

Maryland Register

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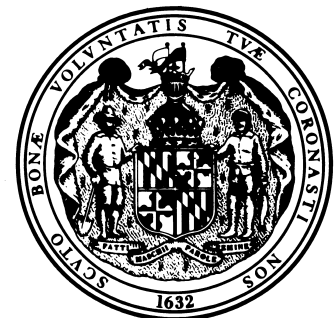
Division of State Documents
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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before December 11, 2009, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of December 11, 2009.

Gail S. Klakring
Acting Administrator, Division of State Documents
Office of the Secretary of State



Information About the Maryland Register and COMAR

MARYLAND REGISTER

The Maryland Register is an official State publication published every other week throughout the year. A cumulative index is published quarterly.

The Maryland Register is the temporary supplement to the Code of Maryland Regulations. Any change to the text of regulations published in COMAR, whether by adoption, amendment, repeal, or emergency action, must first be published in the Register.

The following information is also published regularly in the Register:

- Governor's Executive Orders
- Governor's Appointments to State Offices
- Attorney General's Opinions in full text
- Open Meetings Compliance Board Opinions in full text
- State Ethics Commission Opinions in full text
- Court Rules
- District Court Administrative Memoranda
- Courts of Appeal Hearing Calendars
- Agency Hearing and Meeting Notices
- Synopses of Bills Introduced and Enacted by the General Assembly
- Other documents considered to be in the public interest

CITATION TO THE MARYLAND REGISTER

The Maryland Register is cited by volume, issue, page number, and date. Example:

- 19:8 Md. R. 815—817 (April 17, 1992) refers to Volume 19, Issue 8, pages 815—817 of the Maryland Register issued on April 17, 1992.

CODE OF MARYLAND REGULATIONS (COMAR)

COMAR is the official compilation of all regulations issued by agencies of the State of Maryland. The Maryland Register is COMAR's temporary supplement, printing all changes to regulations as soon as they occur. At least once annually, the changes to regulations printed in the Maryland Register are incorporated into COMAR by means of permanent supplements.

CITATION TO COMAR REGULATIONS

COMAR regulations are cited by title number, subtitle number, chapter number, and regulation number. Example: **COMAR 10.08.01.03** refers to Title 10, Subtitle 08, Chapter 01, Regulation 03.

DOCUMENTS INCORPORATED BY REFERENCE

Incorporation by reference is a legal device by which a document is made part of COMAR simply by referring to it. While the text of an incorporated document does not appear in COMAR, the provisions of the incorporated document are as fully enforceable as any other COMAR regulation. Each regulation that proposes to incorporate a document is identified in the *Maryland Register* by an Editor's Note. The Cumulative Table of COMAR Regulations Adopted, Amended or Repealed, found online, also identifies each regulation incorporating a document. Documents incorporated by reference are available for inspection in various depository libraries located throughout the State and at the Division of State Documents. These depositories are listed in the first issue of the *Maryland Register* published each year. For further information, call (410) 974-2486.

HOW TO RESEARCH REGULATIONS

Each COMAR title has a Table of Contents and Index. An Administrative History at the end of every COMAR chapter gives information about past changes to regulations. To determine if there have been any subsequent changes, check the "Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed" which is found online at www.dsd.state.md.us/CumulativeIndex.pdf. This table lists the regulations in numerical order, by their COMAR number, followed by the citation to the Maryland Register in which the change occurred. The Maryland Register serves as a temporary supplement to COMAR, and the two publications must always be used together. A Research Guide for Maryland Regulations is available. For further information, call (410) 974-2486.

SUBSCRIPTION INFORMATION

For subscription forms for the Maryland Register and COMAR, see the back pages of the Maryland Register.

Single issues of the Maryland Register are \$5.00 per issue, plus \$2.00 for postage and handling.

CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

Maryland citizens and other interested persons may participate in the process by which administrative regulations are adopted, amended, or repealed, and may also initiate the process by which the validity and applicability of regulations is determined.

Listed below are some of the ways in which citizens may participate (references are to State Government Article (SG), Annotated Code of Maryland):

- By submitting data or views on proposed regulations either orally or in writing, to the proposing agency (see "Opportunity for Public Comment" at the beginning of all regulations appearing in the Proposed Action on Regulations section of the Maryland Register). (See SG, §10-112)
- By petitioning an agency to adopt, amend, or repeal regulations. The agency must respond to the petition. (See SG §10-123)
- By petitioning an agency to issue a declaratory ruling with respect to how any regulation, order, or statute enforced by the agency applies. (SG, Title 10, Subtitle 3)
- By petitioning the circuit court for a declaratory judgment on the validity of a regulation when it appears that the regulation interferes with or impairs the legal rights or privileges of the petitioner. (SG, §10-125)
- By inspecting a certified copy of any document filed with the Division of State Documents for publication in the Maryland Register. (See SG, §7-213)

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Martin O'Malley, Governor; **John P. McDonough**, Secretary of State; **Gail S. Klakring**, Acting Administrator; **Susan E. Elson**, Deputy Administrator; **Mary D. MacDonald**, Editor, Maryland Register and COMAR; **Elizabeth Ramsey**, Editor, COMAR Online/Marketing Director; **Marcia M. Diamond**, Subscription Manager, COMAR; **Richard Morrissey**, Assistant Subscription Manager, COMAR; **Anne deBronkart**, Editor, COMAR Online; **Tami Cathell**, Editor/Help Desk, COMAR and Maryland Register Online.

