

# CALENDAR OF EVENTS/HEARING NOTICES

## CALENDAR

April 2020

### DEPARTMENT OF AGRICULTURE

#### THOROUGHBRED RACING COMMISSION

##### PUBLIC NOTICE

#### 1001 Thoroughbred Racing Rules and Regulations

The Thoroughbred Racing Commission proposes to amend its Regulations adopted in accordance with Title 3, Chapter 101. The purpose of the amended regulations is to amend Rule 13 by amending Rule 13.20 to change the minimum days since last race from 180 to 120, amend Rule 15 by adding new Rule 15.1.3.1.3 relating to Foreign Substances to allow electrolytes to be administered to a horse within twenty four hours prior to the scheduled post time for the first race subject to certain provisions, new Rule 15.28 relating to Bisphosphonates, new Rule 15.29 relating to Non-Steroidal Anti-Inflammatory Drugs, new Rule 15.30 relating to Intra-articular Joint Injections, and new Rule 15.31 relating to Stacking of Corticosteroids. Other regulations issued by the Thoroughbred Racing Commission are not affected by this proposal. The Thoroughbred Racing Commission is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

A copy of the proposed regulations is being published in the April 1, 2020 edition of the Delaware *Register of Regulations*. A copy is also on file in the office of the Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the Register of Regulations website: [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml).

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Thoroughbred Racing Commission at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 Del.C. §10118(a), public comments must be received on or before May 1, 2020. Written materials submitted will be available for inspection at the above address.

On or after May 1, 2020, following review of the public comment, the Thoroughbred Racing Commission will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received.

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### DEPARTMENT OF EDUCATION

##### PUBLIC NOTICE

The State Board of Education will hold its monthly meeting April 23, 2020 at 5pm in the Laurel School District (Laurel Middle High School, 1133 S. Central Avenue, Laurel, DE 19956). Please check the [public meeting calendar](#) for the latest updates.

*Please note that due to a conflict the April meeting has been moved to the 4th Thursday of the month.*

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### DEPARTMENT OF HEALTH AND SOCIAL SERVICES

#### DIVISION OF HEALTH CARE QUALITY

##### PUBLIC NOTICE

#### 3325 Financial Capability Reporting

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 29 of the Delaware Code, Section 7903(9), Delaware Health and Social Services (DHSS) / Division of Health Care Quality is proposing to amend Regulation 3325, Financial Capability Reporting, the Division's assessment of the financial capability of licensed providers revise the process for establishing capital availability for newly established facilities or facilities with a parent organization as well as to make some minor technical changes to other regulations.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Gabriela Kejner, Chief of Staff, Office of the Secretary, Main Admin Building, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4429 by Thursday, May 1, 2020, Yrene E. Waldron, of the Division of Health Care Quality, 3 Mill Road, Wilmington, DE

19806, (302) 421-7410 is the Division contact person.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

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**DIVISION OF HEALTH CARE QUALITY**  
**PUBLIC NOTICE**

**4404 Free Standing Emergency Centers**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the Delaware Code, Chapter 1, Section 122(3)(p), Delaware Health and Social Services (DHSS)/Division of Health Care Quality (DHCQ) is proposing regulations governing Free Standing Emergency Departments.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed regulatory amendments must submit same to, the Office of Health Facilities Licensing and Certification, Division of Health Care Quality, 261 Chapman Road, Suite 200, Newark, Delaware 19702, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov) or by fax to 302-292-3931 by 4:30 p.m. on May 1, 2020. Please identify in the subject line: Regulations Governing Free Standing Emergency Departments

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

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**DIVISION OF HEALTH CARE QUALITY**  
**PUBLIC NOTICE**

**4469 Personal Assistance Services Agencies**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the Delaware Code, Chapter 1, Section 122(3)(x), Delaware Health and Social Services (DHSS)/ Division of Health Care Quality (DHCQ) is proposing regulations governing Personal Assistance Services Agencies.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed regulatory amendments must submit same to, the Office of Health Facilities Licensing and Certification, Division of Health Care Quality, 261 Chapman Road, Suite 200, Newark, Delaware 19702, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov) or by fax to 302-292-3931 by 4:30 p.m. on May 1, 2020. Please identify in the subject line: Regulations Governing Personal Assistance Services Agencies

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

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**DIVISION OF MEDICAID AND MEDICAL ASSISTANCE**  
**PUBLIC NOTICE**

**Licensed Chemical Dependency Professionals & Art Therapist**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding behavioral health practitioners, specifically, to add Licensed Chemical Dependency Professionals (LCDPs) and Licensed Professional Art Therapist to the list of licensed behavioral health practitioners.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to [Nicole.M.Cunningham@delaware.gov](mailto:Nicole.M.Cunningham@delaware.gov), or by fax to 302-255-4413 by 4:30 p.m. on May 1, 2020. Please identify in the subject line: Licensed Chemical Dependency Professionals and Art Therapist

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

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**DIVISION OF SOCIAL SERVICES**  
**PUBLIC NOTICE**

**Case Processing Procedures - Burial Assistance & Fraudulent Receipt Of Benefits In Multiple States**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**), 42 CFR §447.205, and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services (DSS) is proposing to amend the Division of Social Services Manual regarding Case Processing Procedures, specifically, to explain the procedures for providing burial assistance and disqualifying individuals from cash assistance and food benefit programs when an individual has been found guilty of fraudulently receiving these benefits in multiple states.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to [Nicole.M.Cunningham@delaware.gov](mailto:Nicole.M.Cunningham@delaware.gov), or by fax to 302-255-4413 by 4:30 p.m. on May 1, 2020. Please identify in the subject line: Case Processing Procedures.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

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**DEPARTMENT OF INSURANCE**  
**OFFICE OF THE COMMISSIONER**  
**PUBLIC NOTICE**  
**903 Prompt Payment of Settled Claims**

Regulation 903 contains the requirements for prompt payment of settled insurance claims as required by 18 **Del.C.** §2304(16).

The Delaware Department of Insurance (the Department) is proposing to amend Regulation 903 to allow insurance carriers to pay settled insurance claims other than claims that are subject to the Workers Compensation Statute at 19 **Del.C.** §2344 by electronic means. The Department is also taking the opportunity of this proposal to make grammatical and formatting edits throughout the regulation.

The authority for the proposed amendments is 18 **Del.C.** §§311, 520, 2304(16), and 2312, in accordance with the Delaware Administrative Procedures Act, 29 **Del.C.** Ch. 101.

The Department does not plan to hold a public hearing on the proposed amendments to Regulation 903. The proposed amendments appear below and may also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 1<sup>st</sup> day, May, 2020. Any such requests should be directed to:

Leslie W. Ledogar, Regulatory Specialist  
Delaware Department of Insurance  
ATTN: Docket 4233-2019  
1351 West North St., Ste. 101  
Dover, DE 19904  
(302) 674-7379  
Email: [Leslie.Ledogar@delaware.gov](mailto:Leslie.Ledogar@delaware.gov)

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**OFFICE OF THE COMMISSIONER**  
**PUBLIC NOTICE**  
**1411 Registration of Pharmacy Benefits Managers**

House Bill 194 as amended by House Amendment 1 (HB 194/HA1), see 82 Del. Laws, c. 115 (2019), added a new Subchapter V to Chapter 33A of the Insurance Code. Entitled "Registration of Pharmacy Benefits Managers," the

legislation:

- (1) Requires pharmacy benefits managers ("PBMs") to register with the Insurance Commissioner;
- (2) Permits the Insurance Commissioner to issue cease and desist orders to PBMs who commit fraudulent acts or violations of Title 18, Chapter 33A;
- (3) Requires PBMs to maintain certain records;
- (4) Permits the Insurance Commissioner to examine the affairs of PBMs;
- (5) Grants the Insurance Commissioner the authority to enforce Chapter 33A of Title 18 by imposing fines, requiring PBMs to take affirmative actions, and suspending, denying, or revoking a PBM's registration; and
- (6) Updates existing law regarding maximum allowable cost lists and establishes a more transparent appeals process on which a pharmacy may rely if a PBM does not reimburse the pharmacy the amount owed under their contract or pursuant to the maximum allowable cost list.

The legislation was signed by the Governor on July 17, 2019 and it becomes effective on June 1, 2020. Section 4 of that legislation specifically provides the Department with the regulatory authority to implement all of Title 18, Chapter 33A, of which the PBM registration requirements are a part.

Pursuant to 18 **Del.C.** §§311 and 3359A(c), the Department is proposing new Regulation 1411 to implement the registration requirements of HB 194/HA 1. Pursuant to 18 **Del.C.** §3353A, all PBMs are required to register with the Insurance Commissioner before providing pharmacy benefits management services in Delaware to a "purchaser." A "purchaser" is defined as an insurance company, health service corporation, health maintenance organization, managed care organization, and any other entity that: (1) provides prescription drug coverage or benefits in Delaware, and (2) enters into agreement with a pharmacy benefits manager for the provision of pharmacy benefits management services.

Since 18 **Del.C.** §3353A allows PBMs to annually renew their registration on the May 1 after the initial date of registration and every May 1 thereafter, this registration requirement would apply annually, to the extent that the PBM elects to renew its registration for the upcoming year.

The Department does not plan to hold a public hearing on proposed new Regulation 1411. The proposed new regulation appears below and may also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 1<sup>st</sup> day, May 2020. Any such requests should be directed to:

Leslie W. Ledogar, Regulatory Specialist  
Delaware Department of Insurance  
ATTN: Docket 4255-2020  
1351 West North St., Ste. 101  
Dover, DE 19904  
(302) 674-7379  
Email: [Leslie.Ledogar@delaware.gov](mailto:Leslie.Ledogar@delaware.gov)

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## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### DIVISION OF AIR QUALITY

#### PUBLIC NOTICE

#### 1151 Prohibitions on Use of Certain Hydrofluorocarbons in Specific End-Uses

This proposed new regulation supports the Governor's directive to the Department of Natural Resources and Environmental Control to propose regulations for the use and manufacturing of Hydrofluorocarbons in Delaware.

This proposed new regulation establishes the prohibitions and requirements for the use and manufacture of hydrofluorocarbons in the State of Delaware according to their specific end usage (including air conditioning and refrigeration equipment, aerosol propellants, and foam end-uses) and adopts specific United States Environmental Protection Agency Significant New Alternatives Policy Program prohibitions. This proposed new regulation is designed to support greenhouse gas emission reductions in the State of Delaware.

The hearing record on the proposed new regulation 7 **DE Admin. Code** 1151 will open April 1, 2020. Individuals may submit comments regarding the proposed new regulation to the Hearing Officer via the online comment form at <https://dnrec.alpha.delaware.gov/public-hearings/comment-form/>, via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or via USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE, 19901.

A public hearing on the proposed new regulation will be held on April 23, 2020 beginning at 6:00 PM in the Auditorium,

located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE, 19901. Public comments will be received until close of business, Friday, May 8, 2020.

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## **DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

### **DIVISION OF STATE POLICE 2400 BOARD OF EXAMINERS OF CONSTABLES PUBLIC NOTICE**

Notice is hereby given that the Board of Examiners of Constables, in accordance with 10 **Del.C.** Ch. 27 proposes to amend the following adopted rules in 24 **DE Admin. Code** 2400 Board of Examiners of Constables: Rule 7.0 Conducted Electrical Weapon (CEW). If you wish to view the complete Rules, contact Ms. Ashley Bauguess at 302-672-5337. Any persons wishing to present views may submit them in writing, by May 1, 2020, to Delaware State Police, Professional Licensing Section, P. O. Box 430, Dover, DE 19903.

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## **DEPARTMENT OF STATE**

### **DIVISION OF PROFESSIONAL REGULATION 100 BOARD OF ACCOUNTANCY PUBLIC NOTICE**

Pursuant to 24 **Del.C.** §105(a)(1), the Delaware Board of Accountancy has proposed revisions to its rules and regulations. The rules are designed to implement the revised Accountancy statute.

A public hearing will be held on May 20, 2020 at 9:00 a.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments on the amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Accountancy, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address. Written comments will be accepted until June 4, 2020 in accordance with 29 **Del.C.** §10118(a).

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## **DIVISION OF PROFESSIONAL REGULATION**

### **1100 BOARD OF DENTISTRY AND DENTAL HYGIENE PUBLIC NOTICE**

The Delaware Board of Dentistry and Dental Hygiene, pursuant to 24 **Del.C.** §1106(a)(1), proposes to revise its regulations. The proposed amendments to allow the Board to grant continuing education credits to dentists and dental hygienists who perform volunteer clinical work. The changes also add American Academy of Dental Hygiene to the list of approved CE providers.

The Board will hold a public hearing on the proposed rule change on May 14, 2020 at 3:00 PM, Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Meredith Hurley, Administrator of the Delaware Board of Dentistry and Dental Hygiene, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until May 29, 2020.

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## **DIVISION OF PROFESSIONAL REGULATION**

### **2930 COUNCIL ON REAL ESTATE APPRAISERS PUBLIC NOTICE**

Pursuant to 24 **Del.C.** §4006(a)(1), the Delaware Council on Real Estate Appraisers has proposed revisions to its rules and regulations. The rules pertaining to continuing education are amended to eliminate the "live setting" requirement. The Council is also taking the opportunity of this proposal to update Delaware Code citations to sections that have been amended.

A public hearing will be held on April 21, 2020 at 9:30 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments on the amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Council on Real Estate Appraisal, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address in accordance with 29

**Del.C. §10118(a).** Written comments will be accepted until May 6, 2020.