



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: April 30, 2014

TO: Ms. Deborah Harvey
Division of Public Health

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

RE: 17 DE Reg. 961 [DPH Proposed Hospice Disposal of Medications 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 it "Delivery of Hospice Services regulation." As background, S.B. 119 was enacted in the summer of 2013. It requires the Department of Health & Social Services to establish standards for disposal of unused prescription medications following the death of an in-home hospice patient. DPH is now issuing this proposed regulation to implement the new law. The proposed regulation was published as 17 DE Reg. 961 in the April 1, 2014 issue of the Register of Regulations. SCPD has the following observations.

First, the proposed standards are comprehensive but only establish guidelines for hospice providers. Hospice agencies must adopt policies which conform to an outline rather than adhering to specific standards. For example, each hospice agency could adopt a different timetable for medication disposal (§A.2) and a different approach if there is evidence of missing unused prescription medication (§A.7). Reasonable persons could differ on whether this approach conforms to the statutory requirement of a "standardized protocol".

Second, there are some anomalies in punctuation. For example, there is no period at the end of §A.3.

Third, in §C.2.a, the word "was" should be substituted for "were" since the subject (documentation) is singular.

Fourth, §§B.1.b, B.2, C.2.b, and D1 have "odd" introductory symbols prior to subsections amounting to a bullet with a dash underneath. It's unclear what this symbol represents. If it is

intended to be construed as “and/or”, that term “should never be used”. See Delaware Administrative Code Drafting & Style Manual, §6.6. Moreover, the Delaware Administrative Code Drafting & Style Manual (§2.3.1; §2.4.2) only permits numeric subparts and disallows bullets. If numeric subparts were used, appropriate punctuation (currently absent from the subparts) could also be added. See Manual, Figure 2.2.

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

cc: Dr. Karyl Rattay
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Developmental Disabilities Council

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