



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>

May 31, 2022

Division of Public Health
417 Federal Street
Dover, DE 19901

RE: 25 DE Reg. 1006 [DPH Proposed Revision of Childhood Lead Poisoning Prevention Act Regulations (May 1, 2022)]

To Whom It May Concern:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Division of Public Health proposal to revise regulations governing the Childhood Lead Poisoning Prevention Act for Children between the ages of 22 and 26 months. This revision is required by House Bill No. 222 as amended by House Amendment 1. The proposed amendments will rename the regulation to remove outdated references, update and add new definitions, update requirements for blood lead testing and make technical corrections. The GACEC **supports** the proposed revisions and would like to share the following observations and recommendations.

The amendments revise standards to correspond with updated guidance on blood lead levels from the Center for Disease Control and Prevention (CDC) and expands the number of children who will be tested for lead. Hopefully this will lead to necessary interventions for more children who have been exposed to lead and more accurate data about lead exposure in Delaware. However, Council notes that there are elements in the bill that are ambiguous or do not clearly align with CDC guidance or other state regulations.

First, Council recommends that the terminology used in the proposed revisions be modified to be consistent and correspond to the terminology used by the CDC. The proposed revisions include three different terms to refer to the same metric of 3.5 micrograms per deciliter of lead. The definitions include:

- "Blood lead level of concern" is defined as "a concentration of lead in whole venous blood greater than or equal to 3.5 micrograms per deciliter in a child younger than six years old. Blood Lead Level of Concern shall be used for surveillance and outreach for children at risk of lead poisoning."

- "Elevated blood lead level" is defined as "an elevated blood lead level defined by the Division of Public Health to be potentially detrimental to the health, behavioral development, or cognitive potential of a child.
- "Reference level" "is defined as the revised blood lead reference level as determined by the Centers for Disease Control and Prevention."

Second, "Level of concern" is the antiquated term no longer used by the CDC. "Reference value" is the current term used by the CDC. As of 2021, the CDC "reference value" is the 3.5 microgram per deciliter level, and the level at which the CDC recommends reporting of test results and additional interventions. Council recommends that the proposed revisions only include the term "reference value," which should correspond with the current CDC definition (and which should be amended if the CDC changes its this value). The definition of "reference value" should include the former terminology now covered by this term.

Third, Council recommends that definitions in this section of the Code provide more clarity about the differences between capillary and venous blood testing and clarify when a venous blood test should be administered. According to CDC recommendations:

"...healthcare providers may use a capillary or venous sample for initial BLL screening. If the capillary results are equal to or greater than CDC's Blood Lead Reference Value (BLRV), providers should collect a venous sample. If a venous sample was taken during the initial screening test, skip to Confirmed Venous Blood Lead Level."

The current revised language defines "blood test" to include both capillary and venous testing and defines both type of testing. However, the definitions of "capillary" and "venous" testing in the revised language do not include information about the accuracy of testing and do not reflect the CDC's guidance that the venous test should be used to confirm a finding using a capillary test (although that information is incorporated in the requirements for primary health care providers as noted below).

Fourth, Council also recommends modifying or eliminating other distinctions between primary care and other health care providers in this proposed language. Currently, the proposed requirements about lead testing at different early childhood milestones only apply to primary care providers. The proposed revisions only state that, "a health care provider giving non-primary care to a child may, but is not required to, administer a blood test for lead, even if a blood test for lead is not medically indicated." This may mean that children who are not connected with a primary care provider may go longer without getting blood lead level testing. The language could be revised to clarify or identify the circumstances when a non-primary care provider would be required to test a child for lead who previously has not been tested.

Fifth, the proposed revisions only require primary care providers who have administered a capillary blood lead level test to follow up with a venous blood test if initial results indicate blood lead levels at the reference level or higher. If a patient had a capillary blood level test administered by a non-primary care provider, and that test indicated blood lead levels at the reference level or higher, there would be no required venous blood testing to confirm lead levels as there would be if the test was administered by a primary care provider. Council recommends that the proposed language make guidance consistent across healthcare providers or include alternative provisions to ensure all appropriate CDC-recommended testing occurs, regardless of what type of provider administers the initial test.

The proposed revisions include proof of documentation of lead testing requirements prior to childcare or school enrollment (10.0). These requirements are more nuanced and deviate slightly from the corresponding Office of Child Care Licensing (OCCL) regulations regarding the proof of documentation of lead testing.

OCCL's regulations only require that for a child over 12 months of age, there must be a proof of blood lead test within one month of starting care as part of mandatory health appraisal (unless "federal or State laws, such as specified in the McKinney-Vento Homeless Assistance Act, require the center to admit a child without one"). OCCL requires health appraisals to be updated every 13 months (although it is unclear if that would require a new blood test).

In contrast, the proposed revisions to the Code in this section specify:

10.2 Except in the case of enrollment in kindergarten, the screening may be done within 60 calendar days of the date of enrollment.

10.3 A child's parent or guardian must provide one of the following to the administrator of a childcare facility, public or private nursery school, preschool, or kindergarten:

10.3.1 A statement from the child's primary health care provider that the child has received a blood test (screening) for lead poisoning;

10.3.2 A certificate signed by the parent or guardian stating that the blood test (screening) is contrary to the parent's or guardian's religious beliefs;

or 10.3.3 Certified documentation of the child's blood lead analysis, as specified in this regulation, administered in connection with the 12-month visit and 24-month visit to the child's health care provider not later than;

- 10.3.3.1 30 calendar days from the 12-month visit or 24-month visit;
- or 10.3.3.2 30 calendar days from first entry into the program or system.

These sections could create confusion with OCCL regulations about when lead testing documentation needs to be provided to a daycare center. Section 10.2 of this section (stating that a blood test can occur within 60 days of enrollment) would seem to deviate from the OCCL requirement that documentation of lead testing be provided within a month of enrollment as part of the mandatory health appraisal for children over 12 months. From this proposed language, it is also unclear what the timeline is for providing proof of documentation of lead testing if it was not taken in connection with a 12-month visit and 24-month visit, which also possibly contradicts the OCCL requirements to provide documentation within a month of enrolling. Further, this proposed language only includes a religious exemption, whereas the OCCL exemption policy is inclusive of any state or federal law, which exempt a child from lead testing documentation.

Proposed language in this section also details which testing records need to be provided if multiple tests have been administered. There are no such specifications in OCCL's regulations, apart from the need to update the health appraisal every 13 months (without identifying whether that includes updated lead testing).

Finally, Council recommends that the revised language incorporate the CDC's recommended interventions when testing reveals blood lead levels at different metrics. Currently, the revised language does not include any further interventions beyond reporting for medical providers, public health and environmental agency officials, or housing providers. The CDC, meanwhile, outlines various recommended interventions at different blood lead levels (see: <https://www.cdc.gov/nceh/lead/advisory/acclpp/actions-blls.htm>). These interventions range from obtaining an environmental exposure history, arranging for an environmental investigation of the home or other sources of lead, providing family education, and providing an spectrum of medical services ranging from monitoring for iron deficiency and development for lower lead blood levels above the reference level to performing an abdominal X-ray, initiating bowel decontamination, admitting to a hospital, and consulting with poison control and/or a medical toxicologist for higher lead blood levels.

Thank you for your time and consideration of our support and recommendations. Please feel free to contact Pam Weir or me should you have any questions.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc