



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
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February 28, 2023

Division of Public Health
417 Federal Street
Dover, DE 19901

RE: 26 DE Reg. 677 [DPH Proposed Childhood Lead Poisoning Testing Regulations (February 1, 2023)]

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 The proposed amendments will rename the regulation to remove outdated references, update and add new definitions, update requirements for blood lead testing and make technical corrections.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 supported the earlier regulations published in July 2022 and **supports** these proposed revisions. However, we would also like to share the following observations and recommendations.

Council supports the proposed changes, as they greatly increase the opportunities to screen for lead, and remove subjective determinations of "high/low risk" as barriers to testing. However, Council would like to recommend more clarity about circumstances when a child is tested between 9 and 13 months of age and whether/ when they needed to be tested again to count as a 12-month test for purposes of child care or school lead testing documentation requirements.

The proposed regulations clarify when a capillary or venous lead blood test is appropriate. In the new proposed definitions, the regulations distinctly define "screening" as a capillary blood test and "testing" as a venous blood test. Under these new proposed regulations, "[a] health care provider shall administer or order a blood test for lead, by venous methodology, if the results of capillary screening indicate blood lead level result greater than or equal to the reference level in a child younger than 6 years old." The new proposed regulations ensure that "reference level" is defined as "the current blood lead reference level as determined by the Centers for Disease Control and Prevention." Council supports these proposed changes because they clarify blood-testing requirements and ensure that the process is standardized and adequately sensitive testing is used to confirm blood lead levels.

The proposed regulation states that “A certificate of blood lead testing exemption for religious *beliefs* shall be signed and dated by the child’s parent or guardian, notarized, and kept in the child’s medical chart.” Previously, the regulations allowed an exemption for religious “reasons” rather than “beliefs.” Council believes it would be useful to have “beliefs” defined, particularly because the drafters of the new proposed regulations indicate that “beliefs” are distinct from “reasons.” Additionally, regulations regarding childcare and school requirements for lead testing documentation should align with any new regulations.

The proposed regulations provide detailed information about the data that must accompany a blood test from the doctor’s office to the lab. The proposed regulations also specify that in addition to reporting blood lead level tests to the health care provider and the Division of Public Health, the results should be reported to “[a]nother entity as required by State, federal, or local statutes or regulations, or in accordance with accepted standards of practice.” Council supports these new requirements that help ensure that lab tests are properly stored, tested, and reported. However, we would also like to recommend additional discussion and proposed regulations concerning data privacy and data sharing between agencies. It is somewhat concerning that the language surrounding data sharing with other entities is left ambiguous in these proposed regulations. While there may be benefits to data sharing to ensure provision of services, child and parent privacy is a critical issue.

As noted earlier, clarification about earlier testing and whether it counts toward the 12-month visit testing for school/ childcare reporting purposes would be appreciated. Additionally, Council recommends additional clarity and consistency between childcare regulations and Division of Public Health regarding when a test needs to be on file. In this proposed regulation, “the blood test may be done within 60 calendar days of enrollment” but “certified documentation of the child’s blood lead analysis... in connections with the 12-month visit and 24-month visit” shall be provided no later than “30 days from the 12-month visit or 24-month visit” or “30 calendar days from first entry into the program or system.” While this accounts for different ages of young children entering day care or school settings and different timelines for routine check-ups, clearer language regarding timelines for reporting (possibly broken down by age group) may assist childcare settings and parents in ensuring they are compliant.

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