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PERSONS WITH DISABILITIES

Individuals with disabilities who desire assistance in using the publications and services of the Division of State Documents are encouraged to call (410) 974-2486, or (800) 633-9657, or FAX to (410) 974-2546, or through Maryland Relay.

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Availability of Monthly List of Maryland Documents

The Maryland Department of Legislative Services receives copies of all publications issued by State officers and agencies. The Department prepares and distributes, for a fee, a list of these publications under the title "Maryland Documents". This list is published monthly, and contains bibliographic information concerning regular and special reports, bulletins, serials, periodicals, catalogues, and a variety of other State publications. "Maryland Documents" also includes local publications.

Anyone wishing to receive "Maryland Documents" should write to: Legislative Sales, Maryland Department of Legislative Services, 90 State Circle, Annapolis, MD 21401.

COMAR Online

The Code of Maryland Regulations is available at www.dsd.state.md.us as a free service of the Office of the Secretary of State, Division of State Documents. The full text of regulations is available and searchable. Note, however, that the printed COMAR continues to be the only official and enforceable version of COMAR.

The Maryland Register is also available at www.dsd.state.md.us.

For additional information, visit www.sos.state.md.us, Division of State Documents, or call us at (410) 974-2486 or 1 (800) 633-9657.

CLOSING DATES and ISSUE DATES through JULY 30, 2010

| ISSUE DATE | Emergency and Proposed Regulations* | | |
|----------------------|-------------------------------------|------------------------------|--------------------------|
| | 5:00 p.m. | Final Regulations 10:30 a.m. | Notices, etc. 10:30 a.m. |
| January 15 | December 22 | January 6 | January 4 |
| January 29** | January 11 | January 20 | January 15 |
| February 12 | January 25 | February 3 | February 1 |
| February 26** | February 8 | February 17 | February 12 |
| March 12 | February 22 | March 3 | March 1 |
| March 26 | March 8 | March 17 | March 15 |
| April 9 | March 22 | March 31 | March 29 |
| April 23 | April 5 | April 14 | April 12 |
| May 7 | April 19 | April 28 | April 26 |
| May 21 | May 3 | May 12 | May 10 |
| June 4** | May 17 | May 25 | May 21 |
| June 18** | May 27 | June 9 | June 7 |
| July 2 | June 14 | June 23 | June 21 |
| July 16** | June 28 | July 7 | July 2 |
| July 30 | July 12 | July 21 | July 19 |

*Due date for documents containing 25 to 60 pages—48 hours before date shown

Due date for documents exceeding 60 pages—1 week before date shown

**Note closing date changes

***Note issue date change

The regular closing date for Proposals and Emergencies is Monday.

REGULATIONS CODIFICATION SYSTEM

Under the COMAR codification system, every regulation is assigned a unique four-part codification number by which it may be identified. All regulations found in COMAR are arranged by title. Each title is divided into numbered subtitles, each subtitle is divided into numbered chapters, and each chapter into numbered regulations.

09.12.01.02D(2)(c)(iii)

| | | | | |
|----------|------------|------------|--------------|--------------|
| | | | | |
| Title | Chapter | Section | Paragraph | Subparagraph |
| Subtitle | Regulation | Subsection | Subparagraph | Subparagraph |

A regulation may be divided into lettered sections, a section divided into numbered subsections, a subsection divided into lettered paragraphs, and a paragraph divided into numbered subparagraphs.

Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

This table, previously printed in the Maryland Register lists the regulations, by COMAR title, that have been adopted, amended, or repealed in the Maryland Register since the regulations were originally published or last supplemented in the Code of Maryland Regulations (COMAR). The table is no longer printed here but may be found on the Division of State Documents website at www.dsd.state.md.us.

Table of Pending Proposals

The table below lists proposed changes to COMAR regulations. The proposed changes are listed by their COMAR number, followed by a citation to that issue of the Maryland Register in which the proposal appeared. Errata pertaining to proposed regulations are listed, followed by "(err.)". Regulations referencing a document incorporated by reference are followed by "(ibr)". None of the proposals listed in this table have been adopted. A list of adopted proposals appears in the Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed.

02 OFFICE OF THE ATTORNEY GENERAL

02.01.11.01—05 • 36:24 Md. R. 1861 (11-20-09)
02.02.01.09 • 36:22 Md. R. 1727 (10-23-09)

05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

05.17.01.02—08,13 • 36:26 Md. R. 2000 (12-18-09)

07 DEPARTMENT OF HUMAN RESOURCES

07.02.01.04 • 37:1 Md. R. 18 (1-4-10)
07.02.05.01—10 • 36:6 Md. R. 493 (3-13-09)
07.02.06.01—07 • 36:6 Md. R. 495 (3-13-09)
07.02.12.21 • 37:1 Md. R. 19 (1-4-10)
07.02.23.01—06 • 37:1 Md. R. 18 (1-4-10)
07.07.01.02 • 36:25 Md. R. 1958 (12-4-09)
07.07.10.04 • 36:22 Md. R. 1730 (10-23-09)
 36:24 Md. R. 1860 (11-20-09) (err.)

08 DEPARTMENT OF NATURAL RESOURCES

08.02.01.05 • 36:25 Md. R. 1959 (12-4-09)
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08.02.04.16 • 36:26 Md. R. 2003 (12-18-09)
08.02.05.02 • 37:1 Md. R. 21 (1-4-10)
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08.07.06.02 • 36:22 Md. R. 1730 (10-23-09)

08.08.05.03 • 36:21 Md. R. 1598 (10-9-09)

08.08.05.06 • 36:21 Md. R. 1599 (10-9-09)

08.18.21.03,04 • 37:1 Md. R. 22 (1-4-10)

09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

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09.03.06.01—04,07,15,17—19 • 36:26 Md. R. 2013 (12-18-09)
09.03.09.01—07 • 36:26 Md. R. 2016 (12-18-09)
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09.03.11.01,02 • 36:26 Md. R. 2019 (12-18-09)
09.03.12.01,02 • 36:26 Md. R. 2020 (12-18-09)
09.10.01.17 • 36:20 Md. R. 1540 (9-25-09)
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09.12.01.16,16-1 • 36:2 Md. R. 126 (1-16-09)
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 37:1 Md. R. 45 (1-4-10) (err.)

10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE**Subtitles 01 — 08 (1st Volume)**

10.01.04.01—10 • 36:23 Md. R. 1822 (11-6-09)
 10.07.01.01—05,07—09,28,32 • 36:14 Md. R. 989 (7-6-09) (ibr)
 10.07.05.01—28 • 36:17 Md. R. 1337 (8-14-09)

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 10.09.68.01—03 • 36:23 Md. R. 1827 (11-6-09)
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 10.14.01.01—08 • 36:26 Md. R. 2037 (12-18-09)
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 10.15.06 • 37:1 Md. R. 45 (1-4-10) (err.)
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 10.21.25.09 • 36:22 Md. R. 1737 (10-23-09)

Subtitles 23 — 36 (4th Volume)

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 10.27.11.02 • 36:14 Md. R. 992 (7-6-09)
 10.29.05.03—05 • 36:22 Md. R. 1738 (10-23-09)
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DEPOSITORIES FOR DOCUMENTS INCORPORATED BY REFERENCE

Depositories for Documents Incorporated by Reference Into the Code of Maryland Regulations (COMAR)

Annapolis

MD Department of Legislative Services
90 State Circle (21401)
Contact: Johanne H. Greer
410-946-5400, 301-970-5400, 800-492-7111 x5400 (MD only),
FAX 410-841-3850

MD State Archives
350 Rowe Blvd. (21401)
Contact: Christine Alvey
410-260-6438, FAX 410-974-3895

MD State Law Library
Robert C. Murphy Courts of Appeal Bldg.
361 Rowe Blvd. (21401)
Contact: Mary Jo Lazun
410-260-1430, 888-216-8156, FAX 410-974-2063

Baltimore

State Library Resource Center
Enoch Pratt Free Library
400 Cathedral St. (21201)
Contact: State Depository and Distribution Program
410-396-1789, FAX 410-396-4570

Law Library
University of Baltimore
1415 Maryland Ave. (21201)
Contact: Patricia Behles
410-837-4559, FAX 410-837-4570

Thurgood Marshall Law Library
University of Md. School of Law
501 W. Fayette Street (21201)
Contact: Bill Sleeman
410-706-6502, FAX 410-706-2372

Charlotte Hall

Southern MD Regional Library
37600 New Market Rd. (20622)
P.O. Box 459 (20622)
Contact: Pat Ward
301-934-9442, FAX 301-884-0438

College Park

Hornbake Library
University of MD
Marylandia and Rare Books Department (20742)
Contact: Ann Hudak
301-405-9210, FAX 301-314-2709

Frostburg

Frostburg State University
Lewis J. Ort Library
1 Stadium Drive (21532)
Contact: Jeff Maehre
301-687-4734, FAX 301-687-7069

Hagerstown

Government Reference Service of
Washington County Free Library
100 South Potomac Street (21740)
Contact: Harry Sachs
301-739-3250 x 149, FAX 301-739-5839

Largo

Prince George's Community College Library
301 Largo Road (20774)
Contact: Priscilla Thompson
301-322-0468, FAX 301-808-8847

Princess Anne

Frederick Douglass Library
University of MD Eastern Shore (21853)
Contact: Cynthia Nyirenda
410-651-7540, FAX 410-651-6269

Rockville

Montgomery County Public Library
Rockville Branch
21 Maryland Avenue (20850)
Contact: Caren Genison-Perilman
240-777-0170, FAX 240-777-0155

Salisbury

Salisbury University
Blackwell Library
College and Camden Avenues (21801)
Contact: Martha Zimmerman
410-543-6234, FAX 410-543-6203

Towson

Albert S. Cook Library
Towson University
8000 York Road (21252)
Contact: Carl Olson
410-704-3267, FAX 410-704-3829

Washington, D.C.

Library of Congress
Anglo-American Acquisitions Division
Government Documents Section
101 Independence Ave., S.E. (20540)
Contact: Richard Yarnall
202-707-9470, FAX 202-707-0380

EXECUTIVE ORDER 01.01.2009.18**Maryland Alcohol Safety Action Program Committee**

WHEREAS, On an annual basis, impaired driving crashes in Maryland are responsible for more than 150 deaths and more than 4,200 injuries;

WHEREAS, In Maryland over the past two years, more than 48,000 drivers have been arrested for Driving Under the Influence/Driving While Impaired (DUI/DWI);

WHEREAS, Three in every ten Americans will be involved in an alcohol-related crash at some time in their lives;

WHEREAS, The annual socio-economic cost of alcohol-related crashes exceeds \$266 million in Maryland and \$114.3 billion nationally;

WHEREAS, Drunk driving is the nation's and Maryland's most frequently committed crime resulting in injury and death; large numbers of persons arrested for and convicted of driving while impaired by drugs and alcohol are multiple offenders;

WHEREAS, Reducing the level and impact of impaired driving requires a coordinated and collaborative approach that addresses the whole offender from the point of arrest through adjudication, including screening, intervention, treatment, and education;

WHEREAS, Successful drug and/or alcohol abuse treatment reduces recidivism; the Maryland Drug and Alcohol Abuse Administration estimates that approximately 280,000 Marylanders need some level of drug and/or alcohol abuse treatment;

WHEREAS, Although many excellent programs to reduce impaired driving exist in Maryland, a comprehensive, coordinated program that ties together all of the critical components to maximize the effectiveness of State and local efforts is missing;

WHEREAS, Alcohol Safety Action Programs (ASAPs) have been demonstrated to be successful in reducing impaired driving recidivism in other states; and

WHEREAS, The Task Force to Combat Driving Under the Influence Of Drugs and Alcohol recommended a Maryland Alcohol Safety Action Program that provides a network of probationary, administrative, case management, and client services that are readily adaptable and expandable to meet local and State needs.

NOW, THEREFORE I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND THE LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. Established. There is a Maryland Alcohol Safety Action Program Committee. The Committee's mission is to develop a Maryland Alcohol Safety Action Program (MASAP).

B. Membership.

(1) The Committee shall consist of the following members:

(a) One member of the House of Delegates, appointed by the Speaker of the House;

(b) One member of the Senate of Maryland, appointed by the President of the Senate;

(c) Two members of the Department of Transportation, one from the Motor Vehicle Administration and one from the State Highway Administration, both appointed by the Secretary of the Department of Transportation;

(d) A representative of the Department of Health and Mental Hygiene, appointed by the Secretary of the Department of Health and Mental Hygiene;

(e) A representative of the Division of Parole and Probation, appointed by the Secretary of the Department of Public Safety and Correctional Services;

(f) A representative from the Maryland District Court, appointed by the Chief Judge of the Court of Appeals of Maryland;

(g) A representative of the Department of State Police, appointed by the Superintendent of State Police;

(h) Two local health department officers, one from a rural jurisdiction and one from an urban jurisdiction, to be appointed by the Maryland Association of County Health Officers;

(i) A representative from the Maryland Chiefs of Police Association;

(j) A representative from the Maryland Sheriffs' Association;

(k) Two experts in the treatment of individuals with alcohol-abuse problems, appointed by the Governor;

(l) A representative of the Maryland State's Attorneys' Association; and

(m) A representative of the Maryland Office of the Public Defender.

(2) The Governor shall designate the Chair and/or Co-chairs from among the Committee membership.

C. Procedures. The following procedures apply to the Committee:

(1) Members of the Committee may not receive any compensation for their services but may be reimbursed for reasonable expenses incurred in the performance of their duties, in accordance with the Standard State Travel Regulations, and as provided in the State budget.

(2) The majority of the members of the Committee shall constitute a quorum for the transaction of any business.

(3) The Committee may adopt such other procedures as may be necessary to ensure the orderly transaction of business, including the creation of subcommittees.

(4) The Chair, with the consent of the Committee members, may designate individuals, including interested citizens, elected officials, educators, or specialists with relevant expertise, to serve on any subcommittee.

(5) The Committee may consult with State and local agencies, other states, and others to obtain such technical assistance and advice as it deems necessary to complete its duties.

(6) The Committee shall meet at least four times per year and subcommittees shall meet as necessary to complete their duties.

D. Purpose. The Committee shall have the following objectives:

(1) Identify, study, and recommend an organizational framework for a MASAP, including consideration of whether it should be organized within a commission that would report directly to the Governor or through an existing department.

(2) Develop an implementation plan inclusive of implementation methods for a comprehensive program to track Driving Under the Influence/Driving While Impaired (DUI/DWI) offenders across agencies from the time of arrest through a sufficient period of time following completion of sentence and treatment to assess the effectiveness of those measures.

E. Duties. The Committee shall have the following duties:

(1) Recommend resources to operate a MASAP as a no-cost program to the State, funded by offender fees rather than tax dollars.

(2) Develop a business plan for establishing a MASAP, including a proposal for coordinating existing programs and establishing needed additional program components, such as a statewide network of Alcohol Safety Action Programs that can:

(a) Provide judges with knowledge and services which enhance their ability to dispose of DUI/DWI offenders and other cases in a manner appropriate to community and offender needs;

(b) Establish effective treatment referral criteria and processes;

(c) Identify existing education and treatment programs and /or develop additional programs, both public and private, in areas where such services are unavailable or deficient; and

(d) Identify funding sources available for local law enforcement training and assistance.

(3) Develop a short-term and a long-term MASAP implementation plan, including local pilot sites and regular evaluations and recommendations for phasing in a one-year, two-year, and five to ten-year schedule of implementation.

(4) Develop proposed legislation, as necessary, that may be needed to affect the implementation plan for a MASAP.

(5) Perform additional duties as assigned or deemed necessary.

F. Staffing. The Department of Transportation shall provide staff efforts for the Committee and all Executive Department agencies shall cooperate with and assist the Committee in carrying out its responsibilities.

G. Reports. The Maryland Alcohol Safety Action Program Committee shall report its findings and recommendations to the Governor and the General Assembly by December 1, 2010 in accordance with Section 2-1246 of the State Government Article of the Annotated Code of Maryland.

Given Under my Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 8th Day of December, 2009.

MARTIN O'MALLEY
Governor

ATTEST:

JOHN P. McDONOUGH
Secretary of State

[10-01-43]

EXECUTIVE ORDER 01.01.2009.19

Declaration of Continuing Emergency: Medical Services Staffing for Maryland's H1N1 Influenza Vaccination Campaign

WHEREAS, In response to the H1N1 Influenza Pandemic, Maryland public health officials have initiated a Statewide vaccination campaign in accordance with Executive Order 01.01.2009.15;

WHEREAS, The initial phase of this campaign was successful in providing immunizations to many members of the high-risk population groups identified by the Centers for Disease Control and Prevention;

WHEREAS, The availability of additional vaccine supplies now permit the expansion of services to members of the general public; and

WHEREAS, There continues to be an urgent need to assure adequate staffing for vaccination sites across the State and to make full use of all trained health care providers who are willing and able to support the vaccination campaign.

NOW THEREFORE, I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, PURSUANT TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, DECLARE THAT A STATE OF EMERGENCY CONTINUES TO EXIST WITHIN THE STATE OF MARYLAND. I HEREBY AUTHORIZE THE SECRETARY OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE MARYLAND EMERGENCY MANAGEMENT AGENCY OR OTHER APPROPRIATE STATE AUTHORITY, DURING THIS EMERGENCY PERIOD, TO ENGAGE, DEPLOY AND COORDINATE ALL AVAILABLE RESOURCES, AND I PROCLAIM THE FOLLOWING EFFECTIVE IMMEDIATELY:

A. The provisions of Executive Order 01.01.2009.15 shall be and hereby are renewed for an additional period of 30 days.

B. The authorization for certain health care providers to assist in the Statewide vaccination campaign set forth in the foregoing Executive Order shall remain in full force and effect.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis this 11th day of December, 2009.

MARTIN O'MALLEY
Governor

ATTEST:

JOHN P. McDONOUGH
Secretary of State

[10-01-44]

COURT OF APPEALS OF MARYLAND

DISCIPLINARY PROCEEDINGS

This is to certify that by Opinion and Order of this Court dated December 10, 2009, CHARLES OWUSU KWARTENG, 6215 Harford Road, 2nd Floor, Baltimore, MD 21214, has been disbarred from the further practice of law in this State and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-713).

This is to certify that by Order of this Court dated December 16, 2009, CONSTANDIN ALIVIZATOS, 111 South Calvert Street, Suite 2700, Baltimore, MD 21202, has been indefinitely suspended by consent from the further practice of law in this State and his name an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-713).

This is to certify that by Order of this Court dated December 17, 2009, RAMSDALE O'DeNEAL, JR., 2012 Mansker Drive, Goodlettsville, TN 37072, has been indefinitely suspended from the further practice of law in this State and his name an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-713).

[10-01-56]

RULES ORDER

WHEREAS, The State of Maryland is experiencing a fiscal emergency of extraordinary proportions, which is expected to worsen during calendar year 2010; and

WHEREAS, The Judiciary wishes to do what it can to help meet this challenge while continuing to serve the people of this State; and

WHEREAS, The Chief Judge has promulgated an Administrative Order titled, "Temporary Salary Reduction, Furlough, Reduction in Service and Reduction in Subsidy Plan for Judicial Branch Employees," which will produce substantial cost savings for State government; now, therefore,

This Court having considered proposed amendments to Rule 16-104, Judicial Leave, at an open meeting, notice of which was posted as prescribed by law, and finding that an emergency does in fact exist with reference to the proposed Rule change, it is this 15th day of December, 2009,

ORDERED, by the Court of Appeals of Maryland, that the amendment to Rule 16-104 be, and it hereby is, adopted in the form attached to this Order; and it is further

ORDERED, that the Rule change hereby adopted by this Court shall govern the courts of this State and shall take effect and apply on and after January 1, 2010, and it is further

ORDERED, that a copy of this Order be published in the next issue of the *Maryland Register*.

Robert M. Bell
Glenn T. Harrell, Jr.
Lynne A. Battaglia
Clayton Greene, Jr.
Joseph F. Murphy, Jr.
Sally D. Adkins
Mary Ellen Barbera

* Judges Murphy and Adkins declined to sign the Rules Order.
Filed: December 15, 2009

BESSIE M. DECKER
Clerk
Court of Appeals of Maryland

MARYLAND RULES OF PROCEDURE TITLE 16 — COURTS, JUDGES, AND ATTORNEYS

CHAPTER 100 — COURT ADMINISTRATIVE STRUCTURE, JUDICIAL DUTIES, ETC.

AMEND Rule 16-104 to decrease the number of days of annual leave for calendar year 2010 only, as follows:
Rule 16-104. JUDICIAL LEAVE

...
b. Annual Leave.

...
2. Calendar Year ~~2009~~ 2010.

A. Subject to the provisions of subsection b 2 B and section f of this Rule, in calendar year ~~2009~~ 2010 a judge is entitled to annual leave of not more than ~~22~~ 17 working days. The leave accrues as of the first day of the calendar year except that (1) during the first year of a judge's initial term of office, annual leave accrues at the rate of ~~1.83~~ 1.42 days per month accounting from the date the judge qualifies for office, and (2) during calendar year ~~2009~~ 2010, if the judge retires in that year, annual leave accrues at the rate of ~~1.83~~ 1.42 days per month to the date the judge retires.

B. For each day, up to ~~five~~ ten days, that a judge contributes to the State of Maryland an amount equal to the average daily compensation, after federal and state tax and FICA withholdings, of a judge serving on the court or level of court on which the judge serves, based on a 22-day work month, as calculated by the State Court Administrator, the judge shall be entitled to one additional day of annual leave. The judge shall make the contribution prior to taking the additional day of annual leave in the manner determined by the State Court Administrator.

...
[10-01-46]

Regulations promulgated under the Administrative Procedure Act will undergo a review by the promulgating agency in accordance with the Regulatory Review and Evaluation Act (State Government Article, §§10-130 — 10-139; **COMAR 01.01.2003.20**). This review will be documented in an evaluation report which will be submitted to the General Assembly's Joint Committee on Administrative, Executive, and Legislative Review. The evaluation reports have been spread over an 8-year period (see **COMAR 01.01.2003.20** for the schedule). Notice that an evaluation report is available for public inspection and comment will be published in this section of the Maryland Register.

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitles 11 — 19 Motor Vehicle Administration

Notice of Availability of Evaluation Report

Pursuant to Executive Order 01.01.2003.20, Implementation of the Regulatory Review and Evaluation Act, notice is hereby given that the Evaluation Report concerning COMAR Title 11, Subtitles 15 — 19, Motor Vehicle Administration is available for public inspection and comment for a period of 60 days following the date of this notice.

This report may be reviewed at the Office of the Administrator, Room 200, Motor Vehicle Administration, 6601 Ritchie Highway, N.E., Glen Burnie, Maryland 21062, Monday through Friday, 8:30 a.m. to 4:30 p.m., except holidays.

Information may be obtained by contacting Carolyn Decker, Regulations Coordinator, at 410-424-3105.

[10-01-54]

Final Action On Regulations

Symbol Key

- Roman type indicates text already existing at the time of the proposed action.
- *Italic type* indicates new text added at the time of proposed action.
- *Single underline, italic* indicates new text added at the time of final action.
- Single underline, roman indicates existing text added at the time of final action.
- ~~[[Double brackets]]~~ indicate text deleted at the time of final action.

Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 02 BUILDING AND MATERIAL CODES

05.02.03 Minimum Livability Code

Authority: Public Safety Article, §12-203,
Annotated Code of Maryland

Notice of Final Action

[09-342-F-I]

On December 9, 2009, the Secretary of Housing and Community Development adopted amendments to Regulation .02, the repeal of existing Regulations .10 — .14, new Regulation .10, and the recodification of existing Regulations .15 and .16 to be Regulations .11 and .12 under **COMAR 05.02.03 Minimum Livability Code**. This action, which was proposed for adoption in 36:22 Md. R. 1728 — 1729 (October 23, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

RAYMOND A. SKINNER
Secretary of Housing and Community Development

Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 10 RACING COMMISSION

09.10.01 Thoroughbred Rules

Authority: Business Regulation Article, §11-210,
Annotated Code of Maryland

Notice of Final Action

[09-329-F]

On December 15, 2009, the Maryland Racing Commission adopted amendments to Regulation .59 under **COMAR 09.10.01 Thoroughbred Rules**. This action, which was proposed for adoption in 36:21 Md. R. 1600 (October 9, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

J. MICHAEL HOPKINS
Executive Director
Maryland Racing Commission

Subtitle 21 BOARD OF ARCHITECTS

09.21.04 Fees

Authority: Business Regulation Article, §§2-106.1 and 2-106.2; Business Occupations and Professions Article, §§3-101, 3-208, 3-209, 3-304, 3-306, 3-309, 3-310, 3-405, 3-406, and 3-408;
Annotated Code of Maryland

Notice of Final Action

[09-349-F]

On December 16, 2009, the Board of Architects adopted amendments to Regulation .03 under **COMAR 09.21.04 Fees**. This action, which was proposed for adoption in 36:22 Md. R. 1732 — 1733 (October 23, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

DIANE CHO
Chair
Board of Architects

Subtitle 37 WORKFORCE DEVELOPMENT AND ADULT LEARNING

09.37.01 Alternate Ways to Earn a High School Diploma

Authority: Labor and Employment Article, §§11-807 and 11-808,
Annotated Code of Maryland

Notice of Final Action

[09-263-F]

On December 17, 2009, the Secretary of Labor, Licensing, and Regulation, in consultation with the State Board of Education, adopted:

(1) New Regulations .01 — .20 under a new chapter, **COMAR 09.37.01 Alternate Ways to Earn a High School Diploma**; and

(2) The repeal of Regulations .01 and .02 under **COMAR 13A.03.03 Alternate Ways to Earn a High School Diploma**.

This action, which was proposed for adoption in 36:18 Md. R. 1392 — 1394 (August 28, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

LEONARD J. HOWIE, III
Deputy Secretary of Labor, Licensing, and Regulation

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 04 STATE HIGHWAY ADMINISTRATION 11.04.06 Residential Entrance Permits

Authority: Transportation Article, §§2-103(b)(2), 8-202(b)(2)(i), 8-203(a), and 8-204(b), (c), and (i),
Annotated Code of Maryland

Notice of Final Action

[09-335-F]

On December 8, 2009, the Administrator of the State Highway Administration adopted amendments to Regulations .01 and .02 under **COMAR 11.04.06 Residential Entrance Permits**. This action, which was proposed for adoption in 36:22 Md. R. 1739 — 1740 (October 23, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

NEIL J. PEDERSEN
Administrator
State Highway Administration

Subtitle 04 STATE HIGHWAY ADMINISTRATION 11.04.15 Work Zone Speed Control Systems

Authority: Transportation Article, §21-810(k),
Annotated Code of Maryland

Notice of Final Action

[09-330-F]

On November 24, 2009, the Administrator of the State Highway Administration and the Secretary of State Police jointly adopted new Regulations .01 — .05 under a new chapter, **COMAR 11.04.15 Work Zone Speed Control Systems**. This action, which was proposed for adoption in 36:21 Md. R. 1604 — 1607 (October 9, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

NEIL J. PEDERSEN
Administrator
State Highway Administration
TERRENCE B. SHERIDAN
Secretary of State Police

Title 13A STATE BOARD OF EDUCATION

Notice of Final Action

[09-287-F]

On December 10, 2009, the Maryland State Board of Education adopted amendments to:

- (1) Regulation .08 under **COMAR 13A.01.04 Public School Standards**;
- (2) Regulation .01 under **COMAR 13A.04.01 Programs in Technology Education**;

(3) Regulation .01 under **COMAR 13A.04.08 Program in Social Studies**;

(4) Regulation .01 under **COMAR 13A.04.09 Program in Science**;

(5) Regulation .01 under **COMAR 13A.04.12 Program in Mathematics**;

(6) Regulation .01 under **COMAR 13A.04.14 Program in English Language Arts**;

(7) Regulation .02 under **COMAR 13A.06.02 Prekindergarten Programs**; and

(8) Regulations .15, .17, and .20 under **COMAR 13A.09.10 Educational Programs in Nonpublic Schools and Child Care and Treatment Facilities**.

This action, which was proposed for adoption in 36:19 Md. R. 1475 — 1476 (September 11, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

NANCY S. GRASMICK
State Superintendent of Schools

Title 14 INDEPENDENT AGENCIES

Subtitle 09 WORKERS' COMPENSATION COMMISSION

14.09.01 Procedural Regulations

Authority: Labor and Employment Article, §§9-309 and 9-731,
Annotated Code of Maryland

Notice of Final Action

[09-340-F]

On December 10, 2009, the Workers' Compensation Commission adopted amendments to Regulation .25 under **COMAR 14.09.01 Procedural Regulations**. This action, which was proposed for adoption in 36:22 Md. R. 1760 — 1761 (October 23, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

R. KARL AUMANN
Chairman
Workers' Compensation Commission

Title 21 STATE PROCUREMENT REGULATIONS

Subtitle 01 GENERAL PROVISIONS

21.01.03 Applicability

Authority: State Finance and Procurement Article, §§11-203 and 12-101,
Annotated Code of Maryland; *Ch. 198, Acts of 2009*

Notice of Final Action

[09-353-F]

On December 16, 2009, the Board of Public Works adopted amendments to Regulation .01 under **COMAR**

21.01.03 Applicability. This action, which was proposed for adoption in 36:22 Md. R. 1762 (October 23, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

SHEILA McDONALD
Executive Secretary
Board of Public Works

Subtitle 05 PROCUREMENT METHODS

21.05.01 General Provisions

Authority: State Finance and Procurement Article, §§11-201 and 12-101, Annotated Code of Maryland; *Ch. 216, Acts of 2009*

Notice of Final Action

[09-354-F]

On December 16, 2009, the Board of Public Works adopted Regulation **.08** under **COMAR 21.05.01 General Provisions**. This action, which was proposed for adoption in 36:22 Md. R. 1762 — 1763 (October 23, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

SHEILA McDONALD
Executive Secretary
Board of Public Works

Subtitle 11 SOCIOECONOMIC POLICIES

21.11.03 Minority Business Enterprise Policies

Authority: State Finance and Procurement Article, §§12-101, 14-301, and 14-304 — 14-305, Annotated Code of Maryland; *Chs. 268, 283, and 328, Acts of 2009*

Notice of Final Action

[09-355-F]

On December 16, 2009, the Board of Public Works adopted Regulations **.03**, **.04**, **.06**, **.09**, and **.17** under **COMAR 21.11.03 Minority Business Enterprise Policies**. This action, which was proposed for adoption in 36:22 Md. R. 1763 — 1764 (October 23, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

SHEILA McDONALD
Executive Secretary
Board of Public Works

Title 30 MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)

Subtitle 01 GENERAL

30.01.02 Documents Incorporated by Reference

Authority: Education Article, §13-516, Annotated Code of Maryland

Notice of Final Action

[09-345-F-I]

