



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
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February 29, 2024

Jennifer Witte, Administrator
Delaware Board of Dentistry and Dental Hygiene
Cannon Building
861 Silver Lake Blvd
Dover, DE 19904

**RE: 27 DE Reg. 584 [Delaware Board of Dentistry and Dental Hygiene Regulation
(February 1, 2024)]**

Dear Ms. Witte:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Board of Dentistry and Dental Hygiene proposed regulations. The proposed amendments will revise its regulations to clarify that limited licensees are subject to general supervision while training and eliminate redundancies in supervision. Council would like to share the following observations on the proposed changes and provide information about the benefits of the inclusion of two credit hours of accessibility training for dental professionals every two years.

Section 6.0 addresses Continuing Professional Education (CPE) and Renewal. Section 6.3 states that "[a]ll persons licensed to practice dentistry in the State of Delaware shall be required to acquire fifty (50) hours of continuing professional education (CPE) credit every two (2) years." Per Section 6.3, two of the credit hours must be courses covering infection control, and evidence must be provided every two years that a licensee has completed a cardiopulmonary resuscitation (CPR) course.

Council notes that there are no accessibility training recommendations or requirements in Section 6.0. The absence of accessibility training is problematic for individuals with disabilities. One study reported on in the *New York Times* several years ago held focus groups with doctors and specialty health care providers. In that anonymous format, the providers admitted to broad disability discrimination, including refusing new patients because of their disabilities, to avoid having to: accommodate them, figure out how to communicate with them, or give them extra time (because they believed they were going to take more time than non-disability patients).¹

¹ *These Doctors Admit They Don't Want Patients with Disabilities*, NEW YORK TIMES, October 19, 2023, <https://www.nytimes.com/2022/10/19/health/doctors-patients-disabilities.html>

Considering this, it is unsurprising that per the American Institute of Dental Public Health, “many [individuals with disabilities] do not seek routine dental care as a result of [...] barriers and challenges, and when they do seek dental care, it’s often because of expensive emergencies that could have been easily prevented.”² Accessibility to dental care varies on an individual basis. “Communication, physical, and behavioral barriers are often invisible or devalued by healthcare providers. Impaired communication limits the ability of people with disabilities to describe their feelings or needs, and, in many cases, to comprehend instructions.”³ Without accessibility training, dental professionals in Delaware may unknowingly fortify these invisible barriers and contribute to a disability dental divide.

It is important to understand that the Americans with Disabilities Act (ADA)⁴ *requires* dental professionals to provide people with disabilities the same level of service that they provide all patients. Indeed, the American Dental Association modified its own code of conduct “to align with the ADA act of 1990.”⁵ Without regular and robust accessibility training for dental professionals, Delaware dental providers are at risk of unknowingly (or knowingly, as was shown with the *NY Times* article discussed above) discriminating against individuals with disabilities. This puts Delawareans at risk for poor health outcomes and potential legal actions against the dental providers.

In terms of legal outcomes for dental providers – noncompliance can result in significant damages. In October of 2022, the U.S. Department of Justice resolved a complaint against a dental clinic that failed to provide interpreter services to a patient who is deaf; the clinic agreed to undertake improvements and pay the complainant almost \$50,000 in compensation for the discrimination she endured.⁶ In February of 2013, a Virginia dental office was made to pay \$10,000 after requiring a patient with HIV to “schedule all future appointments as the last appointment of the day.” The dental office also had to train its staff on the ADA and develop an anti-discrimination policy.⁷

Required up-to-date training could help protect the disability community from discrimination and physical harm, and protect dental providers from unknowingly violating the law. Disability is not “one size fits all.” As seen in the examples above, the needs of dental patients with

² *Disabilities and Dental Care: Why More Must Be Done to Improve Access*, AM. INST. OF DENTAL PUB. HEALTH, Jun. 26, 2023, <https://aidph.org/disabilities-and-dental-care-why-more-must-be-done-to-improve-access/>.

³ Orrin Devinsky, Danielle Boyce, Miriam Robbins & Mariel Pressler, *Dental health in persons with disability*, 110 *Epilepsy and Behavior*, Sept. 2020.

⁴ See also Delaware’s ADA comparable law, the Delaware Equal Accommodations Law; Section 504 of the Rehabilitation Act and the Affordable Care Act also require nondiscrimination in services offered by covered entities.

⁵ *Revisiting the Equal Opportunity Law for People with Disabilities*, BENCO DENTAL, Aug. 2, 2021, <https://www.benco.com/benco-dental-u/article/revisiting-the-equal-opportunity-law-for-people-with-disabilities-9-questions-and-answers-about-the-americans-with-disabilities-act/>.

⁶ Press Release, United States Attorney’s Office, DOJ and Des Moines, Washington, dental clinic resolve complaint over Americans with Disabilities Act (ADA) violation (Oct. 18, 2022), <https://www.justice.gov/usao-wdwa/pr/doj-and-des-moines-washington-dental-clinic-resolve-complaint-over-americans>.

⁷ Press Release, Justice Department Reaches Settlement with Virginia Dental Office to Stop HIV Discrimination (Feb. 12, 2013), <https://www.justice.gov/opa/pr/justice-department-reaches-settlement-virginia-dental-office-stop-hiv-discrimination>.

disabilities will vary greatly. Training for dental professionals would be a valuable educational tool.

For example, accessibility training could be required comparable to the requirements of infectious disease training: two (2) credit hours every two years. This would not be over burdensome to dental professionals but would keep the topic of accessibility relevant and ensure that accessibility training is ongoing and evolving.

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

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc