
Delaware Register of Regulations

Issue Date: May 1, 2020

Volume 23 - Issue 11, Pages 898 - 950



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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 April 15, 2020.

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Rehoboth Beach

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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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
June 1	May 15	4:30 p.m.
July 1	June 15	4:30 p.m.
August 1	July 15	4:30 p.m.
September 1	August 17	4:30 p.m.
October 1	September 15	4:30 p.m.
November 1	October 15	4:30 p.m.

DIVISION OF RESEARCH STAFF

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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.

Emergency Regulations

Under 29 **Del.C.** §10119 an agency may promulgate a regulatory change as an Emergency under the following conditions:

§ 10119. Emergency regulations.

If an agency determines that an imminent peril to the public health, safety or welfare requires the adoption, amendment or repeal of a regulation with less than the notice required by § 10115, the following rules shall apply:

(1) The agency may proceed to act without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable;

(2) The order adopting, amending or repealing a regulation shall state, in writing, the reasons for the agency's determination that such emergency action is necessary;

(3) The order effecting such action may be effective for a period of not longer than 120 days and may be renewed once for a period not exceeding 60 days;

(4) When such an order is issued without any of the public procedures otherwise required or authorized by this chapter, the agency shall state as part of the order that it will receive, consider and respond to petitions by any interested person for the reconsideration or revision thereof; and

(5) The agency shall submit a copy of the emergency order to the Registrar for publication in the next issue of the *Register of Regulations*. (60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2; 71 Del. Laws, c. 48, § 10.)

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**DIVISION OF FISH AND WILDLIFE**

Statutory Authority: 29 Delaware Code, Section 10119 and 7 Delaware Code, Section 903(h)
(29 **Del.C.** §10119 & 7 **Del.C.** §903(h))
7 **DE Admin. Code** 3505

EMERGENCY SECRETARY'S ORDER

Pursuant to Paragraph F of the Governor's Sixth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat, and pursuant to 7 Del.C. §903(h) and 29 Del.C. §10119

Order No: 2020-FW-0011

3505 Striped Bass Commercial Fishing Seasons; Quotas; Tagging and Reporting Requirements**AUTHORITY**

Pursuant to Paragraph F of the Governor's Sixth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat ("Governor's Emergency Declaration"), and pursuant to 7 **Del.C.** §903(h) and 29 **Del.C.** §10119, the Department of Natural Resources and Environmental Control ("Department") is adopting emergency regulatory amendments to 7 **DE Admin. Code** 3505: *Striped Bass Commercial Fishing Seasons; Quotas; Tagging and Reporting Requirements*. Paragraph F of the Governor's Emergency Declaration authorizes the Secretary of the Department to adopt an Emergency Order "to respond to COVID-19 concerns that implicate the natural resources of the State of Delaware." Additionally, 29 **Del.C.** §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 **Del.C.** §10115. Moreover, 7 **Del.C.** §903(h) authorizes the Department to adopt emergency regulations when

such regulations are necessary to deal with an actual or imminent public health threat or danger to a fishing resource or habitat involving finfish.

REASON FOR THE EMERGENCY ORDER

The mandatory business closures resulting from the national efforts to contain the COVID-19 pandemic have led to a huge decline in demand for seafood, including Striped Bass from Delaware's spring commercial fishery. Delaware's commercial spring Striped Bass fishery regulations require eligible commercial fishermen to register for the fishery and either pick up their harvest tags, which indicates that they will fish their own quota, or transfer their Striped Bass quota and associated harvest tags to another registered fishermen prior to receiving their harvest tags. Some fishermen who had picked up their harvest tags intending to fish their quotas found that the collapse of the seafood market left them with no alternatives for selling their harvest, thus they have not fished. While some fishermen who intended to fish have not done so due to the market collapse, other Striped Bass fishermen have successfully found new markets for their harvest and now would like more quota. Given these extraordinary circumstances for Delaware's commercial Striped Bass fishermen caused by the COVID-19 pandemic, the Department will allow those fishermen who had already picked up their quota and harvest tags to transfer their quotas and harvest tags to another eligible commercial fisherman through this Emergency Order. Adoption of this Emergency Order is necessary to ensure the welfare of the Striped Bass resource and its dependent commercial fisheries.

EFFECTIVE DATE OF ORDER

It is hereby ordered, that 7 **DE Admin. Code** 3505: *Striped Bass Commercial Fishing Seasons; Quotas; Tagging and Reporting Requirements*, specifically, Section 7.0, which concerns the transfer of Striped Bass harvest tags, is temporarily modified as shown by strikethrough and underline as follows:

7.0 It is lawful for a commercial food fisherman who is authorized to be issued Striped Bass harvest tags by the Department to transfer said tags to another commercial food fisherman, provided ~~said transfer is made prior to said tags being issued by the Department.~~ the Department is notified of the transfer on a form provided by the Department prior to the transfer. The transferee will be responsible for reporting the transferred quota and accounting for the transferred harvest tags.

This Emergency Order shall take effect immediately upon the signing of this Order and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 **Del.C.** §10119(3).

PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Fisheries Section, Division of Fish & Wildlife, 89 Kings Highway, Dover, DE 19901.

ORDER

It is hereby ordered, this 13th day of April, 2020, that the above referenced amendment to 7 **DE Admin. Code** 3505: *Striped Bass Commercial Fishing Seasons; Quotas; Tagging and Reporting Requirements*, a copy of which is hereby attached, is adopted, pursuant to the Governor's Emergency Declaration, 7 **Del.C.** §903(h), and 29 **Del.C.** §10119, as referenced above, and supported by the evidence contained herein.

Shawn M. Garvin
Secretary

3505 Striped Bass Commercial Fishing Seasons; Quotas; Tagging and Reporting Requirements.
(Penalty Section 7 **Del.C.** §936(b)(2))

- 1.0 It is unlawful for any commercial food fisherman using a gill net to take and reduce to possession any striped bass at any time except when said commercial food fisherman is authorized by the Department to participate in a commercial gill net fishery for striped bass established herein. A commercial food fisherman may use a gill net to take and reduce to possession striped bass during the period beginning at 12:01 A.M. on February 15 and ending at 4:00 P.M. on May 31 next ensuing. It is unlawful to use any gill net having a stretched-mesh size greater than four (4) inches to take striped bass during the period February 15 until and including the last day in February unless the net is drifted. A commercial food fisherman may use a gill net to take and reduce to possession striped bass during the period beginning at 12:01 A.M. on November 15 and ending at 4:00 P.M. on December 31 next ensuing provided at least two (2) percent of the commercial allocation of striped bass for the gill net fishery, as determined by the Department, was not landed in the February - May gill net fishery. In order for a commercial food fisherman to be authorized by the Department to participate in a commercial gill net fishery, said commercial food fisherman shall have a valid food fishing equipment permit for a gill net and shall register in writing with the Department to participate in said fishery by February 1 for the February 15 - May 31 gill net fishery and by November 1 for the December gill net fishery.
- 2.0 It is unlawful for any commercial food fisherman using a hook and line to take and reduce to possession any striped bass at any time except when said commercial food fisherman is authorized by the Department to participate in a commercial hook and line fishery for striped bass established herein. Except as otherwise provided, a commercial food fisherman may use a hook and line to take and reduce to possession striped bass during the period beginning at 12:01 A.M. on April 1 and ending at 4:00 P.M. on December 31 next ensuing. In order for a commercial food fisherman to be authorized to participate in the commercial hook and line fishery, said commercial food fisherman shall register in writing with the Department to participate in said fishery by February 1.
- 3.0 The striped bass gill net fishery in February - May, the striped bass gill net fishery in November - December and the striped bass hook and line fishery in April - December shall be considered separate striped bass fisheries. Each participant in a striped bass fishery shall be assigned an equal share of the total pounds of striped bass allotted by the Department to that fishery. A share shall be determined by dividing the number of pre-registered participants in that fishery into the total pounds of striped bass allotted to that fishery by the Department. The total pounds of the State's ASMFC commercial striped bass quota will be allotted to each fishery by the Department as follows: 95% for the February 15 - May 31 gill net fishery, 5% for the April - December hook and line fishery and, provided that in excess of two (2)% of the February 15 - May 31 gill net fishery allocation was not landed, said remainder for the November - December gill net fishery. Any overage of the State's commercial quota will be subtracted from the next year's commercial quota proportionally to the appropriate fishery.
- 4.0 It is unlawful for any commercial food fisherman to land, during a striped bass fishing season, more than the total pounds assigned by the Department to said individual commercial food fisherman.
- 5.0 It is unlawful for any commercial food fisherman to possess any landed striped bass that does not have locked into place through the mouth and gill (operculum) opening a striped bass harvest tag issued to said commercial fisherman by the Department.
- 6.0 The Department may issue tags to commercial food fishermen who register in writing with the Department to participate in a striped bass fishery. Each participant shall initially be issued a quantity of striped bass harvest tags that is to be determined by the Department by dividing said participant's assigned share in pounds by the estimated weight of a striped bass expected to be landed. If a commercial food fisherman needs additional tags to fulfill his or her assigned share, the Department shall issue additional tags after verifying the balance of the share from reports submitted by an official weigh station to the Department.
- 7.0 It is lawful for a commercial food fisherman who is authorized to be issued striped bass harvest tags by the Department to transfer said tags to another commercial food fisherman, provided ~~said transfer is made prior to said tags being issued by the Department.~~ the Department is notified of the transfer on a form provided by the Department prior to the transfer. The transferee will be responsible for reporting the transferred quota and accounting for the transferred harvest tags.
- 8.0 It is unlawful for any commercial food fisherman to apply a tag to a striped bass unless said tag had been issued or legally transferred to said commercial food fisherman by the Department.

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- 9.0 It is unlawful to apply any striped bass tag issued by the Department to a striped bass if said tag had previously been applied to another striped bass.
- 10.0 It is unlawful for any commercial food fisherman to sell, barter or trade any striped bass, to attempt to sell, barter or trade any striped bass or to transport, to have transported or to attempt to have transported any striped bass out of the State unless said striped bass has been weighed and tagged at an official weigh station.
- 11.0 The Department may appoint individuals and their agents as official weigh stations to weigh and tag all striped bass landed in a commercial striped bass fishery. Official weigh stations, if requested, shall be compensated by the Department for each striped bass weighed and tagged. An official weigh station shall enter into an agreement with the Department to maintain records and report on a regular basis each commercial food fisherman's daily landings of striped bass weighed and tagged at said station. The Department shall provide official weigh stations with tags to be applied to each striped bass weighed.
- 12.0 Each commercial food fisherman participating in a striped bass fishery shall file a complete and accurate report with the Department on forms provided by the Department on all striped bass landed during said fishery. Each report shall be filed with the Department within 30 days after the end date of each fishery. All unused tags issued or legally transferred to a commercial food fisherman shall be returned to the Department with said report. Failure to file a complete and accurate report or failure to return all unused tags may disqualify the commercial food fishermen from future striped bass fisheries.
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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 EDUCATION
PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))
14 **DE Admin. Code** 1572

PUBLIC NOTICE**Educational Impact Analysis Pursuant to 14 Del.C. Section 122(d)****1572 Teacher of Students Who Are Gifted or Talented****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** 1572 Teacher of Students Who Are Gifted or Talented. The regulation concerns the requirements for a Teacher of Students Who Are Gifted or Talented Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments include adding clarifying language regarding category certificates in Section 1.0; adding defined terms to Section 2.0; clarifying the requirements for issuing a Teacher of Students Who Are Gifted or Talented Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Teacher of Students Who Are Gifted or Talented Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a Teacher of Students Who Are Gifted or Talented 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 certification.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before June 2, 2020 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 amended regulation will help to improve 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 that all students 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, not students' health and safety.

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

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

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

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 adopted 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/may2020/proposed/23 DE Reg 914RFA 05-01-20.pdf>

1572 Teacher of Students Who Are Gifted or Talented

~~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

- 1.1 This regulation shall apply to the issuance of a ~~Standard Certificate, Teacher of Students Who Are Gifted or Talented Standard Certificate (Category)~~ pursuant to ~~14 **Del.C.** §1220(a), for Teacher of Students Who Are Gifted or Talented (Category).~~ This certification is required in programs that are identified as specific to students who have been identified as gifted or talented through assessments and other criteria set forth by local school districts or other programs specifically identified by the Department as programs for students who are gifted or talented 14 **Del.C.** §1220(a).

PROPOSED REGULATIONS

- 1.1.1 This Certification is required for an Educator who is assigned to teach in a program that is specific to students who have been identified as gifted or talented as provided in 14 DE Admin. Code 902 in Delaware public schools.
- 1.1.2 This Certification is a category Standard Certificate and does not certify an Educator to practice in a particular area or teach a particular subject. A category Standard Certificate only establishes that an Educator has met the prescribed education, knowledge, or skill to instruct a particular category of students. This Certification is limited to the category of Gifted or Talented Students.
- 1.1.3 An Educator shall hold at least one content area Standard Certificate.
- ~~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:

"15 Credits or the Equivalent in Professional Development" means college credits or an equivalent number of hours 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. College credit means undergraduate or graduate level coursework and continuing education units (CEUs) completed at or through a Regionally Accredited college or university or other Department-approved provider.

"Certification" means the issuance of a Standard Certificate, which may occur regardless of a recipient's assignment or employment status.

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State under 14 Del.C. 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.

"Gifted or Talented Student" means the same as a "Gifted or Talented Student" as provided in 14 DE Admin. Code 902 Gifted or Talented Education Plan.

"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.

"Major or Its Equivalent" means a minimum of 30 semester hours of coursework in a particular content area.

"Passing Score" means a minimum score as established by the Standards Board, in consultation with the Department, and with the approval of the State Board of Education.

"Professional Development" means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change participants' attitudes, insights, and perspectives and ultimately results in improved professional practice. Effective professional development programs include ample opportunities for knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.

"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. 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 Teacher of Students Who Are Gifted or Talented Standard Certificate as a Teacher of Students Who Are Gifted or Talented to an educator who has met the following applicant who:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; 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 for licensure and holds a Valid and Current License or Certificate in gifted or talented education or teaching gifted students.
 - 3.1.3 Holds a Standard Certificate in a subject (content), grade level, or area; and
 - 3.1.4 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 a Teacher of Students Who Are Gifted or Talented 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 alleged conduct involves allegations of Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials, until the applicant provides evidence of the investigation’s resolution.

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

- 4.1 An educator shall also have satisfied one of the following additional education requirements:
- 4.1.1 Holding a bachelor's, master's, or doctoral degree from a regionally accredited college or university with a major or its equivalent in an area listed in 4.1.1.1 from a program approved or recognized as provided in 4.1.1.2.
 - 4.1.1.1 Approved majors
 - 4.1.1.1.1 gifted or talented education;
 - 4.1.1.1.2 teaching gifted students; or
 - 4.1.1.1.3 special education with a gifted or talented endorsement or specialization.
 - 4.1.1.2 Required Program Approval or Recognition
 - 4.1.1.2.1 National Council for the Accreditation of Teacher Education (NCATE) recognized educator preparation program; or
 - 4.1.1.2.2 The Council for the Accreditation of Educator Preparation (CAEP) specialty organization recognized educator preparation program; or
 - 4.1.1.2.3 State approved educator preparation program where the state approval body employed the appropriate standards; or
 - 4.1.2 Completion of a minimum of fifteen (15) credits or their equivalent in professional development as approved by the Department, with a focus in special education for gifted or talented students or students who are gifted or talented in the following content areas:

PROPOSED REGULATIONS

- 4.1.2.1 Foundations of Giftedness, including Cultural and Socioeconomic Equity (3 credits);
- 4.1.2.2 Curriculum Design and Instructional Strategies for Gifted Students (3 credits);
- 4.1.2.3 Psychology of Gifted Students (3 credits);
- 4.1.2.4 Creative and Critical Thinking Skills (3 credits); and
- 4.1.2.5 Practicum or Internship (3 credits).

4.1 An applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.

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

- 4.1.1.1 Obtained and currently maintain an Exceptional Needs Specialist certificate in specialty area of gifted and talented education from the National Board for Professional Teaching Standards; or
- 4.1.1.2 Earned a bachelor's, master's, or doctoral degree from a Regionally Accredited college or university with a Major or Its Equivalent in gifted or talented education, teaching gifted students, or special education with a gifted or talented endorsement or specialization 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 Gifted or Talented Students as provided in 14 Del.C. §§1260 – 1266; or
- 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in gifted or talented education; or
- 4.1.1.5 Earned a bachelor's degree from a Regionally Accredited college or university in any content area and satisfactorily completed 15 Credits or the Equivalent in Professional Development with a focus in gifted or talented education or in students who are gifted or talented in the following areas:
 - 4.1.1.5.1 Foundations of Giftedness, including Cultural and Socioeconomic Equity (3 credits);
 - 4.1.1.5.2 Curriculum Design and Instructional Strategies for Gifted Students (3 credits);
 - 4.1.1.5.3 Psychology of Gifted Students (3 credits);
 - 4.1.1.5.4 Creative and Critical Thinking Skills (3 credits); and
 - 4.1.1.5.5 Practicum or Internship (3 credits).

4.1.2 The applicant shall have achieved on the Praxis Subject Assessment – Gifted Education (ETS Test Code # 5358) a Passing Score of 157.

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 an Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 The following documentation is required with the application for a Teacher of Students Who Are Gifted or Talented Standard Certificate:
 - 5.2.1 Evidence of obtaining and maintaining an Exceptional Needs Specialist certificate in specialty area of gifted and talented education 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 applicant's Employing Authority or Regionally Accredited college or university.
 - 5.2.2.2 Sealed paper transcripts may be submitted by the applicant, the applicant's Employing Authority, or the applicant's Regionally Accredited college or university.
 - 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 An experience form, completed in full and signed by the applicant, if applicable; and

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

5.2.6 Additional documentation as required by the Department.

5.3 For applicants who have met the requirements for licensure and hold a Valid and Current License or Certificate in gifted or talented education or teaching gifted students, the following documentation is required in the application for a Teacher of Students Who Are Gifted or Talented Standard Certificate:

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

5.3.2 Additional documentation as required by the Department.

6.0 Validity of a Standard Certificate

6.1 A Teacher of Students Who Are Gifted or Talented 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 Teacher of Students Who Are Gifted or Talented Standard Certificate is not subject to renewal.

7.0 Disciplinary Action

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

7.2 An Educator's Teacher of Students Who Are Gifted or Talented Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License 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

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

5-09.0 Past Certification Certificate Recognized

The Department shall recognize a Teacher of Students Who Are Gifted and Talented Standard Certificate ~~Teacher of Students who are Gifted and Talented previously issued by the Department or a Teacher of Students Who Are Gifted or Talented Standard Certificate issued by the Department prior to the effective date of this regulation. A teacher holding a Standard Certificate Teacher of Students who are Gifted and Talented shall be considered certified to instruct the particular category of students specified herein as required by this regulation. An Educator holding such a Standard Certificate shall be considered certified to instruct Gifted or Talented Students.~~

PROPOSED REGULATIONS

DEPARTMENT OF INSURANCE

OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 311, 2304(16), (17), and (18) (18 Del.C. §§311, 2304(16), (17), & (18))
18 DE Admin. Code 902

PUBLIC NOTICE

902 Prohibited Unfair Claim Settlement Practices

A. Type of Regulatory Action Required

Proposal of amendments to Regulation 902 – Prohibited Unfair Claim Settlement Practices [Formerly Regulation 26].

B. Synopsis of Subject Matter of the Regulation

Pursuant to the authority conferred by 18 **Delaware Code**, Sections 311 and 2304(16), (17), and (18), the Delaware Department of Insurance (the Department), is proposing to amend Regulation 902 to update and clarify requirements concerning prohibited unfair claim settlement practices. Specifically, the Department is proposing to add new subsection 3.1.14, which includes a failure to promptly settle a claim as required under Regulation 903 as an unfair claim settlement practice. Please see the Department's proposal of amendments to Regulation 903, published in the March 1, 2020 and April 1, 2020 editions of the *Register of Regulations*, that among other things, clarifies what constitutes "prompt payment."

The Department is also taking the opportunity of this proposal to make grammatical and formatting edits throughout the regulation.

C. Notice and Public Comment

The Department does not plan to hold a public hearing on the proposed amendments to Regulation 902. The proposed amendments appear below and may also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 1st day of June, 2020. Any such requests should be directed to:

Leslie W. Ledogar, Regulatory Specialist
Delaware Department of Insurance
ATTN: Docket 4259-2020
1351 West North Street, Suite 101
Dover, DE 19904
(302) 674-7379
Email: Leslie.Ledogar@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/may2020/proposed/23 DE Reg 920RFA 05-01-20.pdf](http://regulations.delaware.gov/register/may2020/proposed/23%20DE%20Reg%20920RFA%2005-01-20.pdf)

902 Prohibited Unfair Claim Settlement Practices

~~Claim Settlement Practices Which, When Committed Or Performed with Such Frequency as to Indicate a General Business Practice, Are Prohibited~~

1.0 Purpose

The purpose of this regulation is to set forth claim settlement practices which, when committed or performed with such frequency as to indicate a general business practice, are prohibited.

2.0 Authority

This regulation is adopted by the Commissioner pursuant to the authority granted by 18 Del.C. §§311, 2304(16), (17), and (18), and promulgated in accordance with the Delaware Administrative Procedures Act, 29 Del.C. Ch. 101.

4.03.0 Authority for Regulation; Basis for Regulation Prohibited Claims Settlement Practices

- 4.1 ~~18 Del.C. §314~~ authorizes the Insurance Commissioner to "...make reasonable rules and regulations necessary for or as an aid to the administration or effectuation of any provision of this title."
- 4.2 ~~18 Del.C. Ch. 23~~ entitled "Unfair Business Practices in the Insurance Business," ~~18 Del.C. §2304(16)~~ Unfair Claim Settlement Practices; ~~18 Del.C. §2304(17)~~ Failure to Maintain Complaint Handling Procedures; and ~~18 Del.C. §2304(18)~~ Misrepresentation in Insurance Applications, provide the basis for this regulation.
- ~~4.2.13.1~~ The ~~Following Claim Settlement Practices When Committed~~ following claim settlement practices when committed or ~~Performed~~ performed with such ~~Frequency~~ frequency as to ~~indicate~~ indicate a ~~General Practice~~ general practice are ~~Prohibited~~ prohibited:
- ~~4.2.1.43.1.1~~ 4.2.1.43.1.1 Misrepresenting pertinent facts or insurance policy provisions relating to coverage at issue.
- ~~4.2.1.23.1.2~~ 4.2.1.23.1.2 Failing to acknowledge and respond within 15 working days, upon receipt by the insurer, to communications with respect to claims by insureds arising under insurance policies.
- ~~4.2.1.33.1.3~~ 4.2.1.33.1.3 Failing to implement prompt investigation of claims arising under insurance policies within 10 working days upon receipt of the notice of loss by the insurer.
- ~~4.2.1.43.1.4~~ 4.2.1.43.1.4 Refusing to pay claims without conducting an investigation based upon all available information when the notice of loss received by the insurer indicates that such an investigation is necessary to properly determine such a denial of payment.
- ~~4.2.1.53.1.5~~ 4.2.1.53.1.5 Failing to affirm or deny coverage or a claim or advise the person presenting the claim, in writing, or other proper legal manner, of the reason for the inability to do so, within 30 days after proof of loss statements have been received by the insurer.
- ~~4.2.1.63.1.6~~ 4.2.1.63.1.6 Not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability has become clear.
- ~~4.2.1.73.1.7~~ 4.2.1.73.1.7 Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts which they might be entitled to under normal fair claims evaluations.
- ~~4.2.1.83.1.8~~ 4.2.1.83.1.8 Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.
- ~~4.2.1.93.1.9~~ 4.2.1.93.1.9 Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge of the insured.
- ~~4.2.1.103.1.10~~ 4.2.1.103.1.10 Making claims payments to insured or beneficiaries not accompanied by a statement setting forth the coverage under which the payment has been made.
- ~~4.2.1.113.1.11~~ 4.2.1.113.1.11 Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of a formal proof of loss form, both of which submissions contain substantially the same information, unless the formal proof of loss is required by law, prevailing rules, or the policy.
- ~~4.2.1.123.1.12~~ 4.2.1.123.1.12 Failing to promptly settle claims, where liability has become clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

PROPOSED REGULATIONS

~~4.2.4.133.1.13~~ Failing when requested to promptly provide an explanation of the basis in the insurance policy in relation to facts or applicable law for denial of a claim or for the offer of a compromise settlement. Such explanation may be made verbally but when given, must be documented in the claims file.

3.1.14 Within a thirty-six (36) month period, three instances of a carrier's failing to make prompt payment of a claim as required under 18 DE Admin. Code 903.

~~2.04.0~~ Violations; Penalties

~~2.4~~ Failure to comply will subject the violators to the provisions of ~~18 Del.C. §1732 (e)(2)~~ 18 Del.C. §1712 and 18 Del.C. §§2307(a) and 2308, which ~~deals~~ deal with hearings, license revocation, suspension or fine for non-compliance of any regulation.

~~3.05.0~~ Severability

If any provision of this Regulation shall be held invalid, the remainder of the Regulation shall not be affected thereby.

~~4.06.0~~ Effective Date

This Regulation ~~shall become~~ became effective August 1, 1977. The amendments to this Regulation shall become effective ten (10) days after publication of the final order adopting the amendments.

OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 311, 3342B, and 3556A (18 Del.C. §§311, 3342B, & 3556A)
18 DE Admin. Code 1319

PUBLIC NOTICE

1319 Arbitration of Disputes Between Carriers and Primary Care and Chronic Care Management Providers

A. Type of Regulatory Action Required

Proposal of amendments to an existing regulation.

B. Synopsis of Subject Matter of the Regulation

On January 1, 2019, the Delaware Department of Insurance (the Department) adopted Regulation 1319, Arbitration of Disputes between Carriers and Primary Care and Chronic Care Management Providers. The Regulation implements that portion of Senate Bill 227 (as amended by Senate Amendment No. 1 and House Amendment No. 1 as amended by House Amendment No. 1 to House Amendment No. 1 (collectively SB 227)) that requires the Department to “arbitrate disagreements regarding rates under this section” for which the parties involved in the dispute must pay, and to “adopt regulations to implement the requirements of this section no later than 90 days after the effective date of this Act.”

The Insurance Code at 18 Del.C. §333(g) and (h) also governs arbitration of disputes between carriers and providers, providing that:

- The Commissioner shall establish a schedule of fees for arbitration, which shall not exceed \$100 per arbitration;
- The arbitrator may award to the health-care provider the cost of filing the arbitration if the health-care provider should prevail;
- The cost of arbitration shall be payable to the Department of Insurance, and shall be maintained in a special fund identified as the “Arbitration Fund,” which shall remain separate and segregated from the General Fund; and
- The compensation paid to the arbitrator shall be payable from the Arbitration Fund.

Regulation 1319 at subsection 4.7.1 does not track the requirements of 18 **Del.C.** §333(g) and (h). Rather, it provides that the arbitrator may charge the parties the cost of the arbitration, which the arbitrator may bill at the arbitrator's actual time spent and direct expenses incurred to conduct the arbitration and may allocate to each party a percentage of the arbitrator's costs of conducting the arbitration. Accordingly, the Department proposes to strike this provision and to replace it with language that tracks 18 **Del.C.** §333(g) and (h).

The Department is also making grammatical changes as warranted.

The Delaware Code authority for the proposed amendments is 18 **Del.C.** §§311, 3342B, and 3556A and 29 **Del.C.** §10115.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed new regulation. Any written submission in response to this notice and relevant to the proposed new regulation must be received by the Department of Insurance no later than 4:30 p.m., June 1, 2020 by mailing to:

Delaware Department of Insurance
Attn.: Leslie W. Ledogar, Esq., Regulatory Specialist
Docket No. 4303-2020
1351 West North St., Ste. 101
Dover, DE 19904

Comments may also be emailed to leslie.ledogar@delaware.gov.

The Department does not plan to hold a public hearing on the proposed amendments to Regulation 1319. The proposed amendments to Regulation 1319 appear below and can also be viewed on the Department's website at <http://insurance.delaware.gov/information/proposedregs/>.

***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/may2020/proposed/23 DE Reg 922RFA 05-01-20.pdf>

1319 Arbitration of Disputes between Carriers and Primary Care and Chronic Care Management Providers

1.0 Purpose and Statutory Authority

- 1.1 The purpose of this regulation is to implement 18 **Del.C.** §§3342B and 3556A, which require health insurance carriers to submit to arbitration any dispute with a provider regarding a carrier's final reimbursement decision for primary care and chronic care management services.
- 1.2 This ~~Regulation~~ regulation is promulgated pursuant to 18 **Del.C.** §§311, 3342B, and 3556A and 29 **Del.C.** Ch. 101. This ~~Regulation~~ regulation should not be construed to create any cause of action not otherwise existing at law.

2.0 Definitions

"Carrier" or **"insurance carrier"** means any entity that provides health insurance in this State. "Carrier" includes an insurance company, health service corporation, health maintenance organization and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation. "Carrier" also includes any third-party administrator or other entity that adjusts, administers or settles claims in connection with health benefit plans.

"Chronic care management" means the services in the Chronic Care Management Services program, as administered by the Centers for Medicare and Medicaid Services, and includes Current Procedural Terminology ("CPT") codes 99487, 99489, and 99490.

"Department" means the Delaware Department of Insurance.

"Medicare" means the federal Medicare Program (U.S. Public Law 89-87, as amended) [42 U.S.C. § 64 1395 et seq. 42 USCS, Ch. 7, XVIII USCS].

"Primary care" means health care provided by a primary care provider.

"Primary care provider" means any physician or individual licensed under Title 24 of the Delaware Code to provide health care, with whom the patient has initial contact and by whom the patient may be

PROPOSED REGULATIONS

referred to a specialist. Examples of a primary care provider include primary care physicians (including an obstetrician - gynecologist pursuant to 18 **Del.C.** §§3342 and 3556, to the extent that provider is serving in the role as a primary care provider), certified nurse practitioners, physician assistants, and other front-line practitioners for chronic care management and primary care who provide primary care in a family, pediatrics, internal medicine, or a geriatrics practice.

"**Provider**" means a provider of chronic care management or a primary care provider.

3.0 Notice of Final Reimbursement Decision

- 3.1 A carrier shall notify a provider, in writing, of a carrier's final decision regarding reimbursement for an individual claim, procedure or service, if the decision does not authorize reimbursement of the provider's charge in accordance with 18 **Del.C.** §§3342B and 3556A. Such notice may be separate from or a part of the written notice of the carrier's decision.
- 3.2 Any notice given to a provider pursuant to subsection 3.1 shall:
- 3.2.1 Be in writing; and
- 3.2.2 Give the provider notice of the provider's right to arbitration through the Department's arbitration program, by including, at a minimum, the following language:

"You have the right to seek review of our decision regarding the amount of your reimbursement. The Delaware Insurance Department provides claim arbitration services which are in addition to, but do not replace, any other legal or equitable right you may have to a review of this decision or any right of review based on your contract with us. You can contact the Delaware Insurance Department for information about arbitration by calling the Arbitration Secretary at 302-674-7322 or by sending an email to: DOI-arbitration@delaware.gov. All requests for arbitration must be filed within 60 days from the date you receive this notice; otherwise, this decision will be final."

4.0 Arbitration Procedures

- 4.1 Provider Petition for Arbitration.
- 4.1.1 A provider or ~~his or her~~ a provider's authorized representative may request that the Department review a carrier's final reimbursement decision through arbitration by complying with ~~all of~~ the following requirements:
- 4.1.1.1 Complete in full the Department's standard Petition for Arbitration form, which may be downloaded from the Department's website;
- 4.1.1.2 Attach to the completed Petition for Arbitration all supporting documentation;
- 4.1.1.3 Include a filing fee in the form of a check that is made payable to the Department of Insurance, which shall be in the amount of \$75 and which shall be maintained by the Department in a special fund identified as the "Arbitration Fund";
- 4.1.1.4 File the original and one copy of the Petition for Arbitration and the appropriate filing fee with the Department, at the following address:
- Delaware Department of Insurance
ATTN: Arbitration Secretary
1351 West North Street, Suite ~~404~~, 101
Dover, DE 19904
- 4.1.1.5 Ensure that the Petition for Arbitration is timely submitted so that it is received by the Department no later than 60 days after the provider received the carrier's final reimbursement decision.
- 4.1.2 A provider who requests Department review under subsection 4.1.1 shall also:

-
- 4.1.2.1 Send a copy of the ~~Petition~~ petition and supporting documentation to the carrier by certified mail, return receipt requested; and
 - 4.1.2.2 Deliver to the Department a ~~Proof~~ proof of ~~Service~~ service confirming that a copy of the ~~Petition~~ petition was sent to the carrier by certified mail, return receipt requested.
 - 4.1.3 The Department may refuse to accept any ~~Petition~~ petition that is not timely filed or does not otherwise meet the criteria for arbitration.
 - 4.2 Carrier Response to Petition for Arbitration
 - 4.2.1 Within 20 days of receipt of the Petition for Arbitration, the carrier shall deliver to the Department an original and one copy of a ~~Response~~ response to the Petition for Arbitration, to which it shall attach all supporting documents or other evidence.
 - 4.2.2 At the time of delivering the ~~Response~~ response to the Department, the carrier shall also:
 - 4.2.2.1 Send a copy of the ~~Response~~ response and supporting documentation to the provider or ~~his or her~~ the provider's authorized representative by first class U.S. mail, postage prepaid; and
 - 4.2.2.2 Deliver to the Department a ~~Proof~~ proof of ~~Service~~ service confirming that a copy of the ~~Response~~ response was mailed to the health care provider or ~~his or her~~ the health care provider's authorized representative; ~~representative~~; and
 - 4.2.2.3 Deliver to the Department a \$75.00 filing fee, which shall be maintained by the Department in the Arbitration Fund.
 - 4.2.3 The Department may return any non-conforming ~~Response~~ response to the carrier.
 - 4.3 Appointment of Arbitrator
 - 4.3.1 Upon receipt of a petition filed in proper form, the Department shall assign an ~~Arbitrator~~ arbitrator.
 - 4.3.2 The ~~Arbitrator~~ arbitrator shall be of suitable background and experience to decide the matter in dispute and shall not be affiliated with any of the parties or with the patient whose care is at issue in the dispute.
 - 4.4 Summary Disposition of Petition by the Arbitrator
 - 4.4.1 An ~~Arbitrator~~ arbitrator may summarily dispose of a ~~Petition~~ petition if:
 - 4.4.1.1 The carrier fails to timely deliver a ~~Response~~ response; or
 - 4.4.1.2 The ~~Arbitrator~~ arbitrator determines that the ~~Petition~~ petition is meritless on its face or that the subject of the ~~Petition~~ petition is not appropriate for arbitration under this regulation.
 - 4.4.2 If the carrier fails to timely respond to a Petition for Arbitration, the Department may, after verifying proper service and with written notice to the parties, assign the matter to the next scheduled ~~Arbitrator~~ arbitrator for summary disposition.
 - 4.4.2.1 The ~~Arbitrator~~ arbitrator may determine the matter ~~in the nature of~~ by issuing a default judgment after establishing that the ~~Petition~~ petition is properly supported and was properly served on the carrier.
 - 4.4.2.2 The ~~Arbitrator~~ arbitrator may allow the re-opening of the matter to prevent a manifest injustice. A carrier must make a request for re-opening no later than fifteen days after notice of the default judgment.
 - 4.4.3 If the ~~Arbitrator~~ arbitrator determines that the subject of the ~~Petition~~ petition is not appropriate for arbitration under this regulation or is meritless on its face, the ~~Arbitrator~~ arbitrator may summarily dismiss the ~~Petition~~ petition and provide notice of such dismissal to the parties.
 - 4.5 Arbitration Hearing
 - 4.5.1 The ~~Arbitrator~~ arbitrator shall schedule the matter for a hearing in a timeframe that will allow the ~~Arbitrator~~ arbitrator to render a written decision within 45 days after the delivery to the Department of the Petition for Arbitration. The ~~Arbitrator~~ arbitrator shall give notice of the arbitration hearing date to the parties at least 10 days prior to the hearing. The parties are not required to appear and may rely on the papers delivered to the Department.

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- 4.5.2 Testimony at the arbitration hearing is to be limited, to the maximum extent possible, to statements by each party in which they are afforded the opportunity to explain their view of the previously submitted evidence and to answer any questions posed by the ~~Arbitrator~~ arbitrator.
- 4.5.3 If the ~~Arbitrator~~ arbitrator allows any testimony in addition to that provided for in subsection 4.5.2 of this regulation, the ~~Arbitrator~~ arbitrator shall allow brief cross-examination or other response by the opposing party.
- 4.5.4 The ~~Delaware Uniform Rules of Evidence~~ "Delaware Uniform Rules of Evidence" will be used for general guidance but will not be strictly applied.
- 4.5.5 Because the testimony may involve evidence relating to personal health information that is confidential and protected by state or federal laws from public disclosure, the arbitration hearing shall be closed to the public.
- 4.5.6 The ~~Arbitrator~~ arbitrator may contact, with the parties' consent, individuals or entities identified in the papers by telephone, in or outside of the parties' presence, for information the ~~Arbitrator~~ arbitrator deems necessary to resolve the matter.
- 4.5.7 The ~~Arbitrator~~ arbitrator shall consider the matter based on the submissions of the parties and information otherwise obtained by the ~~Arbitrator~~ arbitrator in accordance with this regulation. The ~~Arbitrator~~ arbitrator shall not consider any matter not contained in the original or supplemental submissions of the parties that has not been provided to the opposing party with at least five days notice, except claims of a continuing nature that are set out in the filed papers.
- 4.6 Arbitrator's Written Decision
- 4.6.1 The ~~Arbitrator~~ arbitrator shall render ~~his or her~~ the arbitrator's decision in writing and shall mail a copy of the decision to each of the parties and to the Department within 45 days of the filing of the ~~Petition~~ petition.
- 4.6.2 If the ~~Arbitrator~~ arbitrator determines that the carrier's final reimbursement decision provides reimbursement to the provider in an ~~amount that is not sufficient,~~ insufficient amount, the carrier shall reimburse the provider in the amount that the ~~Arbitrator~~ arbitrator so determines, within 45 days from the date of the ~~Arbitrator's~~ arbitrator's decision.
- 4.7 Arbitration Costs
- 4.7.1 The ~~Arbitrator shall charge to the parties the cost of the arbitration, which the Arbitrator shall bill at the Arbitrator's actual time spent and direct expenses incurred to conduct the arbitration.~~ Department shall pay the arbitrator \$100 for each arbitration, which shall be payable from the Arbitration Fund.
- 4.7.2 The ~~Arbitrator may allocate to each party a percentage of the Arbitrator's costs to conduct the arbitration.~~
- 4.7.3 The ~~Arbitrator~~ arbitrator may award to the health care provider the filing fee, if the health care provider is the prevailing party in the arbitration.
- 5.0 Carrier Recordkeeping and Reporting Requirements**
- 5.1 A carrier shall maintain written or electronic records for five years after completion of each arbitration case, documentation of each Petition for Arbitration including, at a minimum, the following information:
- 5.1.1 The date the ~~Petition~~ petition was filed;
- 5.1.2 The name and identifying information of the health care provider on whose behalf the ~~Petition~~ petition was filed;
- 5.1.3 A general description of the reason for the ~~Petition~~ petition; and
- 5.1.4 The date and description of the arbitration decision or other disposition of the ~~Petition~~ petition.
- 5.2 A carrier shall file with its annual report to the Department the total number of Petitions for Arbitration filed, with a breakdown showing:
- 5.2.1 The total number of final reimbursement decisions upheld through arbitration; and
- 5.2.2 The total number of final reimbursement decisions reversed through arbitration.

6.0 Non-Retaliation

A carrier shall not terminate or in any way penalize a provider with whom it has a contractual relationship and who exercises the right to file a Petition for Arbitration, solely on the basis of such filing.

7.0 Confidentiality of Health Information

Nothing in this ~~Regulation~~ regulation shall supersede any federal or state law or regulation governing the privacy of health information.

8.0 Computation of Time

- 8.1 In computing any period of time prescribed or allowed by this ~~Regulation~~ regulation, the day of the act or event after which the designated period of time begins to run shall not be included.
- 8.2 The last day of the period so computed shall be included, unless it is a Saturday or Sunday, or other legal holiday, or other day on which the Department is closed, in which event the period shall run until the end of the next day on which the Department is open.
- 8.3 When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and other legal holidays shall be excluded in the computation.
- 8.4 As used in this section, "legal holidays" means those days provided by statute or appointed by the Governor or the Chief Justice of the State of Delaware.

9.0 Effective Date and Expiration Date

This ~~Regulation~~ regulation shall become effective upon adoption and shall expire on August 29, 2021, unless otherwise readopted, with or without amendments. The amendments to this regulation shall become effective 10 days after publication of a final order of adoption.

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 HEALTH AND SOCIAL SERVICES
DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(3)c. (16 **Del.C.** §122(3)c.)
16 **DE Admin. Code** 4463

ORDER

4463 Licensing and Registration of Operators of Public Water Supply Systems**NATURE OF THE PROCEEDINGS:**

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt the State of Delaware Regulations Governing Licensing and Registration of Operators of Public Water Supply Systems. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, subsection 122(3)(c).

On March 1, 2020 (Volume 23, Issue 9), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 *Del.C.* § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by March 31, 2020, after which time DHSS would review information, factual evidence and public comment to the said proposed regulations.

No written comments were received during the public comment period.

FINDINGS OF FACT:

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

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations Governing Licensing and Registration of Operators of Public Water Supply Systems is adopted and shall become effective May 11, 2020 (ten days), after publication of the final regulation in the *Delaware Register of Regulations*.

4/8/2020 | 1:26 PM EDT

Date

Kara Odom Walker, MD, MPH, MSHS
Cabinet Secretary

*Please note that no changes were made to the regulation as originally proposed and published in the March 2020 issue of the *Register* at page 729 (23 DE Reg. 729). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

4463 Licensing and Registration of Operators of Public Water Supply Systems

DEPARTMENT OF INSURANCE

OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 314, 2304(26) and 2741 and 21 Delaware Code, Section 2118 (18 **Del.C.** §§314, 2304(26) and 2741; 21 **Del.C.** §2118)
18 **DE Admin. Code** 606

REGULATORY IMPLEMENTING ORDER

606 Proof of Automobile Insurance

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

In the February 1, 2020 edition of the *Register of Regulations* at 23 **DE Reg.** 628, the Commissioner of the Delaware Department of Insurance (Commissioner), in coordination with the Delaware Division of Motor Vehicles (DMV), published a notice of intent to amend Regulation 606 Proof of Automobile Insurance to:

- Update and clarify requirements concerning insurer submission of notices of automobile insurance cancellation and termination; and
- Make grammatical and formatting edits throughout the regulation.

The Delaware Code authority for the regulation is 18 **Del.C.** §§311, 2304(26) and 2741; and 21 **Del.C.** §2118.

The Department solicited written comments from the public for thirty (30) days as mandated by the Administrative Procedures Act at 29 **Del.C.** §10118(a). The Department did not hold a public hearing on the proposal.

The Department received comments from two commenters that are on file with the Department.

Both commenters asked why the Department proposed to reduce the amount of time insurers have to provide coverage information to the DMV from 30 to 21 days. One commenter went on to opine that the DMV rarely, if ever, requires insurers to provide the information required in 18 **DE Admin. Code** §606-9.1, further stating that, depending on how recently the policy in question was issued, an insurer may not be able to provide that information within 21 days because it sometimes takes longer than that for an insurer to collect and process all relevant information.

This commenter also opined that the amendatory language at subsection 8.1 changes the existing requirement of insurers to report cancellations or terminations of policies only for those policies cancelled or terminated within six months of issuance to now require insurers to report that information within six months of issuance regardless of when the cancellation or termination occurs. The commenter pointed out that if a policy is cancelled or terminated two years after issuance, it is impossible for the insurer to report that information within six months of policy issuance. The requester opined that the Department intended to retain the original six-months-from-issuance limitation on the reporting and asked the Department to re-word the amendatory language to make that clear.

Subsections 8.2.2 and 9.1.1 and section 12.0 require insurers to provide verification of insurance coverage to the DMV on forms specified by the DMV. One of the two commenters expressed concern regarding lack of notice of changes to DMV forms, explaining that some state departments of motor vehicles make changes to these types of forms without providing insurers any notice or sufficient lead time to begin using new or amended forms. The commenter requested that the Department consider adding language that provides for at least six months' notice before insurers can be required to begin using a new form.

II. FINDINGS OF FACTS

1. The proposed amendments to Regulation 606 Proof of Automobile Insurance update and clarify requirements concerning insurer submission of notices of automobile insurance cancellation and termination and make needed grammatical and formatting edits throughout the regulation.

2. The Department declines to amend the regulation on adoption in response to the comment concerning reducing the reporting timeframe set forth in 18 **DE Admin. Code** §606-9.1 from 30 to 21 days. Reducing the reporting timeframe from 30 to 21 days makes the Regulation consistent with the requirement at 18 **Del.C.** §2304(26) that insurers respond to Department inquiries within 21 days, and may help speed up the DMV's processing time for audits.

In fact, on adoption, the Department is changing the reporting timeframe from 30 to 21 days at subsection 10.2 to make that provision consistent with the rest of this regulation and with 18 **Del.C.** §2304(26).

The Delaware Compulsory Insurance Law, 21 **Del.C.** §2118, prohibits an owner of a motor vehicle required to be registered in Delaware from operating or authorizing "any other person to operate such vehicle unless the owner has insurance on such motor vehicle" with specified minimum insurance coverage limits. The DMV audits Delaware motorists to ensure that they have had continuous coverage and are therefore in compliance with the Delaware Compulsory Insurance Law as of the date that DMV conducts the audit (see 21 **Del.C.** §2118(q) for the auditing requirement). If the driver cannot provide proof of insurance because, when audited, the driver's vehicle was uninsured, then the DMV suspends the vehicle's registration and the driver's licenses of all listed owners.

The DMV uses Form FR-19 to gather audit information. Form FR-19 is typically issued by the insurance carrier to the driver. However, the form's instructions also indicate that the form may be submitted to the DMV by insurance agents and insurers on behalf of their customers, and the regulation at subsection 8.1 requires insurers to do so if the insurer has canceled the policy within 6 months of the date of initial issuance. Reducing the amount of time by which insurers are required to provide proof of coverage to DMV will help DMV timely audit Delaware drivers and may help ensure that those operating on the road are able to withstand the financial impact of any accidents that may occur.

3. The Department also declines to amend the regulation on adoption to require the DMV to give insurers some period of notice regarding changes to reporting forms. Such an amendment is substantive in nature and cannot be made without additional public notice and comment pursuant to the Administrative Procedures Act at 29 **Del.C.** Ch. 101.

4. On adoption, the Department has determined to amend 18 **DE Admin. Code** §606-8.1 as suggested by the commenter. The Department did not intend the regulation as amended to change the meaning of the code provision as that provision appears to have been interpreted by the commenter, but rather, to simply rewrite the code in active voice. The Administrative Procedures Act at 29 **Del.C.** §10118(c) allows non-substantive changes to a proposal as a result of public comments on adoption. Accordingly, on adoption, the Department will remove ", then" to restore the meaning of the original regulation. In its final, published form, the subsection will state, "When an insurer determines to cancel or terminate a personal lines insurance policy and that cancellation or termination is final under 18 **Del.C.** §3904(a) within 6 months of the original date of issuance, the insurer shall file a Notice of Cancellation with the Division of Motor Vehicles."

5. The Department is also updating code cross references in subsection 1 and addressing typographical errors in the definition of "personal lines auto coverage" and in subsections 9.1.1 and 12.1, as permitted under the Administrative Procedures Act at 29 **Del.C.** §10113(4).

6. The Department met the public notice requirements of the Administrative Procedures Act.

7. The Commissioner finds that it is appropriate to adopt the amendments to 18 **DE Admin. Code** 606 as proposed in the February 1, 2020 *Register of Regulations* with further amendments in accordance with this Final Order, for the reasons set forth in this Final Order and in the proposal.

III. DECISION TO ADOPT THE PROPOSED AMENDMENTS TO REGULATION 606

For the foregoing reasons, the Commissioner concludes that it is appropriate to adopt the proposed amendments to 18 **DE Admin. Code** 606, as discussed in the above Findings of Fact for the reasons set forth above and in the proposal.

IV. EFFECTIVE DATE OF ORDER

The actions referred to hereinabove were taken by the Commissioner pursuant to 18 **Del.C.** §§311, 2304(26) and 2741 and 21 **Del.C.** §2118 on the date indicated below. The effective date of this Order shall be ten (10) days

from the date this Order is published in the *Delaware Register of Regulations*. The effective date of the Regulation shall be as stated in the text of the Regulation.

IT IS SO ORDERED.

The 13th day of April, 2020.

Trinidad Navarro
Commissioner, Delaware Department of Insurance

606 Proof of Automobile Insurance

1.0 Authority

This regulation is adopted under the authority of 18 ~~Del.C. §§[314311], 2304(26)~~ and 2741; 21 ~~Del.C. §2118(e)~~, and adopted in cooperation with the Division of Motor Vehicles. This regulation is promulgated under the provisions of the Administrative Procedures Act, 29 ~~Del.C. Ch.101~~.

2.0 Purpose

2.1 The purpose of this regulation is to:

- 2.1.1 ~~establish~~ Establish requirements to govern the form of the standardized [~~insurance identification (ID) card~~ **Insurance Identification Card**] for each insured vehicle pursuant to Delaware law;
- 2.1.2 ~~establish~~ Establish the procedure by which automobile insurers shall notify the Division of Motor Vehicles when automobile insurance coverage is terminated or when insurers pay claims for uninsured motorists; and
- 2.1.3 ~~provide~~ Provide procedures for the submission of insurance company data to the Division of Motor Vehicles for administrative efficiency.

3.0 Definitions

To the extent necessary, the definitions contained in 21 ~~Del.C. §101~~ shall apply to all terms not otherwise defined in Section 3.0 of this regulation. The following words and terms, when used in this regulation, shall have the following meaning unless the context in which they are used clearly indicates otherwise:

"Commercial auto coverage", "commercial vehicle coverage" or "commercial lines policy" ~~is~~ means any coverage provided to an insured, regardless of the number of vehicles or entities covered, under a commercial auto, garage, or truckers coverage form [~~and/or or~~] rated from either a commercial manual or rating rule as filed and approved by the Delaware Department of Insurance. Vehicle type and ownership are not necessarily the primary factors in either underwriting the coverage or rating the coverage. The rating may be subject to individual risk characteristics including but not limited to experience rating, schedule rating, loss rating or deductible rating.

"Fleet" ~~shall mean~~ means five or more vehicles under single ownership or lease used for commercial purposes.

"Personal lines auto coverage," ~~personal lines vehicle coverage" or "personal lines policy"~~ shall apply to **"personal lines vehicle coverage" or "personal lines policy"** means any [~~insured automobile insurance~~] or insurance policy that does not fall within commercial lines.

~~To the extent necessary, the definitions contained in 21 ~~Del.C. §101~~ shall apply to all terms not otherwise defined herein.~~

4.0 Insurance Identification Card

4.1 All companies licensed to write automobile insurance in the State of Delaware must furnish Insurance Identification Cards. ~~Cards to their insureds in accordance with the following:~~

- 4.1.1 If the insured and insurance company both consent, the [~~insurance identification card~~ **Insurance Identification Card**] may be produced in electronic format. format:

- 4.1.2 Acceptable electronic formats include display of electronic images on a cellular phone or any other type of portable electronic ~~device~~. device;
- 4.1.3 At least one written ~~[card Insurance Identification Card]~~ or ~~[card Insurance Identification Card]~~ in electronic format must be issued for each vehicle for which liability insurance is in ~~effect~~. effect; and
- 4.1.4 Delaware policyholders who are members of the military and are stationed outside of Delaware may be issued ~~[a card an Insurance Identification Card]~~ of that state provided their coverage meets Delaware requirements.
- 4.2 If an ~~[insurance identification card Insurance Identification Card]~~ is produced in written format, insurers may use uniform ACORD format or may prepare the ACORD format as described below:
- 4.2.1 The size, weight, and color of the ~~[card Insurance Identification Card]~~ shall be as below:
- 4.2.1.1 Size: Not smaller than 3-1/2" x 2-1/4" or larger than 3" x 5"
- 4.2.1.2 Weight: Optional
- 4.2.1.3 Color: White

5.0 Insurance Identification Cards for Personal Lines Coverage

- 5.1 The Insurance Identification Card for privately owned or leased motor ~~vehicles and/or vehicles~~, for vehicles that are used non-commercially but covered under commercial lines policies, or both shall contain the following information, whether the ~~[card Insurance Identification Card]~~ is provided in written or electronic format:
- 5.1.1 The statement "The ~~[ID card Insurance Identification Card]~~ must be carried in the vehicle at all times" shall be shown on the face of the ~~[card Insurance Identification Card]~~ if space is available; otherwise this statement may appear on the back of the ~~card~~. [Insurance Identification] Card;
- 5.1.2 ~~[The Insurance Identification] Card~~ shall be identified as "[Insurance] Identification Card".
- 5.1.3 The insurance company name shall be printed on the face of the ~~[card Insurance Identification Card]~~. If the insurer is part of a group, the group name may be printed on the ~~[card Insurance Identification Card]~~ so long as the card clearly identifies the name of the insurer issuing the ~~insurance~~. insurance;
- 5.1.4 Insurer's ~~five digit~~ five-digit National Association of Insurance Commissioners ("NAIC") company identification ~~number~~. number;
- 5.1.5 ~~Named Insured. This name~~ The name of the named insured, which must be match the name of the named insured as carried in the insurer's records. records;
- 5.1.6 The ~~insurer may, at its option, include the address of the insured~~. insured, to be included at the insurer's option;
- 5.1.7 Policy ~~Number~~. Number;
- 5.1.8 Effective date of and the time period during which the policy shall be in ~~effect~~. effect;
- 5.1.9 Expiration Date. The ~~[insurance identification card Insurance Identification Card]~~ shall be valid for no more than the term stated in the policy but not to exceed 6 months. Notwithstanding the foregoing limitation, an ~~[insurance identification card Insurance Identification Card]~~ may be issued for a period of 12 months if the premium has been written on an annual basis and the premium is being paid in installments of no more than for a ~~12-month~~ 12-month period. The expiration date shall be stated in such manner that the exact date of expiration can be clearly identified. For purposes of ~~this section~~ subsection 5.1.9 of this regulation, a policy renewed in the same company with a lapse in coverage of 30 days or less shall be considered to have been continuously insured by a licensed insurance company during the preceding six ~~months~~. months; and
- 5.1.10 ~~Vehicle(s)~~ Vehicle or Vehicles Insured. Information shall be completed by indicating any of the following, depending on the type of policy or vehicle involved:

- 5.1.10.1 Year, Make, and Vehicle Identification Number ("VIN") of the ~~vehicle(s)~~ vehicle or vehicles insured. Model of the vehicle may be shown as the Make. The ~~Year, Year~~ and Make of the vehicle may be abbreviated, but the complete VIN must be shown.
- 5.1.11 Items which are not obvious as to meaning shall be appropriately captioned.
- 5.2 The order of the information to be contained on the ~~[ID-card Insurance Identification Card]~~ may be rearranged at the option of the company, provided there is no drastic change and the rearrangement is necessary to accommodate a fixed printout system already established by a company.
- 5.3 At least one ~~[ID-card Insurance Identification Card]~~ shall be issued for each vehicle insured under the policy for which liability insurance is in effect.
- 5.4 If a vehicle is specifically described on the ~~[ID-card Insurance Identification Card]~~, the company must issue a new ~~[ID-card Insurance Identification Card]~~ upon either a change of vehicle or the acquisition of any additional one. If a different policy number is assigned upon renewal, a new ~~[ID Insurance Identification]~~ Card must also be issued. The expiration date requirement of ~~section subsection~~ 5.1.9 above of this regulation shall apply to an insured's replacement or additional insured vehicle in a manner similar to the previously owned or insured vehicle. The owner of the vehicle shall so inform the insurer of the additional or replacement vehicle. Only after the insurer is so informed, shall the insurer be obligated to issue an ~~[ID-card Insurance Identification Card]~~ to the insured for the additional or replacement vehicle.
- 5.5 A letter or notification should accompany every ~~[ID-card Insurance Identification Card]~~ advising the insured that the ~~[card Insurance Identification Card]~~ is required to register the vehicle, to obtain new tags, and to serve as evidence of insurance for the law enforcement authorities, e.g., in cases involving accidents, moving traffic violations or road spot checks. This notification may be printed on the back of the ~~[ID-card Insurance Identification Card]~~. Delaware law requires the ~~[ID-card Insurance Identification Card]~~ to be in the vehicle when it is being operated.
- 5.6 The Division of Motor Vehicles will accept for registration purposes a copy of the application for insurance or the assignment notice or binder pending issuance of insurance or the assignment notice pending issuance of the ~~[ID-card Insurance Identification Card]~~. However, such evidence of insurance will be accepted for registration purposes only if it has been dated prior to the date and no later than the day preceding the date of application for registration. For Assigned Risk coverage, insurers shall instruct their agents to place an insurer identification code of "99999" on applications to indicate placement with the Assigned Risk Plan.
- 5.7 Insurance ~~[ID-cards Insurance Identification Cards]~~ shall be issued in conformance with ~~section subsection~~ 5.1 above of this regulation. The Insurance Commissioner may exercise his statutory authority to investigate and examine the compliance of insurance carriers with this regulation. The Insurance Commissioner may, after notice and hearing, impose and enter an order as follows:
 - 5.7.1 For each occasion where the Insurance Commissioner determines that an ~~[ID-card Insurance Identification Card]~~ was issued inadvertently in non-compliance with ~~section subsection~~ 5.1.9 above of this regulation, the insurer shall be fined \$100. No fine, however, shall be imposed if the ~~[ID-card Insurance Identification Card]~~ was validly issued.
 - 5.7.2 For each occasion where the Insurance Commissioner determines an ~~[ID-card Insurance Identification Card]~~ was issued with disregard of the requirements of ~~Section subsection~~ 5.1.9 above of this regulation, but with no pattern of conscious disregard, the insurer shall be fined \$1,000.
 - 5.7.3 For each occasion where the Insurance Commissioner determines an ~~[ID-card Insurance Identification Card]~~ was issued as part of a pattern of conscious disregard of the requirements of ~~section subsection~~ 5.1.9 above of this regulation, the insurer shall be fined \$2,000.
- 5.8 "Date of issuance" of an ~~[insurance-card Insurance Identification Card]~~ shall be the effective date of that ~~[card Insurance Identification Card]~~.

6.0 Insurance Identification Cards for Commercial Lines Coverage

- 6.1 Unless otherwise covered in Section 5.0 of this regulation, the **[ID-card Insurance Identification Card]** for each vehicle insured under each commercial lines policy, which shall include any insurance issued for fleet vehicles, shall contain the following information, whether the **[card Insurance Identification Card]** is provided in written or electronic format:
- 6.1.1 ~~the~~ The information set forth in ~~sections~~ subsections 5.1.1 through 5.1.4, ~~section~~ subsection 5.1.6 and ~~section~~ subsection 5.1.11 of this regulation;
 - 6.1.2 ~~the~~ The name of the commercial entity or registrant that owns or leases the fleet as carried in the insurer's records. The insurer, at its option, may include the name of any parent company involved or, in the case of vehicles not operated by the registrant, an indication that the vehicle is "owned or operated by _____";
 - 6.1.3 ~~the~~ The policy number with any appropriate designations required by the insurer for commercial or fleet vehicles; and
 - 6.1.4 ~~the~~ The effective and expiration dates of the policy.
- 6.2 The expiration date for **[ID-cards Insurance Identification Cards]** shall be no more than twelve months from the effective date of the policy and the expiration date shall be stated by day, month and year or month, day and year, so long as the exact date of expiration can be clearly identified.
- 6.3 **[ID-cards Insurance Identification Cards]** subject to the requirements of this ~~section~~ Section 6.0 of this regulation shall also be subject to the requirements set forth in ~~sections~~ subsections 5.2 through 5.6 of this regulation.
- 6.4 Insurance **[ID-cards Identification Cards]** shall be issued in conformance with ~~section~~ subsection 6.1 ~~above of this regulation~~. The Insurance Commissioner may exercise ~~his~~ the Commissioner's statutory authority to investigate and examine the compliance of insurance carriers with this regulation. The Insurance Commissioner may, after notice and hearing, impose and enter an order as follows:
- 6.4.1 For each occasion where the Insurance Commissioner determines that an **[ID-card Insurance Identification Card]** was issued inadvertently in non-compliance with ~~section~~ subsection 6.2 ~~above of this regulation~~, the insurer shall be fined \$100. No fine, however, shall be imposed if the **[ID-card Insurance Identification Card]** was validly issued.
 - 6.4.2 For each occasion where the Insurance Commissioner determines an **[ID-card Insurance Identification Card]** was issued with disregard of the requirements of ~~section~~ subsection 6.2 ~~above of this regulation~~, but with no pattern of conscious disregard, the insurer shall be fined \$1,000.
 - 6.4.3 For each occasion where the Insurance Commissioner determines an **[ID-card Insurance Identification Card]** was issued as part of a pattern of conscious disregard of the requirements of ~~section~~ subsection 6.2 ~~above of this regulation~~, the insurer shall be fined \$2,000.
- 6.5 "Date of issuance" of an **[insurance-card Insurance Identification Card]** shall be the effective date of that **[card Insurance Identification Card]**.

7.0 Violations and Penalties

- 7.1 If an insurer ~~shall violate~~ violates any of the provisions of this regulation, the Commissioner shall give written notice to the insurer of the violation and ~~said~~ the notice shall inform the insurer of the right to request a hearing pursuant to 18 Del.C. §323.
- 7.2 If ~~the Commissioner determines that~~ an insurer ~~shall be determined to be~~ is in violation by consent or after a hearing, the Commissioner may impose ~~such~~ penalties as permitted pursuant to the Insurance Code.

8.0 Notice of Cancellation or Termination

- 8.1 When ~~an insurer determines to cancel or terminate~~ a personal lines insurance policy ~~is cancelled or terminated~~ and that cancellation or termination is final under ~~[18 Del.C. §3904 (a) (1) §3904(a), then~~ **18 Del.C. §3904(a)]** within 6 months of the original date of issuance, the insurer ~~must~~ shall file a Notice of Cancellation with the Division of Motor Vehicles.

- 8.2 The ~~insurer shall file the~~ notice ~~shall be filed of cancellation or termination~~ with the Division of Motor Vehicles within 30 days following the effective date on which cancellation has become ~~final~~ final, and in accordance with the following:
- 8.2.1 For purposes of subsection 8.2 of this regulation, "Final" means the date after which coverage cannot be reinstated except by the issuance of a new ~~policy~~ policy; and
- 8.2.2 The insurer shall file the notice of cancellation or termination in accordance with instructions posted by the Division of Motor Vehicles on the Division's website.
- 8.3 The notice shall be a form with the size, content, and format ~~consistent with the attached forms or as otherwise~~ approved by the Division of Motor Vehicles.

9.0 Furnishing Motor Vehicle Liability Insurance Information to the Division of Motor Vehicles

- 9.1 An insurer shall furnish within ~~30~~ 21 days of a request by the Division of Motor Vehicles prescribed information on each motor vehicle insured in the State of ~~Delaware~~ Delaware in accordance with the following:
- 9.1.1 The information shall be provided in the form and manner approved by the Division of Motor Vehicles. Vehicles, as more fully set out in instructions posted by the ~~[Department~~ **Division]** of Motor Vehicles on the ~~[Department's Division's]~~ website.
- 9.2.2 All information submitted by the insurer shall include the insurer's most current Delaware consumer complaint contact designee as submitted by the insurer to the National Association of Insurance Commissioners State Based Systems data base.

10.0 Random Selection/Verification

- 10.1 Pursuant to 21 **Del.C.** §2118 the Division of Motor vehicles shall periodically randomly select on an annual basis at least 10 percent of the vehicle registrations and send them to the insurers of record for verification of liability insurance.
- 10.2 All responses from the insurers shall be delivered to the Delaware Division of Motor Vehicles within ~~[30~~ **21]** days of the mailing date of the verification request.
- 10.3 The random selection/verification process shall be done no more than twelve times and no less than four times annually.

11.0 Notification of Uninsured Drivers

Each insurer licensed to write automobile liability insurance in Delaware shall notify the Division of Motor Vehicles on a form approved by the Division of Motor Vehicles the name of any person or persons involved in an accident or filing a claim who is alleged to have been operating a Delaware registered motor vehicle without the insurance required under Delaware law. The insurer shall provide the name, address, and description of the vehicle alleged to be uninsured.

12.0 Additional Required Proofs of Insurance

~~Each~~ When the ~~[Department~~ **Division]** of Motor Vehicles requests that an ~~[insured insurer]~~ provide verification of insurance coverage, an insurer licensed to write automobile liability insurance in this State shall furnish to their insureds verification of the insurance in force at the request of to the Division of Motor Vehicles by use of using a form and filing methods that are approved by the Division of Motor Vehicles. Each insurer is to utilize such measures as may be necessary to assure delivery of these forms to qualified insured drivers only.

13.0 Severability

If any provision of this regulation or the application thereof to any person or situation is held invalid, such invalidity shall not affect any other provision or application of the regulation which can be given effect without the invalid provision or application and to this end the provisions of this regulation are declared to be severable.

14.0 Effective Date

This Regulation shall become effective [~~40 days after being published as a final regulation~~ **May 11, 2020**].

*Regulation No. 31 was entitled "Insurance Identification Card" under an effective date of July 1, 1979; amended July 1, 1982; amended effective January 1, 1991 and again on May 12, 1993 under present title except for the conditions specified under § 6 and § 4 of the regulation and April 12, 1993.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**DIVISION OF FISH AND WILDLIFE**

Statutory Authority: 7 Delaware Code, Sections 901 and 903(a), (b) & (e) (7 **Del.C.** §§901 & 903(a), (b) & (e))

Secretary's Order No: 2020-F-0012

RE: Approving Final Amendments to 7 DE Admin. Code 3500 Tidal Finfish, specifically, the addition of new Section 3550: Cobia

Date of Issuance: April 15, 2020

Effective Date: May 11, 2020

3550 Cobia (*Rachycentron canadum*)

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 **Del.C.** §§6006 and 6010, and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory proceeding.

Background, Procedural History and Findings of Fact

This Order relates to 7 **DE Admin. Code** 3500 Tidal Finfish, specifically, the addition of new Section 3550 Cobia ("Amendments"). The Department proposes revisions to the existing Tidal Finfish regulations to set forth precautionary management measures for *Rachycentron Canadum* ("Cobia"), throughout the State of Delaware.

This action is being taken by the Department to maintain compliance with the Interstate Fishery Management Plan for Atlantic Migratory Group Cobia ("Cobia FMP") under the authority of the *Atlantic Coastal Fisheries Cooperative Management Act* ("ACFCMA") (16 USC §§5101, et seq.) that was adopted by the Atlantic States Marine Fisheries Commission ("ASMFC") in November, 2017.

The ASMFC adopted the Cobia FMP to provide an efficient management structure for the implementation of coastwide management measures and to complement cobia management in federal waters. The concern of future stock status, due to Allowable Catching Limit overages in federal waters, precipitated the development of an interstate fishery management plan for state specific management measures. After a review of the available information developed by the Atlantic Migratory Group Cobia, the South Atlantic State/ Federal Fisheries Management Board recommended initiation of the Cobia FMP.

Preceding ASMFC's adoption of the Cobia FMP, Delaware has had no reported commercial or recreational Cobia landings in the past 3 years. The Cobia FMP established the justification of *de minimis* status by recreational harvests in weights that are less than 1% of coastwide recreational landings within 2 of the previous 3 years. As Delaware does qualify for *de minimis* status under the FMP criteria, they may adopt either of two management options described below.

The Department considered the first option outlined in the Cobia FMP that reflects *de minimis* management measures to include recreation and commercial Cobia fisheries, with an all year open season ("Option 1"). The recreational management measures are a minimum of 32 inches total length with 1 fish per vessel per trip. The commercial management measures are a minimum of 37 inches total length, with a possession limit of 2 fish per person and no greater than 6 fish per vessel

The Department also considered a second option reflecting the management measures in place for Virginia, which is the nearest jurisdiction, with established management measures (“Option 2”). The commercial fishing management measures in Virginia are identical to that of Option 1. The recreational management measurement, however, is limited with open season from June 1 – September 15, with a minimum of 40 inches in total length, and possession limit of 1 per person with a maximum of 3 per vessel. It should be noted that during the time the Department reviewed the proposed Amendments, Maryland and New Jersey had not adopted a management measure plan for Cobia.

The overall benefits of Option 2 include a more defined season with a higher minimum total length for recreational fishing, and a more limited recreational fishery quota than Option 1. These precautionary management measure shall protect Cobia stock from being overfished and allow for Cobia to stock for future fishery. In addition, Option 2 has also been implemented by Maryland and New Jersey, providing consistency, and ease of compliance and enforcement, of regulations with Delaware’s neighboring *de minimis* States.

The Department hereby adopts the Amendments with the implementation of Option 2 management measures, as a precautionary approach to prevent the Cobia stock from reaching an overfished status throughout the State of Delaware. The Department believes that the implementation of the new Cobia regulations will maintain social and economic benefits to the fishing communities involved, by ensuring a Cobia fishery for future generations. Moreover, the Department anticipates the proposed Amendments will not have any significant, measurable or predictable costs to the affected Delaware fisheries or their dependent businesses.

The Department has the statutory basis and legal authority to act with regard to the formal promulgation of these proposed Amendments, pursuant to 7 **Del.C.** §§901, 903(a), (b) and (e). The Department published its initial proposed regulation Amendments in the February 1, 2020 *Delaware Register of Regulations*. Thereafter, the public hearing regarding this matter was held on February 26, 2020. There were public members in attendance, who provided comment at the public hearing. Pursuant to 29 **Del.C.** §10118(a), the hearing record (“Record”) remained open for receipt of additional written comment for 15 days following the public hearing. The Record formally closed for comment in this matter at close of business on March 12, 2020, with no additional comments received by the Department for the formal promulgation.

It should be noted that all notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

Subsequent to the close of the Record, and at the request of presiding Hearing Officer Theresa Newman, the Department’s Division of Fish and Wildlife staff prepared a Technical Response Memorandum (“TRM”). The TRM responds to the comments received by the Department in this matter and provides a thorough discussion with regard to the two possible options for Cobia management for Delaware at this time. Since both Option 1 and Option 2 have identical commercial management limits for this fishery, the Department focused more on the benefits of recreational limits in its deliberations concerning this matter.

The Department’s experts in the Division of Fish and Wildlife have concluded that Option 2 provides greater support (and more protection) to the Cobia population than Option 1. The recreational management limits for Option 2 (40” in total length) are at a higher minimum length requirement compared to that of Option 1 (“38” in total length). Moreover, Option 2 provides a limited open season, and the ability for multiple anglers to possess up to 3 Cobia per vessel per trip. For these reasons, the Department proposes that Option 2 be incorporated into the aforementioned Amendments, as those precautionary management measures (along with the more restricted open season from June 1 to September 15) will better protect the stock of Cobia from being overfished in Delaware.

Following the receipt of the Department’s TRM as noted above, the Hearing Officer prepared her Hearing Officer’s Report dated March 25, 2020 (“Report”), which expressly incorporated both the Department’s proposed Amendments and the TRM into the Record generated in this matter. The Report documents the proper completion of the required regulatory amendment process, establishes the Record, and recommends the adoption of the proposed Amendments as attached to the Report as Appendix “A.”

Reasons and Conclusions

Based on the Record developed by the Department’s experts in the Division of Fish and Wildlife, and established by the Hearing Officer’s Report, I find that the proposed regulatory Amendments to 7 **DE Admin. Code** 3500 Tidal Finfish, specifically, the addition of new Section 3550 Cobia, are well-supported. I further find that the Department’s experts fully developed the record to support adoption of these Amendments. Therefore, the

recommendations of the Hearing Officer are hereby adopted, and I direct that the proposed Amendments be promulgated as final.

The following reasons and conclusions are entered:

1. The Department has the statutory basis and legal authority to act with regard to this proposed regulatory promulgation, pursuant to 7 **Del.C.** §§901, 903(a), (b) and (e);
2. The Department has jurisdiction under its statutory authority, pursuant to 7 **Del.C.** Chapter 60, to issue an Order adopting these proposed Amendments as final;
3. The Department provided adequate public notice of the initial proposed Amendments and all proceedings in a manner required by the law and regulations, and provided the public with an adequate opportunity to comment on the same, including at the time of the public hearing held on February 26, 2020, and during the 15 days subsequent to the hearing (through March 12, 2020), before making any final decision;
4. Promulgation of the proposed Amendments to 7 **DE Admin. Code** 3500 Tidal Finfish, specifically, the addition of new Section 3550: Cobia, will enable the Department to include precautionary management measures for this fishery (including, but not limited to, the more restrictive open season from June 1 to September 15), and will better protect the stock of Cobia from being overfished in Delaware;
5. The Department has reviewed the proposed Amendments in light of the Regulatory Flexibility Act, consistent with 29 **Del.C.** Ch. 104, and has selected Exemption "B1," as this regulation is not substantially likely to impose additional cost or burdens upon individuals and/or small businesses;
6. The Department's proposed regulatory Amendments, as initially published in the February 1, 2020 *Delaware Register of Regulations*, and as set forth in Appendix "A" hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they should be approved as final regulatory Amendments, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*; and
7. The Department shall submit the proposed Amendments as final regulatory amendments to the *Delaware Register of Regulations* for publication in its next available issue and provide such other notice as the law and regulation require, and the Department determines is appropriate.

Shawn M. Garvin
Secretary

3500 Tidal Finfish
3550 Cobia (*Rachycentron canadum*)

1.0 Recreational Possession Limits

- ~~**1.1 It is unlawful for a recreational fisherman to take and reduce to possession more than one Cobia per day or per trip, whichever is longer.**~~
- ~~**1.2 Except in accordance with 3.0 of this section, it is unlawful to have aboard any boat or vessel more than one Cobia.**~~

2.0 Recreational Size Limit

~~**It is unlawful for a recreational fisherman to possess a Cobia that measures less than 32 inches in total length.**~~

3.0 Commercial Possession Limits

- ~~**3.1 A commercial fisherman may take and reduce to possession no more than two Cobia per day or per trip, whichever is longer, using commercial fishing gear for which said fisherman is lawfully permitted.**~~
- ~~**3.2 It is unlawful for a commercial fisherman to possess more than two Cobia per day or per trip, whichever is longer.**~~
- ~~**3.3 Notwithstanding subsections 3.1 and 3.2, a commercial fishing vessel may have up to six Cobia per day or per trip, whichever is longer, onboard provided the number of Cobia does not exceed twice the number of commercial fishermen onboard that vessel.**~~

4.0 Commercial Size Limit

~~It is unlawful for a commercial fisherman to possess, trade, barter or sell or attempt to trade, barter or sell any Cobia that measure less than 37 inches in total length.~~

~~OR]~~

1.0 Recreational Seasons

- 1.1 It is unlawful for a recreational fisherman to possess any Cobia during the periods of January 1 through May 31 and September 16 through December 31.
- 1.2 It is lawful for a recreational fisherman to possess Cobia during the period of June 1 through September 15 in accordance with sections 2.0 and 3.0.

2.0 Recreational Possession Limits

- 2.1 It is unlawful for a recreational fisherman to possess more than one Cobia per day or per trip, whichever is longer.
- 2.2 Except in accordance with 4.0 of this section, it is unlawful to have aboard any vessel more than three Cobia.

3.0 Recreational Size Limit

It is unlawful for a recreational fisherman to possess any Cobia that measures less than 40 inches in total length.

4.0 Commercial Possession Limits

- 4.1 A commercial fisherman may take and reduce to possession no more than two Cobia per day or per trip, whichever is longer, using commercial fishing gear for which said fisherman is lawfully permitted.
- 4.2 It is unlawful for a commercial fisherman to possess more than two Cobia per day or per trip, whichever is longer.
- 4.3 Notwithstanding subsections 4.1 and 4.2, a commercial fishing vessel may have up to six Cobia per day or per trip, whichever is longer, onboard provided the number of Cobia does not exceed twice the number of commercial fishermen onboard that vessel.

5.0 Commercial Size Limit

It is unlawful for a commercial fisherman to possess, trade, barter or sell or attempt to trade, barter or sell any Cobia that measure less than 37 inches in total length.

DEPARTMENT OF SAFETY AND HOMELAND SECURITY DELAWARE COUNCIL ON POLICE TRAINING

Statutory Authority: 11 Delaware Code, Sections 8402 & 8404(a)(14) (11 **Del.C.** §§8402, 8404(a)(14))
1 **DE Admin. Code** 801

ORDER

801 Regulations of the Delaware Council on Police Training

NATURE OF THE PROCEEDINGS

At 23 **DE Reg.** 637 (February 1, 2020), The Council on Police Training (COPT), pursuant to 11 **Del.C.** §8404(a)(14) and in accordance with 29 **Del.C.** §10115, published notice of intent to adopt regulations that seek to

update, clarify and provide more detailed information regarding firearms training and qualifications. At the same time, the COPT submitted a Regulatory Flexibility Analysis and Impact Statement for this proposed revised regulation, as required by 29 **Del.C.** Ch. 104. The COPT solicited written comments from the public for thirty (30) days as mandated by 29 **Del.C.** §10118(a).

SUMMARY OF EVIDENCE

In accordance with law, public notice regarding the proposed revised regulation was published in the *Delaware Register of Regulations*. The public comment period was open from February 1, 2020 through March 02, 2020. During this period, the COPT did not receive any written responses.

FINDINGS OF FACT

The public was given the required notice of the Council's intention to adopt the proposed revised regulation and was given opportunity to submit comments. The required Regulatory Flexibility Analysis and Impact Statement for this proposed revised regulation was submitted. No written responses were received during the comment period. Thus, the COPT finds that the proposed revised regulations should be adopted as submitted by the COPT.

EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the COPT pursuant to 11 **Del.C.** §8404(a)(14). The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

ORDER

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Council on Police Training does hereby ORDER this 14th day of April, 2020 that the regulations be, and that they hereby are, adopted to be enacted as set forth below.

IT IS SO ORDERED, this 14th day of April 2020.

COUNCIL ON POLICE TRAINING

Robert M. Coupe, Secretary, Department of Safety and Homeland Security, Chair

Sgt. Christopher Jones, Proxy for Chief of Police, Newark Police Department

Robert J. Irwin,
Proxy for Attorney General Kathy Jennings

Major Robert Hudson, Proxy for Superintendent of State Police

Susan Bunting, Secretary,
Department of Education

Major Tim Stump, Proxy for Chief of Police,
Dover Police Department

Inspector Charles Emory, Proxy for Chief of Police,
Wilmington Police Department

Robin R. Christiansen, Mayor, City of Dover, Kent County (voted in affirmative, unable to obtain signature)

Captain Diane Smith, Proxy for Chief of New Castle County Police Department

Chief Patrick Ogden, Chair, Delaware Police Chiefs' Council

William E. West, Mayor, Town of Georgetown, Sussex County

Lew Killmer, President of the Delaware League of Local Governments

***Please note that no changes were made to the regulation as originally proposed and published in the February 2020 issue of the *Register* at page 637 (23 DE Reg. 637). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

[801 Regulations of the Delaware Council on Police Training](#)

DELAWARE COUNCIL ON POLICE TRAINING

Statutory Authority: 11 Delaware Code, Sections 8402 & 8404(a)(14) (11 Del.C. §§8402, 8404(a)(14))

ORDER

803 COPT Firearms Instructors Standards and Requirements

NATURE OF THE PROCEEDINGS

At 23 DE Reg. 638 (February 1, 2020), The Council on Police Training (COPT), pursuant to 11 Del.C. §8404(a)(14) and in accordance with 29 Del.C. §10115, published notice of intent to adopt regulations that seek to establish standards and requirements for Firearms Instructors. At the same time, the COPT submitted a Regulatory Flexibility Analysis and Impact Statement for this proposed revised regulation, as required by 29 Del.C. Ch. 104. The COPT solicited written comments from the public for thirty (30) days as mandated by 29 Del. C. §10118(a).

SUMMARY OF EVIDENCE

In accordance with law, public notice regarding the proposed revised regulation was published in the *Delaware Register of Regulations*. The public comment period was open from February 1, 2020 through March 02, 2020. During this period, the COPT did not receive any written responses.

FINDINGS OF FACT

The public was given the required notice of the Council's intention to adopt the proposed revised regulation and was given opportunity to submit comments. The required Regulatory Flexibility Analysis and Impact Statement for this proposed revised regulation was submitted. No written responses were received during the comment period. Thus, the COPT finds that the proposed revised regulations should be adopted as submitted with the technical corrections identified by the COPT.

EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the COPT pursuant to 11 Del.C. §8404(a)(14). The effective date of this Order shall be ten (10) days from the date this Order is published in the *Register of Regulations*.

ORDER

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Council on Police Training does hereby ORDER this 14th day of April, 2020 that the regulations be, and that they hereby are, adopted to be enacted as set forth below.

IT IS SO ORDERED, this 14th day of April 2020.

COUNCIL ON POLICE TRAINING

Robert M. Coupe, Secretary, Department of Safety
and Homeland Security, Chair

Robert J. Irwin,
Proxy for Attorney General Kathy Jennings

Susan Bunting, Secretary,
Department of Education

Sgt. Christopher Jones, Proxy for Chief of Police,
Newark Police Department

Major Robert Hudson, Proxy for Superintendent of
State Police

Major Tim Stump, Proxy for Chief of Police,
Dover Police Department

Inspector Charles Emory, Proxy for Chief of Police, Wilmington Police Department	Robin R. Christiansen, Mayor, City of Dover, Kent County (voted in affirmative, unable to obtain signature)
Captain Diane Smith, Proxy for Chief of New Castle County Police Department	Chief Patrick Ogden, Chair, Delaware Police Chiefs' Council
William E. West, Mayor, Town of Georgetown, Sussex County	Lew Killmer, President of the Delaware League of Local Governments

803 COPT Firearms Instructors Standards and Requirements

1.0 Intent and Purpose

To establish basic requirements for COPT firearms instructors that include standards for both sworn and civilian sponsored instructors.

2.0 Definitions

As used in this chapter:

"Ammunition" means a projectile designed to be fired from a weapon such as a handgun or rifle.

"Armorer" means a person who has received specialized training related to conducting detailed inspections and repairs to specific weapons.

"Certification" means the official approval by the Council on Police Training for an officer to act in a specified capacity, due to the officer's credentials or level of achievement.

"Chief of Police" means any colonel, chief of police or any officer who is the highest-ranking officer of a legislatively authorized police department within this State.

"Council on Police Training" or **"COPT"** means the regulatory body established by 29 Del.C. §8205 to consider matters relating to police training and such other matters as may be referred to it by the Governor or the Secretary of the Department.

"Firearms Instructor" means a law enforcement officer that has received specialized training related to firearms including knowledge of the types of firearms used in law enforcement; appropriate shooting and tactical techniques; instruction methods; and the ability to perform inspection of weapons and range equipment for safety issues. A firearms instructor is not required to be an armorer.

"Law Enforcement Agency" or **"LEA"** means any police force or organization functioning within this State or any other state which has by statute or ordinance the responsibility of detecting crime and enforcing the criminal or penal laws of this State or any other state.

"Law Enforcement Officer" means 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 and the detection of crime and the enforcement of laws of this State or other governmental units within the State as defined in 11 Del.C. §8401(5)(a)(b), irrespective of the number of the hours worked.

"Master Firearms Instructor" means any certified firearms instructor approved by the COPT to be a certifying instructor for a firearms instructor course.

"Qualification" means a level of skill or ability that an officer must achieve to be allowed to maintain certification to carry departmentally assigned or approved weapons, as specified in 1 DE Admin. Code 801 Section 12.0 for all weapon systems responsible for training.

"Recertification" means the renewal of the original certification based on additional training, testing, or a combination of both.

"Sponsorship" means any former COPT certified law enforcement officer, as defined in this section, who retired or separated in good standing from a Delaware law enforcement agency and has been contracted by a Delaware law enforcement agency to provide firearms instruction to Delaware law enforcement officers.

3.0 COPT Firearms Instructor Certification Requirements

- 3.1 No firearms instructor shall be utilized by any law enforcement agency for purposes of certifying firearms instructors unless the certifying instructor has been approved by the Council on Police Training.
- 3.2 All sworn law enforcement officers seeking Firearms Instructor Certification must submit proof of successful completion of the following requirements to the COPT Administrator prior to being brought before the COPT:
 - 3.2.1 Proof of successful completion of a COPT Certified Instructor Course.
 - 3.2.2 Minimum of three years' experience as a sworn law enforcement officer.
 - 3.2.3 Those who, by their special knowledge and preparation, are suited to instruct certain courses requiring such special knowledge and education may have the three-year minimum experience waived.
 - 3.2.4 Proof of successful completion of an approved COPT Firearms Instructor Course, taught by a COPT Master Firearms Instructor, at a firearms instructor course previously approved by the COPT, or other firearms instructor courses if recommended for approval by the COPT Firearms Instructor Subcommittee and subsequently approved by Council.
 - 3.2.5 A signed letter of endorsement from the Chief of Police of their respective law enforcement agency.
- 3.3 A firearms instructor is not required to be an armorer and being an armorer does not qualify you to be a firearms instructor.

4.0 Sponsored Firearms Instructor Certification Requirements

- 4.1 No firearms instructor shall be utilized by any police department for purposes of certifying firearms instructors unless the certifying instructor has been approved by the Council on Police Training.
- 4.2 All non-sworn individuals seeking Sponsored Firearms Instructor Certification must submit proof of successful completion of the following requirements to the Chief of Police of the sponsoring LEA for submission to the COPT Administrator prior to being brought before the COPT:
 - 4.2.1 Proof of Certification as a COPT firearms instructor.
 - 4.2.2 Proof of being an active COPT certified instructor at the time of retirement or separation.
 - 4.2.3 Proof of retirement or separation in good standing.
- 4.3 The Chief of Police sponsoring an individual must submit an endorsement letter of the individual to the COPT along with acknowledging compliance with these regulations as set forth.

5.0 Firearms Instructor Course Requirements

- 5.1 Firearms instructor courses must provide the candidate the necessary education and training in the safe and proper use of firearms, knowledge and skills necessary to teach others to shoot, and additional skills and techniques needed to organize and instruct.
- 5.2 Firearms instructor courses must be a minimum of 40 hours of education and training to be considered eligible for approval by the COPT.
- 5.3 Firearms instructor courses must meet the following minimum curricula requirements to be considered by the COPT Firearms Instructor Subcommittee for approval:
 - 5.3.1 Basic Marksmanship Instruction
 - 5.3.2 Target Analysis
 - 5.3.3 Instructional Techniques & Training Aids
 - 5.3.4 Range Organization & Administration
 - 5.3.5 Weapons Nomenclature & Function
 - 5.3.6 Fundamentals of Close Quarters Combat
 - 5.3.7 Introduction to Ammunition & Ballistics
 - 5.3.8 Judgment & Decision-Making Training

5.3.9 Shooting Position, Movement, and Target Engagement

5.3.10 Range & Weapon Safety

5.3.11 Use-Of- Force & Legal Issues

5.3.12 Coaching skills development

6.0 Firearms Instructors Training Requirements

- 6.1 An eight-hour firearms recertification course will be held annually and will include: legal updates, use of force, and review of Council on Police Training standards.
- 6.2 Instructors must attend a minimum of one recertification course every three years and complete sixteen hours of additional training in firearms usage or complete sixteen hours of academy level instruction, or a combination of training and instruction in the same three-year period.
- 6.3 All firearms instructors must also annually meet the standards established in 1 DE Admin. Code 801 Section 12.0 for all weapon systems responsible for training.

7.0 COPT Master Firearms Instructor Requirements

- 7.1 A COPT Certified Firearms Instructor seeking Master Firearms Instructor certification shall provide the following to the COPT Firearms Instructor Subcommittee:
- 7.1.1 Current Curriculum Vitae (CV) or Resume indicating all relevant work history, training, certifications, experience and education.
- [7.1.2 A signed letter of endorsement from the Chief of Police of their respective law enforcement agency,
- ~~7.1.3~~ 7.1.3]Proof of successful completion of a COPT approved Firearms Instructor Course and proof of successful completion of a COPT Master Instructor Course, or
- ~~7.1.3~~ 7.1.4]Proof of successful completion of a COPT approved Firearms Instructor Course and:
- ~~7.1.3.1~~ 7.1.4.1]Seven years or more as a COPT Certified Firearms Instructor or a minimum of 2000 hours of combined firearms instruction and training.
- ~~7.1.3.2~~ 7.1.4.2]Proof of Firearms related administrative responsibilities such as lesson planning, record keeping, etc.,
- ~~7.1.3.3~~ A signed letter of endorsement from the Chief of Police of their respective law enforcement agency.
- ~~7.1.3.4~~ 7.1.4.3]Proof of successful completion of an Advanced or "Master" Firearms Instructor ~~course, courses, totaling~~ at least 40 hours in length ~~[combined]~~, from ~~[an]~~ approved ~~[vendor vendors]~~ as agreed upon by the COPT Firearms Instructor Subcommittee.
- 7.2 The COPT Firearms Instructor Subcommittee will review each request and required documentation. After a full review, the COPT Firearms Instructor Subcommittee shall either endorse or not endorse the request at the next regularly scheduled COPT Board meeting.
- 7.3 The COPT will be responsible for voting on all certifications for Master Firearms Instructors.

8.0 Training, Qualification and Records

- 8.1 Complete records should reflect all firearms training, qualification, and re-evaluation activities, as well as the performance and proficiency of the law enforcement officer during such activities.
- 8.2 Copies of all training course schedules, curricula, and lesson plans must be maintained along with the records of individual trainees.

9.0 Training Site or Facility Requirements

The training site or facility should provide the environment necessary to conduct all aspects of the training and qualification as approved by the COPT, including appropriate simulation exercises.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 122(3)p. (16 Del.C. §122(3)p.)
16 DE Admin. Code 4404

PUBLIC NOTICE OF EXTENDED COMMENT PERIOD

4404 Free Standing Emergency Centers

Summary

Delaware Health and Social Services (DHSS)/Division of Health Care Quality (DHCQ) is extending until May, 29, 2020, the comment period for the proposed regulations governing Free Standing Emergency Departments published in the April 1, 2020 *Register of Regulations*. The Division of Health Care Quality plans to publish the “proposed” amendments to the regulations governing free standing emergency departments and hold them out for public comment per Delaware law. The amendments update the regulatory language to clearly define the scope of practice required of a free standing emergency department. In addition, the amendments provide a level of protection for the public that seeks services at free standing emergency departments by ensuring the delivery of safe and adequate care.

Comments

A copy of the proposed amended Regulation was published in the April 1, 2020 edition of the *Delaware Register of Regulations*. A copy is also on file in the Office of Health Facilities Licensing and Certification, Division of Health Care Quality, 261 Chapman Road, Suite 200, Newark, Delaware 19702, and is available for inspection during regular office hours. Copies are available upon request. Interested parties may offer comments on the proposed amended Regulation or submit written suggestions, data, briefs or other materials to the Office of Health Facilities Licensing and Certification at the above address as to whether the proposed amended Regulation should be adopted, rejected or modified. Pursuant to 29 Del.C. §10118(a), public comments must be received on or before May 29, 2020. Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Regulations

After the close of the public comment period, Delaware Health and Social Services/Division of Health Care Quality will determine whether to adopt the proposed Regulations, or make additional changes because of the public comments received.

DIVISION OF MANAGEMENT SERVICES

Statutory Authority: 16 Delaware Code, Sections 210-218 (16 Del.C. §§210-218)

NOTICE OF PUBLIC COMMENT

Birth to Three Early Intervention System

Notice of Public Participation: Public comment for revisions and new policies in the Delaware’s Infants and Toddlers Early Intervention Program Policies and Procedures Manual Under Part C of the Individuals with Disabilities Education Act (IDEA)

The Department of Health and Social Services, Birth to Three Program has revised and, in some cases, developed new policies that will better support the comprehensive, high quality implementation of Delaware’s Infants and Toddlers Early Intervention Program.

In order to meet the public participation requirements under §441 of the General Education Provisions Act (GEPA) at 20 USC 1232d(b)(7)(B) and Part C of the IDEA at 34 CFR §303.208, the Birth to Three Program, as lead agency

for implementation of Part C of the IDEA in Delaware, is publishing the draft revised policies and procedures for the Infants and Toddlers Early Intervention Program. The draft manual and additional documents will be available for public review at: <https://dhss.delaware.gov/dhss/dms/epqc/birth3/publicnotice.html> for 60 days beginning **May 1, 2020 through June 29, 2020**.

The purpose of the public participation period is to gather comments regarding the new and revised policies and procedures that serve as the guide to how early intervention practices shall be carried out in Delaware. The Birth to Three Program is interested in information that would assist us in maintaining a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers and their families.

The opportunity for public comment on the draft policies and procedures is available for 30 days beginning May 30, 2020 through June 29, 2020. Comments will be accepted from the general public, including parents of infants and toddlers with disabilities, providers of services, advocacy groups and organizations and other stakeholders in the state. In addition, two public hearings* will be conducted on the dates and times noted below:

**Please note: Due to the COVID-19 pandemic, these public hearings will be conducted virtually. We will have available a Spanish language interpreter and English closed captions for each online meeting. Please contact Pam Weir, Assistant Part C Coordinator for the Birth to Three Program, at Pam.D.Weir@Delaware.gov or 302-255-9134 48 hours prior to the virtual meetings if you need other accommodations to participate so that we have ample time to make the arrangements.*

Procedures for Submitting Comments on the Draft Policies and Procedures or Attending One of the Public Hearings

1. Comments may be provided to the Birth to Three Program in several ways.

a. Mail:

*Birth to Three Program
Herman M. Holloway, Sr. Campus
1st Floor, Main Administration Building 1901 N. DuPont Highway
New Castle, DE 19720*

b. Online comment form:

[Birth to Three Policies and Procedures Comment Form](#)

c. Verbal comment at one of the following virtual public hearings:

June 17, 2020

11:00 am - 12:30 pm EDT

<https://wested.zoom.us/j/757340350>

Meeting ID: 757 340 350

US Toll-free 877 369 0926 or 877 853 5247

June 18, 2020

5:00 pm – 6:30 pm EDT

<https://wested.zoom.us/j/688290084>

Meeting ID: 688 290 084

US Toll-free 877 853 5247 or 877 369 0926

There are four documents that you may review:

- *Delaware's Infants and Toddlers Early Intervention Program Policies and Procedures Manual*

- *Guide to Parent Rights* (Please note: The stock photos used in this draft will be purchased following the 60-day review period and will not have the stock watermark on them once finalized. In addition, this booklet will also be translated into Spanish.)
- *Prior Written Notice Form* (This will be made available in Spanish once finalized.)
- *Dispute Resolution Request Form* (This will be made available in Spanish once finalized.)

Responses to individual questions and comments will not be provided; however, the Birth to Three staff will review and consider all comments and make any modifications to the documents that are deemed necessary. The Birth to Three Program must receive your comments no later than June 29, 2020.

Thank you.

***Please Note: The draft revised policies and procedures are available here as PDF documents:**

[http://regulations.delaware.gov/register/may2020/general/Birth to Three Policies and Procedures Manual.pdf](http://regulations.delaware.gov/register/may2020/general/Birth%20to%20Three%20Policies%20and%20Procedures%20Manual.pdf)

[http://regulations.delaware.gov/register/may2020/general/Birth to Three Guide to Parent Rights.pdf](http://regulations.delaware.gov/register/may2020/general/Birth%20to%20Three%20Guide%20to%20Parent%20Rights.pdf)

[http://regulations.delaware.gov/register/may2020/general/Birth to Three Prior Written Notice.pdf](http://regulations.delaware.gov/register/may2020/general/Birth%20to%20Three%20Prior%20Written%20Notice.pdf)

[http://regulations.delaware.gov/register/may2020/general/Birth to Three Dispute Resolution Request.pdf](http://regulations.delaware.gov/register/may2020/general/Birth%20to%20Three%20Dispute%20Resolution%20Request.pdf)

DEPARTMENT OF INSURANCE OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 311 and 3359A(c) (18 Del.C. §§311 & 3359A(c))

PUBLIC NOTICE OF EXTENDED COMMENT PERIOD

1411 Registration of Pharmacy Benefits Managers

Summary

The Commissioner of the Delaware Department of Insurance is extending until June 1, 2020, the comment period for proposed new Regulation 1411 Registration of Pharmacy Benefits Managers. Notice of the proposed new regulation was published in the April 1, 2020 *Register of Regulations* at 23 DE Reg. 834 (04/01/2020).

As described in the proposal, proposed new Regulation 1411 implements 18 Del.C. §3353A, which requires all pharmacy benefit managers (PBMs) to register with the Insurance Commissioner before providing PBM services in Delaware to a “purchaser,” and to annually register thereafter if the PBM wishes to continue to provide those services. A “purchaser” is an insurance company, health service corporation, health maintenance organization, managed care organization, and any other entity that: (1) provides prescription drug coverage or benefits in Delaware, and (2) enters into agreement with a pharmacy benefits manager for the provision of pharmacy benefits management services.

Public Comment

The Department does not plan to hold a public hearing on proposed new Regulation 1411. The proposed new regulation may be viewed in the *Register of Regulations* at 23 DE Reg. 834 (04/01/2020) and on the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 1st day, June 2020. Any such requests should be directed to:

Leslie W. Ledogar, Regulatory Specialist
Delaware Department of Insurance
ATTN: Docket 4255-2020
1351 West North St., Ste. 101
Dover, DE 19904
(302) 674-7379
Email: Leslie.Ledogar@delaware.gov

DELAWARE RIVER BASIN COMMISSION**PUBLIC NOTICE**

The Delaware River Basin Commission will hold a public hearing on **Wednesday, May 13, 2020** beginning at **1:30 p.m.** In light of COVID-19 mitigation measures in effect for DRBC member states, the Commission will conduct the public hearing by telephone rather than at the Commission's office building in West Trenton, New Jersey as previously posted. Please check the Commission's website, www.drbc.gov, on or after April 30, 2020 for details regarding the resolutions and draft docket decisions that will be subjects of the public hearing, and information on how to attend and participate in the public hearing by telephone.

The Commission's quarterly business meeting will be held the following month, on **Wednesday, June 10, 2020**, beginning at **10:30 a.m.** Although the Commission has reserved the West Trenton Volunteer Fire Company facility at 40 West Upper Ferry Road, Ewing, NJ 08628 for this meeting, COVID-19 mitigation measures then in effect may compel the Commission to conduct the meeting remotely. Please check the Commission's website, www.drbc.gov, on or after May 27, 2020 to learn whether the meeting format will be in-person or remote, and if the latter, how to attend.

For additional information, please visit the DRBC website at www.drbc.gov or contact Denise McHugh at denise.mchugh@drbc.gov or Patricia Hausler at patricia.hausler@drbc.gov.

DEPARTMENT OF EDUCATION**PUBLIC NOTICE**

The State Board of Education will hold its monthly meeting on a date and location to be determined.

DEPARTMENT OF INSURANCE**OFFICE OF THE COMMISSIONER****PUBLIC NOTICE****902 Prohibited Unfair Claim Settlement Practices**

Pursuant to the authority conferred by 18 **Delaware Code**, Sections 311 and 2304(16), (17), and (18), the Delaware Department of Insurance (the Department), is proposing to amend Regulation 902 to update and clarify requirements concerning prohibited unfair claim settlement practices. Specifically, the Department is proposing to add new subsection 3.1.14, which includes a failure to promptly settle a claim as required under Regulation 903 as an unfair claim settlement practice. Please see the Department's proposal of amendments to Regulation 903, published in the March 1, 2020 and April 1, 2020 editions of the *Register of Regulations*, that among other things, clarifies what constitutes "prompt payment."

The Department is also taking the opportunity of this proposal to make grammatical and formatting edits throughout the regulation.

The Department does not plan to hold a public hearing on the proposed amendments to Regulation 902. The proposed amendments appear below and may also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 1st day of June, 2020. Any such requests should be directed to:

Leslie W. Ledogar, Regulatory Specialist

Delaware Department of Insurance

ATTN: Docket 4259-2020

1351 West North Street, Suite 101

Dover, DE 19904

(302) 674-7379 Email: Leslie.Ledogar@delaware.gov

**OFFICE OF THE COMMISSIONER
PUBLIC NOTICE****1319 Arbitration of Disputes Between Carriers and Primary Care and Chronic Care Management Providers**

On January 1, 2019, the Delaware Department of Insurance (the Department) adopted Regulation 1319, Arbitration of Disputes between Carriers and Primary Care and Chronic Care Management Providers. The Regulation implements that portion of Senate Bill 227 (as amended by Senate Amendment No. 1 and House Amendment No. 1 as amended by House Amendment No. 1 to House Amendment No. 1 (collectively SB 227)) that requires the Department to “arbitrate disagreements regarding rates under this section” for which the parties involved in the dispute must pay, and to “adopt regulations to implement the requirements of this section no later than 90 days after the effective date of this Act.”

The Insurance Code at 18 **Del.C.** §333(g) and (h) also governs arbitration of disputes between carriers and providers, providing that:

- The Commissioner shall establish a schedule of fees for arbitration, which shall not exceed \$100 per arbitration;
- The arbitrator may award to the health-care provider the cost of filing the arbitration if the health-care provider should prevail;
- The cost of arbitration shall be payable to the Department of Insurance, and shall be maintained in a special fund identified as the “Arbitration Fund,” which shall remain separate and segregated from the General Fund; and
- The compensation paid to the arbitrator shall be payable from the Arbitration Fund.

Regulation 1319 at subsection 4.7.1 does not track the requirements of 18 **Del.C.** §333(g) and (h). Rather, it provides that the arbitrator may charge the parties the cost of the arbitration, which the arbitrator may bill at the arbitrator’s actual time spent and direct expenses incurred to conduct the arbitration and may allocate to each party a percentage of the arbitrator’s costs of conducting the arbitration. Accordingly, the Department proposes to strike this provision and to replace it with language that tracks 18 **Del.C.** §333(g) and (h).

The Department is also making grammatical changes as warranted.

The Delaware Code authority for the proposed amendments is 18 **Del.C.** §§311, 3342B, and 3556A and 29 **Del.C.** §10115.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed new regulation. Any written submission in response to this notice and relevant to the proposed new regulation must be received by the Department of Insurance no later than 4:30 p.m., June 1, 2020 by mailing to:

Delaware Department of Insurance
Attn.: Leslie W. Ledogar, Esq., Regulatory Specialist
Docket No. 4303-2020
1351 West North St., Ste. 101
Dover, DE 19904
Comments may also be emailed to leslie.ledogar@delaware.gov.

The Department does not plan to hold a public hearing on the proposed amendments to Regulation 1319. The proposed amendments to Regulation 1319 appear below and can also be viewed on the Department’s website at <http://insurance.delaware.gov/information/proposedregs/>.
