



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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MEMORANDUM

DATE: June 24, 2013

TO: Ms. Deborah Harvey
Division of Public Health

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

RE: 16 DE Reg. 1255 [DPH Proposed Communicable and Other Disease Conditions Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Public Health's (DPH's) proposal to adopt a regulation to address changes prompted by Legislation (H.B. 403) which was enacted in 2012 to expand the role of DPH in disease control and reporting to specifically include long-term care facilities, freestanding surgical centers, dialysis centers, and psychiatric facilities. The proposed regulation was published as 16 DE Reg. 1255 in the June 1, 2013 issue of the Register of Regulations. SCPD has the following observations.

1. Section 7.6.1 does not conform to the Delaware Administrative Code Style Manual. In the context of definitions, Section 3.1.2 "provides the following guidance: immediately after the defined word or term, insert the word "means". Definitions compiled in §7.6.1 do not conform to this protocol. For example, the reference to "Department" is as follows:

"Department" The Department of Health and Social Services.

Inserting "means" would enhance the "readability" of the definitions.

2. In §7.6, definition of "CDC", the second sentence merits review for grammar. It recites as follows:

The CDC focuses national attention on developing and applying disease prevention and control (~~especially~~ infectious diseases) recommendations for chronic and infectious diseases,

environmental health, occupational safety and health, health promotion, prevention, and education activities designed to improve the health of people in the United States.

3. In §7.6, definition of “Freestanding surgical center”, the second sentence has 103 words with many subparts and inappropriate punctuation. It should be reformatted and reworded. See Delaware Administrative Code Style Manual, §6.2.4. The references to “, or;” merit revision. The reference to “and/or” should be converted to “or”. See Delaware Administrative Code Style Manual, §6.6.1.

4. In §7.6, definition of “Healthcare Facility”, substitute “other facility” for “other facilities”.

5. In §7.6, definition of “Psychiatric facility”, capitalize “facility” and substitute “persons with mental illness” for “mentally ill persons”. See Title 29 Del.C. §608.

6. There are multiple references to “and/or the AHRQ, to name a few”. See, e.g. §§7.6.5.2, 7.6.6.2, and 7.6.6.2. Consider substituting “or the AHRQ”. See Delaware Administrative Code Style Manual, §6.6.1.

7. Section 7.6.14 purports, by State regulation, to supersede contrary federal law. DPH ostensibly lacks the authority to supersede federal law by promulgation of a State regulation.

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: Dr. Karyl Rattay
Mr. Brian Hartman, Esq.
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