



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
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November 27, 2023

Division of Public Health
417 Federal Street
Dover, DE 19901

RE: 27 DE Reg. 315 [DHSS/DPH Proposed Childhood Lead Poisoning Prevention Act Regulations (November 1, 2023)]

To Whom It May Concern:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Health and Social Services (DHSS)/Division of Public Health (DPH) proposal to "establish standards for blood lead level screening and testing of children between 12 and 24 months of age." Council notes that the majority of what is published in this proposal has already been adopted as a final regulation as of August 1, 2023. This includes the requirement for blood testing, the frequency of that testing, religious exemption and reporting requirements. There is only one substantive change in the proposal: DPH's investigation and reporting obligations.

First in terms of privacy, it is important to note that lead exposure data has recently stirred controversy. See e.g., <https://newjerseymonitor.com/2022/07/13/newborn-screening-program-used-to-aid-criminal-investigation-public-defender-says/>. Presently, this regulation addresses that documents will be confidential but it does not address sample retention, nor safeguard this information from potential subpoenas such as what was utilized in the New Jersey news article. Council would like to request additional information on DPH's policy with respect to storage and destruction of blood samples; information that could identify sensitive genetic and health information, and steps DPH takes to safeguard samples from uses not contemplated by the lead poisoning law.

Most importantly, however, is the 60-day timeline for investigation. Although once the site of lead exposure is definitively identified, DPH's next steps must be within 10 days, DPH has 60 days to get to the point of triggering the 10-day timeline (note: this is consistent with 16 Del. C. § 2610). If a child is still at risk of exposure in their current home, such a lengthy timeline can prolong and increase the lead exposure the child faces, which can have long-term health implications and increase the potential for disability. For information about environmental lead exposure and impact on children's health, see: <https://www.yalemedicine.org/conditions/lead-poisoning-in-children> and <https://www.cdc.gov/nceh/features/leadpoisoning/index.html>. Considering the potential impact, and compounding risk of continued exposure, it is confusing why this time-period is so long.

Council would recommend that DPH adopt a triaged/staggered approach to findings of elevated blood lead levels depending on the magnitude of the elevation. For example, when lead levels are very high this could prompt an immediate referral to DPH, whereas mildly elevated levels could be triaged differently and notification could be delayed to DPH while the primary care provider and other state supports are initiated to support the child and family.

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

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc