



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
302-739-4553 (voice) 302-739-6126 (fax) <http://www.gacec.delaware.gov>

April 29, 2019

Renee Purzycki
Delaware Health and Social Services
Division of Health Care Quality
3 Mill Road, Suite 308
Wilmington, DE 19806

RE: DHSS/DHCQ Proposed Intensive Behavioral Support and Educational Residence Regulation [22 DE Reg. 839 (April 1, 2019)]

Dear Ms. Purzycki:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Health and Social Services (DHSS)/Division of Health Care Quality (DHCQ) proposal to amend the Intensive Behavioral Support and Educational Residence (IBSER) regulations in their entirety. The proposed amendments provide more specificity and clarity to the DHCQ requirements for IBSEs, as well as additional language emphasizing behavioral interventions should be individualized; therefore, Council **endorses** the proposed amendments. However, we would like to share the following observations and questions.

First, section 2.1.1.3.1 mentions "...substantial compliance..." Council queries the meaning of this term.

Second, section 2.1.2.2 on Suspension or Revocation of License and 2.1.3 Imposition of Disciplinary Action list two different timeframes for actions to be taken (10 days vs. 20 days). Council considers suspension or revocation of licenses to be disciplinary actions and questions the use of two different timeframes. Are there other disciplinary actions besides suspending or revoking licenses?

Third, section 2.1.7, what is meant by the phrase "...readily available..."?

Fourth, in section 2.3.3, Council notes that the list of items to be submitted for an initial license does not include a listing of all owners, funding sources or proof of background checks. Can this information be found in a different location?

Fifth, in section 3.2.10, Council would suggest a definition for “funds” as the proposed wording might be too broad. It is not clear on the types of funds (cash on hand, bank accounts, etc.) or if there are any limits.

Sixth, sections 4.5.4 and 4.7 discuss plumbing and electrical code requirements. Plumbing has to meet the requirements of municipal or county codes unless there are no local codes then it must meet the state Sanitary Plumbing Code (4.5.4) but electric has to meet all municipal, county and State requirements. Council would suggest adding State in the plumbing requirements for consistency.

Seventh, section 4.10.8 states that bedrooms must have “...adequate electrical outlets which are conveniently located.” The number of outlets is dictated by Electrical Code and should be the standard.

Eighth, in section 5.8, Council suggests adding “...or discovery” after “...occurrence...” in first sentence.

Ninth, Council questions who performs the physical examination in section 8.6.9.11.

Tenth, in section 8.8, no description is provided on the membership of the Behavior Management Committee (BMC) unlike the list of participants on the Human Rights Committee (HRC) in 8.7. Council would suggest more information on the BMC for consistency.

Finally, in section 9.5 the proposed regulations increase the minimum number of hours of orientation training for new hires and volunteers from 15 hours (found at 14.1 in existing regulations) to 40 hours. This makes sense given the challenges presented in the provision of individualized services in this type of setting. The proposed regulations also set a uniform requirement for 40 hours of additional training annually regardless of an employee’s position, whereas currently there are different requirements for staff based on how many hours they are working per week. While generally more training for staff is a positive, it is possible that part-time staff could find these training requirements burdensome, and staff retention is always a major concern.

Thank you for your consideration of our endorsement. Please contact me or Wendy Strauss at the GACEC office if you have any questions.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc