

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**DIVISION OF PUBLIC HEALTH**

Statutory Authority: 16 Delaware Code, Section 2602 (16 Del.C., §2602)

**PROPOSED**

**PUBLIC NOTICE**

**4459A Regulations for the Childhood Lead Poisoning Prevention Act**

The Health Systems Protection Section, under the Division of Public Health is proposing Regulations Governing the Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months of Age. On July 15, 2010, the Childhood Lead Poisoning Prevention Act was signed into law. Prior to this Act the State of Delaware required lead poisoning screening for children at 12 months of age. Because many children are not yet sufficiently mobile prior to 12 months of age to have full exposure to potential lead hazards in their environments, it has become common practice in other states to test some children at higher risk for lead exposure at 24 months of age as well. The Childhood Lead Poisoning Prevention Act requires that the Division pass regulations to enforce compliance according to the provisions of Chapter 26, Title 16 of the **Delaware Code** relating to Lead Based Paint Hazards. On October 1, 2010, the Division plans to publish as proposed regulations governing the Childhood Lead Poisoning Prevention Act and hold them out for public comment per Delaware law.

**NOTICE OF PUBLIC HEARING**

The Health Systems Protection Section, under the Division of Public Health, Department of Health and Social Services, will hold a public hearing to discuss the proposed Delaware Regulations governing the Childhood Lead Poisoning Prevention Act.

Currently, the State of Delaware requires lead poisoning screening for children at 12 months of age. The Childhood Poisoning Prevention Act requires a formal screening process be developed so that children at high risk for lead exposure can receive an additional screening test at 24 months of age, while children at lower risk will continue to receive only the currently required screening at 12 months of age. The Division of Public Health plans to promulgate regulations governing the Childhood Lead Poisoning Prevention Act that address a new blood lead screening, record retention protocol, and the requirements of compliance, enforcement, and penalties for violators.

The public hearing will be held on October 22, 2010, at 10:00 a.m. in the First Floor Conference Room, located in the Jesse Cooper Building, 417 Federal Street, Dover, Delaware.

Copies of the proposed regulations are available for review in the October 1, 2010 edition of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Office of Health Systems Protection at (302) 744-4705.

Anyone wishing to present his or her oral comments at this hearing should contact Ms. Deborah Harvey at (302) 744-4700 by October 20, 2010. Anyone wishing to submit written comments as a supplement to or in lieu of oral testimony should submit such comments by November 1, 2010 to:

Deborah Harvey, Hearing Officer  
Division of Public Health  
417 Federal Street  
Dover, DE 19901  
Fax (302) 739-6659

**4459A Regulations Governing the Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months of Age**

**1.0 General Provisions.**

**1.1 Preamble.**

1.1.1 These regulations are adopted by the Secretary of Delaware Health and Social Services pursuant to 16 Del.C., §122(3)(t) and § 2602. These regulations establish standards for blood lead testing of children between 22 and 26 months of age who are at high risk of lead poisoning. These regulations also establish a record retention policy, enforcement modalities and penalties for violators.

## **2.0 Definitions.**

For purposes of this chapter, the following definitions shall apply:

**“Blood lead registry”** means the database maintained by the Department that includes the results of all blood lead testing reported to the Department.

**“Blood lead testing”** means taking a capillary or venous sample of blood for point of care testing using a Clinical Laboratory Improvement Act of 1988 (CLIA) licensed or waived test or sending it to a laboratory to determine the level of lead in the blood.

**“Capillary”** means a blood sample taken from the finger or heel for lead analysis.

**“Division”** means the Delaware Division of Public Health.

**“Department”** means the Delaware Department of Health and Social Services.

**“Health care provider”** means the individual that generally provides medical care to a child including, but not limited to, a physician, a physician’s assistant or a nurse.

**“High risk”** means a child between the ages of 22 and 26 months who meets any of the following conditions:

- Is suspected by a parent or a health care provider to be at risk for lead exposure or to exhibit the symptoms of lead poisoning.
- Has a sibling or frequent playmate with lead poisoning.
- Is a recent immigrant, refugee, or foreign adoptee.
- Has a household member who uses traditional, folk, or ethnic remedies or cosmetics or who routinely eats food imported informally (e.g., by a family member) from abroad.
- Lives in or regularly visits a house or day care center (including out buildings) built before 1978.
- Lives with an adult whose job or hobby involves exposure to lead (e.g. construction, welding, pottery, mechanic, jeweler, plumber, renovator, firing range enthusiast, stained glass maker).
- Lives near an active lead smelter, battery recycling plant, or other industry likely to release lead.
- Lives in, attends day care in, or visits any of the following zip code areas at least 6 hours a week or 60 hours a year:
  - 197XX: 01, 02, 03, 06, 09, 11, 13, 20, 33
  - 198XX: 01, 02, 03, 04, 05, 06, 08, 09, 10
  - 199XX: 01, 04, 33, 34, 38, 39, 40, 41, 43, 45, 46, 47, 50, 52, 53, 56, 58, 60, 62, 63, 66, 68, 71, 73, 75, 77.

**“Laboratory”** means a laboratory certified to perform either waived or non-waived blood lead analysis according to the federal Clinical Laboratory Improvement Act of 1988 (CLIA).

**“Low Risk”** means a child between the ages of 22 and 26 months who does not meet any of the conditions listed in the definition for **“High Risk”**.

**“Venous”** means a blood sample taken from a vein in the arm for lead analysis.

## **3.0 Requirement.**

The health care provider of a child between the ages of 22 and 26 months shall determine if said child is at high risk of lead poisoning. If the child is determined to be at high risk, the health care provider shall perform or cause to be performed a blood lead test.

## **4.0 Applicability.**

- 4.1 The blood lead testing requirement specified in these regulations applies to all children 22 to 26 months of age except those determined not to be at high risk.
- 4.2 Blood lead testing is not required on a child between the ages of 22 and 26 months when said child is determined by the health care provider to be at low risk for elevated blood lead levels. If a health care provider determines that a child is low risk, the health care provider will keep the completed risk assessment questionnaire (with all "NO" responses) in the child's chart for at least three years.

**5.0 Religious exemption.**

A religious exemption may be granted to a child if the blood lead 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 testing. A certificate of blood lead testing exemption for religious reasons shall be signed and dated by the child's parent or guardian, notarized, and kept in the child's medical chart.

**6.0 Time line for valid blood lead testing.**

To be valid, a blood lead test shall be performed, as required by these regulations, on a child after completion of a risk assessment questionnaire when the child is between the ages of 22 and 26 months. Children that test with blood lead levels above the level of concern established by the Centers for Disease Control ("CDC"), which is currently 10 µg/dl, will have venous confirmation by a laboratory prior to intervention.

**7.0 Documentation.**

- 7.1 A health care provider and a laboratory performing a blood lead test required by these regulations shall ensure that the results of the blood lead test are reported to the Division.
- 7.2 Proof of blood lead testing will be verified through the Blood Lead Registry and by auditing a child's medical charts.

**8.0 Records.**

A completed risk assessment questionnaire, including the determination of the child's risk of lead poisoning, shall be maintained in a child's medical chart for at least three years. The Division will conduct scheduled and impromptu chart audits to monitor compliance.

**9.0 Severability.**

If any provision or application of any provision of these regulations is held invalid, that invalidity shall not affect the validity of other provisions or applications of these regulations.

**10.0 Penalty.**

Violators are subject to sanctions pursuant to 16 Del.C., §107 for each violation of the requirements established in these regulations.