

## DEPARTMENT OF AGRICULTURE

### THOROUGHBRED RACING COMMISSION

#### PUBLIC NOTICE

#### 1001 Thoroughbred Racing Rules and Regulations

The Thoroughbred Racing Commission proposes to amend its Regulations adopted in accordance with Title 3, Chapter 101. The purpose of the amended regulations is to amend rule 15 to add new Rule 15.25 relating to the adoption by reference of the ARCI definition of the responsible person for an adverse finding in an out-of-competition test, new Rule 15.26 relating to the adoption by reference of the ARCI requirement for trainers to keep up-to-date records of all medications and treatments administered and to maintain 30-day records documenting all corticosteroid or other intra-articular injections to horses in their care, and new Rule 15.27 relating to the adoption by reference of the ARCI requirement for any veterinarian who treats a race horse on Commission grounds to submit a Veterinarian's Medication Report to the Commission Veterinarian. Other regulations issued by the Thoroughbred Racing Commission are not affected by this proposal. The Thoroughbred Racing Commission is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

A copy of the proposed regulations is being published in the June 1, 2018 edition of the Delaware *Register of Regulations*. A copy is also on file in the office of the Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml).

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Thoroughbred Racing Commission at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 Del.C. §10118(a), public comments must be received on or before July 2, 2018. Written materials submitted will be available for inspection at the above address.

On or after July 2, 2018, following review of the public comment, the Thoroughbred Racing Commission will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received.

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## DEPARTMENT OF EDUCATION

#### PUBLIC NOTICE

The State Board of Education will hold its monthly meeting on Thursday, June 21, 2018 at 5:00 p.m. in the Townsend Building, Dover, Delaware.

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## DEPARTMENT OF FINANCE

### OFFICE OF THE STATE LOTTERY

#### PUBLIC NOTICE

#### 205 Charitable Video Lottery Rules and Regulations

The Director of the Office of the Delaware State Lottery (Director) hereby gives notice of proposed new Delaware Charitable Video Lottery Regulations.

The Director seeks to adopt main rules of the Office of the Delaware State Lottery (29 Del. Admin. C. §205) to govern charitable gaming organizations and charitable gaming vendors. These rules are both substantive and procedural in nature and apply to the licensing process, appeals, duties and rights of charitable gaming organizations and charitable gaming vendors, and the required operating procedures of charitable gaming organizations and charitable gaming vendors. The rules also serve in part to clarify the intent of the Director as enacted through these regulations. These new rules should not pose additional burdens on licensees or consumers. The Delaware Code authority for these proposed regulations is 29 Del.C. §4819A and well as 29 Del.C. §§4805(a)(14), (a)(20), (a)(33) and (b)(14).

The Office of the Delaware State Lottery does not plan to hold a public hearing on the proposed rules. The proposed rules appear below. Members of the public may also request a copy of the proposed rules by visiting the Office of the Delaware State Lottery, 1575 McKee Road, Suite 102, Dover, Delaware 19904.

Any person may submit written comments, suggestions, or other materials regarding the proposed rules to the Office of the Delaware State Lottery at the same address noted above. Any written submission in response to this notice and the relevant proposed rules must be received by the Office of the Delaware State Lottery by no later than 4:30 p.m. (EST) on July 2, 2018.

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# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

### PUBLIC NOTICE

#### Home Health Services

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Home Health Services, specifically, *to add accreditation as an option to Medicare certification for Medicaid providers*.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to [Nicole.M.Cunningham@state.de.us](mailto:Nicole.M.Cunningham@state.de.us), or by fax to 302-255-4413 by 4:30 p.m. on July 2, 2018. Please identify in the subject line: **Home Health Services**.

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

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## DIVISION OF PUBLIC HEALTH

### PUBLIC NOTICE

#### 4465 Delaware Radiation Control Regulations

On June 1, 2018, the Department of Health and Social Services, Division of Public Health, Office of Radiation Control, plans to publish revised Regulations Governing Radiation Control and hold them out for public comment per Delaware law. The Authority on Radiation Protection is authorized to promulgate these regulations in 16 **Del.C.** §7406.

The Authority on Radiation Protection (ARP), with the Office of Radiation Control, Health Systems Protection Section, Division of Public Health, Department of Health and Social Services, is proposing to repeal and replace Parts F and H of the Delaware Radiation Control Regulations. Additional changes to formatting, numbering and definitions have been made throughout the regulations. The purpose of the amendments is to update the requirements so that they are in concert with current healthcare and industry standards, and to align them more closely with current state administrative code and federal requirements. The regulations will apply to any facility or person that receives, possesses, uses, transfers, sells, owns or acquires ionizing radiation sources, or provides radiation services to such radiation source facilities, or who administers machine-generated radiation to human patients in the healing arts.

A public hearing will be held on Tuesday, June 26, 2018 at 10:00 a.m. in the First Floor Conference Room, located in the Jesse Cooper Building, 417 Federal Street, Dover, Delaware.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulation should submit such comments by Monday, July 16, 2018 to:

Elisabeth Scheneman, Executive Assistant

Office of the Director

Delaware Division of Public Health

Jesse Cooper Building

417 Federal St.

Dover, DE 19901

Email: [elisabeth.scheneman@state.de.us](mailto:elisabeth.scheneman@state.de.us)

Fax: 302-739-3984

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# DEPARTMENT OF INSURANCE

## OFFICE OF THE COMMISSIONER

### PUBLIC NOTICE

#### 1318 Compensation for Chiropractic Services

At 21 DE Reg. 19 (July 1, 2017), the Department of Insurance (the Department) published a notice of its intent to codify proposed new Regulation 1318, Compensation for Chiropractic Services and solicited written comments from the public for thirty (30) days as mandated by 29 **Del.C.** § 10118(a). The Delaware Code authority for the proposed new regulation is 24

**Del.C. §716(c)** and **18 Del.C. §§102, 311 and 329.**

The Department received several timely submitted comments, copies of which are on file with the Department. In response to the comments received, the Department redrafted the proposed new regulation, and gave notice of its re-proposal at 21 DE Reg. 610 (February 1, 2018). The proposed new regulation as redrafted prohibits insurance carriers and third party administrators who are regulated by the Department from including in any insurance policy terms and conditions that unreasonably discriminate against access to chiropractic care or services. It also prohibits compensation of doctors of chiropractic that is unreasonable or discriminatory, as detailed in the proposed new regulation. Comments on the re-proposal were accepted until March 5, 2018. The Department did not hold a public hearing on the re-proposal.

The Department received comments on the re-proposal from two commenters, copies of which are on file with the Department.

In addition to several non-substantive changes to the text for consistency, the Department has determined to make four changes which are substantive in nature and therefore require the Department to solicit public comment pursuant to the Delaware Administrative Procedures Act.

First, the Department has determined to delete subsection 5.1.5.3, which prohibits an insurance carrier from including in any insurance policy, contract or certificate any provision that unreasonably discriminates against access to chiropractic care or services, including but not limited to "a provision that requires a patient who wishes to seek the care or services of a doctor of chiropractic to first obtain a referral or other approval from a health-care provider who is not a doctor of chiropractic." This subparagraph added unnecessary confusion to the regulation. Additionally, the concept of prohibiting unreasonable discrimination concerning access to care is already clearly set forth in subsection 5.1.

Second, the Department has determined to delete subsection 6.3, which prohibited carriers and third party administrators (TPAs) from utilizing "a cost containment or managed care strategy concerning reimbursement for chiropractic care or services, when any one of chiropractic, medical, osteopathic or pharmaceutical care would be a medically suitable treatment for a patient's particular condition and would otherwise be eligible for reimbursement." This subsection could arguably be considered contrary to the underlying statute at 24 **Del.C. §716(b)**, which states "nothing shall prevent the operation of reasonable and nondiscriminatory cost containment or managed care provisions . . . ."

Third, the Department has determined that subsections 5.2 and 6.3 address the same issue, which is the statutory provision at 24 **Del.C. §716(b)** that allows carriers and TPAs to implement reasonable and nondiscriminatory cost containment and managed care provisions. Accordingly, the Department is combining these two paragraphs into a new section 7.0 entitled "Reasonable and Nondiscriminatory Provisions."

Fourth, the Department has determined to change the effective date of the regulation. As proposed, Section 5.0 of this regulation would have become effective on or after January 1, 2019, for any policy newly written or renewed, while all other sections of the regulation would have become effective on or after the effective date of this regulation. The Department has determined to make the entire regulation effective on or after January 1, 2019.

The Department does not plan to hold a public hearing on the redrafted version of the proposed new regulation. The proposed new regulation appears below and may also be viewed at the Department's 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 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. EST, the 2<sup>nd</sup> day of July, 2018. Any such requests should be directed to:

Leslie W. Ledogar, Regulatory Specialist  
Delaware Department of Insurance  
841 Silver Lake Drive  
Dover, 19904  
(302) 674-7379  
Email: [Leslie.Ledogar@state.de.us](mailto:Leslie.Ledogar@state.de.us)

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## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### DIVISION OF AIR QUALITY

#### PUBLIC NOTICE

#### 1101 Definitions and Administrative Principles

The purpose of this action is to add three definitions in 7 **DE Admin. Code** 1101 needed for the new Source Category Permit "Removal of Lead-containing Coatings from Outdoor Water Tanks by Dry Abrasive Blasting"

There will be a hearing on this proposed amendment on July 12, 2018 beginning at 6pm at the Kent County Levy Court, 555 S. Bay Road, Room 220, Dover, DE 19901. Interested parties may present oral or written comments regarding the proposed changes at the public hearing or in writing to David Fees, Division of Air Quality, DNREC, State Street

**DIVISION OF AIR QUALITY**  
**PUBLIC NOTICE**  
**1102 Permits**

The purpose of this action is to revise 7 **DE Admin, Code** 1102, Section 15.0 "Outdoor painting and sand blasting equipment" of Appendix A to qualify that removal of lead-containing coatings from water tanks by dry abrasive blasting is no longer exempt from obtaining a permit.

There will be a hearing on this proposed amendment on July 12, 2018 beginning at 6pm at the Kent County Levy Court, 555 S. Bay Road, Room 220, Dover, DE 19901. Interested parties may present oral or written comments regarding the proposed changes at the public hearing or in writing to David Fees, Division of Air Quality, DNREC, State Street Commons, 100 West Water Street, Suite 6A, Dover, DE 19904, or by email to [david.fees@state.de.us](mailto:david.fees@state.de.us). The hearing record will remain open until July 27, 2018.

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**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**2600 EXAMINING BOARD OF PHYSICAL THERAPISTS AND ATHLETIC TRAINERS**  
**PUBLIC NOTICE**

Pursuant to 24 **Del.C.** §2604(a)(1), the Delaware Examining Board of Physical Therapists and Athletic Trainers ("Board") has proposed revisions to its rules and regulations.

Revisions to Section 7.0 modify the examination process for physical therapist and physical therapist assistant applicants. Specifically, subsection 7.3.1.3 gives the Board the discretion to identify a third-party as its authorized designee to approve applicants to sit for the examination. In addition, subsection 7.3.1.3.1 authorizes a physical therapist student or physical therapist assistant student to take the examination up to 90 days prior to graduation from a CAPTE accredited program.

A public hearing will be held on June 26, 2018 at 4:30 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments on the amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Examining Board of Physical Therapists and Athletic Trainers, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be July 11, 2018, which is 15 days following the public hearing. The Board will deliberate on all of the public comment at its regularly scheduled meeting, at which time it will determine whether to adopt the rules and regulations as proposed or make additional changes due to the public comment.

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**DEPARTMENT OF TRANSPORTATION**  
**DIVISION OF PLANNING AND POLICY**  
**PUBLIC NOTICE**  
**2309 Development Coordination Manual**

Pursuant to the authority provided by 17 **Del.C.** §§132(e), 507, and 508, as well as 29 **Del.C.** §8404(8), the Delaware Department of Transportation (DelDOT) adopted the Development Coordination Manual.

The Department, through its Division of Planning and Public Policy, seeks to adopt general revisions to its existing regulations, the Development Coordination Manual, to address procedural changes, add or modify technical requirements and clarify and amend design criteria. These collective changes are both technical and administrative in nature and serve in part to clarify the intent of the Department as enacted through these regulations.

DelDOT will take written comments on these proposed general revisions to Section 2309 of Title 2, Delaware Administrative Code, from June 1, 2018 through July 2, 2018. The public may submit their comments to:

Wendy Polasko, P.E., Process and Quality Control Engineer, Planning Development Coordination  
via email ([Wendy.Polasko@state.de.us](mailto:Wendy.Polasko@state.de.us)) or in writing to her attention,  
Division of Planning

Delaware Department of Transportation  
P.O. Box 778 Dover, DE 19903