

November 30, 2015

Jamie Mack
Division of Public Health
417 Federal Street
Dover, DE 19901

RE: DPH Proposed Skilled Home Health Agency Licensure Regulations [19 DE Reg. 391 (November 1, 2015)]

Dear Mr. Mack:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Division of Public Health proposal to revise its skilled home health care agency regulations in order to comply with House Bill No. 107. This recently enacted legislation removes a ban on the provision of home health agency services in hospitals and nursing facilities.

Council would like to share the following observation on the proposed regulations.

In §1.0, definition of "Home Health Agency (HHA)", the second sentence reads as follows: "The HHA shall only provide services in the county in which the HHA is located and/or the county(ies) which are immediately adjacent." This new limitation may be ill-conceived. An HHA "located" in Kent County could serve the entire State. However, an Agency "located" in New Castle County (NCC) could not serve clients in Sussex and an Agency "located" in Sussex could not serve clients in NCC. The rationale for this change is not provided. The term "located" is not defined. It is not based on statute. See 16 Del.C. §122(3)o. Delaware is a small state and the limitation may unnecessarily restrict residents' choice of providers.

Incidentally, inclusion of this limitation in a definition violates Section 4.3 of the Delaware Administrative Code Style Manual since it creates a substantive standard in a definition.

Thank you for your consideration of our observations. If you have any questions, please contact me or Wendy Strauss at the GACEC office.

Sincerely,

Robert D. Overmiller
Chairperson

RDO:kpc