



**GOVERNOR'S ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS (GACEC)
GENERAL MEMBERSHIP MEETING
7:00PM February 20, 2024
HYBRID MEETING**

MEMBERS PRESENT: Al Cavalier, Nancy Cordrey, Matt Denn, Bill Doolittle, Ann Fisher (in person), Cory Gilden, Kristina Horton, Thomas Keeton, Jessica Heesh Mensack, Beth Mineo, Maria Olivere, Trenee Parker, Erika Powell, Jennifer Pulcinella, Meedra Surratte, Erik Warner (in person)

OTHERS PRESENT: Marissa Band /Disabilities Law Program (DLP), Cindy Brown/Delaware Department of Education (DDOE), Terri Hancharick, Wayne Marsh, Dale Matusевич/Exceptional Children Resource Workgroup (ECR) of Delaware Department of Education (DDOE), Cassandra Pierce, Carol King-Ries, Nicole Topper/Delaware Health and Social Services (DHSS), and Ann Woolfolk/Interagency Coordinating Council (ICC)

STAFF PRESENT: Pam Weir/Executive Director, Kathie Cherry/Office Manager, Lacie Spence/Administrative Coordinator and Theresa Moore/Administrative Support Specialist

MEMBERS ABSENT: Karen Eller, Tika Hartsock, Molly Merrill, Stefanie Ramirez, Brenn  Shepperson,

ADMINISTRATIVE ACTIONS: Chairperson Ann Fisher, called the meeting to order at 7:01 pm. There was a quorum of members present. A motion was made by Erik Warner to approve the January agenda and the motion was seconded by Jennifer Pulcinella. The motion passed unanimously. Thomas Keeton made a motion to approve the January minutes and Maria Olivere seconded the motion. The motion was approved with Trenee Parker abstaining. A motion was made to approve the January financial report by Erik Warner and the motion was seconded by Bill Doolittle. The motion was approved.

PUBLIC COMMENT: There was no public comment at this meeting.

COMMITTEE REPORTS:

ADULT AND TRANSITION SERVICES (ATS) COMMITTEE: Terri Hancharick presented to the committee on House Bill (HB) 175. The synopsis of HB 175 taken from the Delaware General Assembly website is as follows: "This Act adds provisions to Title 21 defining accessible parking spaces, incorporating federal standards for accessible parking spaces found in

the Americans with Disabilities Act and applicable regulations. The Act also provides additional requirements that enhance these standards and better reflect the needs of persons with disabilities in Delaware. The Act increases the penalty associated with violating the statute that prohibits individuals who do not possess a parking placard or special license plate from parking in accessible parking spaces, or in the access aisles located next to accessible parking spaces. This Act adds provisions in Titles 9 and 22 to require county and municipal governments to adopt regulations and ordinances incorporating these requirements for accessible parking spaces, including the requirement that property owners have a permit and process to ensure compliance for new or modified accessible parking spaces, in order to increase compliance and uniformity statewide.”

ATS discussed and agreed that education for new and existing Delaware drivers needs to be expanded, for example there is only one sentence in the 2024 Delaware Drivers Manual dedicated to accessible parking Department of Motor Vehicles (DMV) rules. ATS would like to communicate this to sponsors of Bill 175 in a separate communication after the “Thank you” communication is sent. ATS committee members also shared ideas of communicating accessible parking policies to the general public, e.g., via radio public service announcements, flyers provided to drivers at DMV offices, and coverage of accessible parking in Driver’s Education Classes. The committee asked for a vote to send communication thanking the legislators who are supporting this bill. The vote passed unanimously to send communication to the legislators thanking them for their support.

INFANT AND EARLY CHILDHOOD COMMITTEE: This committee did not meet tonight.

CHILDREN AND YOUTH COMMITTEE: The committee discussed the draft School Resource Officer (SRO) bill. Possible speakers for Children and Youth Committee for March include Mike Smith and George Bear to speak about SROs in schools. The Children and Youth Committee would like to request Ann Fisher to create an ad hoc committee for restraint and seclusion and SROs.

POLICY AND LAW COMMITTEE: The committee reviewed recommendations in the Policy & Law memo dated February 12, 2024, and the addendum dated January 22, 2024; discussed HB 273; and introduced new U.S. Department of Education guidance regarding assistive technology.

HB 273 would require health insurance to cover speech therapy services for treatment of phonological disorders and receptive language disorders for children younger than age 6. It is endorsed by the American Speech-Language-Hearing Association and the Delaware Speech-Language-Hearing Association. Members of the committee raised some issues relative to definitions, scope, and capacity to meet new demand and will have further conversation about this. It was not yet addressed in a Policy & Law memo so is not coming to Council for endorsement.

The committee also discussed the new guidance issued by the U.S. Department of Education regarding access to and use of assistive technology last month. It included a Dear Colleague letter and a document titled Myths and Facts Surrounding Assistive Technology Devices and Services. In addition, the 2024 National Education Technology Plan was released last month. Titled “A Call to Action for Closing the Digital Access, Design, and Use Divides”, it addresses the needs of all students, with the rights and needs of students with disabilities fully integrated in the report.

