



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: December 21, 2012

TO: Mr. Thomas Murray, Deputy Director
Division of Long Term Care Residents Protection

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 16 DE Reg. 595 [DLTCRP Proposed Assisted Living Facility Emergency Preparedness]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Long Term Care Residents Protection's (DLTCRP) proposal to revise its assisted living regulation to address emergency preparedness. The regulation was published as 16 DE Reg. 595 in the December 1, 2012 issue of the Register of Regulations. As background, the Division notes that the changes are motivated by circumstances encountered during and after Hurricane Irene in 2011 as well as input from the University of Delaware and a consulting firm. The regulation requires facilities to have two active, full-time employees who have completed specific FEMA training within a 24-month period. In addition, the regulation requires annual submission of a facility plan to the Division which conforms to a Division template. SCPD endorses the proposed regulation subject to three (3) amendments.

First, "Assisted living" should be substituted for "Nursing" in §18.1.

Second, §18.6.3 could be "renumbered" as §18.7. Section 18.6 is a sentence which requires facilities to submit a plan and certificates. Section 18.6.3 is another independent sentence which does not comport with the format and grammar in §18.6.

Third, §18.6 recites that "(e)ach facility shall submit with its annual license the "all hazards emergency plan" and documentation of FEMA training. Literally, the section is problematic since: 1) facilities do not "submit a license"; and 2) the requirement does not require submission of plans in connection with initial licenses. The assisted living facility "licensing requirements and procedures" regulation (16 DE Admin Code 3225, §4.0) requires facilities to comply with initial and renewal licensing standards codified at Title 16 Del.C. Ch. 11. Title 16 Del.C.

§1104(a) refers to an application for a license or renewal of a license and §1104(e) refers to an “annual renewal application”. Therefore, SCPD recommends amending §18.6 to read as follows:

Each facility shall submit with an application for a license and annual renewal of a license:

Finally, SCPD respectfully requests a copy of the “template” mentioned in §18.3. The Council may have additional recommendations to submit based on the content of the template.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations or recommendations on the proposed regulation.

cc: Mr. Brian Hartman, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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