



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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January 28, 2013

Ms. Susan K. Haberstroh
Education Associate
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 16 DE Reg. 696 [DOE Proposed Administration of Medications & Treatments Regulation]

Dear Ms. Haberstroh:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to adopt a revised regulation covering medications and treatments. The proposed regulation was published as 16 DE Reg. 696 in the January 1, 2013 issue of the Register of Regulations. The "Synopsis of Subject Matter of the Regulation" provides the following overview:

The amendments include the addition of definitions, clarification of the process for the administration of medications and treatments, and also changes that reflect recent amendments to 24 Del.C. Section 1921(a)(17) relating to who may assist students with medications and when they may do so.

The latest legislation revising §1921(a)(17) is the S.B. 257 signed by the Governor on July 18, 2012. The regulation is comprehensive and SCPD has the following observations.

First, §1.2.1 requires the prescription medication to be provided to the school "in the original container". This requirement could present some practical problems if a medication must be supplied to more than 1 provider (e.g. school and after-school program). Moreover, the State criminal statute requiring that prescription medications be kept in an original container was repealed a few years ago. On the other hand, a pharmacy will generally provide a second labeled container on request. Moreover, providing the original container with label reduces prospects for medication errors. Therefore, SCPD does not object to the requirement. However, it would be preferable if schools alerted parents that they should obtain a second labeled container from the pharmacy when filling prescriptions. Many parents may be unaware of this option.

Second, in §3.0, insert a comma after the word "Treatments".

Third, in §5.1, the grammar is incorrect. At a minimum, the word “who” should be inserted between “employees” and “are”. However, since the statute does not “authorize” all educators and employees to assist with medication, SCPD recommends substituting “employees who qualify under 24 Del.C. §1921(a)(17) to assist a student...” This terminology is consistent with language used in §5.1.2.

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

Sincerely,



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

cc: The Honorable Mark Murphy
Dr. Teri Quinn Gray
Ms. Mary Ann Mieczkowski
Ms. Paula Fontello, Esq.
Ms. Terry Hickey, Esq.
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