



# DISABILITIES LAW PROGRAM

COMMUNITY LEGAL AID SOCIETY, INC.

100 W. 10th Street, Suite 801  
Wilmington, Delaware 19801  
(302) 575-0690 (TTY) (302) 575-0696 Fax (302) 575-0840  
www.declasi.org

## MEMORANDUM

To: SCPD Policy & Law Committee  
From: Laura J. Waterland  
Re: Recent Regulatory Initiatives and Legislation  
Date: March 13, 2018

Consistent with Council requests, I am providing an analysis of relevant proposed regulations appearing in the March 2018 issue of the Register of Regulations. There were no identified regulations, but there was one proposed regulation potentially impacting people with disabilities, as well as several final regulations that Councils commented on previously. As requested, I have also included a review of several newly introduced bills.

### Proposed Regulations

1. DDOJ Amending Victims Compensation Assistance Program Advisory Council Regulations on compensation rate for mental health services , [21 DE Reg. 678 , March 1, 2018]

DOJ proposes to amend regulations regarding the VCAP program in two ways. First, they are adding some requirements regarding supervision of unlicensed clinicians who are under weekly supervision of a licensed behavioral health professional. The current regulation allows for reimbursement of unlicensed mental health professionals who are under the direct supervision of a licensed professional. The proposed regulation specifies that the unlicensed professionals must meet at least weekly and supervision must be documented in a log that lists date, time and number of cases discussed. The log must be signed. The regulation makes clear that the supervisor assumes clinical responsibility for employees.

These guidelines help to ensure that providers of mental health services through VCAP are adequately supervised. Councils may wish to endorse this proposed regulation.

The second amendment adds clarifying language that payment for mental health services for victims who are Medicaid or Medicare recipients is limited to Medicaid or Medicare reimbursement rates. The regulation indicates that providers must accept VCAP payment as payment in full.

This amendment will have no financial impact on the victim receiving services; if the person is seeing a Medicaid provider, then there will be no balance billing. For all billers,

providers are obligated to accept VCAP payment as payment in full.

There is some concern that some providers who do not accept Medicaid or Medicare may be unwilling to accept lower payment rates, and therefore the pool of therapists and mental health providers may shrink if this regulation is enacted. As a practical matter, the regulatory change may limit Medicaid and Medicare recipients to providers who are paneled with Medicaid and Medicare, even though those providers are not their choice or have extensive wait times.

Councils may wish to inquire whether reducing the reimbursement rate for private providers to the Medicaid or Medicare rate will lead to fewer available providers for Medicaid and Medicare recipients, with longer wait times.

### **Final Regulations**

The following regulations of interest became final.

1. Delaware Health Care Claims Database Access, [21 DE Reg. 712 March 1, 2018].

Councils submitted comments in December, most of which were clerical. One more significant change was the addition of language that requires the notification of any violations of use agreements to any licensing body and, in the case of misuse of data, reporting to the Attorney General's Office.

2. DSS Disqualification of Individuals Convicted of Drug Related Offenses, [21 DE. Reg. 722 March 1, 2018].

Councils endorsed this regulatory change.

3. Department of Insurance Use of Credit Information, [21 DE Reg. 723 March 1, 2018].

Councils endorsed this regulatory change.

### **Proposed Bills**

#### **HB 326.**

HB 326 creates the Delaware Advance Scholarship Program. By way of background, the federal Higher Education Opportunity Act of 2008 authorized the creation of comprehensive transition and post-secondary programs ("CTP") for students with intellectual disabilities. This program was developed at the University of Delaware as a two year post-secondary certificate program (the CLSC program). This program had initial funding through the federal government, and students also used DDDS support, DVR support, and loans to pay for it. The federal funding ended a few years ago.

CTPs provide academic and independent living skills, and focus on employment readiness. The outcomes include students continuing on to further post-secondary education and

also more remunerative and fulfilling employment opportunities. Participants and the university as a whole benefit from the inclusive aspects of the program, which now, at UD, includes an integrated residential component.

This bill seeks to provide a funding stream similar to the SEEDS program to provide tuition support. The bill outlines a CTP consistent with federal guidelines. If the program meets these guidelines, then students can access federal financial assistance, such as Pell grants and other programs. Any state-funded school of higher learning can create a CTP.

There are a number of eligibility requirements (§3424A). Many of these requirements (such as no felony convictions) are tied to the federal law regarding eligibility for federal financial assistance. A student must have an intellectual disability and must have been eligible for services under IDEA or the person is eligible for DDS, and be under the age of 25. The student must be a state resident, be enrolled full time or have an accommodation for less than full time. The person must not have a felony conviction, have graduated with a certificate or a diploma and attend within two years of completion of high school. The person must apply for and accept all appropriate forms of financial aid, except for loans. While in the program, the statute imposes requirements regarding making progress and not having any felony convictions. The maximum duration for participation is three years.

There are exceptions to the rules regarding attending within two years of graduation and of obtaining a diploma or certificate for individuals who acquire their intellectual disability between the ages of 18 and 21, and for children who have been in foster care.

This bill provides an important path forward for certain students with intellectual disabilities to, like their peers, take advantage of post-secondary institutions in the state, to live in an integrated community and to progress their academic and independent living skills. The end result is more autonomy and better employment prospects. As these outcomes are wholly consistent with the goals and priorities of the respective Councils, I recommend that the Councils endorse this legislation.

## **HB 331**

House Bill No. 331, an act to amend Title 16 of the Delaware Code relating to benzodiazepine and non-benzodiazepine hypnotics, requires “[p]ractitioners to obtain consent from a minor’s parent or guardian prior to prescribing Benzodiazepine and Non-benzodiazepine Hypnotics drugs.” Benzodiazepines are classified as Schedule IV in the Controlled Substances Act.<sup>1</sup> Non-benzodiazepine hypnotics are C-IV controlled substances and cause less dependence and abuse potential than benzodiazepines.

Drugs that fall into the categories above are generally seen by agencies such as the DEA to have a high potential for abuse and dependence. The DEA says that “[a]buse is frequently associated with adolescents and young adults who take the drug orally or crush it up and snort it

---

<sup>1</sup> Benzodiazepines, Center for Substance Abuse Research, <http://www.cesar.umd.edu/cesar/drugs/benzos.asp#2> (last visited Mar 2, 2018).

to get high. Abuse is particularly high among heroin and cocaine abusers.”<sup>2</sup> It would stand to reason that House Bill 331 is trying to address issues of potential drug abuse, on the heels of the opioid pandemic.

One potential area of concern is that there is some argument that some older adolescents may have an independent right to refuse or consent to psychotropic medications. States vary in their practices as to requiring parental consent of older minors. For example, in New Mexico and New York, older minors can consent to medication under certain circumstances. In other states, such as California and Illinois, for example, minors cannot legally consent to psychotropic medication.

Under 16 Del. Code §5003(f)(3)(e), at least in the outpatient treatment context, while a minor between 14 and 18 can consent to treatment, they cannot consent to psychotropics. DSCYF policy is found in Delaware Children’s Department Policy #216. The Policy says that “it is expected that the child’s parent or legal guardian makes decisions regarding the use of psychotropic medication” and that “[a]ssent to taking medication should be obtained from children under age 18 in a developmentally appropriate way.” Assent includes a thorough discussion and obtaining acceptance of treatment by a minor.

There is some literature advocating that obtaining informed consent of an older minor who appears competent is required. They make the argument that “a minor’s desire to consent to, or refuse, psychotropic medication should trump his or her parents’ (or legal guardians’ wishes if the minor is found to be competent.”<sup>3</sup> It can be problematic when providers assume that parents should absolutely control the mental health treatment of their children. For instance, “a parent might merely desire to sedate his child or cure his behavioral issues, when in actuality, those issues are caused by disturbances at home or dysfunctions in the family.”<sup>4</sup>

The bill attempts to address one of the many gateways to opioid abuse that is currently plaguing Delaware. For that reason, I suggest that the Councils may wish to endorse the bill, with a suggestion that language be added requiring the consent of an older minor who appear competent.

---

<sup>2</sup> Benzodiazepines, DEA Drug Fact Sheet, [https://www.dea.gov/druginfo/drug\\_data\\_sheets/Benzodiazepines.pdf](https://www.dea.gov/druginfo/drug_data_sheets/Benzodiazepines.pdf) (last visited Mar 5, 2018).

<sup>3</sup> Alexa E. Craig (2015) “Diazepam Discord: A Competent Minor’s Constitutional Right to Seek and Refuse Psychotropic Medication,” *Journal of Legislation*: Vol. 41: Iss. 1, Article 3. Available at: <http://scholarship.law.nd.edu/jleg/vol41/iss1/3> (I have attached a copy of this document with this paper)

<sup>4</sup> Richard E. Redding, *Children’s Competence to Provide Informed Consent for Mental Health Treatment*, 50 WASH & LEE L. REV. 695, 700 (1993). See also Therese Powers, *Race for Perfection: Children’s Rights and Enhancement Drugs*, 13 J.L & HEALTH 141, 143 (1999) (arguing that “It may become impossible to differentiate ADHD from symptoms of a child’s social environment when a child is subjected to inadequate, disorganized, or chaotic environments.”).

# PROPOSED REGULATIONS

## 8.0 Separability

- 8.1 If any provision of this regulation shall be held invalid, the remainder of the regulation shall not be affected thereby.

## 9.0 Effective Date

- 9.1 This Regulation shall become effective 30 days after signature.

---

**DEPARTMENT OF JUSTICE**  
**VICTIMS' COMPENSATION ASSISTANCE PROGRAM ADVISORY COUNCIL**  
 Statutory Authority: 11 Delaware Code, Section 9006(7) (11 Del.C. §9006(7))  
 1 DE Admin. Code 301

**PUBLIC NOTICE**

**301 Victims' Compensation Assistance Program Rules and Regulations**

**Brief Synopsis of the Subject, Substance and Issues**

The Department of Justice Victims' Compensation Assistance Program (VCAP) proposes to add Rule 24.5 to help provide the agency with the assurance that the victims it serves are receiving appropriate care by appropriately supervised therapists. The VCAP Advisory Council determined that this was an appropriate balance to ensure that all victims are able to access mental health services and that if those mental health services are provided by unlicensed therapists, that those individuals are sufficiently supervised. VCAP further proposes to add Rule 29.4 regarding victims who have Medicaid or Medicare benefits. If the victim's chosen provider is not paneled with Medicaid or Medicare, VCAP will only pay the provider at the rate that Medicaid or Medicare would pay. A payment at this rate shall be payment in full. The VCAP Advisory Council determined that this enables VCAP to control costs and ensure that the victims it serves are able to see providers of their choice for their health or mental health care needs.

**NOTICE OF PUBLIC COMMENT**

Interested persons may submit comments in writing to Andrea Godfrey, Deputy Chief of Staff, Delaware Department of Justice, 820 N. French St., 6th Floor, Wilmington, DE or [andrea.godfrey@state.de.us](mailto:andrea.godfrey@state.de.us). The comment period will close on April 2, 2018.

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

[http://regulations.delaware.gov/register/march2018/proposed/21 DE Reg 678RFA 03-01-18.pdf](http://regulations.delaware.gov/register/march2018/proposed/21%20DE%20Reg%20678RFA%2003-01-18.pdf)

**301 Victims' Compensation Assistance Program Rules and Regulations**

*(Break in Continuity of Sections)*

## 24.0 Mental Health Practitioner Qualifications/Licensure

*(Break in Continuity Within Section)*

- 24.5 In order to receive payment from VCAP, any unlicensed clinician is required to participate in weekly supervision with a licensed behavioral health professional. Supervision must be documented in a Supervision Log which will be available for review by VCAP upon request. The Supervision Log shall contain the name of the employee receiving supervision and list the date, length and time of the supervisory session as well as the number of cases discussed. The licensed behavioral health professional must sign off to document the supervisory session occurred as reported. The licensed behavioral health professional assumes clinical responsibility for employees under their supervision.

The licensed behavioral health professional providing supervision to the unlicensed staff is also required to sign off on assessments, treatment plans and other clinical correspondence with VCAP completed by unlicensed staff under their supervision.

*(Break in Continuity of Sections)*

## 29.0 Payment of Mental Health Claims

*(Break in Continuity Within Section)*

- 29.4 If a victim has Medicaid or Medicare benefits, VCAP will pay the mental health provider at the rates established by Medicaid or Medicare regardless of whether the provider is paneled with Medicaid or Medicare. The provider shall accept VCAP's payment as payment in full, and may not attempt to collect from the victim or third parties any amount exceeding the amount of reimbursement made by VCAP.

\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:

301 Victims' Compensation Assistance Program Rules and Regulations

---

## DEPARTMENT OF SAFETY AND HOMELAND SECURITY

DIVISION OF STATE POLICE

### 1300 BOARD OF EXAMINERS OF PRIVATE INVESTIGATORS & PRIVATE SECURITY AGENCIES

Statutory Authority: 24 Delaware Code, Section 1305 (24 Del.C. §1305)

24 DE Admin. Code 1300

#### PUBLIC NOTICE

#### 1300 Board of Examiners of Private Investigators & Private Security Agencies

Notice is hereby given that the Board of Examiners of Private Investigators and Private Security Agencies, in accordance with 24 Del.C. Ch. 13 proposes to amend the following adopted rules in 24 DE Admin. Code 1300 Board of Examiners of Private Investigators and Private Security Agencies: Rule 3.0 Nightstick, PR24, Mace, Peppergas and Handcuffs; Rule 11.0 Personnel Rosters and Job Assignments. If you wish to view the complete Rules, contact Ms. Peggy Anderson at (302) 672-5304. Any persons wishing to present views may submit them in writing, by April 2, 2018, to Delaware State Police, Professional Licensing Section, P. O. Box 430, Dover, DE 19903. The Board will hold its quarterly meeting Thursday, April 12, 2018, 10:00am, at the Tatnall Building, 150 Martin Luther King, Jr. Boulevard South, Room 112, Dover, DE.

\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:

[http://regulations.delaware.gov/register/march2018/proposed/21 DE Reg 679RFA 03-01-18.pdf](http://regulations.delaware.gov/register/march2018/proposed/21%20DE%20Reg%20679RFA%2003-01-18.pdf)

#### 1300 Board of Examiners of Private Investigators & Private Security Agencies

*(Break in Continuity of Sections)*

#### 3.0 ~~Nightstick, Pr24, Mace, Peppergas and Handcuffs~~

- 3.1 ~~To carry the above weapons/items a security guard must have completed a training program on each and every weapon/item carried and all certifications must be on file in the Professional Licensing Section to be valid to carry/use. Under no circumstances would a person be permitted to carry any other type weapon/item, unless first approved by the Professional Licensing Section.~~

#### 3.2 ~~Weapon/Item Instructors~~

- 3.2.1 ~~All weapon/item instructors must be approved by the Professional Licensing Section before they are authorized to instruct or qualify individuals licensed under 24 Del.C. Ch. 13.~~



SPONSOR: Rep. K. Williams & Sen. Poore  
Reps. Baumbach, Jaques, Kowalko, Mitchell, M. Smith,  
Viola, Wilson; Sens. Bushweller, Deicollo, Henry,  
McDowell, Richardson, Sokoia, Walsh

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 326

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE DELAWARE ADVANCE  
SCHOLARSHIP PROGRAM.

1           WHEREAS, the Higher Education Opportunity Act of 2008 authorized comprehensive transition and  
2 postsecondary programs as a pathway to higher education for students with intellectual disabilities, who had historically  
3 been excluded from postsecondary education; and

4           WHEREAS, the Delaware Student Excellence Equals Degree Act, Subchapter XIV of Chapter 34 of Title 14 , and  
5 the Delaware State Inspire Scholarship Act, Subchapter XV of Chapter 34 of Title 14, provide tuition support for eligible  
6 Delaware students; and

7           WHEREAS, the General Assembly finds that providing the opportunity to attain a college credential can be an  
8 effective strategy for students with intellectual disabilities to successfully achieve competitive employment; and

9           WHEREAS, the General Assembly finds that providing the opportunity for Delaware students with intellectual  
10 disabilities to achieve a college credential will promote their economic self-sufficiency and result in demonstrable  
11 economic benefits to the State in the form of a more diverse, well-prepared workforce that is less reliant on government  
12 support; and

13           WHEREAS, Delaware students with intellectual disabilities who have the opportunity to pursue a college  
14 credential will be well prepared for full participation and greater independence in the community.

15           NOW, THEREFORE:

16           BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

17           Section 1. Amend Chapter 34, Title 14 of the Delaware Code by making deletions as shown by strike through and  
18 insertions as shown by underline as follows:

19           SUBCHAPTER XVI. THE DELAWARE ADVANCE SCHOLARSHIP ACT.

20           § 3421A. Purpose.

21 Under this subchapter, qualified, state-resident students with intellectual disabilities are eligible for grants to pay  
22 tuition at institutions of higher education in this State to pursue studies leading to a recognized credential. It is the intent  
23 and purpose of the General Assembly, through this subchapter, to help ensure that students with intellectual disabilities in  
24 this State have the same opportunities as their peers without disabilities to excel academically and pursue higher education  
25 regardless of financial circumstances. Therefore, payments under this program are grants, not loans.

26 § 3422A. Definitions.

27 As used in this subchapter:

28 (1) "Academic year" means the 3 consecutive academic semesters beginning with the fall semester.

29 (2) "Full-time" means a minimum of 24 credit hours or 300 clock hours in each academic year.

30 (3) "CTP Program" means a federally-approved comprehensive transition and postsecondary program, under  
31 34 CFR § 668.232, for students with intellectual disabilities that leads to a degree, certificate, non-degree, or non-  
32 certificate credential that, in accordance with 34 CFR § 668.231, meets all of the following:

33 a. Is offered by a participating institution.

34 b. Is delivered to students physically attending the institution.

35 c. Is designed to support students with intellectual disabilities who are seeking to continue academic,  
36 career and technical, and independent living instruction at an institution of higher education in order to prepare for  
37 gainful employment.

38 d. Includes an advising and curriculum structure.

39 e. Requires students with intellectual disabilities to have at least one-half of their participation in the  
40 program, as determined by the institution, focus on academic components through 1 or more of the following  
41 activities:

42 1. Taking credit-bearing courses with students without disabilities.

43 2. Auditing or otherwise participating in courses with students without disabilities for which the  
44 student does not receive regular academic credit.

45 3. Taking non-credit-bearing, non-degree courses with students without disabilities.

46 4. Participating in internships or work-based training in settings with individuals without disabilities.

47 f. Provides students with intellectual disabilities opportunities to participate in coursework and other  
48 activities with students without disabilities.

49 (4) "Institution" means the University of Delaware or another state-funded institution of higher education in  
50 this State that offers a CTP Program.

51 (5) "Student with an intellectual disability" means a student with a cognitive impairment characterized by  
52 significant limitations in cognitive functioning and adaptive behavior as expressed in conceptual, social, and practical  
53 adaptive skills who meets 1 or both of the following:

54 a. Is currently, or was formerly, eligible for special education and related services under the Individuals  
55 with Disabilities Education Act (IDEA), including a student who was determined eligible for special education or  
56 related services under the IDEA but was home-schooled or attended private school.

57 b. Is eligible for services from the Division of Developmental Disabilities Services.

58 § 3423A. Delaware Advance Scholarship Program; establishment; administration; report.

59 (a) This subchapter establishes the Delaware Advance Scholarship Program.

60 (b) An institution at which a student is enrolled or has sought admission shall administer this subchapter for the  
61 institution.

62 (c) An institution under subsection (b) of this section shall adopt rules and regulations as it deems necessary and  
63 proper for the administration of this subchapter.

64 (1) The institution may include in its rules and regulations an appeals process to grant exceptions to the  
65 eligibility requirements set forth in § 3424A of this title for applicants who are unable to attend classes in the fall  
66 semester immediately after graduation from high school due to a documented medical or mental condition.

67 (2)a. If an institution adopts an appeals process under paragraph (c)(1) of this section, the institution may offer  
68 an admission deferral of up to 1 calendar year in duration to a student who seeks to defers admission due to a  
69 documented medical or mental condition.

70 b. An institution may grant a student who was offered an admission deferral under paragraph (c)(2)a. of  
71 this section an additional admission deferral of up to 1 calendar year in duration if the student seeks the additional  
72 deferral due to a documented medical or mental condition.

73 (d) An institution shall annually report to the Controller General the number of students enrolled in the Delaware  
74 Advance Scholarship Program and the total amount of expenditures made under this subchapter.

75 § 3424A. Initial eligibility.

76 (a) A student must meet all of the following to be eligible to participate in the Delaware Advance Scholarship  
77 Program and to qualify for a grant to pay tuition by the State under this subchapter for the first semester or other academic  
78 unit of post-secondary enrollment at an institution:

79 (1) Be under 25 years of age.

80 (2) Be a student with an intellectual disability.

81 (3) Meet the state residency requirements in the institution's residency policy.

82 (4) Be enrolled at the institution on a full-time, credential-seeking basis or be seeking a credential through the  
83 institution's academic accommodation policy.

84 (5) Not have a felony conviction. The student must certify this fact. If the student is unable to so certify,  
85 whether due to minority or disability, the student's parent, legal guardian, or relative caregiver shall make this  
86 certification on the student's behalf.

87 (6) Have applied for all appropriate forms of financial aid for which the student is eligible including the  
88 Federal Pell Grant, financial aid programs administered by the Delaware Higher Education Office, and financial aid  
89 programs administered by the institution, and have accepted all such financial assistance offered or awarded to the  
90 student, except for loans.

91 (7) Have graduated from a public or nonpublic high school in this State with a certificate of completion or  
92 diploma as indicated on the student's official high school transcript.

93 (8) Meet the institution's admission standards.

94 (9) Be admitted and attend classes at the institution no later than 2 years after the student's completion of high  
95 school.

96 (b) An institution shall create and implement its own equivalency standards for paragraphs (a)(7) and (a)(9) of this  
97 section in establishing eligibility of home-schooled students of this State for grants under this subchapter.

98 (c) Notwithstanding other provisions of this subchapter, the provisions of paragraphs (a)(7) and (a)(9) of this  
99 section do not apply to any of the following:

100 (1) A student who is a resident of this State and who acquired an intellectual disability within the  
101 developmental period between the ages of 18 and 21.

102 (2) A student who has lived in foster care under the jurisdiction of the Department of Services for  
103 Children, Youth, and Their Families at any point between the ages of 16 and 18, whether placed within this State  
104 or outside the State.

105 § 3425A. Grant awards.

106 (a) An institution shall establish and implement its own procedures to award grants to students who meet the  
107 eligibility requirements of this subchapter, subject to appropriations for such purpose.

108 (b)(1) An institution's procedures under subsection (a) of this section must include a procedure to determine  
109 priority among students if the amount of grants requested by students who meet the eligibility requirements of this  
110 subchapter exceeds the appropriation.

111 (2) An institution's procedure under paragraph (b)(1) of this section may include consideration of financial  
112 need and academic achievement.

113 (c) An institution's grant awards may not exceed the available appropriation for each fiscal year.

114 (d) Beginning with the 2018 through 2019 academic year, an institution shall disburse its grant awards as follows:

115 (1) A student who meets the eligibility requirements of this subchapter and who is not receiving any other  
116 financial assistance specifically designated for tuition and other regularly assessed fees, not including loans, may  
117 receive a grant equal to the full amount of tuition charged by the institution.

118 (2) A student who meets the eligibility requirements of this subchapter and who is receiving other financial  
119 assistance specifically designated for tuition and other regularly assessed fees may receive a grant in the amount of the  
120 difference between the amount of tuition charged by the institution and the amount of the other financial assistance  
121 available to the student.

122 (3)a. If a student meets the eligibility requirements of this subchapter, an institution may renew a grant made  
123 under this subchapter.

124 b. Notwithstanding paragraph (d)(3)a. of this section, the total amount of grants awarded under this  
125 subchapter to a student over the course of a student's education may not exceed the total amount of grants awarded  
126 to a student under Subchapter XIV, Chapter 34 of this title over the course of that student's education.

127 (e) If, as a result of applying for federal and state student financial aid, or through other means, it becomes  
128 apparent that deliberate fraud was involved in the application process, the institution may reevaluate the student's eligibility  
129 for grant assistance, and may withdraw a grant award. The State may recover a grant award made as the result of deliberate  
130 fraud through an action at law.

131 (f) A student may not use grants awarded under this subchapter for courses or other post-secondary units repeated  
132 or taken in excess of the requirements for completion of the program credential.

133 § 3426A. Maintaining eligibility.

134 (a) A student must meet all of the following to maintain eligibility for grants under this subchapter once enrolled at  
135 an institution:

136 (1) Make steady academic progress toward a credential, earning not less than the minimum number of clock  
137 or credit hours required for full-time standing in each academic year.

138 (2) Maintain continuous enrollment for not less than 2 semesters in each successive academic year, unless  
139 granted an exception for cause by the institution.

140 (3) Maintain satisfactory academic progress in accordance with the institution's financial aid policy, unless  
141 granted an exception for cause by the institution.

142 (4) Not have a felony conviction. The student must certify this fact. If the student is unable to so certify,  
143 whether due to minority or disability, the student's parent, legal guardian, or relative caregiver shall make this  
144 certification on the student's behalf.

145 (b)(1) A student who meets the eligibility requirements of this subchapter may participate in the Delaware  
146 Advance Scholarship Program for a period not to exceed 6 continuous semesters, not including any summer semester.

147 (2) Notwithstanding paragraph (b)(1) of this section, a student may not take more than 5 years to attain a  
148 credential.

149 (c) Notwithstanding other provisions of this subchapter, subsection (b) of this section does not apply to any of the  
150 following:

151 (1) A student who is a resident of this State and who acquired an intellectual disability within the  
152 developmental period between the ages of 18 and 21.

153 (2) A student who has lived in foster care under the jurisdiction of the Department of Services for Children,  
154 Youth, and Their Families at any point between the ages of 16 and 18, whether placed within this State or outside the  
155 State.

156 § 3427A. Disbursement.

157 (a) Funds awarded under this subchapter are to be disbursed on a semester by semester basis upon receipt of  
158 enrollment verification.

159 (b) A disbursement of funds on behalf of a student under this subchapter may not exceed the tuition charged by the  
160 institution at which the student is enrolled.

161 § 3428A. Additional responsibilities.

162 (a) An institution participating in the Delaware Advance Scholarship Program shall develop, promote, and  
163 coordinate a public awareness program to inform students and parents of the Delaware Advance Scholarship Program.

164 (b) The Department of Education shall ensure that every school district, and each charter and nonpublic high  
165 school, designates at least one Delaware Advance Scholarship Program contact person, who must be a counselor, teacher,  
166 or transition coordinator at each high school in this State.

SYNOPSIS

This Act creates the Delaware Advance Scholarship Program ("Program"). The goal of this Act is to encourage Delaware students with intellectual disabilities to pursue studies for a comprehensive certificate or degree at a Delaware institution of higher education in order to promote economic self-sufficiency. This will result in an economic benefit to the

State in the form of a more diverse, well-prepared workforce that is less reliant on government support. This Act follows the Higher Education Opportunities Act of 2008, which authorizes comprehensive transition and post-secondary programs as a pathway to higher education for students with intellectual disabilities. The Program will be effective beginning in the 2018 through 2019 academic year.



SPONSOR: Rep. Kowalko & Sen. Henry & Sen. Walsh  
Reps. Keeley, Mitchell, Paradee, K. Williams; Sen.  
Bushweller

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 331

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO BENZODIAZEPINE AND NON-BENZODIAZEPINE HYPNOTICS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 4701, Title 16 of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underline as follows and redesignating accordingly:

3 § 4701. Definitions

4 As used in this chapter:

5 (6) "Benzodiazepine" means any substance or drug which contains a benzene ring fused to a 7 member diazepine  
6 ring, results in the depression of the central nervous system and is primarily intended to treat insomnia, convulsions and  
7 anxiety, and used for muscle relaxation and pre-operation treatment including alprazolam, clonazepam, diazepam,  
8 lorazepam, and temazepam.

9 (29) "Non-benzodiazepine hypnotic" means any substance or drug which produces effects similar to that of a  
10 benzodiazepine and is primarily intended to treat insomnia, including zaleplon, zopiclone, and zolpidem.

11 (47) "Secretary" means Secretary of the Department of State or the Secretary's designee in paragraph (19) of this  
12 section; §§ 4711; 4713; 4715; 4717; 4718(1); 4719; 4720(c); 4721; 4731; 4732; 4733; 4734(a) and (b); 4735 (b), (c) and (d);  
13 4736(a) and (b); 4737; 4738; 4739(b); 4762(e)(2); 4781(1); 4782; 4783(b); 4785; 4786; 4787(b), (c), (d), (e) and 4791(d) of  
14 this title.

15 "Secretary" means Secretary of the ~~Department of Safety and Homeland Security~~ Department of Health and Social  
16 Services of the State or the Secretary's designee in §§ 4740; 4740B; 4781(2), (3) and (4); 4783(a) and (c); 4784; and  
17 4787(a) of this title.

18 Section 2. Amend Subchapter III, Chapter 47, Title 16 of the Delaware Code by making deletions as shown by  
19 strike through and insertions as shown by underline as follows and redesignating accordingly:

20 § 4740B. Use, Distribution and Education of Benzodiazepine and Non-benzodiazepine Hypnotics.

21 (a) Obligations of the Secretary:

22           (1) The Secretary shall produce and distribute either in written or electronic form to pharmacies, not including  
23 institutional pharmacies, pamphlets for consumers relative to benzodiazepines and non-benzodiazepine hypnotics that  
24 includes educational information about: (i) misuse and abuse by adults and children; (ii) risk of dependency and addiction;  
25 (iii) proper storage and disposal; (iv) addiction support and treatment resources; and (v) a telephone helpline. A pharmacist  
26 shall distribute the pamphlet when dispensing a benzodiazepines or a non-benzodiazepine hypnotic.

27           (b) Duties of Practitioners:

28           (1) No practitioner shall prescribe a benzodiazepine or a non-benzodiazepine hypnotic to a minor without first  
29 obtaining a parent or guardian's written informed consent. The Secretary shall prescribe a form for physicians to use in  
30 obtaining such consent. The form shall be written in a manner designed to permit a person unfamiliar with medical  
31 terminology to understand its purpose and content, and shall include the following information: (i) misuse and abuse by  
32 adults and children; (ii) risk of dependency and addiction; (iii) possible life threatening risks of minors using the drug for  
33 the first time; and (iv) risks associated with long-term use of drugs.

#### SYNOPSIS

This bill creates regulations concerning the use, distribution and education of Benzodiazepine and Non-benzodiazepine Hypnotics. It require Practitioners to obtain consent from a minor's parent or guardian prior to prescribing these drugs, and require pharmacist to include a cautionary statement explaining the risks associated with the long term use of these drugs.