The Policy and Law Committee recommends Council adopt all recommendations in the Policy & Law memo relative to all pending bills and regulations addressed in the memo. The recommendation related to proposed DHSS regulation regarding Food Benefit Certification was amended to include the following language endorsed by the State Council for Persons with Disabilities (SCPD): “This change would disproportionately and negatively impact families with individuals with disabilities, seniors and communities of color.” Regarding the proposed regulation from the Board of Dentistry and Dental Hygiene Regulation, the committee would like our communication to include some Delaware-specific data published in 2018 as well as information about existing sources of continuing education for dental providers that exists on the Center for Disabilities Studies (CDS) website. The vote to approve the Policy and Law recommendations was approved with Kristina Horton, Nancy Cordrey and Trenee Parker abstaining.

January 2024 Supplemental Policy and Law Memo

Date: 1/22/2024

State Bills

HB 263: AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO MEAL DEBT RESTRICTIONS ON STUDENT PARTICIPATION IN EXTRACURRICULAR ACTIVITIES.

HB 263 was introduced Dec. 14, 2023 and was reported out of committee on January 17, 2024. The sponsors include: Rep. Dorsey Walker, Sen. Pettyjohn, Sen. Sturgeon, Rep. Lambert, Rep. Longhurst, Rep. Minor-Brown, Rep. S. Moore, Rep. Morrison, and Rep. Harris. This legislation, if passed, would prohibit schools from prohibiting a student from participating in a school sponsored extracurricular activity on the basis the student has an outstanding debt for unpaid school meals. The bill adds a new § 4136A to title 14 of the Delaware Code. Extracurricular activities are defined to include: band, clubs, homecoming, interscholastic sports, prom, and student government. See proposed § 4136A(a).

It is unclear why orchestra and choir were omitted from this list. Notably, there is also no catchall to include other extracurricular activities not enumerated in the list. Finally, this proposed bill would apply to “local educational agencies” and “charter schools”; “public agencies” providing educational services are omitted. While DLP is unaware of whether there

are public agencies that provide extracurriculars, if there are, public schools could be included in this bill, in order to reach more children.

Turning to the intent of this bill, this bill aims to help children facing poverty and hunger, to participate in extracurriculars. According to Feeding America, one in seven children face hunger. To meet all of the hunger needs within Delaware, those experiencing hunger would need an estimated \$62,582,000 more per year to meet their food needs. Family income does, unfortunately, impact participation in extracurricular activities. Data collected by the U.S. census shows a significant difference in participation in gifted and extracurricular programs, based on household poverty status. For example, as illustrated in the below chart, with respect to athletics, less than 25% of children experiencing poverty, aged 6-11, participated in a sport, compared to over 55% of those over 500% of the poverty level. For tweens and teens, 30% of kids experiencing poverty participated in a sport, versus over 55% of those not experiencing poverty.

Also of note, for students with disabilities, extracurricular activities may be an important part of their skill development and integration with peers without disabilities. For example, one study made findings that extracurricular clubs can help build social competence for students with autism. So although this bill is not focused on children with disabilities, it would be a benefit to them in terms of both integration with their peers, and skills develop. It is also important to recall that a student's IEP may require the provision of "supplementary aids and services" for extracurricular activities. After an IEP team has determined that the provision of those aids and services is required, the denial of those services may constitute a denial of a free appropriate education. 71 Fed. Reg. 46583 (2006); and 34 CFR § 300.107 (a). See, e.g., Tahquamenon Area Schs., 115 LRP 23747 (SEA MI 04/21/15) (finding that a district's failure to address a student's behavioral issues impeded his ability to participate in extracurricular activities as required by his IEP).

Recommendation: Council may wish to support this legislation as it enables children to participate in extracurricular activities regardless of their family's financial status. However, Councils may wish to 1) recommend amendment of the currently pending bill to include orchestra and choir, and / or a catchall for extra-curricular activities that do not fall into the list. 2) Councils may wish to recommend that the bill apply to any public agencies providing public education, who have extracurricular programming.

HB 333: AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE ARTIFICIAL INTELLIGENCE COMMISSION.

HB 333 was introduced Jan. 18, 2024 and was in the Technology & Telecommunications Committee in the House. The sponsors include: Rep. Griffith, Rep. Romer, Sen. Hansen as well as Reps. Baumbach, Heffernan, Longhurst, Morrison and Sens. Gay, Hoffner, Huxtable, Pinkney, Richardson, and Sokola. The bill seeks to create an Delaware Artificial Intelligence ("AI") Commission to make recommendations to the General Assembly and Department of Technology and Information on AI utilization and safety within Delaware. The Commission would also conduct an inventory of all Generative AI usage within Delaware's executive,

legislative, and judicial agencies and identify high risk areas for the implementation of Generative AI. The Commission would be established for 10 years unless extended by the General Assembly.

What is missing from this bill is disability membership. Council may wish to encourage amendment of this bill to include disability representation, preferably by someone who understands both AI and electronic accessibility for individuals with disabilities. This is important because AI has great potential to further integration and independence for people with disabilities – if it is designed with inclusion in mind. According to the Harvard Business Review, in the future, as much as 40% of the time people spend working could be with AI’s assistance; presently there are around 386 million working people with disabilities.

AI can ease communication (e.g., text-to-speech, Parrottron (enables individuals with distorted speech patterns to have their speech translated into a format more people understand)), learning (e.g. AI-powered braille tutor apps), independence (Amazon Alexa can automate reminders, turn devices on at off by voice command), and community (RogerVoice transcribes group conversations for those with hearing disabilities). The breadth of ways present – and future - AI could benefit students with disabilities is remarkable, from social skills robots, to using AI to better identify and define certain disabilities like dyslexia. The number of people with disabilities that AI impacts and will impact cannot be understated.

Recommendation: Council may wish to support this legislation but may wish to advocate for the inclusion of disability membership.

OTHER BILLS OF NOTE

HB 273 AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH COVERAGE FOR SPEECH THERAPY.

HB 274 AN ACT TO AMEND TITLE 18, TITLE 29, AND TITLE 31 OF THE DELAWARE CODE RELATING TO INSURANCE COVERAGE OF ALLERGEN INTRODUCTION DIETARY SUPPLEMENTS FOR INFANTS.

February 2024 Policy and Law Memo

Date: 2/12/2024

I. PROPOSED STATE REGULATIONS

➤ Proposed Department of Health and Social Services (DHSS) Stroke System Regulation 4306, 27 Del. Register of Regulations 567 (February 1, 2024)

With this regulation, the Department of Health and Social Services (DHSS), Division of Public Health (DPH) is proposing a Stroke System Regulation. Specifically, this regulation would establish and set forth how the Statewide Stroke System operates. Written comments, suggestions, compilations of data, testimony, briefs, or other materials are due by the close of business on March 4, 2024.

Before undertaking an analysis of this proposed regulation, a digression into the Emergency Medical Services Systems statute, 16 *Del. C.* §9701 *et. seq.*, that was the genesis of the regulation is beneficial. The stated purpose of Chapter 97 is “to establish and/or identify specific roles and responsibilities in regard to emergency medical services in Delaware in order to reduce morbidity and mortality rates for the citizens of Delaware and to ensure quality of emergency care services, within available resources, through the effective coordination of the emergency medical services system.” 16 *Del. C.* §9701.

The statute created the Office of Emergency Medical Services as an agency within the Division of Public Health and which reports to the Director of Public Health. *Id.* at §9704(a), (b). Among other standing committees, the Director was directed to create a Stroke System Committee consisting of a broad base of membership. The membership included, *inter alia*, therapists with stroke rehabilitation experience; emergency department physicians; stroke neurologists; neurosurgeons; nurses providing stroke patient care; hospital administrators from acute health care facilities who have or intend to obtain a stroke center designation; Delaware Healthcare Association; and the state police aviation section. *Id.* at §9704(j).

The Stroke System Committee advises the Director¹ who then uses those recommendations as the basis for establishing a plan for “the basis for establishing a plan for the implementation and maintenance of Delaware’s inclusive statewide stroke care system.” *Id.* at §9706(i). This plan must address each component of stroke care²; the Director also has the authority to promulgate

¹ On:

“(1) Recommendations based on Delaware stroke data as determined by the Director of Public Health, and after review of Delaware data as analyzed by the Stroke System Committee, and input from the Committee, as to whether outcomes for Delaware patients will be improved by the adoption of a statewide stroke system. Such recommendations shall be made to the Director of Public Health no later than December 30, 2016. The Director of Public Health shall report the basis for the Directors’ decision to the Chairs of the Health and Social Services Committees of the House and Senate.

(2) Rules governing the operation of Delaware’s inclusive statewide stroke care system, which will be based upon national references and data based guidelines, as determined by the Director of Public Health with the advice of the Stroke System Committee.

(3) Recommendations for corrective action based on the reviews of the following:

a. Statewide stroke care system operations, including the monitoring for adherence to adopted policies, procedures, protocols and standards, the availability of appropriate resources and the periodic review of stroke hospital and freestanding emergency department participation (designation) criteria.

b. The delivery of emergency medical and hospital services by stroke care service providers to stroke patients.

(4) Recommendation for modifications of the policies, procedures and protocols of stroke care as a result of system-wide review.”

16 *Del. C.* §9704(k).

² “(2) The State Stroke System Plan shall address each component of stroke care as outlined in national references. These include, but are not limited to:

a. Prehospital care. — Standardized and statewide policies, procedure and protocols to be used by all emergency medical service providers and licensed personnel for the identification, treatment and transport of stroke patients.

b. Prevention. — Efforts to decrease the numbers and severity of strokes resulting in decreased demand for care.

c. Hospital care. — Standards and criteria for hospital personnel, equipment and designation that identify the necessary resources that hospitals must have in order to be recognized within Delaware’s inclusive statewide stroke care system as a specified category stroke facility. These standards and criteria shall be consistent with those

rules “for the management of all components of Delaware’s inclusive statewide stroke care system and shall seek input and review from the Stroke System Committee.” Finally, the Director must maintain a system evaluation, including “a stroke data collection and registry system and a mechanism for evaluating and monitoring system performance throughout the continuum of stroke care.” *Id.* at §9706(i).

Against this backdrop and enabling statute comes proposed 4306 Stroke System Regulation with the laudable goal “to ensure that every person who may be experiencing a stroke in Delaware receives the same high-quality care, thus decreasing morbidity and mortality from strokes.” (1.0). The regulation establishes a comprehensive framework to accomplish the stated purpose. The key organizational components of the Stroke System of Care are the Stroke System Coordinator, who serves as administrator for the stroke system and related committees (3.1.1), and the Stroke System Committee³ (mentioned above), whose role is to provide “coordination, oversight, and guidance for all components of the Stroke System in Delaware.” (3.1.2).

Although the Stroke System Committee is the “overarching standing committee,” there are other committees. (5.4.2.1). The Stroke System Quality Evaluation Committee⁴ “focuses on system performance improvement.” (5.4.3.1). The Stroke System Education and Prevention Subcommittee “focuses on state-wide public education, awareness, and prevention” to lower the number of deaths and disabilities from suffering a stroke. (5.4.4.1.1 and 5.4.4.1.3). Ad-hoc Subcommittees can be established as needed. (5.4.5.1).

As part of the proposed regulation and 16 *Del. C.* §1013, the Secretary of Health and Social Services will designate hospitals in Delaware and upon request out-of-state hospitals that have received a certification from the Joint Commission⁵ “or an equivalent certification by another nationally-recognized guidelines-based accrediting organization” as stroke centers. *Id.* at §1013(b); *see* 6.0.

Since the Division of Public Health has the ultimate responsibility for quality stroke care in the state, the proposed regulation establishes the Stroke System Performance Improvement Plan. (8.0). The plan is based on national studies and standards to aid the Division in meeting the goal

identified in national stroke system references produced by national accreditation and certification organizations. All expenses associated with utilizing a nationally recognized

d. *Rehabilitative care.* — Standards for the follow-up care for persons with disabilities resulting from injuries.

e. *Stroke continuing education.* — The ongoing stroke-related education for stroke care system personnel/providers to maintain knowledge and skills.

f. *Stroke care system evaluation.* — Monitor policies and procedures regarding the effectiveness/impact of stroke care systems.

Id. at §9706(i).

³“**Stroke System Committee**’ or ‘**SSC**’ means the committee providing coordination, oversight, and guidance for all components of the Stroke System in Delaware as established in the Delaware code.” (4.0 Definitions).

⁴“**Quality Evaluation Committee**’ or ‘**QE Committee**’ means the subcommittee of the Stroke System of Care that provides recommendations, advice, and assistance to DPH in its ongoing evaluation of the Delaware Stroke System. It evaluates data related to system metrics of success and quality of patient care and outcomes.” (4.0 Definitions).

⁵“**The Joint Commission**’ or ‘**TJC**’ means the national body that certifies or accredits various healthcare settings. The Joint Commission provides certification for stroke care centers.” (4.0 Definitions).

of the plan: "'improv[e] stroke care by promoting consistent adherence to the latest scientific treatment guidelines, [as evidenced by] numerous published studies demonstrating the program's success in achieving measurable patient outcome improvements.'" (8.1). Improved care to stroke patients is achieved through "a collaborative approach with the appropriate facilities, services, and disciplines involved . . ." (8.2.3). The Division can recommend "corrective action in all aspects of stroke care throughout the continuum from onset to rehabilitation" and can help stroke centers develop and implement their individual Stroke Performance Improvement Programs. (8.3.1).

As part of the Division's responsibilities under the State Stroke System Quality Improvement Program, the proposed regulation requires the Division to evaluate "the entire scope of care provided to stroke patients with the State of Delaware from stroke onset through rehabilitation." (8.6.1; 8.6.2.1). To aid the Division in the evaluation process, the Director is to appoint a Stroke System Medical Advisor and a Stroke System Committee Chairperson. (8.6.2.2). In addition, the proposed regulation establishes the state stroke registry. (8.7). All acute care hospitals that have treated stroke patients will be required to contribute data to the program (8.7.3.1), which will be used for improvement purposes and "research/prevention activities." (8.7.2.2).

This proposed regulation is a blueprint that establishes the rules and guidelines that must be followed regarding the treatment of strokes in the state. It identifies all the participants, including the Division of Public Health, the facilities involved, the personnel involved, and the committees involved, and specifies their roles, duties, and responsibilities. No public disclosure is required by the proposed regulation because the proceedings, reports, studies, and minutes are all confidential. (8.9).

