knowledge, and Skill Requirements**

4.1 An educator shall have also met the following:

~~4.1.1 achieved on the *Praxis* Subject Assessment – Agriculture (ETS Test # 5701) a Passing Score of 147.~~

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 one 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 agriscience 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 agriscience as provided in 14 Del.C. §§1260 - 1266; or

4.1.1.3 Satisfactorily completed a Department-approved educator preparation program in agriscience; 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 agriscience of which at least six credits focus on pedagogy or an equivalent number of hours in professional development with one 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.

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:

4.1.1.4.4.1 Relevant courses from a Regionally Accredited college or university in agriscience 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 agriscience; and

4.1.1.4.4.3 The activity is documented by the provider to provide knowledge and skills that are required for the agriscience 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.

PROPOSED REGULATIONS

4.1.2 The applicant shall have achieved a minimum score of 147 on the Praxis Subject Assessment - Agriculture (ETS Test Code # 5701).

4.2 For an applicant who holds at least one content area Standard Certificate, the applicant shall have achieved the minimum score on an examination as provided in subsection 4.1.2.

5.0 Application Requirements

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

5.2 An applicant must disclose the applicant's criminal conviction history upon application for a Agriscience Teacher Standard Certificate. Failure to disclose a criminal conviction history is grounds for denial of an Agriscience Teacher Standard Certificate as specified in 14 Del.C. §1219.

5.3 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for an Agriscience 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 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and

5.3.4 Additional documentation as required by the Department.

5.4 For an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for an Agriscience Teacher Standard Certificate:

5.4.1 Official score on the Praxis Subject Assessment as provided in subsection 4.2; and

5.4.2 Additional documentation as required by the Department.

5.5 For applicants who have met the requirements for licensure as an educator in Delaware and hold a Valid and Current License or Certificate as an agriscience teacher from another state or jurisdiction, the following documentation is required in the application for an Agriscience Teacher Standard Certificate:

5.5.1 An official copy of the Valid and Current License or Certificate; and

5.5.2 Additional documentation as required by the Department.

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 an Agriscience Teacher Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for an Agriscience Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.

6.1.1 For school districts, requests shall be approved by the superintendent of the school district.

6.1.2 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.

7.0 Validity of a Standard Certificate

7.1 An Agriscience Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

7.2 An Agriscience Teacher Standard Certificate is not subject to renewal.

8.0 Disciplinary Action

- 8.1 An Educator's Agriscience Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 DE Admin. Code 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.
- 8.2 An Educator's Agriscience Teacher Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 Del.C. §1222.
- 8.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 DE Admin. Code 1515 Hearing Procedures and Rules.

9.0 Past Certificate Recognized

The Department shall recognize an Agriscience Teacher Standard Certificate issued prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach agriscience.

10.0 Contact Information and Change of Name or Address

- 10.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
- 10.2 An Educator who legally changes the Educator's name and wishes to change the name on the Agriscience Teacher Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
- 10.3 An applicant or Educator whose mailing address, email address, or phone number changes shall provide the Department with the new mailing address, email address, or phone number within 14 calendar days of the change.

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))
14 DE Admin. Code 1564

PUBLIC NOTICE

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

1564 Physical 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 and 1205(b), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1564 Physical Education Teacher. The regulation concerns the requirements for a Physical Education Teacher Standard Certificate in accordance with 14 Del.C. §1220. On November 1, 2021, the Board published proposed amendments, including adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a Physical Education Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Physical Education Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; and adding sections that concern the validity of

a Physical Education Teacher Standard Certificate, disciplinary actions, requests for the Secretary of Education to review standard certificate applications, and past certificates that were issued by the Department. The Board received one written submittal concerning the proposed amendments from Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"). GACEC suggested adding education, knowledge, and skill requirements for adapted physical education ("APE") teachers. GACEC commented "[i]f it is not feasible at this time to require certification for all those teaching APE, Council would encourage [the Department] to ensure that teachers without the certification who are serving children in need of APE have access to training and/or technical assistance from certified individuals."

On December 2, 2021, the Board considered GACEC's comment. The Board voted to withdraw the proposed amendments that were published on November 1st and to gather more data and information on adapted physical education.

On February 3, 2022, the Board considered presentations from Sabra Collins, the Department's Education Associate for Physical Education, Health and Wellness, and Frank Hughes who is currently a physical education teacher at the John G. Leach School. Ms. Collins reported that all physical education preparation programs in Delaware include at least one course that addresses adapted physical education. Ms. Collins further reported that physical education teachers work closely with physical and occupational therapists and that adapted physical education teacher training for all teachers is being supported through professional development opportunities shared through SHAPE America, SHAPE Delaware, and other Department resources, including a series of teacher recordings and lesson activities that include adapted physical education. In addition, the Board reviewed data concerning physical education teachers from the 2020-21 school year and discussed that Delaware currently does not have an educational pathway that could lead to an adapted physical education certification. The Board determined that further changes to 14 **DE Admin. Code** 1564 Physical Education Teacher as a result of GACEC's comment were not necessary. In addition, the Board clarified the definition of "Valid and Current License or Certificate" in Section 2.0; added subsection 5.2, which concerns the disclosure of an applicant's criminal conviction history; and added Section 10.0, which concerns applicant's and license holders' contact information. The foregoing changes were not made as a result of GACEC's comment. The Board unanimously voted to publish the proposed amendments that it originally published on November 1st as well as the additional changes that were not made as a result of GACEC's comment.

Persons wishing to present their views regarding this matter may do so in writing by the close of business (4:30 p.m.) on or before April 1, 2022 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

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 Physical Education Teacher Standard Certificate but whose effectiveness is documented by the district or school. Proposed 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:**

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 815RFA 03-01-22.pdf>

1564 Physical Education Teacher

~~Non-regulatory note: Passage on an examination of content knowledge may also be required to obtain this certification. Pursuant to 14 **Del.C.** §1220 and 14 **DE Admin. Code** 1505, an examination of content knowledge is required when applicable and available. An examination of content knowledge is applicable and available when approved by the Professional Standards Board with the concurrence of the State Board of Education. See the Department of Education website for additional information.~~

1.0 Content

4.1 ~~This regulation shall apply to the issuance of a Physical Education Teacher Standard Certificate, Certificate pursuant to 14 **Del.C.** §1220(a), for Physical Education Teacher. This certification is required for grades K to 12. This Standard Certificate is required for all physical education teachers in Delaware public schools.~~

4.2 ~~Except as otherwise provided, the requirements set forth in 14 **DE Admin. Code** 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

2.0 Definitions

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

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

"Department" means the Delaware Department of Education.

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

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

PROPOSED REGULATIONS

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

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

"Regionally Accredited" means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

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

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

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

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a Physical Education Teacher Standard Certificate as a ~~Physical Education Teacher~~ to an educator applicant who ~~has met the following:~~
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced ~~License; License~~ or a ~~Limited Standard, Standard or Professional Status Certificate~~ issued by the Department prior to August 31, 2003; ~~and 2003 and meets the requirements in Section 4.0 of this regulation; or~~
 - 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto.~~ Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a physical education teacher issued by another state or jurisdiction.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Physical Education Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

4.0 Prescribed Education, Knowledge, and Skill Requirements

- 4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have satisfied one of the following education requirements:
 - 4.1.1.1 Obtained and currently maintain a Physical Education certificate from the National Board for Professional Teaching Standards; or
 - 4.1.1.2 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in physical education from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or

4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach physical education as provided in 14 Del.C. §§1260 - 1266; or

4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in physical education; or

4.1.1.5 If the applicant is applying for an Initial License after the applicant completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school as provided in subsection 4.1.3.1 of 14 DE Admin. Code 1510, 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 one 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 physical education of which at least six credits focus on pedagogy.

4.1.1.5.1 The applicant, in consultation with the applicant's Employing Authority, shall select the 15 credits or the equivalent number of hours in professional development subject to the Department's approval.

4.1.1.5.2 If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the 15 credits or the equivalent number of hours in professional development in consultation with the Department and subject to the Department's approval.

4.1.1.5.3 For the purpose of subsection 4.1.1.5, professional development means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change the participants' attitudes, insights, and perspectives and ultimately results in improved professional practice.

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

4.1.1.5.4.1 Relevant courses from a Regionally Accredited college or university in physical education are not available to the applicant online or in the applicant's county of residence; and

4.1.1.5.4.2 The activity is grounded in research and current best practices as judged by the Department's content specialist in physical education; and

4.1.1.5.4.3 The activity is documented by the provider to provide knowledge and skills that are required for the physical education certification; and

4.1.1.5.4.4 The activity is part of a professional development program that includes knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.

4.1.2 The applicant shall have achieved the minimum score on one of the following examinations:

4.1.2.1 A minimum score of 152 on the Praxis Subject Assessment - Physical Education: Content Knowledge (ETS Test Code # 5091); or

4.1.2.2 A minimum score of 160 on the Praxis Subject Assessment - Health and Physical Education - Content Knowledge (ETS Test Code # 5857).

4.2 For an applicant who holds at least one content area Standard Certificate, the applicant shall have achieved the minimum score on an examination as provided in subsection 4.1.2.

5.0 Application Requirements

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

PROPOSED REGULATIONS

- 5.2 An applicant must disclose the applicant's criminal conviction history upon application for a Physical Education Teacher Standard Certificate. Failure to disclose a criminal conviction history is grounds for denial of a Physical Education Teacher Standard Certificate as specified in 14 Del.C. §1219.
- 5.3 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Physical Education Teacher Standard Certificate:
- 5.3.1 Evidence of obtaining and maintaining a Physical Education certificate from the National Board for Professional Teaching Standards, if applicable; and
- 5.3.2 Official transcript from the applicant's Regionally Accredited college or university.
- 5.3.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
- 5.3.2.2 Sealed paper transcripts may be submitted.
- 5.3.2.3 The Department will not accept copies of transcripts; and
- 5.3.3 Documents verifying successful completion of Department-approved professional development, if applicable; and
- 5.3.4 An experience form, completed in full and signed by the applicant, if applicable; and
- 5.3.5 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and
- 5.3.6 Additional documentation as required by the Department.
- 5.4 For an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for a Physical Education Teacher Standard Certificate:
- 5.4.1 Official score on the Praxis Subject Assessment as provided in subsection 4.2; and
- 5.4.2 Additional documentation as required by the Department.
- 5.5 For applicants who have met the requirements for licensure as an educator in Delaware and hold a Valid and Current License or Certificate in physical education from another state or jurisdiction, the following documentation is required in the application for a Physical Education Teacher Standard Certificate:
- 5.5.1 An official copy of the Valid and Current License or Certificate; and
- 5.5.2 Additional documentation as required by the Department.

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 Physical 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 Physical Education Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.
- 6.1.1 For school districts, requests shall be approved by the superintendent of the school district.
- 6.1.2 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.

7.0 Validity of a Standard Certificate

- 7.1 A Physical Education Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- 7.2 A Physical Education Teacher Standard Certificate is not subject to renewal.

8.0 Disciplinary Action

- 8.1 An Educator's Physical Education Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 DE Admin. Code 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.

- 8.2 An Educator's Physical Education Teacher Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 Del.C. §1222.
- 8.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 DE Admin. Code 1515 Hearing Procedures and Rules.

9.0 Past Certificate Recognized

The Department shall recognize a Physical Education Teacher Standard Certificate issued prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach physical education.

10.0 Contact Information and Change of Name or Address

- 10.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
- 10.2 An Educator who legally changes the Educator's name and wishes to change the name on the Physical Education Teacher Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
- 10.3 An applicant or Educator whose mailing address, email address, or phone number changes shall provide the Department with the new mailing address, email address, or phone number within 14 calendar days of the change.

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 14920 and 15200

PUBLIC NOTICE

Retroactive Coverage

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 Retroactive Coverage, specifically, to revise policy incorporating retroactive eligibility changes.

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 Nicole.M.Cunningham@delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on March 31, 2022. Please identify in the subject line: Retroactive Coverage.

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

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend the Division of Social Services Manual (DSSM) regarding Retroactive Coverage, specifically, to revise policy incorporating retroactive eligibility changes.

Statutory Authority

42 CFR 435.915

Background

Federal regulation requires states to provide three months of retroactive eligibility for Medicaid, if an individual received covered services and would have been eligible at the time the service was provided.

On July 31, 2019, the Centers for Medicare & Medicaid Services (CMS) approved Delaware's request for extension and amendment of its Medicaid demonstration project, entitled "Diamond State Health Plan," to grant beneficiaries eligibility beginning the month they submit an application and to waive the three month retroactive eligibility period.

As a result of the approval of the Medicaid 1115 Waiver, retroactive coverage is potentially available (if general financial and technical eligibility requirements are met) to the following groups: Pregnant women (including during the 60-day postpartum period beginning on the last day of pregnancy; Infants under age 1; and Individuals under age 19 (listed separately from the group above due to different income limits).

Individuals eligible under the Delaware Healthy Children's Program (DHCP) are not eligible for retroactive Medicaid.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to revise policy, incorporating retroactive eligibility changes.

Summary of Proposed Changes

Effective for services provided on and after January 1, 2022, DHSS/DMMA proposes to amend the Division of Social Services Manual (DSSM) regarding Retroactive Coverage, specifically, to revise policy incorporating retroactive eligibility changes.

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 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 March 31, 2022.

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

	Federal Fiscal Year 2022	Federal Fiscal Year 2023
General (State) funds	\$23,254	\$24,733

Federal funds	\$31,746	\$33,746
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***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 821RFA 03-01-22.pdf>

14000 Medicaid General Eligibility Requirements

14920 Retroactive Coverage

The agency must make eligibility for Medicaid effective no later than the third month before the month of application if the individual:

~~received~~ Received Medicaid services, at any time during that period, of a type covered under the plan; and ~~would~~ Would have been eligible for Medicaid ~~in one of the below retroactive eligibility groups at the time he~~ the individual received the services if ~~he~~ the individual had applied (or someone had applied ~~for him, on their behalf~~) regardless of whether the individual is alive when application for Medicaid is ~~made~~; made; and is eligible under one of the below eligibility groups at the time of application for Medicaid.

Individuals eligible under the Delaware Healthy Children's Program (DHCP) are not eligible for retroactive Medicaid.

Effective April 1, 2012, those that may be found eligible for retroactive Medicaid coverage include:

- a. Individuals entitled to or eligible for a Medicare Savings Program (excluding QMB);
- b. Individuals residing in a nursing facility;
- c. Individuals residing in an intermediate care facility for ~~the developmentally disabled (ICF/MR)~~ individuals with intellectual disabilities (ICF/IID) or for individuals with mental disease (ICF/IMD);
- d. Individuals in need of only the 30-day Acute Care Hospital Program (in no case should the effective date be earlier than the first day of hospitalization);
- e. Women eligible under the Breast and Cervical Cancer Treatment Group;
- f. Individuals eligible under the Medicaid for Worker's with Disabilities Group (provided premium requirements are met).

Effective August 1, 2019, those that may be found eligible for retroactive Medicaid coverage include:

- a. Pregnant and Postpartum Women.
- b. Infants under age 1
- c. Individuals under the age of 19.

Example 1: A woman (over the age of 19) applies for Medicaid March 1, 2020 and requests retroactive Medicaid for the previous three months (February, January and December). She had a baby on December 10, 2020 so she was in her postpartum period through February 2020. She is not eligible for retroactive Medicaid because she does not qualify for and is not receiving Medicaid in any of the retroactive eligibility groups listed above at the time of her application.

Example 2: An individual applies for Medicaid on February 2, 2020 and requests retroactive Medicaid. The individual turned 20 years old on January 31, 2020 and was 19 years old during the three-month retroactive Medicaid period. This individual is not eligible for retroactive Medicaid because at the time of application the individual was not in or eligible for one of the above retroactive Medicaid eligibility groups.

Example 3: A woman applies for Medicaid on March 10, 2020 during her post-partum period. She had her baby on February 5, 2020. As long as she meets all financial and technical eligibility requirements for one of the retroactive Medicaid eligibility groups listed above at the time of application and during the three (3) months immediately preceding the month of application, she is eligible for retroactive Medicaid coverage for December 2019, January 2020, and February 2020.

14920.1 Retroactive Coverage Limitations

~~Effective January 1, 1996, retroactive Medicaid coverage is NOT available to any individual who, in the month of application, is eligible for enrollment under the *Diamond State Health Plan* or *Diamond State Partners*.~~

~~Effective April 1, 2012, retroactive Medicaid coverage is not available to most individuals who, in the month of application, are eligible for enrollment under the *Diamond State Health Plan Plus*.~~

Effective August 1, 2019 retroactive Medicaid coverage is available to some individuals who are eligible for enrollment under the *Diamond State Health Plan* or the *Diamond State Health Plan Plus*.

See DSSM 14920 for eligibility groups that may be found eligible for retroactive Medicaid coverage.

See 14920.1 Retroactive Coverage Limitations - History**14920.2 Retroactive Coverage Of Unpaid Medical Bills**

~~Individuals or families who apply for MAO (Medical Assistance Only), TANF/AFDC, GA, or SSI Medicaid and who are excluded from the *Diamond State Health Plan* or *Diamond State Partners* may be eligible for *Diamond State Health Plan* or the *Diamond State Health Plan Plus* may be eligible for retroactive Medicaid coverage of any unpaid medical bills incurred in any of the three months prior to the month in which they applied. However, certain requirements must be met in order for these bills to be paid under Medicaid.~~

a. ~~The client must have been eligible in all respects for MAO, TANF/AFDC, GA, or SSI Medicaid in one of the retroactive eligibility categories in the month(s) that the medical services were received (including Delaware residency).~~

b. ~~The medical bill must be for a service covered by Medicaid.~~

c. ~~The client did not have any third party coverage that would have been responsible for paying the bill.~~

d. ~~The medical service must have been given by a provider who was a participant in the Delaware Medicaid program at the time of service. If the provider was not enrolled at the time of the service, the provider may enroll retroactively (up to 12 months).~~

14920.3 Retroactive Coverage Time Limits

~~There is no time limitation on requests for retroactive coverage. They may be processed at any time. Individuals who are eligible to enroll in *Diamond State Health Plan* or *Diamond State Partners* in the month of application, will never be eligible for the 3-month retroactive time period prior to that application.~~

14920.4 Retroactive Application Process

Requests for retroactive Medicaid are received in various ways as described below:

a. ~~Applicants indicate on the application that they have unpaid medical bills in the three months prior to the month of application.~~

b. ~~Many requests are received over the telephone from clients who have an unpaid bill.~~

c. ~~The Medicaid units receive lists from various medical providers such as Division of Public Health, and the school districts requesting assistance with the resolution of an unpaid bill for a Medicaid client.~~

d. ~~The SSI Medicaid Unit receives data from the Social Security Administration via the SDX regarding individuals who need retroactive coverage.~~

14920.5 Retroactive Eligibility Determination

~~If the client is potentially eligible for or enrolled in the *Diamond State Health Plan* or *Diamond State Partners*, the worker will not do an eligibility determination.~~

If the individual is determined to be eligible for retroactive coverage, the worker must determine confirm that the date of service of the individual's medical bill(s) falls within the three months prior to the month of application

and that the individual meets the financial and technical eligibility requirements under MAO, TANF/AFDC, SSI, or GA. ~~The individual does not have to meet the TANF/AFDC requirement to cooperate with child support Medicaid in one of the programs eligible for retroactive coverage.~~ Retroactive coverage for Children's Community Alternative Disability Program must be approved by the Medical Review Team. Verify income or resources ~~on DCIS through ASSIST Worker Web (AWW) or other available electronic data sources,~~ if available. If information is not ~~on DCIS in AWW or available through other electronic data sources,~~ accept the individual's declaration on the application and obtain post-eligibility verification in accordance with DSSM 14800.

Obtain information about third party liability information and forward to the TPL Unit.

A notice of Retroactive Medicaid Approval or Denial will be used to inform the client of the agency's disposition of the request for retroactive coverage. The client should be aware that even those bills submitted for payment may not be reimbursed by Medicaid (i.e., service not covered by Medicaid, non-participating provider, etc.).

14920.6 Retroactive Eligibility For Newborns

A baby born to a woman eligible for and receiving Medicaid on the date of the child's birth is deemed to have filed an application. Also, a mother ~~(who is excluded from Diamond State Health Plan or Diamond State Partners)~~ can apply after a child is born and we will determine her eligibility for three month retroactive coverage. If the mother is determined retroactively eligible ~~in a month prior to the birth (still pregnant), or in the month of birth during her pregnancy or post-partum period,~~ the infant is deemed eligible at birth and remains eligible for 1 year.

~~NOTE: Remember that retroactive coverage is only available to individuals excluded from managed care. A woman who is eligible for enrollment in the Diamond State Health Plan or Diamond State Partners cannot apply after the month of birth and be determined retroactively eligible. In this case, there is no deemed newborn eligibility and a separate determination of eligibility must be made for the baby.~~

15000 Family and Community Medicaid Eligibility Groups

15200 Pregnant Woman Group

The section describes the eligibility requirements for the Pregnant Woman Group.

15200.1 Definitions

The following words and terms, when used in the context of these policies, will have the following meaning unless the context clearly indicates otherwise:

"Pregnant Woman" means a woman during pregnancy and the post partum period, which begins on the date the pregnancy ends, extends 60 days, and then ends on the last day of the month in which the 60-day period ends.

15200.2 Pregnant Woman Group General Eligibility Requirements

A pregnant woman must meet the general eligibility requirements described in Section 14000. Exception: A pregnant woman is not required to cooperate in establishing paternity and obtaining medical support.

15200.3 Technical Eligibility

~~A pregnant woman must may apply in the month of birth or in a month prior to the month of birth (while still pregnant) to be found eligible for Medicaid at any time during her pregnancy or 60 day postpartum period, as defined under 15200.6 Postpartum Period.~~

Self-attestation of pregnancy and the unborn fetus count is accepted unless the information provided is not reasonably compatible with other available information. Other available information may include medical claims that are not reasonably compatible with such attestation.

15200.4 Financial Eligibility

Financial eligibility is determined using the modified adjusted gross income (MAGI) methodologies described in Section 16000. The pregnant woman counts as at least two family members for the financial eligibility determination. If a pregnant woman is diagnosed with a multiple pregnancy, the unborn fetus count is increased

accordingly.

Household income must not exceed 212% of the Federal Poverty Level (FPL).

15200.5 Continuous Eligibility

Once a pregnant woman is determined eligible, she remains eligible throughout the pregnancy and the postpartum period regardless of changes in household income.

15200.6 Postpartum Period

~~The 60-day postpartum period is a mandatory extension of coverage for women who were determined eligible in the month of birth or in a month prior to the month of birth (while still pregnant). A woman cannot apply and be found eligible for the postpartum period alone. Coverage begins on the day the pregnancy ends and continues through the last day of the month in which the 60 days end.~~

The 60-day postpartum period is a mandatory extension of coverage for women who were determined eligible under the pregnancy eligibility category. A woman applying in her postpartum period could be determined eligible using the eligibility criteria applicable to postpartum coverage (pregnant woman group), even if she was not open in the pregnant woman group at the time of the birth of her child.

Undocumented aliens are not eligible for the postpartum period.

15210 Deemed Newborn Group

The section describes the eligibility requirements for the Deemed Newborn Group.

An infant born to a woman eligible for and receiving Delaware Medicaid (including emergency services and labor and delivery only coverage) on the date of the infant's birth is deemed eligible at birth.

15210.1 Deemed Newborn Group General Eligibility Requirements

An infant must meet the general eligibility requirements described in Section 14000.

Exceptions: An application for the newborn is not required. A newborn deemed eligible does not have to provide or apply for a Social Security number until age one.

15210.2 Financial Eligibility

There is no income test. Eligibility begins on the date of birth and continues until the end of the month in which the infant turns age one regardless of changes in income. The newborn's eligibility is not dependent on the continuation of the mother's eligibility for Medicaid.

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

Statutory Authority: 21 Delaware Code, Section 4177D (21 Del.C. §4177D)
16 DE Admin. Code 6003

PUBLIC NOTICE

6003 DUI Programs

In compliance with the *Administrative Procedures Act* (29 Del.C. Ch. 101) and under the authority of 21 Del.C. §4177D, the State of Delaware Department of Health and Social Service's Division of Substance Abuse and Mental Health ("the Division") is proposing to amend 16 DE Admin. Code 6003 regulations governing driving under the influence programs ("DUI programs").

A person may make suggestions or provide compilations of data, testimony, briefs, or other materials concerning the Division's proposal by written submission to the Community Behavioral Health Bureau, Division of Substance Abuse and Mental Health. The Division will receive submissions made before 4:30 p.m. on April 1, 2022, by mail to 1901 North DuPont Highway, New Castle, DE 19720-0906, by fax to (302) 255-4427, and by email to joe.aronson@delaware.gov. Please identify in the subject line: 6003 DUI Regulations.

The Division's determination to adopt this proposal will include analysis and consideration of submissions received.

SUMMARY

This notice's purpose is to advise the public that the Division is proposing to amend 16 **DE Admin. Code** 6003 regulations governing DUI programs.

Statutory Authority

21 **Del.C.** §4177D

Background

The *Registrar of Regulations* published final regulations for DUI programs on February 1, 2022 and the regulation was codified under 16 **DE Admin. Code** 6003 ("this regulation"). Subsection 5.4 of this regulation requires that the director of a DUI program be a "licensed chemical dependency professional" ("LCDP") and subsection 11.2 of this regulation requires treatment services to be provided by an LCDP.

Under 24 **Del.C.** §3041 an LCDP "is a person who holds a current, valid license" issued by the Board of Mental Health and Chemical Dependency Professionals. Among other requirements, under 24 **Del.C.** §3044 to obtain licensure as a LCDP an individual must have a master's degree and acquire 3,200 hours of counseling experience. In short, an LCDP is a highly trained and specialized clinician.

Given that the role of program director is administrative, it is unnecessary for the director to be a clinician, let alone an LCDP. Therefore, the Division is seeking to remove that requirement.

Subsection 11.2 of this regulation requires that "a program must provide treatment services per the program's license..." The additional language contained in the subsection requiring treatment be provided by an LCDP is duplicative, unnecessary, and inconsistent with the standards established by the Division under 16 **DE Admin. Code** 6001.

Summary of the Proposed Changes

The Division's proposed amendment to this regulation seeks to remove both the requirement under subsection 5.4 of this regulation that a program director be an LCDP and the requirement under subsection 11.2 of this regulation that treatment services be provided by an LCDP.

Fiscal Impact

Not applicable.

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

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 826RFA 03-01-22.pdf>

6003 DUI Programs (Break in Continuity of Sections)

5.0 Programs

- 5.1 A program may provide services if the program is authorized, contracted, and licensed by the Division to provide substance use disorder services.
- 5.2 The Division may authorize and contract with a program to provide one or more of the following service types:
 - 5.2.1 Screening and referral.
 - 5.2.2 Education.
 - 5.2.3 Treatment.
- 5.3 A program must comply with the requirements of the program's license and other requirements issued by the Division.
- 5.4 A program's governing body must designate a program director responsible for the program's daily operation and administration. ~~The program director must be a licensed chemical dependency professional.~~

(Break in Continuity of Sections)

11.0 Treatment Services

- 11.1 As used in this section, "program" means a program providing treatment services.
- 11.2 A program must provide treatment services per the program's license ~~and by a licensed chemical dependency professional.~~

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

6003 DUI Programs

DEPARTMENT OF INSURANCE OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 311, 334, 2503, 3342B and 3556A, and 29 Delaware Code, Chapter 101 (18 **Del.C.** §§311, 334, 2503, 3342B & 3556A; 29 **Del.C.** Ch. 101)

PUBLIC NOTICE

1322 Requirements for Mandatory Minimum Payment Innovations in Health Insurance

A. Type of Regulatory Action Required

Re-proposal of proposed new Regulation 1322 Requirements for Mandatory Minimum Payment Innovations in Health Insurance.

B. Synopsis of Subject Matter of the Regulation

On January 1, 2022, the Delaware Department of Insurance (the Department) published its proposed new Regulation 1322 Requirements for Mandatory Minimum Payment Innovations in Health Insurance (Proposal 1). See 25 **DE Reg.** 684 (01/01/22). The purpose of the proposed new regulation is to implement Senate Substitute 1 for Senate Bill 120 (SS1 for SB 120), which expanded the regulatory authority of Department's Office of Value Based Health Care Delivery (OVBHCD) as described in Proposal 1.

C. Summary of Public Comment and Responses

The Department accepted written comment on Proposal 1 for 30 days as required under the Administrative Procedures Act. The Department appreciates the thoughtful and thorough comments submitted, which are summarized below. In addition to the specific revisions discussed in the next sections, the Department is also taking the opportunity of re-proposing to make minor technical corrections to the regulatory text.

1. Comments related to Section 4.0 - Definitions

Several commenters objected to the mechanism proposed by the Department to supplement the proposed definition of "primary care services." As proposed, the Department would codify the definitions of primary care services and would further augment the definition by means of a Department-issued bulletin or other official communication as the understanding of these terms evolves in the quickly evolving healthcare space. Commenters objected to the use of this mechanism as contravening the Administrative Procedures Act requirements for transparency and public comment on regulatory initiatives that are substantive in nature.

The Department's definition of "primary care services" is based on an extraordinarily transparent, multi-stakeholder process undertaken in collaboration with the Primary Care Reform Collaborative (PCRC) and its technical subcommittee in 2020. The definition was included in the inaugural report authored by the Department's Office of Value Based Health Care Delivery (OVBHCD) entitled **Delaware Health Care Affordability Standards: An Integrated Approach to Improve Access, Quality and Value**. For the last two years, the Department has used the definition to measure and report on primary care investment in Delaware. Each year, the Department has made minor changes to reflect new and expired Current Procedural Terminology (CPT) codes and continued conversations at the PCRC. The definition will continue to evolve to reflect changing code sets, new carrier programs and the Delaware Primary Care Model (DPCM), when the DPCM is developed.

While the Department recognizes the need to allow flexibility for the regulation to keep up with rapid advances in the field of primary care, in the interest of time and to further support health insurance carriers in timely complying with SS 1 for SB 120, the Department proposes to modify the definition to now include extensive detail on the services, providers and care settings that will be used to determine compliance with primary care investment requirements.

Two commenters sought clarification on what plans are included in the definition of "health benefit plan."

The regulatory definition of "health benefit plan" matches the statutory definition in 18 **Del.C.** §§3342A(a)(3)a. and 3559(a)(3)a. The Department notes that the term as defined in 18 **Del.C.** §§ 3342A(a)(3)a. and 3559(a)(3)a. does not apply to self-funded plans. The Department did not, nor did it intend to, expand the scope of that term through its use in the proposed regulation. The Department does not seek to regulate self-insured plans or any other insurance product not under its jurisdiction. The Department has attempted to clarify this in Section 2.0 of the re-proposed regulation.

The Department does agree with one commenter's suggestion that self-insured plans should encourage all carriers to have one fee schedule for fully insured and self-insured clients and that carriers should discuss the components of SS 1 for SB 120 immediately with self-insured clients. For its part, the Department has extended an open invitation to self-insured employers to attend PCRC meetings as one way for self-insured employers to keep abreast of the changes in the fully-insured market.

One commenter requested that the Department clarify that behavioral health and substance use disorder services are not part of the definition of "inpatient hospital services" and therefore are excluded from the inflation-indexed caps on hospital inpatient and outpatient rate increases. The Department accepts the request to now include the clarification in the definition.

While the Department received other comments suggesting that the proposal should be reissued with clearer defined terms for other key provisions, the definitions are consistent with those used by carriers for the rate review process. These definitions are published annually by CMS' Center for Consumer Information and Insurance Oversight (CCIIO) in the Unified Rate Review Template instructions which may be viewed at <https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/2021-URR-Instructions.pdf>. Therefore, the Department has determined that no additional revisions to any other definitions are required.

2. Comments related to Section 6.1 - Primary Care Spending Requirements for Rate Filings

Members of the Delaware General Assembly and the PCRC Co-Chair commented that the "annual designations in the Proposed Regulation depart from the statutory language of SS1 for SB120 and would have the effect of delaying by one year the phase-in of statutorily mandated minimum levels of critical primary care investments." These same commenters clarified the intent behind SS1 for SB120 regarding the enforceability of the 7 percent spending requirement for 2022 (the current plan year) and noted that that particular spend requirement "had been a provision included in SS1 for SB120 should the legislation have become effective prior to the operative deadline for rate filings in 2021 (that would apply in 2022). As SS1 for SB120 did not become effective until October 1, 2021, we understand that the 7 percent figure became nonbinding for 2022."

Similarly, the Medical Society of Delaware opined that "the proposed regulation does not comport with the requirements of SS 1 for SB 120 with regard to implementation of the legislation." The comment goes on to encourage the Department "to see what can be done outside of the regulations to implement increases in calendar year 2022, so as to encourage or 'advise' the payers to move to the bill's goal of 7% payment."

The Department sought to operationalize the General Assembly's goal of gradually increasing primary care investment and offsetting those increases with limits on aggregate unit price growth for non-professional services and implementation of other Affordability Standards to improve care value. As commenters point out, SS1 for SB 120 was not signed into law until October 1, 2021, past the rate filing deadlines and determinations for plan year 2022. Therefore, the primary care spending requirement of 7 percent for 2022 could not be implemented. Given the nature of the comments submitted, including the clarification of the General Assembly's intent, the Department is now proposing to revise proposed subsection 6.1 to comport with the statutory primary care spending requirements of 8.5 percent, 10 percent, and 11.5 percent by 2023, 2024, and 2025, respectively.

A carrier requested clarification on "whether the mandated PCP spend percentage is calculated at the entity total level or entity and size segment level" and whether the Department would "consider revising the regulation to allow for an adjustment to counter the effect of including [any] catastrophic claims and . . . to explicitly allow carriers that have not met the Delaware Primary Care spend requirement in a given year, to make up the shortfall by giving grants to PCPs to fund initiatives for the practice"

The Department is unclear as to the commenter's reference to "entity total level" and "entity and size segment level." The Department can confirm that, in alignment with the rate review process, the mandated primary care spending percentage will be calculated at the market segment level, that is, by individual, small group and large group markets. Questions on catastrophic claims and providing grants to primary care practices to bolster primary care spending should be brought to the Department during or prior to the rate filing period for review and approval as noted in subsections 6.2.1 and 6.2.2.2 of the proposed new regulation.

One commenter requested that additional programs developed by the Accreditation Association for Ambulatory Health Care be included in the list of eligible activities described in subsection 6.2.2.3. The Department will review this program and discuss the recommendation with stakeholders. If the Department decides to add the program, it will communicate it in an upcoming annual notice to carriers as discussed in subsection 6.2.2.3.4.

3. Comments related to Section 7.0 - Price Growth Limits for Non-Professional Services

The Department received several comments in support of proposing to use a 3-year lookback methodology for calculating Core CPI. In contrast, two hospital stakeholders objected, one of whom described the Department's proposed methodology as "inconsistent with the plain language of the statute and will be grossly inadequate in the current inflationary environment," and another who opined that, "There is no reason to interpret Core CPI for the year beginning on 1/1/23 to be anything other than the Core CPI calculation for calendar year 2023, which will be published in December 2022."

The Department appreciates the articulated support of this methodology and acknowledges others' objections. The Department further points out that the commenter's characterization of Core CPI is inaccurate. The Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. The "Core" CPI is this average excluding food and energy. CPI and Core CPI are retrospective measures that are updated monthly. Contrary to the commenter's assertion, there is no forward-looking Core CPI for 2023 published in December 2022.

Since the measure is an "average change over time" and the General Assembly did not provide statutorily for the time period over which to measure the average change, the Department has determined that its selection of a 3-year lookback period is a proper exercise of its regulatory authority. The Department determined that a 3-year lookback period would provide stability and consistency and furthers the stated goal of SS1 to SB 120. This approach is consistent with a similar policy approach in Rhode Island, the state model off which the General Assembly and PCRC based SS1 to SB120. See [Rhode Island Health Insurance Bulletin 2021-05](#).

After further review of the CPI calculation in Proposal 1, the Department now proposes to refine the calculation for the Core CPI average as reflected in the re-proposal. The Department will publish the limit in an annual Bulletin.

With regard to the comment concerning the "inflationary environment," the Department notes Delaware hospitals have received more than \$339 million in federal relief funds and another round of support was announced in February 2022. This does not include state aid to offset increased labor and other costs, which Delaware hospitals have also received.

4. Comments related to Section 8.0 - Alternative Payment Model Adoption

Two commenters objected to the use of Diagnosis Related Groups (DRG) and Ambulatory Patient Classification (APC) methodologies as appropriate alternative payment model arrangements, stating that they are inappropriate for pediatrics because they are Medicare methodologies, and that they are not contemplated in the statute and are therefore beyond the scope of the Department's statutory authority to establish Affordability Standards for primary care. One commentator sought clarification on the Department's authority to define minimum risk requirements for alternative payment model arrangements seeking to be counted toward carriers' statutory requirement.

The Department rejects any contention that the lack of specific reference to DRGs and APCs in the enabling statute prohibits the Department from defining these methodologies as permissible alternative payment models. The Department is mandated under the law to "[e]stablish, through regulations adopted under [18 Del.C. §334(c)(2)], mandatory minimums for payment innovations, including alternative payment models" See 18 Del.C. §334(c)(2) (*emphasis added*). It is clear through the plain language of the statute that the General Assembly provided the OVBHCD broad regulatory authority to define and establish appropriate alternative payment models as reflected in Proposal 1.

In addition, 18 Del.C. §334(b)(1) provides that affordability standards, which the Department is directed to define in regulation, may include, "effective strategies carriers can use to maintain close control over administrative

costs and enhance the affordability of products and encourage delivery of high quality, efficient healthcare services."

Given the amendments to 18 **Del.C.** §334 noted above, the Department proposes to make no change to subsection 8.1 other than to clarify that DRGs and APCs are provided by way of example. Carriers may choose to implement other fixed payment, episode-based or population-based methodologies.

5. Comments related to Section 9.0 - Affordability Standards

Two hospital stakeholder commenters questioned whether the proposed regulations concerning setting affordability standards exceeded the Department's regulatory authority in light of the sunset provision contained in SS1 to SB 120 (the bill). The Department notes that the sunset provision in SS1 to SB 120 applies only to certain identified sections within the bill. Notably, the sunset provision does not apply to Section 7 of the bill, which amended 18 **Del.C.** §334 to expand the OVBHCD's authority, giving it express regulatory authority to establish "mandatory minimums for payment innovations, including alternative payment models, provider price increase, carrier investment in primary care, and other activities deemed necessary to achieve the purpose of [18 **Del.C.** §334]." While the OVBHCD's original enabling legislation, 82 Del. Laws c. 189, s. 3, did not allow for the Department's regulations to establish mandatory or enforceable requirements, SS1 to SB 120 deleted those regulatory restrictions and expressly authorized the OVBHCD to establish mandatory and enforceable requirements as more fully set forth in 18 **Del.C.** §334(c)(2).

Establishing mandatory minimums in primary care spending and price growth limits for years 2026 and beyond are within the Department's regulatory authority under 18 **Del.C.** §334(c)(2), which contains no temporal restrictions, notwithstanding the sunset of other provisions in SS 1 to SB120. While the Department's regulatory authority under the statute is clear, the Department has determined to delete Section 9.0 in its entirety to allow carriers to focus on the more time-sensitive requirements of the statute and regulation. The Department will revisit the implementation of additional affordability standards and payment innovations in future regulations.

6. Comments related to Section 10.0 - Enforcement

Two hospital stakeholder commenters objected to the use of the rate review process as an enforcement tool, because the rate review process only involves the Department and the carriers. Accordingly, in the commenters' opinion, the rate review process "lacks transparency and an opportunity for stakeholders to weigh in on the methods ultimately used for enforcement of the requirements set out in the regulation."

The Department notes the General Assembly tasked the OVBHCD with collecting data to monitor and evaluate whether carriers are complying with primary care reimbursement requirements and whether primary care spending is increasing as required by law. Section 10.0 of the proposed regulations identifies various methods of collecting the necessary data for the OVBHCD to complete its statutorily-mandated functions.

Further, as stated in proposed new Regulation 1322, the OVBHCD will provide an annual public report with all methodologies and results listed by payer. The template and process used to assess carrier compliance will be similar to the process and publicly available template that the Department has used for two years to assess carriers' investment in primary care, Delaware price and utilization trends, and alternative payment model adoption. While the rate review process includes confidential data, the Department regularly shares information and data, as appropriate, on its website and with public workgroups and committees including the PCRC.

One commenter inquired whether the word "rate" should be inserted before the word "year" in Proposal 1 subsection 10.4.4.2. This adjustment has been made in Proposal 2.

D. Notice and Public Comment - Proposal 2

Proposal 2, revised as appropriate in response to the public comments received on Proposal 1, appears below and may also be viewed on the Department's website at <http://insurance.delaware.gov/information/proposedregs/>. The Department will not be holding a public hearing on Proposal 2.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning Proposal 2. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EDT, the 31st day of March 2022 and should be directed to:

Regulatory Specialist
Delaware Department of Insurance
1351 West North Street, Suite 101

Dover, DE 19904
(302) 674-7300
Email: DOI-Legal@delaware.gov

***Please Note:**

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

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 828RFA 03-01-22.pdf>

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

[1322 Requirements for Mandatory Minimum Payment Innovations in Health Insurance](#)

OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Section 311 and 18 Delaware Code, Chapter 50
(18 Del.C. §311 & 18 Del.C. Ch. 50)
18 DE Admin. Code 1801

PUBLIC NOTICE

1801 Insurance Holding Company System Regulation With Reporting Forms and Instructions

A. Type of Regulatory Action Required

Proposed Amendment

B. Synopsis of Subject Matter of the Regulation

Requirements for insurance holding company system registration are promulgated in 18 Del.C. Ch. 50 (the Act). Regulations to implement the Act are codified at 18 DE Admin. Code 1801.

On January 27, 2022, the Delaware General Assembly passed amendments to the Act to designate two additional categories of documents filed under the Act as subject to confidential treatment under the law and to incorporate changes adopted by the National Association of Insurance Commissioners (NAIC) related to affiliated transactions for insurers in receivership. See House Bill No. 272 (151st General Assembly). HB 272 was signed by the Governor on February 7, 2022. The adopted changes to the model law were developed to address the continuation of essential services by affiliates of insurers in receivership, as well as the receiver's access to data and records held by affiliates but belonging to the insurer.

Accordingly, the Department is now proposing to amend Regulation 1801 to comport the regulation with the Act. Specifically, the Department is updating Section 19.0 concerning transactions subject to prior notice and adding new Section 21.0 concerning requirements for Group Capital Calculation.

The text of the proposed amendments appears below and can also be viewed at the Delaware Insurance Commissioner's website at <http://insurance.delaware.gov/information/proposedregs/>. The Department does not plan to hold a public hearing on the proposed regulation.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendment. Any written submission in response to this notice and relevant to the proposed regulation must be received by the Department of Insurance no later than 4:30 p.m. EST, 31st day of March 2022. Any such response should be directed to:

Regulatory Specialist
Delaware Department of Insurance
1351 W. North St., Suite 101
Dover, 19904
(302) 674-7300
Email: Doi-Legal@delaware.gov

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

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 832RFA 03-01-22.pdf>

1801 Insurance Holding Company System Regulation With Reporting Forms and Instructions (Break in Continuity of Sections)

19.0 Transactions Subject to Prior Notice - Notice Filing

- 19.1 An insurer required to give notice of a proposed transaction pursuant to Section 5005 of the Act shall furnish the required information on Form D, hereby made a part of these regulations.
- 19.2 Agreements for cost sharing services and management services shall at a minimum and as applicable:
- 19.2.1 Identify the person providing services and the nature of such services;
 - 19.2.2 Set forth the methods to allocate costs;
 - 19.2.3 Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;
 - 19.2.4 Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;
 - 19.2.5 State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;
 - 19.2.6 Define ~~books and records~~ and data of the insurer to include all ~~books and records~~ and data developed or maintained under or related to the agreement that are otherwise the property of the insurer, in whatever form maintained, including, but not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records or similar records within the possession, custody or control of the affiliate;
 - 19.2.7 Specify that all ~~books and records~~ and data of the insurer are and remain the property of the ~~insurer and are subject~~ insurer, and are:
 - 19.2.7.1 Subject to control of the insurer;
 - 19.2.7.2 Identifiable; and
 - 19.2.7.3 Segregated from all other persons' records and data or are readily capable of segregation at no additional cost to the insurer;
 - 19.2.8 State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;
 - 19.2.9 Include standards for termination of the agreement with and without cause;
 - 19.2.10 Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services and for any actions by the affiliate that violate provisions of the agreement required in subsections 19.2.11, 19.2.12, 19.2.13, 19.2.14 and 19.2.15 of this regulation;
 - 19.2.11 Specify ~~that, that~~ if the insurer is placed in ~~receivership or seized by the Commissioner under the State Receivership Act~~ supervision, seizure, conservatorship, or receivership pursuant to 18 Del.C. Ch. 59:
 - 19.2.11.1 All of the rights of the insurer under the agreement extend to the receiver or Commissioner; and, to the extent permitted by Delaware Law;
 - 19.2.11.2 All records and data of the insurer shall be identifiable and segregated from all other persons' records and data or readily capable of segregation at no additional cost to the receiver or the Commissioner.
 - 19.2.11.3 All ~~books and~~ A complete set of records and data of the insurer will immediately be made available to the receiver or the Commissioner, shall be made available in a usable format, and shall be turned over to the receiver or Commissioner immediately upon the receiver or

PROPOSED REGULATIONS

the Commissioner's request; request, and the cost to transfer data to the receiver or the Commissioner shall be fair and reasonable; and

- 19.2.11.4 The affiliated person or persons will make available all employees essential to the operations of the insurer and the services associated therewith for the immediate continued performance of the essential services ordered or directed by the receiver or Commissioner;
- 19.2.12 Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed ~~in~~ into supervision, seizure, conservatorship, or receivership pursuant to 18 Del.C. Ch. 59; and
- 19.2.13 Specify that the affiliate will provide the essential services for a minimum period of time [specified in the agreement] after termination of the agreement, if the insurer is placed into supervision, seizure, conservatorship or receivership pursuant to 18 Del.C. Ch. 59, as ordered or directed by the receiver or Commissioner. Performance of the essential services will continue to be provided without regard to pre-receivership unpaid fees, so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, Commissioner or supervising court;
- ~~19.2.13~~ 19.2.14 Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the Commissioner under supervision, seizure, conservatorship or receivership pursuant to 18 Del.C. Ch. 59, and will make them available to the receiver or Commissioner as ordered or directed by the receiver or Commissioner, for so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, Commissioner or supervising court; and
- 19.2.15 Specify that, in furtherance of the cooperation between the receiver and the affected guaranty association or associations and subject to the receiver's authority over the insurer, if the insurer is placed into supervision, seizure, conservatorship or receivership pursuant to 18 Del.C. Ch. 59, and portions of the insurer's policies or contracts are eligible for coverage by one or more guaranty associations, the affiliate's commitments under subsections 19.2.11, 19.2.12, 19.2.13 and 19.2.14 of this regulation will extend to such guaranty association or associations.

20.0 Enterprise Risk Report

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to Section ~~5004(f)~~ 5004(l)(1) of the Act shall furnish the required information on Form F, hereby made a part of these regulations.

