



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: September 15, 2011

TO: Ms. Deborah Harvey
Division of Public Health

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities *Dmp/kit*

RE: 15 DE Reg. 211 [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) final regulations regarding *Pre-Hospital Advanced Care Directives* published as 15 DE Reg. 211 in the August 1, 2011 issue of the Register of Regulations. SCPD commented on the proposed version of this regulation in May, 2011. DPH has now adopted a final regulation incorporating several amendments prompted by the commentary. SCPD appreciates that the Division considered our comments and has the following observations.

First, the Councils suggested substituting "advance" for "advanced" in references to health care directives to conform to the statute. DPH responded that it was its intention to adopt the former term with one exception. Some references were therefore changed, including the definition of "Advance-~~(d)~~ Health Care Directive" in §1.0. There is a minor inconsistency in the heading of §5.0, *i.e.*, DPH intended to retain references to "Prehospital Advanced Care Directives" (p. 212) but revised this heading to read "Prehospital Advance Care Directive". Compare §5.1 (using term "Prehospital Advanced Care Directive").

Second, the Councils noted the repetition of a definition in §1.0. DPH responded that this error has been corrected in the final regulation.

Third, the Councils suggested that some words might have been omitted in the definition of "Health Care Decision". Literally, there is a reference to "medication resuscitation" which does not make sense. Individuals are not resuscitated from a medication. In its response (p. 212), DPH inserts a comma so the reference is to "programs of medication, resuscitation; and;". This makes sense. However, the actual text of the regulation omits the comma (p. 214) so it reads

“medication resuscitation”.

Fourth, the Councils suggested inserting a reference to “permanent unconsciousness” to conform to the statute. The Division added the reference in the final regulation.

Fifth, the Councils recommended substituting “e.g.” for “i.e.” in §3.2. DPH agreed and effected the revision.

Again, SCPD thanks the Division for considering our comments, but wanted to share the minor remaining errors identified above (“First” and “Third” paragraphs). Given the minor nature of the errors, the Division may wish to defer correction until the next overall revision of the regulation.

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

cc: Dr. Karyl Rattay
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Developmental Disabilities Council

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