The real question will be implementation of the requirements and responsibilities of the proposed regulation and an examination of the data collected to better improve stroke care and outcomes. The Stroke System Performance Improvement Plan is subject to a biennial review by the Division of Public Health and the Stroke System Quality Evaluation Committee, which should in large measure allay any apprehension over the lack of public disclosure of the proceedings, reports, studies, and minutes of the meetings. Nevertheless, Councils should ask that the biennial reviews conducted by the Division be posted on its website. This would allow Councils and others to see what progress is being made in the care and treatment of stroke patients in the state.

Recommendation: At this juncture, there is not much else to add to the proposed regulation. Council may wish to support this regulation.

- **Proposed Department of Health and Social Services (DHSS) / Division of Public Health Regulation Governing the Childhood Lead Poisoning Prevention Act 4459A, 27 Del. Register of Regulations 570 (February 1, 2024)**

Here, DHSS /DPH re-publishes proposed revisions to 4459A Regulations Governing the Childhood Lead Poisoning Prevention Act. DPH amended the following provisions in the regulation for clarity:

10.3.3.2 30 calendar days from first entry into the ~~program or system~~ child care facility, public or private nursery school, preschool, or kindergarten.

10.6 The information sent to or received by a ~~program~~ child care facility, public or private nursery school, preschool, kindergarten or school shall be recorded and certified by a health care provider's signature on a form that includes the following:

....

3.6 In addition to the blood lead level screening and testing requirements in this section, a health care provider may order a lead screening or test at their discretion and these results must be reported to ~~DPH~~ the Division pursuant to Section 7.0.

5.0 Religious Exemption

A religious exemption may be granted to a child if the blood lead level screening or testing conflicts with a genuine and sincere religious belief and not a belief based merely on philosophical, scientific, moral, personal, or medical opposition to blood lead level screening or testing. The ~~DPH~~ the Division affidavit of blood lead level screening or 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.

10.3.2 The ~~DPH~~ the Division affidavit signed by the parent or guardian stating that the blood lead level screening or test is contrary to the parent's or guardian's religious beliefs; or

DPH made revisions changing language from 60 days of notification of an elevated blood lead level to blood lead test with results at or above the blood lead reference level:

11.1 Within 60 days of receiving notification that a child has a blood lead level, at or above the reference level the Division shall determine: the child's residential address from birth through testing, the site of the child's lead exposure, and the property owner of the site at which the child became exposed to lead. Any documents that the Division creates or holds that contain confidential health information shall be conspicuously marked and will not become public documents.

DPH made a change from age 6 to 18 with respect to age limits:

3.2 Unless a child's parent or guardian requests a blood lead level screening or test, a primary health care provider for a child who is 28 months old or older and younger than ~~6~~ 18 years old shall administer a blood screening or test for lead in the following circumstances:

DPH acknowledged Councils comments but does not make changes in response.

Recommendation: the changes made were not responsive to Councils' recommendations; however, further comments by Councils are unlikely to be productive.

➤ **Proposed Department of Health and Social Services (DHSS) Food Benefit Certification 9068, 27 Del. Register of Regulations 577 (February 1, 2024)**

With this publication, DHSS provides the public notice of revisions to the Delaware Social Service Manual (DSSM) regulations regarding Food Benefit Certification for Supplemental Nutrition Assistance Program (SNAP). DHSS proposes to amend DSSM section 9068 from a 24-month certification period to a 12-month certification period in households where all members are elderly or disabled, and from 12-month to 6-month certification periods for all other households. DHSS's proposal is contrary to federal SNAP policy that strongly favors longer certification periods, creates barriers to food equality, and significantly harms the very

individuals that SNAP is designed to help - low-income households, especially families of color, facing food insecurity.

In 2021, SNAP helped 12% of the state's population, approximately 115,500 Delaware residents⁶:

- more than 66% of SNAP participants are in families with children;
- **almost 38% are in families with members who are older adults or have disabilities;**
- almost 46% are in working families.

A certification period is a review at which the SNAP family is required to report certain changes in income, living arrangements and family composition.⁷ C.F.R. § 273.10(f) addresses certification periods and states "State agencies must assign the longest certification period possible based on the predictability of the household's circumstances." Currently DHSS adheres to this policy by allowing 24-month recertification periods with a periodic review at month 12 for households where all members are elderly or disabled, and for 12-month certification periods with a periodic review at month 6 for other households based on their circumstances.

Delaware's proposed changes will result in many eligible families losing SNAP benefits and runs counter to the federal government's stated policy goals of increasing enrollment by streamlining application and renewal processes and generally trying to reduce unnecessary churn (when a household exits SNAP and then re-enters the program within 4 months). See for example 87 Fed. Reg. 54760 (Sept. 7, 2022) (proposing multiple changes to simplify Medicaid applications and renewals).

The Proposed rule will also increase the administrative burden on both SNAP recipients and the State by doubling the number of reviews that must be conducted.

Making SNAP benefits more accessible is a racial justice issue. It is well established that families of color bear the brunt of hunger in America. Adopting policies that restrict or reduce eligibility will have a disproportionate effect on those families. Food insecurity also plays an important role in physical and mental health. Delaware should not adopt policies that only worsen food insecurity. Indeed, a recent report, co-authored by Center for Law and Social Policy (CLASP) in collaboration with the Community Partnership Group (CPG) recommends longer certification periods. It also addresses the consequences of short certification periods: "These short certification periods add burden and create more opportunities for human error, causing families to lose their benefits. One year renewal periods - nothing less - should be the national standard."⁷

SNAP is the nation's largest mechanism to fight hunger and is 100% federally funded. Delaware should be seeking to increase not decrease enrollment of eligible families. The proposed changes will do precisely the opposite.

⁶ Center on Budget and Policy Priorities (April 25, 2022), available at <https://www.cbpp.org/research/food-assistance/a-closer-look-at-who-benefits-from-snap-state-by-state-fact-sheets# Delaware>.

⁷ Center for Law and Social Policy, "A Community-Driven Anti-Racist Vision for SNAP," (September 2022), available at <https://www.clasp.org/publications/report/brief/a-community-driven-anti-racist-vision-for-snap/>

Recommendation: Council may wish to oppose the proposed changes to the frequency of the review periods and recommend that DHSS maintain 24-month certification / 12-month certification periods.

➤ **Proposed Delaware Board of Dentistry and Dental Hygiene Regulation 1100, 27 Del. Register of Regulations 584 (February 1, 2024)**

The Delaware Board of Dentistry and Dental Hygiene, pursuant to 24 Del. C. 1106(a)(1), proposes to revise its regulations to clarify that limited licensees are subject to general supervision while training, and to eliminate redundancies in supervision. To address these redundancies, edits have been made to Section 5.0, relating to supervision. These proposed changes are not substantive and serve to eliminate redundant language that is used in the previous sections of the regulation. Beyond the proposed changes made in Section 5.0, the proposed regulation remains the same.

However, of note, 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.

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).⁸

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.”⁹ 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.”¹⁰ Without accessibility training, dental professionals in Delaware may unknowingly fortify these invisible barriers and contribute to a disability dental divide.

⁸ *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>

⁹ *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/>.

¹⁰ Orrin Devinsky, Danielle Boyce, Miriam Robbins & Mariel Pressler, *Dental health in persons with disability*, 110 *Epilepsy and Behavior*, Sept. 2020.

It's important to understand that the Americans with Disabilities Act (ADA)¹¹ *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.”¹² 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 interpretation 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.¹³ 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.¹⁴

Required up-to-date training could help protect the disability community from discrimination and physical harm, and 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 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 overburdensome to dental professionals but would keep the topic of accessibility relevant and ensure that accessibility training is ongoing and evolving.

Recommendation: Beyond the non-substantive changes made in Section 5.0, Councils should consider educating the Division of Professional Regulation about the benefits of the inclusion of two (2) credit hours of accessibility training for dental professionals every two (2) years.

¹¹ 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.

¹² *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/>.

¹³ 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>.

¹⁴ 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>.

II. Final State Regulations

➤ Delaware Department of Education (DDOE) Final Residential Childcare Facilities and Day Treatment Programs 105, 27 Del. Register of Regulations 599(February 1, 2024)

In response to Councils' comments, DDOE stated that "in the future, OCCL will invite the GACEC and SCPD to participate on task forces when regulations are being revised." DDOE did not make other changes in response to Councils' comments.

Recommendation: Council may wish to thank DDOE for the future invitations to participate on task forces when regulations are being revised, and note that Councils' other concerns with the amendments remain.

III. State Bills

➤ HB 293

House Bill 293 seeks to add a provision to Chapter 2 of Title 15, Elections, requiring the Department of Elections (DOE) to ensure that polling places are accessible. Currently there is a vague provision at 15 Del Code § 4512 which generally requires that polling places be "readily accessible."¹⁵ Of course, federal law (the Americans with Disabilities Act and Help America Vote Act, among others) currently requires that the DOE provide accessible polling places and accessible voting equipment. DLP has conducted surveys which suggest that about 25% to 30% of polling places are not fully accessible on any given election day.¹⁶

House Bill 293 adds a more specific requirement for accessibility of polling places, although it places it in Chapter 2 of Title 15, which covers general provisions relating to the authorities of the DOE. Councils may want to query about this placement, and whether it does not make more sense to place it in Chapter 45.

In any case, in proposed Section 221(a), the bill requires the DOE to ensure that polling places have adequate and accessible spaces and that all polling places in the state be accessible to persons with disabilities, in compliance with the ADA. Subsection (b) makes exceptions in two circumstances: first, in an emergency, and second, if the Commissioner of Elections determines that all polling places in a polling area have been surveyed and none are accessible or can be made accessible, and that any voter in that polling area has been reassigned to an accessible polling place or has been given an alternative means of voting.

We have the following observations:

¹⁵ **4512. Polling places; designation and preparation.**

(b) The Department shall designate only conveniently located and readily accessible polling places for each election district.

¹⁶ The DLP's report on our 2022 Polling Place Survey can be found here: <http://www.declasi.org/clasi-disabilities-law-program-report-finds-widespread-accessibility-violations-at-delaware-polling-places/>

1. Emergency is not defined. Council may wish to suggest that emergency be defined, either as a situation where the Governor has issued an Order declaring an emergency, or when a specific polling place is unusable on Election Day due to circumstances beyond the DOE's control and that cannot be remediated.
2. There is no enforcement provision in this bill. Councils may wish to suggest, at a minimum, that language be added providing for a complaint process or some type of judicial enforcement. Language could be added either providing a mechanism to file a complaint for relief to Superior Court, or that complaints can be filed under the Equal Accommodations statute. Another alternative may be something filed through the Architectural Accessibility Board.
3. DLP has noted that there have been occasions when accessible locations, often schools, are not accessible on Election Day because a particular feature, such as an accessible door or ramp, has not been made available. Councils may wish to suggest that language be added that requires any polling location make its accessible features fully available on Election Day, or that the DOE makes this a requirement of any contract or agreement that the DOE makes with the owner or operator of a polling place.

Generally speaking, HB 293 should improve accessibility by being much more explicit about what the DOE must do. The bill requires that the DOE ensure that polling places are ADA compliant. The only exception, other than in an emergency, is if the DOE has literally surveyed every potential location and hasn't been able to identify one that can be made accessible. The chances of this occurring are exceedingly small.

Recommendation: Consequently, council may wish to endorse or otherwise support the bill, with the suggestions 1-3, found above.

MEMBERSHIP COMMITTEE: There were no updates at this meeting.

PERSONNEL COMMITTEE: There were no updates at this meeting.

DDOE REPORT: Dale Matusovich presented on the Individuals with Disabilities Education Act (IDEA) grant application. The Council had questions for Dale around the High Needs Fund part of the IDEA grant application. They are planning to revamp the entire process around how these funds are spent. In the past DDOE had sent money back to the Federal Government because the DDOE was too restrictive on how they used these funds. Bill Doolittle asked if the GACEC would be at the table to give advisement on the changes to be made concerning the High Needs Funds. As soon as DDOE gets it figured out they will bring the process to the GACEC for feedback. According to Dale, it is only a policy piece within Exceptional Children Resource Workgroup (ECR), and how DDOE would want to do that. There is not really a true public comment period. Dale would get the stakeholders involved in that process. Dale's group has been talking to the local education agencies (LEAs) regarding changes to the High Needs Fund process.

Under the remaining funds category, DDOE is embarking on a new kind of initiative around self-determination and self-advocacy, that Dale will be working with. They currently have a contract with LeDerick Horne and Dr. John McNaught. They lead the statewide self-determination project in Virginia and have been successful for over 20 years. They would like to bring that

philosophy to Delaware and build in a research component. John is bringing a research team from James Madison University to help us collect data as we begin that work. Bill Doolittle asked Dale about the work through some of the standard grants around the parent and family training system to graduate them to becoming advocates. Bill thinks the parent mentoring program is critical. Dale replied that the Parent Information Center (PIC) is the lead on that program. It's been a lot of work, but we are getting ready to pilot that training later this spring. Meedra Surratte has been working thru PIC and with Dale at the Special Ed director meetings for the counties and the charters to give that information out. We're hoping to fully implement starting in the fall around August or September. That is part of the DDOE contract with PIC. Bill Doolittle wanted to make sure that was the direction we were heading.

Matt Denn ask the following in the chat - "Dale – maybe you will get to this with upcoming slides, but would appreciate it if you could speak to (1) why DOE believes that assessment statistics were worse almost across the board for Pre-K aged students with IEPs, (2) which districts were required to participate in training related to disparities in suspensions/expulsions, (3) why DOE believes that slippage occurred in reading assessments for students with IEPs and math alternative assessments for same group, and (4) why dropout rate for students on IEPs increased so significantly and enrollment in higher education for students with IEPs dropped so significantly. And for all of these, what DOE is doing to address the changes." Dale responded that there could be a lot of factors contributing to these issues. They get the determination in June. Then, they give the local districts their report cards to make their determinations. If they did not meet the target and they had slippage, they would have to do a corrective action plan, and DDOE will work with them on that, getting into the root cause. Then that's when they go in and have a deeper dive into the data and into the conversations. But as Cindy mentioned, one of the things that DDOE is seeing is preschool numbers or early childhood numbers went way down through the pandemic and weren't necessarily in structured programs and now they are starting to get all of those students back. It's the same thing being seen in the K-12 world also. They are still seeing that effect of the pandemic where kids were in some instances left to do education on their own and at their own pace. Now they are being thrown back into a structured program. They've got to get back to using those norms that we have to do in society. During the pandemic, almost two years, where everybody was kind of isolated. It's getting back to those norms of people being around others. Matt remembers there were seven or eight districts that had to participate in training. Dale Matusевич and Susan Veenema (DDOE) worked with Eddie Fergus from Rutgers where he was able to look at the root cause analysis and take LEAs through the root cause analysis. He also did some individual coaching sessions with those LEA teams. Dale and his group are looking to continue that for the next year as well. The third question asked why DDOE believes that slippage occurred in the reading assessments for students with IEPs and Math alternative assessments for the same group. Dale commented that they're digging into that currently at the state level. Cindy Brown stated they have been having some meetings with the LEAs especially around literacy, really looking at that, especially at the younger ages again. They missed some foundational years through Covid, especially with the kiddos and trying to get that unfinished learning piece that they are still struggling to gain back. They are really looking at that. They have groups of teams from the Department that will be going into

LEAs over the next couple of months to discuss, especially at the elementary level literacy and what their curriculum looks like. They are having data discussions with them to dig down into some of this as we're moving forward. They are still seeing some repercussions from the pandemic through this and hoping to start seeing an upward trajectory in that data. They have been having those discussions in meetings with the county Special Ed directors and some of their personnel and the Charter Special Ed directors and their personnel around literacy rates and looking at the interventions they are doing. They just reported over the last two weeks that they are beginning to see positive trends within the interims. Dale is hoping that when the state assessments come through that they will see that positive trend in the State assessments. The fourth question from Matt was on the increase in the dropout rate for students with IEPs. Dale explained that OSEP (Office of Special Education Programs) required a different methodology to calculate the dropout rate. This year the number did increase since the new methodology was put into place. Dale thinks that it is due in part to the way LEAs are coding the students incorrectly or not at all. For example, if a student is expected to come back to an LEA and they do not, the system automatically defaults to drop out. If no one goes back into the system and corrects if student moves or changes schools, the data is incorrect. They are working with the DDOE data person to give guidance to the LEAs around data and data reporting.

CHAIR REPORT: Absent members and guest were announced.

DIRECTOR'S REPORT: During the hybrid meeting there needs to be at least one person from the Council attending at the Massey Station office to be compliant with the law. Staff attendance does not count toward satisfying the compliance of the law. Tonight, Ann Fisher and Erik Warner were at the office to satisfy the requirement. Pam asked that if anyone has the ability to attend in person in the future, try to attend in person at least once or twice a year because it does really enhance the collaborative nature of the work. Elections are coming up in April for the Council Vice Chair position and an At Large member position. Two Council members are still needed to volunteer to be the Nominating Committee. The Nominating Committee would introduce the elections on the floor, facilitate the voting and then announce the winners of the election.

Pam provided an update on the Prison Education work that Council is doing. One informal meeting has taken place with members of the Policy and Law Committee and the Adult and Transition Services Committee, as it is a committee goal for both committees. Nothing has been formalized yet. Pam has another meeting coming up on the 27th, where members who attended will look through meeting minutes and come up with next steps in a strategic plan. At that point, the Chair and Vice Chair can decide next steps around making an ad hoc committee.

Pam stated that she has been working with the Membership Committee to provide updates. She just got an email from Boards and Commissions. There has been a lot of staff turnover in the past few years. Ray Lewis is the Director now and is getting ready to take paternity leave. They have recently hired Najah Odrick as the new Deputy Director. Pam has a meeting scheduled for February twenty-seventh to review the membership vetting process and make sure that everyone

is on the same page, especially with members of Boards and Commissions being new. Then, Pam thinks we will be ready to start the appointment process again.

Pam announced that we had the Delaware Disability History and Awareness Month poster contest winners' Cookie Reception on Friday, and it was wonderful. Pam stated that she was amazed this year and last year that every single award winner, with the exception of one last year, attended the Cookie Reception with members of their school team and members of their family. Pam noted that there were legislators in attendance also. Pam stated that it was a short event, but it's wonderful to see the support for these kids who participate in these events. Pictures of the event were posted on our social media sites. Please follow and share them.

Pam stated that we previously discussed having two thirty-minute basic training sessions for Teams in January or February. Now that we know the appointment process is moving forward, we will reschedule these training sessions once the new appointments are on board. Pam asked that if you have not logged in to your GACEC created Delaware.gov email address, please do so and make sure that you put an outgoing message on it saying, "this is not the email address that I regularly use for correspondence." Pam had a discussion with a council member last week, and they reminded her of it. Pam does not want anyone to contact your GACEC Delaware.gov email address waiting for a response. Lacie will send out a generic blurb that you can customize and go in and put an outgoing message on your email just to make sure you have that covered. This would be for anyone that had a Delaware.gov email created to be able to access Teams. This does not apply to those who already have a Delaware.gov email or a K-12 email address. Al Cavalier let Council know about the great service he received from DTI to solve a problem he was having in Teams.

OUTSIDE COMMITTEE REPORTS: Bill Doolittle gave an update on Purchase of Care (POC). Bill goes to these meetings but is not a representative of the GACEC. They are working on recommendations initiated by Representative Williams to lessen the requirements to receive POC. It was extremely difficult for persons with disabilities to qualify before. Bill commented that the group is at a starting point, not the end point where they are talking about basic having a 20% additive, an intense additive of 30% and complex 50% additive to the standard POC for families who qualify.

ADJOURNMENT: A motion to adjourn the meeting was made and approved. Ann Fisher adjourned the meeting at 9:16 pm.