21.0 Group Capital Calculation

- 21.1 Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination based upon that filing that the insurance holding company system meets all of the following criteria:
- 21.1.1 Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000;
- 21.1.2 Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
- 21.1.3 Has no banking, depository or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;
- 21.1.4 The holding company system attests that there are no material changes in the transactions between insurers and non-insurers in the group that have occurred since the last filing of the annual group capital; and
- 21.1.5 The non-insurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.

- 21.2 Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to accept in lieu of the group capital calculation a limited group capital filing if:
- 21.2.1 The insurance holding company system has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000; and all of the following additional criteria are met:
 - 21.2.1.1 Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
 - 21.2.1.2 Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework; and
 - 21.2.1.3 The holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred since the last filing of the report to the lead state commissioner and the non-insurers within the holding company system do not pose a material financial risk to the insurers' ability to honor policyholder obligations.
- 21.3 For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant subsection 21.1 or 21.2 of this regulation, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:
- 21.3.1 Any insurer within the insurance holding company system is in a Risk-Based Capital action level event as set forth in 18 Del.C. Ch. 58 or a similar standard for a non-U.S. insurer; or
 - 21.3.2 Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in 18 DE Admin. Code 304, subsection 3.1; or
 - 21.3.3 Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.
- 21.4 A non-U.S. jurisdiction is considered to "recognize and accept" the group capital calculation if it satisfies the following criteria:
- 21.4.1 With respect to Section 5004(l)(2)d. of the Act:
 - 21.4.1.1 The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or
 - 21.4.1.2 Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. This will serve as the documentation otherwise required in subsection 21.4.1.1 of this regulation.
 - 21.4.2 The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of

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Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force.

- 21.5 A list of non-U.S. jurisdictions that "recognize and accept" the group capital calculation will be published through the NAIC Committee Process:
- 21.5.1 A list of jurisdictions that "recognize and accept" the group capital calculation pursuant to Section 5004(l)(2)d. of the Act, is published through the NAIC Committee Process to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under Section 5004(l)(2)d. of the Act. To assist with a determination under Section 5004(l)(2)e. of the Act, the list will also identify whether a jurisdiction that is exempted under either Section 5004(l)(2)c. or Section 5004(l)(2)d. of the Act requires a group capital filing for any U.S. based insurance group's operations in that non-U.S. jurisdiction.
- 21.5.2 For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of subsection 21.4.1.2 of this regulation will serve as support for recommendation to be published as a jurisdiction that "recognizes and accepts" the group capital calculation through the NAIC Committee Process.
- 21.5.3 If the lead state commissioner makes a determination pursuant to Section 5004(l)(2)d. of the Act that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.
- 21.5.4 Upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to "recognize and accept" the group capital calculation, the lead state commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that "recognize and accepts" the group capital calculation.

~~24.0~~ 22.0 Extraordinary Dividends and Other Distributions

- 24.1 ~~22.1~~ Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:
- 24.1.1 ~~22.1.1~~ The amount of the proposed dividend;
- 24.1.2 ~~22.1.2~~ The date established for payment of the dividend;
- 24.1.3 ~~22.1.3~~ A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;
- 24.1.4 ~~22.1.4~~ A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:
- 24.1.4.1 ~~22.1.4.1~~ The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;
- 24.1.4.2 ~~22.1.4.2~~ Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding;
- 24.1.4.3 ~~22.1.4.3~~ If the insurer is a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;
- 24.1.4.4 ~~22.1.4.4~~ If the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-month periods; and
- 24.1.4.5 ~~22.1.4.5~~ If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years;

~~21.1.5~~ 22.1.5A balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

~~21.1.6~~ 22.1.6A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

~~21.2~~ 22.2 Subject to Section 5005(b) of the Act, each registered insurer shall report to the Commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by subsection ~~21.1.4.4~~ 22.1.4.4.

~~22.0~~ 23.0 Adequacy of Surplus

The factors set forth in Section 5005(c) of the Act are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is necessarily controlling. The Commissioner instead will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

~~23.0~~ 24.0 Effective Date

This Regulation became effective on January 11, 2016 (ten days after publication - see 19 **DE Reg.** 642). ~~New subsection Subsection 4.5 shall become~~ became effective on March 12, 2018. The amendments to Section 19.0 of this regulation and the addition of new Section 21.0 shall become effective the eleventh day after publication of a final order signed by the Commissioner adopting the amendments into this regulation.

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

1801 Insurance Holding Company System Regulation With Reporting Forms and Instructions

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF WATERSHED STEWARDSHIP

Statutory Authority: 7 Delaware Code, Section 6010(a) and (c) (7 **Del.C.** §6010(a) and (c))
7 **DE Admin. Code** 7401

REGISTER NOTICE

SAN # 2021-07

7401 Surface Water Quality Standards

1. TITLE OF THE REGULATIONS:

7 **DE Admin. Code** 7401 Surface Water Quality Standards.

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

The Clean Water Act requires that all States review their surface water quality standards every three years and adopt revised standards to comply with requirements of the federal Clean Water Act.

Department staff reviewed Environmental Protection Agency (EPA) documents and staff recommendations. Staff review showed that EPA extensively revised their National Recommended Water Quality Criteria for human health recommendations in 2015 based on the latest science and information. The Department's proposed changes would incorporate most of EPA's recommendations. Because of the extensive changes to EPA recommendations for human health criteria in the current regulations staff have proposed the current table be

stricken in its entirety. A simpler new table of 116 pollutants based on EPA latest guidance is offered in its place. In accordance with EPA's updated guidance, criteria will be lower for 64 pollutants, higher for 13 pollutants and unchanged for 20 pollutants. Ten new pollutants have been added to the proposed regulation for human health criteria. To make the criteria more closely aligned with EPA guidance the proposed regulation drops some criteria and substitutes new related criteria in their place. Delaware's current criteria have eight criteria with pollutant names that are synonyms for the same pollutant in EPA's guidance. This updated regulation changes the names to be consistent with EPA guidance. Because there is no EPA guidance for human health criteria for Fluoride, Lead, Silver or Total Trihalomethanes, this regulation removes them from Delaware's Human Health Criteria. There are applicable Aquatic Life Criteria for Lead and Silver that are more stringent than the current human health criteria and they would remain in place.

For Aquatic Life Criteria EPA has updated its recommendations for Aluminum, Ammonia, Cadmium, Nonlyphenol and Selenium. This regulation adopts these recommendations with the exception of Aluminum and Selenium as EPA has not completed their implementation guidance for these two pollutants to date.

In the past, the Department used Fish Consumption advisories in assessments of the Aquatic Life Use. Some other states and jurisdictions have a Fish Consumption designated use and the EPA ATTAINS database is structured to separate fish consumption uses from the aquatic life use. Department and EPA staff believe that adding the Fish Consumption designated use will bring better clarity to assessments and management actions and better fit the ATTAINS database than the past practice. Thus, the proposed regulation adds the Fish Consumption designated use for all waters of the State.

To ensure compliance with the Clean Water Act and EPA regulations, the State of Delaware, in accordance with 7 **Del.C.** §6010, will amend the State of Delaware Surface Water Quality Standards.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** Ch. 60, §6010 (a) and (c).

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

7 **DE Admin. Code** 7201 Regulations Governing the Control of Water Pollution

6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2021-R-WS-0015) will be held on Wednesday, April 20, 2022 beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrehearings>. If prompted for a password, please use RegAmend7401. To access the audio-only portion of the virtual hearing, dial 1-408-418-9388 and enter event code 2332 836 9040. Closed-captioning is available by request if made at least 7 days before the event.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9295.

The proposed amendments may be inspected online starting March 1, 2022 at http://regulations.delaware.gov/services/current_issue.shtml or in-person, by appointment only, by contacting David Wolanski by phone at 302-739-9939 or by email at David.Wolanski@Delaware.Gov.

The Department will accept public comment through the close of business on Thursday, May 5th, 2022. Comments will be accepted in written form via email to DNRECHearingComments@delaware.gov, or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Lisa Vest, Hearing Officer
DNREC - Office of the Secretary
89 Kings Highway, Dover, DE 19901

7. PREPARED BY:

David Wolanski
Division of Watershed Stewardship-DNREC
285 Beiser Blvd., Suite 102, Dover, DE 19904

Phone: (302)739-9939; email: David.Wolanski@Delaware.Gov

***Please Note:**

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

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 837RFA 03-01-22.pdf>

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

7401 Surface Water Quality Standards

DEPARTMENT OF SAFETY AND HOMELAND SECURITY DELAWARE COUNCIL ON POLICE TRAINING

Statutory Authority: 11 Delaware Code, Sections 2014 and 8404(a)(14) and (c) (11 Del.C. §2014 and §8404(a)(14))
1 DE Admin. Code 801

PUBLIC NOTICE

801 Regulations of the Delaware Council on Police Training

The Council on Police Training (COPT), pursuant to 11 Del. C. §§2014 and 8404(a)(14), proposes to amend its regulations to add mandatory standards relating to electronic recordings of custodial interrogations, as required by 11 Del. C. § 2014. The COPT also proposes to add another section to Regulation 801 pertaining to qualification standards for the use of less lethal weapons and ammunition. The proposed amendments, which were voted on during a public meeting of the COPT, on January 11, 2022, seek to add these two new sections to COPT's existing Regulation 801.

The COPT will allow for the submission of written comments, suggestions, or other materials regarding the proposed regulatory amendments. Submissions should be sent to the COPT Attn: Susan McNatt P.O. Box 430, Dover DE 19903 or by e-mail: susan.a.mcnatt@delaware.gov. Any written submission in response to this notice and the relevant proposed regulations must be received by the COPT no later than 4:30 p.m. (EST) on March 31, 2022. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, under the statutory authority and for the reasons sent forth above, the Council on Police Training does hereby ORDER that the regulations be, and that they hereby are, proposed to be enacted as set forth below.

Nathaniel McQueen, Jr., Chairman COPT

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

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 839RFA 03-01-22.pdf>

801 Regulations of the Delaware Council on Police Training (Break in Continuity of Sections)

26.0 (Reserved)

27.0 Electronic Recording of Custodial Interrogations

27.1 All Police Officers, as defined in 11 Del.C. §8401(6), a sworn member of a police force or other law-enforcement agency of this State or of any county or municipality who is responsible for the prevention

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and the detection of crime and the enforcement of laws of this State or other governmental units within the State, certified by the Delaware Council on Police Training, shall be required to follow the prescribed regulations on the electronic recording of custodial interrogations.

27.2 It is the purpose of this subsection to establish guidelines and procedures for recording specific custodial interrogations and confessions in order to provide an evidentiary record of statements made of persons suspected of committing crimes. These recordings will help to protect both the rights of suspects and officers against accusations of coercion or other interrogation-related misconduct and will also assist in the likelihood of successful prosecution.

27.3 The following are defined for purposes of this subsection:

"Custodial interrogation" means questioning or other conduct by a law enforcement officer which is reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody.

"Electronic recording" means an audio recording or an audio and video recording that accurately records a custodial interrogation.

"Place of detention" means a fixed location under the control of a law enforcement agency where individuals are questioned about alleged crimes or delinquent acts. Place of detention includes jails, police stations, holding cells, correctional or detention facilities, police vehicles, and schools (in cases where minor students are questioned).

"Statement" means communication whether oral, written, electronic, or nonverbal.

27.4 Recording Requirements

27.4.1 Officers shall electronically record custodial interrogations if the interrogation relates to a crime or delinquent act, is conducted in a place of detention, including the giving of any required warning, advice of the rights of the individual being questioned, and the waiver of any rights by the individual, in its entirety.

27.4.2 A custodial interrogation must be recorded if the custodial detention occurs at a jail, police station, or holding cell by audio and video means. If the custodial detention occurs in a police vehicle, at a school for a child, in a correctional or detention facility, or at any other place of detention by audio means or by the use of a body worn camera at a minimum.

27.4.3 If electronic recording cannot be conducted due to equipment failure, lack of suspect cooperation, or for other reasons deemed pertinent to the successful interrogation by the investigating officer, the basis for such occurrences shall be documented in writing. This includes but is not limited to spontaneous declarations or other statements not elicited by police questioning.

27.4.4 Officers shall prepare a written or electronic report as soon as practicable after completing the custodial interrogation that summarizes the process.

27.5 Recording Protocol

27.5.1 Recording may be overt or covert, as covert recording constitutes one-party consent monitoring which is permitted by Delaware state law.

27.5.2 Electronic recording should begin as soon as a subject enters the interrogation room or area and continue until the interrogation is completed. Officers shall not record private attorney-client or parent-juvenile conversations.

27.5.3 Electronic recording must be conducted through video means at a jail, police station, or holding cell, and when feasible that video recording must allow a viewer to see both the individual being interrogated and the individuals conducting the interrogation.

27.5.4 Each recording shall include the following:

27.5.4.1 Declaration of the time the recording began.

27.5.4.2 Declaration of the start of the interrogation.

27.5.4.3 Administration of Miranda warning, even if the recording is a follow up to a prior interrogation or the suspect has been previously Mirandized.

27.5.4.4 Notation of the time the interrogation ends.

27.5.5 Any lapse in the recording for comfort breaks or other reasons shall be accounted for on the recording. During a short recess the recording may continue without interruption.

27.6 Chain of Custody

27.6.1 Recordings of interrogations are considered evidence and shall be handled as such and in accordance with each law enforcement agency's departmental policies. In addition, the following shall apply:

27.6.1.1 The original recording media shall be protected from re-recording.

27.6.1.2 The recording shall be specifically marked and identified with its specific case number and information and shall be labeled as an original or a copy.

27.6.1.3 The officer's official report shall note how the interrogation was conducted.

27.6.2 Recordings shall be retained by the department in secure storage for a period as defined by state law, departmental policy or the office of the Attorney General of the State of Delaware. Guidelines for Body Worn Camera recordings are defined in Section 26.0.

27.7 Supervisory Responsibilities and Review of Electronic Recordings

27.7.1 Supervisors will follow their departmental policies to ensure that officers abide by these regulations.

27.7.2 Supervisors will review crime reports and recordings associated with interrogations through a random audit, or anytime information is presented that questions the content of a recording.

27.8 Training and Education. Training relative to these regulations and the recording of custodial interrogations shall be included in the interview and interrogation course curriculums at each of the approved Delaware police academies.

27.9 No Third-Party Rights and Penalties for Non-Compliance

27.9.1 Nothing in these regulations shall create a private right of action in any third party. These regulations set mandatory standards for implementation and enforcement of 11 Del.C. Ch. 20.

27.9.2 Officers who violate these regulations are subject to disciplinary action outlined by each departmental disciplinary policies and procedures, and may be subject to review by the COPT.

27.10 Exceptions (As set forth in greater detail in 11 Del.C. §§2005-2009)

27.10.1 Exigent Circumstances. If the recording is not feasible because of exigent circumstances, then the recording need not take place. The officer conducting the interrogation shall record electronically, which may be through an electronic report, an explanation of the exigent circumstances.

27.10.2 Refusal by interviewee. If the interviewee is informed that the interrogation will be recorded and indicates that he or she is willing to give a statement but only if it is not electronically recorded, then a recording need not take place. Such a refusal should be electronically recorded if practical.

27.10.3 Public safety exception. If law enforcement officials are required, for immediate public safety reasons such as ascertaining the nearby existence of guns or drug paraphernalia, or the status of hostages or kidnapped persons, to conduct custodial interrogation without the use of otherwise required constitutional safeguards, then a recording need not take place.

27.10.4 With permission of DOJ attorney. A DOJ attorney may authorize a non-recorded interrogation for reasons that do not fall within the prior three exceptions when a significant and articulable law enforcement purpose justifies such an interrogation. Such authorization shall be in writing and shall explain the rationale for granting such permission.

27.10.5 All exceptions shall be thoroughly documented by the officer in a written or electronic report as soon as practical.

28.0 Less-Lethal Weapons and Ammunition

28.1 A less-lethal weapon system is specifically utilized for the purposes of deploying a dynamic, high energy less-lethal round.

28.2 Less-lethal munitions are designed to offer an alternative to the use of deadly force, when appropriate.

28.3 The minimum training standards for less-lethal weapons and ammunition are as follows:

28.3.1 A minimum of one qualification shoot per calendar quarter.

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- 28.3.2 All training ammunition shall be comparable to issued less-lethal ammunition in performance characteristics.
- 28.3.3 A minimum of five less-lethal rounds will be fired annually for proficiency training from the dedicated less-lethal shotgun.
- 28.3.4 An average score of 80% must be obtained to be qualified with the less-lethal shotgun. The method of scoring will be consistent with striking the preferred target zones outlined in applicable training curriculum.
- 28.4 Additional training exceeding the standard set forth in this regulation would be at the respective agencies' discretion.
- 28.5 Issued less-lethal ammunition will be collected and replaced annually.

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

801 Regulations of the Delaware Council on Police Training

**DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
2900 REAL ESTATE COMMISSION**

Statutory Authority: 24 Delaware Code, Section 2906(a)(1) (24 **Del.C.** §2906(a)(1))
24 **DE Admin. Code** 2900

PUBLIC NOTICE

2900 Real Estate Commission

Pursuant to 24 **Del.C.** §2906(a)(1), the Delaware Real Estate Commission ("Commission") has proposed revisions to its Rules and Regulations pertaining to advertising and posting of permanent office signs.

A public hearing will be held on April 14, 2022 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Real Estate Commission, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Commission at the above address or at sandra.wagner@delaware.gov.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be April 29, 2022. The Commission will deliberate on all of the public comments at its next regularly scheduled meeting.

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

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 842RFA 03-01-22.pdf>

**2900 Real Estate Commission
(Break in Continuity of Sections)**

**8.0 Business Relationships and Practices [24 Del.C. Ch. 29, Subch. II]
(Break in Continuity Within Section)**

8.5 Real Estate Teams

8.5.1 "Team" means two or more Licensees who represent themselves to the public as being part of one entity.

8.5.2 Team Names

8.5.2.1 The word "team" or the word "group" or the word "associates" must be included in the Team name.

8.5.2.2 The Team name may not include terms which suggest that the Team is a separate Brokerage Organization, such as "Realty", "Real Estate", or "Realtors", ~~"Company", "Corporation", "Corp.", "Inc.", "LLC", "LP", or "LLP".~~

8.5.3 Broker supervision

8.5.3.1 Team members must:

8.5.3.1.1 Work under the direct supervision of the same Broker in the same primary or branch office; and

8.5.3.1.2 Conduct all real estate activity from the primary or branch office where their individual licenses are displayed.

8.5.3.2 The Team's Broker is responsible for the real estate activities of Team members under such Broker's supervision including advertising and posting of signs.

8.5.3.3 A broker must maintain a current list of Teams and Team members and provide such information upon demand to the Commission or a member of the public.

8.6 Advertising [24 Del.C. §§2906(a)(1), 2912(a)]

(Break in Continuity Within Section)

8.6.5 Disclosure

(Break in Continuity Within Section)

8.6.5.3 Any Licensee who advertises any real property for sale, lease, exchange, or transfer that is listed with a Broker shall include in the advertisement the complete Brokerage Organization name that has been registered with the Commission, and Brokerage Organization phone number registered by the Broker with the Commission for that office location. ~~Effective six months after the effective date of this Regulation, the~~ The advertisement shall prominently display the Brokerage Organization name and phone number in greater size and visibility than the Licensee's name, ~~except that online advertisements shall comply with this subsection no later 60 days after the effective date of this Regulation.~~ Nothing contained herein shall preclude the listing of additional licensee names or Team names or phone numbers. All such advertising shall also contain language or abbreviations that clearly identify each phone number listed; examples include, but are not limited to: "Office"; "Home"; "Res."; and "Cell".

8.6.5.4 ~~Effective six months after the effective date of this Regulation, team~~ Team advertising shall prominently display the name of the supervising broker's brokerage organization adjacent to the team name in greater size and visibility than the team name, ~~except that online team advertising shall comply with this subsection no later than 60 days after the effective date of this Regulation.~~

(Break in Continuity Within Section)

8.7 Office Permits [24 Del.C. §2919]

8.7.1 For each office location, the Broker shall apply for an office permit. The application shall include a telephone number, and, as applicable, a fax number, e-mail address and web address.

8.7.2 At each office location, the Broker shall place, in a conspicuous location, a permanent sign indicating the name under which the office is registered with the Commission. Effective six (6) months after the effective date of this Regulation, the permanent sign at the office location shall prominently display the name of the supervising broker's brokerage organization. A team name may be included on the permanent sign, but the name of the brokerage must appear first on the sign and must be of greater size and visibility than the team name.

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

2900 Real Estate Commission

PROPOSED REGULATIONS

DIVISION OF PROFESSIONAL REGULATION

3000 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 add a requirement that of the 40 CEs that are required upon renewal, three must be in ethics and three must be in cultural inclusion, equity, and diversity.

The Board will hold a public hearing on the proposed rule change on April 27, 2022 at 12:00 p.m., either telephonically if the meeting is held virtually or in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 if the meeting is in-person. Written comments should be sent to Randall Clack, 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 May 12, 2022.

The proposed rule changes are as follows, additions are indicated in underline, deletions are indicated in strike-through:

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

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 844RFA 03-01-22.pdf>

3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals (Break in Continuity of Sections)

12.0 Renewal and Continuing Education

- 12.1 Renewal Date – All licenses shall be renewable biennially on September 30th of even-numbered years. License renewal is accomplished online at the Division of Professional Regulation’s website.
- 12.2 Continuing Education (CE) Requirements for LPCMHs, LCDPs, LMFTs, and LPATs (Associate License holders are not required to complete CEs)
 - 12.2.1 Licensees must complete at least 40 acceptable CE hours, including three hours of continuing education in ethics and three hours in cultural inclusion, equity, and diversity, during the previous licensure period in order to renew their license. CE requirements for initial licensure periods of less than two years shall be prorated as follows:
 - 12.2.1.1 If the license was granted between April 1 and September 30 of an even-numbered year, the licensee must complete 0 hours of CE during ~~his or her~~ the initial licensing period.
 - 12.2.1.2 If the license was granted between October 1 of an odd-numbered year and March 31 of an even-numbered year, the licensee must complete 10 hours of CE, including one hour in ethics and one hour in cultural inclusion, equity, and diversity, during ~~his or her~~ the initial licensing period.
 - 12.2.1.3 If the license was granted between April 1 and September 30 of an odd-numbered year, the licensee must complete 20 hours of CE, including one hour in ethics and one hour in cultural inclusion, equity, and diversity, during ~~his or her~~ the initial licensing period.
 - 12.2.1.4 If the license was granted between October 1 of an even-numbered year and March 31 of an odd-numbered year, the licensee must complete 30 hours of CE, including one hour in ethics and one hour in cultural inclusion, equity, and diversity, during ~~his or her~~ the initial licensing period.

(Break in Continuity Within Section)

12.5 Inactive Status

- 12.5.1 A request must be submitted to have a license placed on inactive status. Inactive status is effective immediately upon Board approval. The inactive status may continue for five years from the date of Board approval. An inactive license shall terminate at the end of the five-year period unless the license is returned to active status before the end of the five-year period.
- 12.5.2 Return to Active Status – Before the end of the then current two-year licensure period, a license shall be returned to active status upon fulfillment of the following requirements by the licensee:
- 12.5.2.1 Written Request – Submit a written request to have the license returned to active status.
- 12.5.2.2 Continuing Education – Provide proof of completion of 40 hours of acceptable CE, including three hours in ethics and three hours in cultural inclusion, equity, and diversity, obtained within the ~~two-year~~ two-year period immediately preceding the request for return to active status.
- 12.5.2.3 Fee – Pay the licensure renewal fee. No late fee shall be assessed for return to active status.

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

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

**DIVISION OF PROFESSIONAL REGULATION
4100 BOARD OF HOME INSPECTORS**

Statutory Authority: 24 Delaware Code, Section 4106(a)(1) (24 **Del.C.** §4106(a)(1)
24 **DE Admin. Code** 4100

PUBLIC NOTICE

4100 Board of Home Inspectors

The Delaware Board of Home Inspectors, pursuant to 24 *Del. C.* § 4106(a)(1), proposes to amend its rules and regulations. The proposed regulation change requires any home inspector or home inspector trainee applicant who has previously held a Delaware license to complete at least 40 continuing education credits in accordance with Section 16.0 in the two years leading up to the time the applicant submits the application.

The Board will hold a public hearing on the proposed regulation change on May 10, 2022 at 9:00 a.m., either telephonically or in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to the Delaware Board of Home Inspectors, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until May 25, 2022 pursuant to 29 *Del. C.* § 10118(a).

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

<http://regulations.delaware.gov/register/march2022/proposed/25 DE Reg 845RFA 03-01-22.pdf>

**4100 Board of Home Inspectors
(Break in Continuity of Sections)**

4.0 Licensure Requirements

Each applicant, other than endorsement applicants, for a home inspector license must provide the Board with the following, or have this information provided from the appropriate source, where indicated:

PROPOSED REGULATIONS

(Break in Continuity Within Section)

- 4.7 An applicant who previously held a Delaware license as a home inspector or home inspector trainee re-applying shall submit evidence of having completed at least 40 hours of continuing education in accordance with Section 16.0 for the two-year period leading up to the date of application.

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

4100 Board of Home Inspectors

Symbol Key

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

Final Regulations

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

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

DEPARTMENT OF EDUCATION PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))
14 **DE Admin. Code** 1558

REGULATORY IMPLEMENTING ORDER

1558 Theater Teacher

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§1203 and 1205(b), the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1558 Theater Teacher. The regulation concerns the requirements for a Theatre Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments include amending the title of the regulation; adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a Theatre Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Theatre Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a Theatre Teacher Standard Certificate; adding Section 7.0, which concerns disciplinary actions; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing past certificates that were issued by the Department.

Notice of the proposed regulation was published in the *Register of Regulations* on December 1, 2021. The Professional Standards Board did not receive any written submittals concerning the proposed amendments.

FINAL REGULATIONS

II. FINDINGS OF FACTS

On January 6, 2022, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1558 Theater Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1558 Theater Teacher.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1558 Theater Teacher subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1558 Theater Teacher, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1558 Theater Teacher adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1558 Theatre Teacher in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 20th day of January, 2022.

Department of Education

Mark Holodick, Ed.D., Secretary of Education

Approved this 20th day of January, 2022.

State Board of Education

/s/ Whitney Sweeney, President

/s/ Audrey J. Noble, Ph.D.

/s/ Shawn Brittingham, Vice President/s/

/s/ Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Vincent Lofink

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

1558 ~~Theater~~ Theatre Teacher

1.0 Content

4.1 This regulation shall apply to the issuance of a Theatre Teacher Standard Certificate, pursuant to 14 **Del.C.** §1220(a), ~~for Theater Teacher. This certification Standard Certificate is required for grades 9 K to 12, and is valid in grades 5 to 8 in a Middle Level school in Delaware public schools.~~

4.2 ~~Except as otherwise provided, the requirements set forth in 14 **DE Admin. Code** 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

2.0 Definitions

2-1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

2-2 The following words and terms, when used in this regulation, shall have the following meaning ~~unless the context clearly indicates otherwise:~~

~~“Approved Accrediting Agency” means a National, Regional, or Specialized Accrediting agency or association that appears on the list of recognized accrediting agencies published by the United States Secretary of Education or any other accrediting agency the Delaware Secretary of Education, deems within his or her discretion, to be reliable or be equivalent to those on the published list.~~

~~“Accredited institution” means an institution that has received accreditation from an approved accrediting agency.~~

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

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

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

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

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

~~“Regionally Accredited” means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.~~

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

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

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

3.0 Issuance of a Standard Certificate

3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a Theatre Teacher Standard Certificate ~~as a Theater Teacher~~ to an educator applicant ~~who has met the following:~~

3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; License or a Standard or Professional Status Certificate issued by the Department prior to August 31, ~~2003; and, 2003~~ and meets the requirements set forth in Section 4.0 of this regulation; or

3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and,~~

3.1.3 ~~Has satisfied the additional requirements in this regulation.~~

3.1.2 Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a theater education teacher issued by another state or jurisdiction.

3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Theatre Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

4.0 Additional Prescribed Education, Knowledge, and Skill Requirements

4.1 If an examination of content knowledge such as Praxis II is not applicable and available, in the area the Standard Certificate is requested, an educator must also meet the following:

4.2 If the educator is applying for their second Standard Certificate pursuant to 14 DE Admin. Code 1505 Standard Certificate 3.1.5;

4.2.1 Has satisfactorily completed fifteen (15) credits or their equivalent in professional development related to Theater, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; or

4.2.2 Has obtained certification in Theater from an accredited institution.

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 one 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 theater 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 theater as provided in 14 Del.C. §§1260 – 1266; or

4.1.1.3 Satisfactorily completed a Department-approved educator preparation program in theater 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 theater education of which at least six credits focus on pedagogy or an equivalent number of hours in professional development with one 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.

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:

4.1.1.4.4.1 Relevant courses from a Regionally Accredited college or university in theater 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 theater 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 theater 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 153 on the Praxis Subject Assessment – Theatre (ETS Test Code # 5641).

4.2 For an applicant who holds at least one content area Standard Certificate, the applicant shall have achieved a minimum score of 153 on the Praxis Subject Assessment – Theatre (ETS Test Code # 5641).

5.0 Application Requirements

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

5.2 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Theatre Teacher Standard Certificate:

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

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

5.2.1.2 Sealed paper transcripts may be submitted.

5.2.1.3 The Department will not accept copies of transcripts; and

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

5.2.3 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and

5.2.4 Additional documentation as required by the Department.

5.3 For an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for a Theatre Teacher Standard Certificate:

5.3.1 Official score on the Praxis Subject Assessment as provided in subsection 4.2; and

5.3.2 Additional documentation as required by the Department.

5.4 For applicants who have met the requirements for licensure as an educator in Delaware and hold a Valid and Current License or Certificate as a theater education teacher from another state or jurisdiction, the following documentation is required in the application for a Theatre Teacher Standard Certificate:

5.4.1 An official copy of the Valid and Current License or Certificate; and

5.4.2 Additional documentation as required by the Department.

6.0 Validity of a Standard Certificate

6.1 A Theatre Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

6.2 A Theatre Teacher Standard Certificate is not subject to renewal.

7.0 Disciplinary Action

- 7.1 An Educator's Theatre Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 DE Admin. Code 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.
- 7.2 An Educator's Theatre Teacher Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 Del.C. §1222.
- 7.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 DE Admin. Code 1515 Hearing Procedures and Rules.

8.0 Secretary of Education Review

- 8.1 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 Theatre 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 Theatre Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.
- 8.1.1 For school districts, requests shall be approved by the superintendent of the school district.
- 8.1.2 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.

9.0 Past Certificate Recognized

The Department shall recognize a Theatre Teacher Standard Certificate issued by the Department prior to effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach theater education.

PROFESSIONAL STANDARDS BOARD

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

14 DE Admin. Code 1560

REGULATORY IMPLEMENTING ORDER

1560 Art Teacher

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1560 Art Teacher. The proposed amendments include amending the title of the regulation; adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a Visual Arts Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Visual Arts Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a Visual Arts Teacher Standard Certificate; adding Section 7.0, which concerns disciplinary actions; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing past certificates that were issued by

the Department.

Notice of the proposed regulation was published in the *Register of Regulations* on December 1, 2021. The Professional Standards Board did not receive any written submittals concerning the proposed amendments.

II. FINDINGS OF FACTS

On January 6, 2022, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1560 Art Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1560 Art Teacher.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1560 Art Teacher subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1560 Art Teacher, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1560 Art Teacher adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1560 Visual Arts Teacher in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 20th day of January, 2022.

Department of Education

Mark Holodick, Ed.D., Secretary of Education

Approved this 20th day of January, 2022.

State Board of Education

/s/ Whitney Sweeney, President

/s/ Audrey J. Noble, Ph.D.

/s/ Shawn Brittingham, Vice President/s/

/s/ Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Vincent Lofink

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

1560 Art Visual Arts Teacher

~~Non-regulatory note: Passage on an examination of content knowledge may also be required to obtain this certification. Pursuant to 14 **Del.C.** §1220 and 14 **DE Admin. Code** 1505, an examination of content knowledge is required when applicable and available. An examination of content knowledge is applicable and available when approved by the Professional Standards Board with the concurrence of the State Board of Education. See the Department of Education website for additional information.~~

1.0 Content

- 4.1 This regulation shall apply to the ~~requirements for issuance of a Visual Arts Teacher Standard Certificate, pursuant to 14 Del.C. §1220(a), for Art Teacher.~~ This certification Standard Certificate is required for grades K to 12 in Delaware public schools.
- 4.2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

2.0 Definitions

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

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

"Department" means the Delaware Department of Education.

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

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

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

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

"Regionally Accredited" means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

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

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

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

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate ~~as an Art Teacher to an educator applicant who has met the following:~~
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; License or a ~~Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; and 2003 and meets the requirements set forth in Section 4.0 of this regulation; or~~
- 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto.~~
- 3.1.2 Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a visual arts teacher issued by another state or jurisdiction.

3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Visual Arts Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

4.0 Prescribed Education, Knowledge, and Skill Requirements

4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.

4.1.1 The applicant shall have satisfied one of the following education requirements:

4.1.1.1 Obtained and currently maintain an Art certificate from the National Board for Professional Teaching Standards; or

4.1.1.2 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in art education from an educator preparation program approved or recognized by the Council for the Accreditation of Educator Preparation (CAEP) or a state where the state approval body employed the appropriate standards; or

4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach art as provided in 14 **Del.C.** §§1260 – 1266; or

4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in art education; or

4.1.1.5 If the applicant is applying for an Initial License after the applicant completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school as provided in subsection 4.1.3.1 of 14 **DE Admin. Code** 1510, 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 art education of which at least six credits focus on pedagogy or an equivalent number of hours in professional development with one 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.

4.1.1.5.1 The applicant, in consultation with the applicant's Employing Authority, shall select the 15 credits or the equivalent number of hours in professional development subject to the Department's approval.

4.1.1.5.2 If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the 15 credits or the equivalent number of hours in professional development in consultation with the Department and subject to the Department's approval.

4.1.1.5.3 For the purpose of subsection 4.1.1.5, professional development means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change the participants' attitudes, insights, and perspectives and ultimately results in improved professional practice.

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

4.1.1.5.4.1 Relevant courses from a Regionally Accredited college or university in art education are not available to the applicant online or in the applicant's county of residence; and

4.1.1.5.4.2 The activity is grounded in research and current best practices as judged by the Department's content specialist in art education; and

4.1.1.5.4.3 The activity is documented by the provider to provide knowledge and skills that are required for the art education certification; and

4.1.1.5.4.4 The activity is part of a professional development program that includes knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.

4.1.2 The applicant shall have achieved a minimum score of 158 on the Praxis Subject Assessment – Art: Content Knowledge (ETS Test Code # 5134).

4.2 For an applicant who holds at least one content area Standard Certificate, the applicant shall have achieved a minimum score of 158 on the Praxis Subject Assessment – Art: Content Knowledge (ETS Test Code # 5134).

5.0 Application Requirements

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

5.2 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Visual Arts Teacher Standard Certificate:

5.2.1 Evidence of obtaining and maintaining an Art certificate from the National Board for Professional Teaching Standards, if applicable; and

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

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

5.2.2.2 Sealed paper transcripts may be submitted.

5.2.2.3 The Department will not accept copies of transcripts; and

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

5.2.4 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and

5.2.5 Additional documentation as required by the Department.

5.3 For an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for a Visual Arts Teacher Standard Certificate:

5.3.1 Official score on the Praxis Subject Assessment as provided in subsection 4.2; and

5.3.2 Additional documentation as required by the Department.

5.4 For applicants who have met the requirements for licensure as an educator in Delaware and hold a Valid and Current License or Certificate as a visual arts teacher from another state or jurisdiction, the following documentation is required in the application for a Visual Arts Teacher Standard Certificate:

5.4.1 An official copy of the Valid and Current License or Certificate; and

5.4.2 Additional documentation as required by the Department.

6.0 Validity of a Standard Certificate

6.1 A Visual Arts Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

6.2 A Visual Arts Teacher Standard Certificate is not subject to renewal.

7.0 Disciplinary Action

7.1 An Educator's Visual Arts Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 DE Admin. Code 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.

7.2 An Educator's Visual Arts Teacher Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the

Educator made a materially false or misleading statement in the Educator's application in accordance with 14 Del.C. §1222.

- 7.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 DE Admin. Code 1515 Hearing Procedures and Rules.

8.0 Secretary of Education Review

- 8.1 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 Visual Arts 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 Visual Arts Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.

8.1.1 For school districts, requests shall be approved by the superintendent of the school district.

8.1.2 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.

9.0 Past Certification Recognized

The Department shall recognize a Visual Arts Teacher Standard Certificate issued by the Department prior to effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach visual arts.

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))
14 DE Admin. Code 1563

REGULATORY IMPLEMENTING ORDER

1563 Music Teacher

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1563 Music Teacher. The regulation concerns the requirements for a Music Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a Music Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Music Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a Music Teacher Standard Certificate; adding Section 7.0, which concerns disciplinary actions; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing past certificates that were issued by the Department.

Notice of the proposed regulation was published in the *Register of Regulations* on December 1, 2021. The Professional Standards Board did not receive any written submittals concerning the proposed amendments.

II. FINDINGS OF FACTS

On January 6, 2022, the Professional Standards Board voted to propose 14 DE Admin. Code 1563 Music Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of

Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1563 Music Teacher.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1563 Music Teacher subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1563 Music Teacher, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1563 Music Teacher adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1563 Music Teacher in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 20th day of January, 2022.

Department of Education

Mark Holodick, Ed.D., Secretary of Education

Approved this 20th day of January, 2022.

State Board of Education

/s/ Whitney Sweeney, President

/s/ Audrey J. Noble, Ph.D.

/s/ Shawn Brittingham, Vice President/s/

/s/ Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Vincent Lofink

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

1563 Music Teacher

~~Non-regulatory note: Passage on an examination of content knowledge may also be required to obtain this certification. Pursuant to 14 **Del.C.** §1220 and 14 **DE Admin. Code** 1505, an examination of content knowledge is required when applicable and available. An examination of content knowledge is applicable and available when approved by the Professional Standards Board with the concurrence of the State Board of Education. See the Department of Education website for additional information.~~

1.0 Content

- 4-4 This regulation shall apply to the issuance of a Music Teacher Standard Certificate, pursuant to 14 **Del.C.** §1220(a), ~~for Music Teacher~~. This ~~certification~~ Standard Certificate is required for grades K to 12 in Delaware public schools.

- 1.2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

2.0 Definitions

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

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

"Department" means the Delaware Department of Education.

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

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

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

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

"Regionally Accredited" means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

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

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

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

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a Music Teacher Standard Certificate ~~as a Music Teacher~~ to an educator applicant ~~who has met the following:~~
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; License, or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; and 2003 and meets the requirements set forth in Section 4.0 of this regulation; or
- 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision there.~~
- 3.1.2 Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a music teacher issued by another state or jurisdiction.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Music Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

4.0 Prescribed Education, Knowledge, and Skill Requirements

- 4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have satisfied one of the following education requirements:
- 4.1.1.1 Obtained and currently maintain a Music certificate from the National Board for Professional Teaching Standards; or
- 4.1.1.2 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in music from an educator preparation program approved or recognized by the Council for the Accreditation of Educator Preparation (CAEP) or a state where the state approval body employed the appropriate standards; or
- 4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach music as provided in 14 Del.C. §§1260 - 1266; or
- 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in music education; or
- 4.1.1.5 If the applicant is applying for an Initial License after the applicant completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school as provided in subsection 4.1.3.1 of 14 DE Admin. Code 1510, 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 music education of which at least six credits focus on pedagogy or an equivalent number of hours in professional development with one 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.
- 4.1.1.5.1 The applicant, in consultation with the applicant's Employing Authority, shall select the 15 credits or the equivalent number of hours in professional development subject to the Department's approval.
- 4.1.1.5.2 If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the 15 credits or the equivalent number of hours in professional development in consultation with the Department and subject to the Department's approval.
- 4.1.1.5.3 For the purpose of subsection 4.1.1.5, professional development means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change the participants' attitudes, insights, and perspectives and ultimately results in improved professional practice.
- 4.1.1.5.4 Professional development hours may be approved if the applicant shows that the activity meets all of the following criteria:
- 4.1.1.5.4.1 Relevant courses from a Regionally Accredited college or university in music education are not available to the applicant online or in the applicant's county of residence; and
- 4.1.1.5.4.2 The activity is grounded in research and current best practices as judged by the Department's content specialist in music education; and
- 4.1.1.5.4.3 The activity is documented by the provider to provide knowledge and skills that are required for the music education certification; and
- 4.1.1.5.4.4 The activity is part of a professional development program that includes knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.
- 4.1.2 The applicant shall have achieved a minimum score of 155 on the Praxis Subject Assessment - Music: Content Knowledge (ETS Test Code # 5113).

- 4.2 For an applicant who holds at least one content area Standard Certificate, the applicant shall have achieved a minimum score of 155 on the Praxis Subject Assessment - Music: Content Knowledge (ETS Test Code # 5113).

5.0 Application Requirements

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for the Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Music Teacher Standard Certificate:
- 5.2.1 Evidence of obtaining and currently maintaining a Music certificate from the National Board for Professional Teaching Standards, if applicable; and
- 5.2.2 Official transcript from the applicant's Regionally Accredited college or university.
- 5.2.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
- 5.2.2.2 Sealed paper transcripts may be submitted.
- 5.2.2.3 The Department will not accept copies of transcripts; and
- 5.2.3 Documents verifying successful completion of Department-approved professional development, if applicable; and
- 5.2.4 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and
- 5.2.5 Additional documentation as required by the Department.
- 5.3 For an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for a Music Teacher Standard Certificate:
- 5.3.1 Official score on the Praxis Subject Assessment as provided in subsection 4.2; and
- 5.3.2 Additional documentation as required by the Department.
- 5.4 For applicants who have met the requirements for licensure as an educator in Delaware and hold a Valid and Current License or Certificate as a music teacher from another state or jurisdiction, the following documentation is required in the application for a Music Teacher Standard Certificate:
- 5.4.1 An official copy of the Valid and Current License or Certificate; and
- 5.4.2 Additional documentation as required by the Department.

6.0 Validity of a Standard Certificate

- 6.1 A Music Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- 6.2 A Music Teacher Standard Certificate is not subject to renewal.

7.0 Disciplinary Action

- 7.1 An Educator's Music Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 **DE Admin. Code** 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.
- 7.2 An Educator's Music Teacher Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 **Del.C.** §1222.
- 7.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

8.0 Secretary of Education Review

- 8.1 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 Music 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 Music Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.
- 8.1.1 For school districts, requests shall be approved by the superintendent of the school district.
- 8.1.2 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.

9.0 Past Certificate Recognized

The Department shall recognize a Music Teacher Standard Certificate issued by the Department prior to effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach music.

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

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

ORDER**Assertive Community Integration Support Team (ACIST)****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 Health Home Services, specifically, to remove the Assertive Community Integration Support Team (ACIST) health home service as an option from the Delaware Medicaid State Plan. 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 November 2021 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 2, 2021 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 January 1, 2022 Delaware Health and Social Services (DHSS)/ Division of Medicaid and Medical Assistance (DMMA) proposes to amend Title XIX Medicaid State Plan regarding Health Home Services, specifically, to remove the Assertive Community Integration Support Team (ACIST) health home service as an option from the Delaware Medicaid State Plan.

Background

The Division of Developmental Disabilities Services (DDDS) in partnership with DMMA amended the 1915 (c) Home and Community Based Services Lifespan waiver to allow enrollees to also be enrolled in Managed Care for their acute medical care needs, where in previous years they had been carved out into Fee for Service Medicaid. This change became effective July 1, 2019. At approximately the same time, DDDS decided to do a thorough evaluation of the services and supports the MCOs were providing. As a result of that review it was determined that the ACIST program was no longer the best way to meet the service needs of those enrolled in the program, and in fact, they would receive very similar support through the MCO carve in. DDDS decided to discontinue this specialized program in order for service recipients to receive supports in the most integrated manner, which is through the MCOs. The ACIST Home Health program is currently closed and no provider is actively providing this

State Plan service.

Statutory Authority

1902(a)(10)(D) of the Social Security Act, Home health services

Purpose

The purpose of this proposed regulation is to remove the Assertive Community Integration Support Team (ACIST) health home service as an option from the Delaware Medicaid State Plan.

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 December 2, 2021.

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

There is no anticipated fiscal impact.

Summary of Comments Received with Agency Response and Explanation of Changes

The following summarized comments were received:

Comment: DHSS needs to ensure that the mental health service and support needs of individuals with SPMI and I/DD receiving services from DDDS are being met. The Council endorses strengthening the coordination of care efforts for individuals being served by both DDDS and the Division of Substance Abuse and Mental Health (DSAMH) to better meet the unique needs of this population

Agency Response: DDDS Response: DDDS representatives have been meeting with DSAMH staff who manage the PROMISE program to discuss coordination of supports and services for dually eligible individuals. DDDS is currently participating in the "988 workgroup" with DSAMH and other community agencies to coordinate crisis supports. The DSAMH Mobile Crisis Team is a critical component of the 988 initiative in Delaware and DDDS has been vocal in our advocacy to extend DSAMH Mobile Crisis supports to DDDS service recipients living in provider-managed settings. DSAMH has been agreeable to including this with the other 988 enhancements. DDDS has also discussed improvements to other crisis supports utilized by our service recipients with the 988 workgroup members, such as cross training of emergency personnel, including but not limited to first responders and hospital staff, as well as increasing ease of access to inpatient psychiatric services when necessary. DDDS will continue to partner with DSAMH to address the needs of dually eligible service recipients. DDDS has also established a close working relationship with both MCOs to ensure that the individuals who coordinate care across all these service delivery networks are aligned with regard to meeting the need for mental health services for DDDS's population.

Comment: The Council recommends that DDDS complete a comprehensive evaluation of the behavioral health needs of their service recipients as compared to what they are receiving from the MCOs.

Agency Response: DDDS did complete an evaluation of the behavioral health needs of individuals supported by the Division in 2019 when the contracted vendor that was delivering the ACIST services ended their contract with minimum notice. DDDS and the Managed Care Organizations (MCOs) immediately partnered to identify mental health practitioners for impacted DDDS service recipients to ensure there was no interruption of necessary services and supports during the transition. After ensuring continuity of care for those service recipients, DDDS conducted a comprehensive evaluation of the behavioral and mental health services and supplemental benefits available through the MCOs and concluded that the MCOs enabled DDDS service recipients to access a more robust network of behavioral health providers than what was previously available when these services could only be accessed outside of the MCO network as fee for service. The MCO care coordination of these benefits and physical health benefits also filled a gap that was previously experienced by DDDS service recipients that led DDDS to create the ACIST program. Prior to the development of ACIST, DDDS waiver enrollees were carved out of Managed Care and received their acute medical Medicaid benefits through a fee for service arrangement. At the point that DDDS and DMMA partnered to carve this population into Managed Care through an amendment to the DDDS 1915 (c) Lifespan Waiver and the Diamond State Health Plan 1115 Waiver, service recipients gained access to a wider network of service providers as well as supplemental benefits offered by the MCOs such as a Behavioral Health Coordinator to ensure timely referral and access to necessary behavioral health services.

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)

FINDINGS OF FACT:

The Department finds the proposed changes as set forth in the November 2022 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan regarding Health Home Services, specifically, to remove the Assertive Community Integration Support Team (ACIST) health home service as an option from the Delaware Medicaid State Plan is adopted and shall be final effective March 11, 2022.

2/14/2022
Date of Signature

Molly K. Magarik, Secretary, DHSS

***Please Note: Due to the size and formatting requirements of the regulation, it is being attached here as a PDF document:**

[http://regulations.delaware.gov/register/march2022/final/Assertive Community Integration Support Team \(ACIST\) Health Home Service.pdf](http://regulations.delaware.gov/register/march2022/final/Assertive%20Community%20Integration%20Support%20Team%20(ACIST)%20Health%20Home%20Service.pdf)

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

ORDER

Program of All-Inclusive Care for the Elderly (PACE)

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 to incorporate the current version of the Program of All-Inclusive Care for the Elderly (PACE) State Plan Amendment preprint. 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 October 2021 *Delaware Register of Regulations*, requiring written materials and suggestions from the public

concerning the proposed regulations to be produced by November 1, 2021 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 October 1, 2021, Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend Title XIX Medicaid State Plan to incorporate the current version of the Program of All-Inclusive Care for the Elderly (PACE) State Plan Amendment preprint.

Background

The Centers for Medicare & Medicaid Services (CMS) advised states to no longer use the Upper Payment Limit (UPL) when drafting rates for the Program of All-Inclusive Care for the Elderly (PACE). States are required to use the Amount that Would Otherwise be Paid (AWOP) and submit a SPA indicating compliance.

Statutory Authority

42 CFR 460

Purpose

The proposed amendment is to incorporate the current version of the Program of All-Inclusive Care for the Elderly (PACE) State Plan Amendment preprint.

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 November 1, 2021.

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

There is no anticipated fiscal impact.

Summary of Comments Received with Agency Response and Explanation of Changes

There is no anticipated fiscal impact.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the December 1, 2021 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan to incorporate the current version of the Program of All-Inclusive Care for the Elderly (PACE) State Plan Amendment preprint, is adopted and shall be final effective March 11, 2022.

2/15/2022
Date of Signature

Molly K. Magarik, Secretary, DHSS

***Please Note: Due to the formatting requirements of the regulation, it is being attached here as a series of PDF documents:**

<http://regulations.delaware.gov/register/march2022/final/Supp 2 3.1-A Page 1 PACE.pdf>
<http://regulations.delaware.gov/register/march2022/final/Supp 2 3.1-A Page 2 PACE.pdf>
<http://regulations.delaware.gov/register/march2022/final/Supp 2 3.1-A Page 3 PACE.pdf>
<http://regulations.delaware.gov/register/march2022/final/Supp 2 3.1-A Page 4 PACE.pdf>
<http://regulations.delaware.gov/register/march2022/final/Supp 2 3.1-A Page 5 PACE.pdf>
<http://regulations.delaware.gov/register/march2022/final/Supp 2 3.1-A Page 6 PACE.pdf>
<http://regulations.delaware.gov/register/march2022/final/CMS Pre-Print Pages PACE.pdf>

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

ORDER

Guardianship Fees - Post-Eligibility Protection of Income

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 and the Division of Social Services Manual (DSSM) to allow Medicaid recipients institutionalized in long-term care facilities to retain an allowance of income to pay for guardianship costs. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the December 2021 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 31, 2021 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 January 1, 2022, DHSS/DMMA proposes to amend Title XIX Medicaid State Plan and the Division of Social Services Manual (DSSM) regarding the Post-Eligibility Treatment of Institutionalized Individuals, specifically, allows Medicaid recipients in medical institutions to retain more income to pay for guardianship costs.

Background

Medicaid recipients, institutionalized in long-term care facilities, are required to apply their income toward the cost of institutional care. The individual must contribute income to pay for institutional services, deducting only specific allowable amounts, such as a personal needs allowance that is reasonable in amount for clothing and other personal needs of the individual while in the institution.

Some institutionalized recipients may be appointed a guardian by the Court to make medical or financial decisions. There can be cost associated with services provided by the guardian. The services may include, but not be limited to, receiving and depositing income, paying bills, or maintaining accounts.

Statutory Authority

§1902(a)(50)(q) of the Social Security Act
§1902(a)(14)(l) of the Social Security Act

Purpose

The purpose of this proposed regulation is to allow Medicaid recipients institutionalized in long-term care facilities to retain an allowance of income to pay for guardianship costs.

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 December 31, 2021.

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**Fiscal Impact**

	Federal Fiscal Year 2022	Federal Fiscal Year 2023
Federal funds	\$0	\$273,600
General (State) funds	\$0	\$206,400

Summary of Comments Received with Agency Response and Explanation of Changes

No comments were received.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the December 2021 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan and the Division of Social Services Manual (DSSM) to allow Medicaid recipients institutionalized in long-term care facilities to retain an allowance of income to pay for guardianship costs is adopted and shall be final effective March 11, 2022.

2/14/2022

Date of Signature

Molly K. Magarik, Secretary, DHSS

FINAL REGULATIONS

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY
ACT STATE: DELAWARE
ELIGIBILITY CONDITIONS AND REQUIREMENTS

42 CFR 435.725; 43 CFR 435.733; 42 CFR 435.832

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

For the following individuals with a greater need (continued)

- d. \$50/month for NF and ICF/IID residents engaging in frequent and regular rehabilitation out-of-facility activities.
- e. For nursing facility residents who are participating in gainful employment, the following amounts, not to exceed the adult foster care rate (SSI benefit amount + \$140), will be deducted from gross earned income:
 - i. Mandatory payroll deductions that are a condition of employment including, but not limited to:
 1. Federal, State, and Local taxes
 2. FICA
 3. Union Dues
 4. Insurance Premiums
 5. Pension Contributions.
 - ii. Transportation costs as paid to and from employment.
 - iii. Clothing and personal needs allowance of \$75/month.
- f. For nursing facility residents requiring a court appointed guardian, the following amounts will be deducted from the gross earned income:
 - i. Monthly guardianship fees not to exceed \$100.

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

TN No. SPA	Approval Date
Supersedes	
TN No. SPA #16-008	Effective Date

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

ORDER

Chiropractors' Services

NATURE OF THE PROCEEDINGS:

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

proceedings to amend chiropractors' services, specifically, to allow coverage guidelines for treatment more consistent with the licensure scope of practice for chiropractors. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the December 2021 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 31, 2021 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 January 1, 2022 Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) proposes to amend chiropractors' services, specifically, to allow coverage guidelines for treatment more consistent with the licensure scope of practice for chiropractors.

Background

In May of 2014, the Center for Medicaid Services (CMS) approved the Delaware Health and Social Services (DHSS) /Division of Medicaid and Medical Assistance (DMMA) Alternative Benefit Plan (ABP) with an effective date of January 1, 2014. The ABP included benchmarks and benchmark equivalent services reflective of the current Medicaid State Plan. Additionally, DMMA added chiropractors' services to the ABP for this newly eligible low-income adult population. Previously, Delaware's Medicaid State Plan only covered chiropractors' services for children under the authority of 42 CFR §441 Subpart B, Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) of Individuals under Age 21. In May of 2017, CMS approved DMMA's extended coverage of chiropractors' services to all Delaware Medicaid beneficiaries to increase the quality of care and reduce long-term costs of treating chronic pain.

Effective October 24, 2018, the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act) became public law. This healthcare act outlines national strategies to help address the nation's opioid crisis. As part of the SUPPORT Act, CMS has promoted appropriate opioid prescribing and person-centered pain management. States began strategizing with providers and beneficiaries to increase non-opioid treatments and technologies to help treat acute and chronic pain. To that end, DMMA would like to expand the coverage of chiropractors' services to allow coverage guidelines for treatment more consistent with the licensure scope of practice for chiropractors.

Statutory Authority

- §1905(g) of the Social Security Act, State plan provision of chiropractors' services
- H.R. 6, the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act)

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 December 31, 2021.

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

The anticipated fiscal impact is below.

	Federal Fiscal Year 2022	Federal Fiscal Year 2023
Federal funds	\$148,273	\$151,238
General (State) funds	\$108,522	\$108,892

Summary of Comments Received with Agency Response and Explanation of Changes

No comments were received.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the December 2021 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend chiropractors' services, specifically, to allow coverage guidelines for treatment more consistent with the licensure scope of practice for chiropractors, is adopted and shall be final effective March 11, 2022.

2/14/2022
Date of Signature

Molly K. Magarik, Secretary, DHSS

Attachment 3.1-A
Page 3 Addendum

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

LIMITATIONS ON AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

6. Medical Care and other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law (continued).

6.b. Optometrists' Services

These services are reimbursed:

1. For Medicaid-eligible Individuals under age 21, as an EPSDT service (routine eye exams including refraction and provision of eyeglasses); or
2. For Medicaid-eligible individuals over age 21, medically necessary diagnostic and treatment services provided under the scope of optometric practice in State law for symptomatic Medicaid recipients (i.e. disease, injury, illness, or other medical disorder of the eyes), excluding routine eye exams or refractions related to the provision of eyeglasses and excluding coverage of eyeglasses.

6.c. Chiropractors' Services

Chiropractic services are furnished in accordance with 42 CFR 440.60(b) and include ~~only~~ services that are provided by a chiropractor who is licensed by the State, and consists of medically necessary treatment by means of manual manipulation of the spine and allowable adjunctive therapy associated with the treatment of neck, back, pelvic/sacral, and extraspinal pain and/or dysfunction, that the chiropractor is legally authorized by the State to perform. Services may be subject to prior authorization and/or medical review, and include:

1. Evaluation and management services;
2. Diagnostic x-rays; ~~and~~
3. Chiropractic manipulative ~~treatment.~~ treatment; and
4. Allowable adjunctive therapy service.

Provider Qualifications: Qualified chiropractors must be licensed per Delaware licensure requirements codified in Chapter 7, Title 24 of the Delaware Administrative Code, Professions and Occupations.

6.d. Other Practitioners' Services

1. Licensed Midwife services are services permitted under scope of practice authorized by state law for the licensed midwife.
2. Licensed Behavioral Health Practitioner: A licensed behavioral health practitioner (LBHP) is a professional who is licensed in the State of Delaware to diagnose and treat mental illness or substance abuse acting within the scope of all applicable state laws and their professional license. A LBHP includes professionals licensed to practice independently:
 - Licensed Psychologists
 - Licensed Clinical Social Workers (LCSWs)
 - Licensed Professional Counselors of Mental Health (LPCMHe)
 - Licensed Marriage and Family Therapists (LMFTs)

TN No. SPA	Approval Date
Supersedes	
TN No. SPA #19-001	Effective Date <u>October 1, 2021</u>

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
100 BOARD OF ACCOUNTANCY

Statutory Authority: 24 Delaware Code, Section 105(a)(1) (24 **Del.C.** §105(a)(1))
24 **DE Admin. Code** 100

ORDER

100 Board of Accountancy

On August 1, 2021, the Delaware Board of Accountancy published proposed changes to its regulations in the Delaware Register of Regulations, Volume 24, Issue 2. Due to a problem with the newspaper notice the Board re-published the proposed changes to its regulations in the Delaware Register of Regulations, Volume 24, Issue 4. The notice indicated that written comments would be accepted by the Board, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the Register of Regulations and two Delaware newspapers, a public hearing was held on November 17, 2021 at a regularly scheduled meeting of the Board of Accountancy to receive verbal comments regarding the Board's proposed amendments to its regulations.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

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

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

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

No verbal testimony was provided at the public hearing. A written comment was received by the Board from the

National Association of State Boards of Accountancy (NASBA).

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments on the proposed amendments to the Board's regulations in writing and by testimony at the public hearing.

2. There was one public comment provided to the Board during the written public comment periods. The comment was from NASBA and was supportive of the regulatory change. The comment did suggest a minor clarification which the Board voted to incorporate. The President of the Board determined that the clarification was non-substantive. The Board appreciates the thoughtful input and support provided by NASBA.

3. Pursuant to 24 Del. C. § 105 (a)(1) the Board has the statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

4. Having received a public comment generally supportive of the amendment, the Board finds no reason not to amend the regulations as proposed with the clarification set forth in NASBA's comment.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, pursuant to 24 Del. C. § 105(a)(1) and for the reasons set forth above, the Board does hereby ORDER that the regulations be, and that they hereby are, adopted and promulgated as set forth in the Delaware Register of Regulations on August 1, 2021 with the clarification offered by NASBA. 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 19th day of January, 2022.

DELAWARE BOARD OF ACCOUNTANCY

/s/ Jonathan Moll, CPA
 President/Professional Member
 /s/ Chadwick Milton, CPA
 Professional Member
 /s/ Scott Brown, CPA
 Professional Member
 /s/ Jean Davis
 Educator/Public Member

/s/ Renee Villano, CPA
 Secretary/Professional Member
 /s/ Sarah Patterson, CPA
 Professional Member
 /s/ Miriam Wilson, PA
 Professional Member
 /s/ Prameela Kaza
 Public Member

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

100 Board of Accountancy *(Break in Continuity of Sections)*

7.0 Issuance and Renewal of CPA Permits to Practice and Maintenance of Competency *(Break in Continuity Within Section)*

7.2 Continuing professional education requirements for renewal of permits to practice *(Break in Continuity Within Section)*

7.2.5 Qualified Programs.

7.2.5.1 General Determination: The overriding consideration in determining if a specific program qualifies as a continuing professional education program is whether it is a formal program of learning which contributes directly to the professional competence of the permit holder.

7.2.5.2 Formal Programs: Formal programs requiring class attendance will qualify only if:

7.2.5.2.1 An outline is prepared in advance and the plan sponsor agrees to preserve a copy for five years or the outline is provided to the participant or both.

- 7.2.5.2.2 The program is at least an hour (a fifty-minute period) in length. 7.2.5.2.2 The program is at least an hour (a fifty-minute period) in length. After the initial hour of a program[, half-hour] increments [~~of 30 minutes~~ (25 minutes)] may be approved.
- 7.2.5.2.3 The program is conducted by a qualified instructor or discussion leader.

***Please note that no additional changes were made to the regulation as originally proposed and published in the August 2021 issue of the *Register* at page 160 (25 DE Reg. 160). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

100 Board of Accountancy

DIVISION OF PROFESSIONAL REGULATION CONTROLLED SUBSTANCE ADVISORY COMMITTEE

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

FINAL ORDER

Uniform Controlled Substances Act Regulations

After due notice in the *Delaware Register of Regulations* and two Delaware newspapers, a public hearing was held on December 1, 2021 at a scheduled meeting of the Delaware Controlled Substance Advisory Committee ("Committee") to receive comments regarding proposed amendments to the Uniform Controlled Substance Act Rules and Regulations ("Rules and Regulations"). Specifically, the proposed changes address the expiration of controlled substance prescriptions for Schedule II and III medications and the partial filling of controlled substance prescriptions for Schedule II - V medications. These changes will make the Rules and Regulations consistent with the federal Comprehensive Addiction and Recovery Act, which Congress passed in 2016. Additional technical and stylistic edits were made to the Rules and Regulations as well. The Committee served as the Secretary of State's designee at the hearing on the proposed regulatory changes. 16 Del.C. § 4731(b).

The proposed changes to the Rules and Regulations were published in the *Delaware Register of Regulations*, Volume 25, Issue 5, on November 1, 2021. Notice of the December 1, 2021 hearing was published in the *News Journal* (Exhibit 1) and the *Delaware State News*. Exhibit 2. Pursuant to 29 Del.C. § 10118(a), the date to receive final written comments was December 16, 2021, 15 days following the public hearing. The Committee deliberated on the proposed revisions at its regularly scheduled meeting on January 26, 2022.

Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

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

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

There was no verbal testimony given at the public hearing on December 1, 2021. Further, no written comments were received by the Committee.

Findings of Fact and Conclusions

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

Pursuant to 16 Del.C. § 4731(a), the Secretary of State has the statutory authority to promulgate rules and regulations.

Having received no public comments, the Committee finds no reason to amend the Rules and Regulations as proposed.

Decision and Effective Date

The Committee hereby recommends to the Secretary of State adoption of the changes to the Rules and Regulations as proposed to be effective 10 days following publication of this Final Order in the *Register of*

Regulations. The new Rules and Regulations are attached hereto as Exhibit A.

Respectfully submitted this 26th day of January 2022:

/s/ Linda Ciavarelli, DPM
/s/ Jo Ann M. Baker, DNP, RN, FNP-C
/s/ Herb E. Von Goerres, R. Ph
/s/ Cheri Briggs, PharmD
/s/ Joseph Parise, DO
/s/ Danielle Downs, DVM
/s/ Kirsten Opalach, PA-C

NOW, THEREFORE, IT IS ORDERED this 4th day of February, 2022 that:

The Delaware Secretary of State has considered the Recommendation of the Controlled Substance Advisory Committee in connection with the above-captioned matter and has determined to approve the Recommendation.

SECRETARY OF STATE

Jeffrey W. Bullock

***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 November 2021 issue of the *Register* at page 506 (25 DE Reg. 506). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

Uniform Controlled Substances Act Regulations

**DEPARTMENT OF TRANSPORTATION
DIVISION OF MOTOR VEHICLES**

Statutory Authority: 21 Delaware Code, Section 302; 29 Delaware Code, Section 8404
(21 Del.C. §302; 29 Del.C. §8404(8))
2 DE Admin. Code 2223

EXEMPT FINAL ORDER

2223 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees

Pursuant to 29 Del. C. §10113(b)(4) and (5) the DMV has revised Regulation 2223 of Title 2 of the Delaware Administrative Code to amend the regulation to be consistent with changes in basic law and also to make corrections to technical errors.

- 21 Del.C. §4177F was repealed in August 2014 and 21 Del.C. §4177G was modified to manage the IID Program.
With this order, the Department is updating Sections 1.0, 2.0, and 3.0 of Regulation 2223 to conform to the regulation with the Act. These updates are exempt from the requirement of public notice and comment because they include "amendments to existing regulations to make them consistent with changes in basic law but which do not otherwise alter the substance of the regulations," pursuant to 29 Del.C. §10113(b)(5).
- Other technical corrections are also being made to the regulation.

This order shall be effective 10 days after publication in the *Register of Regulations*.

IS SO ORDERED.

The 24th day of February, 2022.

Nicole Majeski
Secretary, Department of Transportation

2223 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees

1.0 Authority

The authority to promulgate this regulation is 21 Del.C. ~~§4177F(e)~~ §4177G.

2.0 Purpose

~~Title 21 Del.C. §4177F~~ §4177G established a program utilizing the Ignition Interlock device for those individuals with an alcohol-related violation or offense. After surveying the fees charged by surrounding jurisdictions for similar services, this policy regulation will establish a fee schedule for all expenses related to installation and lease of the device.

3.0 Applicability

This policy regulation concerns ~~Title 21 Del.C. §4177F~~ §4177G.

4.0 Substance of Policy

4.1 Installation of Device

4.1.1 All persons who voluntarily or as a result of a court order, install an Ignition Interlock device in a motor vehicle monitored in conjunction with the Division of Motor Vehicles, will be charged a fee by the provider for that service, and this fee will include the cost of removing the device at the termination of the program.

4.1.2 The service providers shall charge a fee not to exceed \$100.00 for installation of the Interlock device, but this amount includes a rebate of \$30.00 which will be returned to the client at the time of removal. This fee shall be the responsibility of the clients.

4.2 Monthly Monitoring & Calibration

4.2.1 All persons with an Ignition Interlock device installed in a vehicle monitored in conjunction with the Division of Motor Vehicles, shall be charged a fee for the monthly electronic monitoring and regular calibration of the device.

4.2.2 The service providers shall charge a fee not to exceed \$75.00 for monthly monitoring and calibration. This fee shall be the responsibility of the clients.

4.3 Initial down ~~Payment~~ Payment.

~~4.3.1~~ The initial payment will include the installation fee and the first month's monitoring and calibration. The initial payment, therefore, shall not exceed \$175.00 and the bi-monthly payment shall not exceed ~~\$150.00~~ \$150.00.

4.4 Other ~~Fees~~ Fees.

~~4.4.1~~ The Division of Motor Vehicles recognizes that Service providers may charge fees for other services outside the scope of this policy regulation, including but not limited to fees for missed appointments, device resets, and optional insurance programs relating to damage or loss of the device.

4.5 Definition of Alcohol Related Violations and Offenses

For purposes of this policy regulation, alcohol-related violations and offenses shall mean violations of Sections 2740, 2742, 4177, 4177B, 4175 of Title 21, conforming statutes of other states or the District of Columbia, or local ordinances in conformity therewith.

5.0 Severability

If any part of this Regulation is held to be unconstitutional or otherwise contrary to law by a court of competent jurisdiction, said portion shall be severed and the remaining portions of this Regulation shall remain in full force and effect under Delaware law.

6.0 Effective Date

The following regulation shall be effective 10 days from the date the order is signed and it is published in its final form in the *Register of Regulations* in accordance with 29 Del.C. §10118(e). The effective date of the revisions is March 11, 2022.

DEPARTMENT OF TRANSPORTATION 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

December 21, 2021

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 Service" for all local streets in the Chaddwyck 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

DEPARTMENT OF TRANSPORTATION TRAFFIC ENGINEERING SECTION

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

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- "No Trucks Over 2 Axles Except Local Service" for Federal School Lane (N380) between US 13 (Dupont Highway) and SR 9 (River Road).

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

DEPARTMENT OF TRANSPORTATION TRAFFIC ENGINEERING SECTION

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

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- "No Trucks Over 2 Axles Except Local Service" for Saienni Boulevard (N139360) between SR 9 (River Road) and US 13 (Dupont Highway).

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

DEPARTMENT OF TRANSPORTATION TRAFFIC ENGINEERING SECTION

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

NOTICE

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- "No Trucks Over 2 Axles Except Local Service" for Delaware Route 9 (River Road) between Hamburg Road and the New Castle City Limits.

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

DEPARTMENT OF TRANSPORTATION TRAFFIC ENGINEERING SECTION

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

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- "No Trucks Over 2 Axles Except Local Service" for all local streets in the Bayview Manor and Bayview Manor II subdivisions.

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

CALENDAR OF EVENTS/HEARING NOTICES

DELAWARE RIVER BASIN COMMISSION PUBLIC NOTICE

The Delaware River Basin Commission held its quarterly public hearing on Wednesday, February 9, 2022. The hearing was held virtually. Please check the Commission's website, www.drbc.gov, for details regarding the draft docket decisions that were the subjects of the public hearing. The Commission's quarterly business meeting will be held virtually on **Wednesday, March 9, 2022**, beginning at **10:30 a.m.** Please check the Commission's website, www.drbc.gov, for details about the meeting format and how to attend. For additional information, please visit the DRBC website at www.drbc.gov or contact Patricia Hausler at patricia.hausler@drbc.gov.

DEPARTMENT OF AGRICULTURE THOROUGHBRED RACING COMMISSION PUBLIC NOTICE

1001 Thoroughbred Racing Rules and Regulations

The Thoroughbred Racing Commission proposes to amend its Regulations adopted in accordance with Title 3, Chapter 101. The purpose of the proposed regulations is to amend Rule 13.1.3 to change the existing open claiming rule. Other regulations issued by the Thoroughbred Racing Commission are not affected by this proposal. The Thoroughbred Racing Commission is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

A copy of the proposed regulations is being published in the March 1, 2022 edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: http://regulations.delaware.gov/services/current_issue.shtml.

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Thoroughbred Racing Commission at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before April 1, 2022. Written materials submitted will be available for inspection at the above address.

DEPARTMENT OF EDUCATION PUBLIC NOTICE

The State Board of Education meets monthly. These meetings are open to the public. The Board rotates locations of regular meetings among the three counties.

Meeting information can be accessed via the public meeting calendar.

Meeting materials available on the State Board of Education's eBoard site (https://simbli.eboardsolutions.com/SB_Meetings/SB_MeetingListing.aspx?S=190001). (If you are having technical difficulties accessing the site, please try a different browser.)

The next meeting is scheduled for March 17, 2022.

Information regarding special meetings or Committee meetings of the State Board will be posted on the public meeting calendar.

Minutes from recent State Board of Education meetings can be found on the public meeting calendar.

Audio recordings are available after every Board meeting (<https://www.doe.k12.de.us/domain/225>).

Public meeting calendar: <https://publicmeetings.delaware.gov/#/search?anyall=any&agencyid=22&startdateinclusive=2019-01-01>

DEPARTMENT OF HEALTH AND SOCIAL SERVICES**DIVISION OF MEDICAID AND MEDICAL ASSISTANCE****PUBLIC NOTICE****Retroactive Coverage**

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 Retroactive Coverage, specifically, to revise policy incorporating retroactive eligibility changes.

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 Nicole.M.Cunningham@delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on March 31, 2022. Please identify in the subject line: Retroactive Coverage.

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

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH**PUBLIC NOTICE****6003 DUI Programs**

In compliance with the *Administrative Procedures Act* (29 **Del.C.** Ch. 101) and under the authority of 21 **Del.C.** §4177D, the State of Delaware Department of Health and Social Service's Division of Substance Abuse and Mental Health ("the Division") is proposing to amend 16 **DE Admin. Code** 6003 regulations governing driving under the influence programs ("DUI programs").

A person may make suggestions or provide compilations of data, testimony, briefs, or other materials concerning the Division's proposal by written submission to the Community Behavioral Health Bureau, Division of Substance Abuse and Mental Health. The Division will receive submissions made before 4:30 p.m. on April 1, 2022, by mail to 1901 North DuPont Highway, New Castle, DE 19720-0906, by fax to (302) 255-4427, and by email to joe.aronson@delaware.gov. Please identify in the subject line: 6003 DUI Regulations.

The Division's determination to adopt this proposal will include analysis and consideration of submissions received.

DEPARTMENT OF INSURANCE**OFFICE OF THE COMMISSIONER****PUBLIC NOTICE****1322 Requirements for Mandatory Minimum Payment Innovations in Health Insurance**

On January 1, 2022, the Delaware Department of Insurance (the Department) published its proposed new Regulation 1322 Requirements for Mandatory Minimum Payment Innovations in Health Insurance (Proposal 1). See 25 DE Reg. 684 (01/01/22). The purpose of the proposed new regulation is to implement Senate Substitute 1 for Senate Bill 120 (SS1 for SB 120), which expanded the regulatory authority of Department's Office of Value Based Health Care Delivery (OVBHCD) as described in Proposal 1.

Proposal 2, revised as appropriate in response to the public comments received on Proposal 1, appears below and may also be viewed on the Department's website at <http://insurance.delaware.gov/information/proposedregs/>. The Department will not be holding a public hearing on Proposal 2.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning Proposal 2. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EDT, the 31st day of March 2022 and should be directed to:

Regulatory Specialist
Delaware Department of Insurance
1351 West North Street, Suite 101
Dover, DE 19904
(302) 674-7300
Email: DOI-Legal@delaware.gov

OFFICE OF THE COMMISSIONER
PUBLIC NOTICE

1801 Insurance Holding Company System Regulation With Reporting Forms and Instructions

Requirements for insurance holding company system registration are promulgated in 18 **Del.C.** Ch. 50 (the Act). Regulations to implement the Act are codified at 18 **DE Admin. Code** 1801.

On January 27, 2022, the Delaware General Assembly passed amendments to the Act to designate two additional categories of documents filed under the Act as subject to confidential treatment under the law and to incorporate changes adopted by the National Association of Insurance Commissioners (NAIC) related to affiliated transactions for insurers in receivership. See House Bill No. 272 (151st General Assembly). HB 272 was signed by the Governor on February 7, 2022. The adopted changes to the model law were developed to address the continuation of essential services by affiliates of insurers in receivership, as well as the receiver's access to data and records held by affiliates but belonging to the insurer.

Accordingly, the Department is now proposing to amend Regulation 1801 to comport the regulation with the Act. Specifically, the Department is updating Section 19.0 concerning transactions subject to prior notice and adding new Section 21.0 concerning requirements for Group Capital Calculation.

The text of the proposed amendments appears below and can also be viewed at the Delaware Insurance Commissioner's website at <http://insurance.delaware.gov/information/proposedregs/>. The Department does not plan to hold a public hearing on the proposed regulation.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendment. Any written submission in response to this notice and relevant to the proposed regulation must be received by the Department of Insurance no later than 4:30 p.m. EST, 31st day of March 2022. Any such response should be directed to:

Regulatory Specialist
Delaware Department of Insurance
1351 W. North St., Suite 101
Dover, 19904
(302) 674-7300
Email: Doi-Legal@delaware.gov

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL
CONTROL**

DIVISION OF WATERSHED STEWARDSHIP
PUBLIC NOTICE

7401 Surface Water Quality Standards

A virtual public hearing (Docket # 2021-R-WS-0015) will be held on Wednesday, April 20, 2022 beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrehearings>. If prompted for a password, please use RegAmend7401. To access the audio-only portion of the virtual hearing, dial 1-408-418-9388 and enter event code 2332 836 9040. Closed-captioning is available by request if made at least 7 days before the event.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9295.

The proposed amendments may be inspected online starting March 1, 2022 at http://regulations.delaware.gov/services/current_issue.shtml or in-person, by appointment only, by contacting David Wolanski by phone at 302-739-9939 or by email at David.Wolanski@Delaware.Gov.

The Department will accept public comment through the close of business on Thursday, May 5th, 2022. Comments will be accepted in written form via email to DNRECHearingComments@delaware.gov, or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Lisa Vest, Hearing Officer
DNREC - Office of the Secretary
89 Kings Highway, Dover, DE 19901

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DELAWARE COUNCIL ON POLICE TRAINING

PUBLIC NOTICE

801 Regulations of the Delaware Council on Police Training

The Council on Police Training (COPT), pursuant to 11 Del. C. §§2014 and 8404(a)(14), proposes to amend its regulations to add mandatory standards relating to electronic recordings of custodial interrogations, as required by 11 Del. C. § 2014. The COPT also proposes to add another section to Regulation 801 pertaining to qualification standards for the use of less lethal weapons and ammunition. The proposed amendments, which were voted on during a public meeting of the COPT, on January 11, 2022, seek to add these two new sections to COPT's existing Regulation 801.

The COPT will allow for the submission of written comments, suggestions, or other materials regarding the proposed regulatory amendments. Submissions should be sent to the COPT Attn: Susan McNatt P.O. Box 430, Dover DE 19903 or by e-mail: susan.a.mcnatt@delaware.gov. Any written submission in response to this notice and the relevant proposed regulations must be received by the COPT no later than 4:30 p.m. (EST) on March 31, 2022. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION

PUBLIC NOTICE

2900 Real Estate Commission

Pursuant to 24 **Del.C.** §2906(a)(1), the Delaware Real Estate Commission ("Commission") has proposed revisions to its Rules and Regulations pertaining to advertising and posting of permanent office signs.

A public hearing will be held on April 14, 2022 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Real Estate Commission, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Commission at the above address or at sandra.wagner@delaware.gov.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be April 29, 2022. The Commission will deliberate on all of the public comments at its next regularly scheduled meeting.

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 add a

requirement that of the 40 CEs that are required upon renewal, three must be in ethics and three must be in cultural inclusion, equity, and diversity.

The Board will hold a public hearing on the proposed rule change on April 27, 2022 at 12:00 p.m., either telephonically if the meeting is held virtually or in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 if the meeting is in-person. Written comments should be sent to Randall Clack, 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 May 12, 2022.

DIVISION OF PROFESSIONAL REGULATION

PUBLIC NOTICE

4100 Board of Home Inspectors

The Delaware Board of Home Inspectors, pursuant to 24 *Del. C.* § 4106(a)(1), proposes to amend its rules and regulations. The proposed regulation change requires any home inspector or home inspector trainee applicant who has previously held a Delaware license to complete at least 40 continuing education credits in accordance with Regulation 16 in the two years leading up to the time the applicant submits the application.

The Board will hold a public hearing on the proposed regulation change on May 10, 2022 at 9:00 a.m., either telephonically or in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to the Delaware Board of Home Inspectors, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until May 25, 2022 pursuant to 29 *Del. C.* § 10118(a).
