



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
 MARGARET M. O'NEILL BUILDING
 410 FEDERAL STREET, SUITE 1
 DOVER, DE 19901

VOICE: (302) 739-3620
 TTY/TDD: (302) 739-3699
 FAX: (302) 739-6704

MEMORANDUM

DATE: May 31, 2011

TO: Ms. Deborah Harvey
 Division of Public Health

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

RE: 14 DE Reg. 1195 [DPH Pre-Hospital Advanced Health Care Directive 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 amend its regulations regarding *Pre-Hospital Advanced Care Directives* published as 14 DE Reg. 1195 in the May 1, 2011 issue of the Register of Regulations. The Division plans to develop a protocol and Web-published form in conjunction with stakeholders. EMS and other providers could readily identify the form. Although EMS providers would be required to honor the form, other providers "may choose to honor this form". At 1197. The form would include not only the patient's directive but also a physician "order" which DPH indicates is necessary for EMS personnel implementation if the form addresses end of life instructions. At 1196-1197. Subject to a "grandfather" provision, DPH expects the new "MOLST" forms to replace the current "PACD" forms. See §10.0. SCPD has the following observations.

First, SCPD recommends amending the title, definition in §1.0, and any other references to "advanced" by substituting "advance". See, e.g., Title 16 Del.C. §2501(a).

Second, in §1.0, the definitions of "Emergency Medical Services (EMS) Provider" and "Emergency Medical Services (EMS) Provider Agency" are repeated on pp. 1197 and 1198. The duplicate definitions on p. 1198 should be deleted.

Third, in §1.0, definition of "Health Care Decision", Par. 2, some words appear to have been

omitted. It reads: “Acceptance or refusal of diagnostic tests, surgical procedures, program of medication resuscitation; ...”

Fourth, in §3.3.1., DPH may wish to add a §3.3.1.2 to read as follows:

3.3.1.2. Permanent unconsciousness.

See Title 16 Del.C. §2501(r).

Fifth, in §1.0, definition of “permanent unconsciousness”, DPH may wish to consider whether it should explicitly incorporate a requirement that the diagnosis be from a neurologist or neurosurgeon. See Title 16 Del.C. §2501r.

Sixth, in §3.2, SCPD recommends substituting “e.g.” for “i.e.” since the parenthetical references are not exclusive but examples of communication.

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
Ms. Deborah Gottschalk
Mr. Brian Hartman, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

14reg1195 dph-care directive 5-31-11