On December 8, 2009, the Maryland Emergency Medical Services Board adopted amendments to Regulation **.01** under **COMAR 30.01.02 Documents Incorporated by Reference**. This action, which was proposed for adoption in 36:22 Md. R. 1796 — 1797 (October 23, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

ROBERT R. BASS, M.D.
State Emergency Medical Services Board

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.37 Delivery of Policy or Certificate

Authority: *Health-General Article, §§19-705(a)(2), 19-713, and 19-729; Insurance Article, §§2-109(a)(1), 4-113, 12-107, 12-203, 12-209, 15-201, 15-412, 15-413, and 27-303; Annotated Code of Maryland*

Notice of Final Action

[09-341-F]

On December 9, 2009, the Insurance Commissioner adopted new Regulations **.01** — **.05** under a new chapter, **COMAR 31.10.37 Delivery of Policy or Certificate**. This action, which was proposed for adoption in 36:22 Md. R. 1797 — 1798 (October 23, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

RALPH S. TYLER
Insurance Commissioner

Subtitle 15 UNFAIR TRADE PRACTICES**31.15.07 Payment of Claims Under Property and Casualty and Title Insurance Policies**

Authority: Insurance Article, §§1-301, 2-109, 2-205, 2-207, 4-113, 10-126, 10-401 — 10-406, 10-410, 19-505, 19-506, 19-508, and 27-301 — 27-306, Annotated Code of Maryland

Notice of Final Action

[09-325-F]

On November 24, 2009, the Insurance Commissioner adopted amendments to Regulations **.02** and **.10** under **COMAR 31.15.07 Payment of Claims Under Property and Casualty and Title Insurance Policies**. This action, which was proposed for adoption in 36:21 Md. R. 1621 — 1622 (October 9, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

RALPH S. TYLER
Insurance Commissioner

Title 33**STATE BOARD OF ELECTIONS****Subtitle 17 EARLY VOTING****33.17.02 Early Voting Centers**

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), and 10-301.1, Annotated Code of Maryland

Notice of Final Action

[09-285-F]

On December 17, 2009, the State Board of Elections adopted new Regulations **.01 — .04** under a new chapter, **COMAR 33.17.02 Early Voting Centers**. This action, which was proposed for adoption in 36:19 Md. R. 1485 — 1487 (September 11, 2009), has been adopted as proposed.

Effective Date: January 14, 2010.

LINDA H. LAMONE
Administrator
State Board of Elections

Withdrawal Of Regulations**Title 07****DEPARTMENT OF
HUMAN RESOURCES****Subtitle 03 FAMILY INVESTMENT
ADMINISTRATION****07.03.05 Temporary Disability Assistance Program**

Authority: Human Services Article, §§1-205, 2-209, 5-201, and 5-207, Annotated Code of Maryland

Notice of Withdrawal

[09-290-W]

The Secretary of Human Resources withdraws amendments to Regulations **.04**, **.05**, **.10**, **.16**, and **.17** under **COMAR 07.03.05 Temporary Disability Assistance Program**, as published in 36:19 Md. R. 1443 (September 11, 2009).

BRENDA DONALD
Secretary of Human Resources

Proposed Action On Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 07 DEPARTMENT OF HUMAN RESOURCES Subtitle 02 SOCIAL SERVICES ADMINISTRATION

Notice of Proposed Action

[10-002-P]

The Secretary of Human Resources proposes to:

- (1) Amend existing Regulation **.04** under **COMAR 07.02.01 In-Home Family Services**; and
- (2) Adopt new Regulations **.01 — .06** under a new chapter, **COMAR 07.02.28 Birth Match**.

Statement of Purpose

The purpose of this action is to allow the Social Services Administration (SSA) to provide the Department of Health and Mental Hygiene (DHMH) with identifying information regarding individuals who have had their parental rights terminated and who have been identified as responsible for abuse or neglect in a central registry. DHMH must provide SSA with birth record information for a child born to an individual whose identifying information has been provided to DHMH within the previous 5 years. If SSA receives birth record information for a child born to an individual whose parental rights have been terminated, the SSA must notify the local department in which the child resides so that the local department may review its records and, when appropriate, provide an assessment.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to LaVonne Oliver, Regulations Coordinator, DHR, Office of Government, Corporate and Community Affairs, 311 W. Saratoga Street, Room 270, Baltimore, Maryland 21201-3521, or call 410-767-7193, or email to regulations@dhr.state.md.us, or fax to 410-333-0637. Comments will be accepted through February 3, 2010. A public hearing has not been scheduled.

07.02.01 In-Home Family Services

Authority: Family Law Article, §§5-524, 5-525, 5-704, 5-709-5-713; Courts and Judicial Proceedings Article, §§3-801 — 3-820; Article 88A, §§3(a) and 5; Annotated Code of Maryland Agency Note: Federal Regulatory Reference: 42 U.S.C §620 et seq.; 45 CFR 1355 — 1357

.04 Services to Families with Children — Central Intake (SFC-I) or Family Support Services (FSS).

A. (text unchanged)

B. *Eligibility.* A family is eligible for SFC-I or FSS:

(1) — (2) (text unchanged)

(3) **[Who is]** *That satisfies one of the following conditions:*

(a) *Is not currently involved with Child Protective Services or LDSS because of alleged or indicated child abuse or neglect; or*

(b) *The local department has determined that further assessment is appropriate after:*

(i) *Receiving a referral from SSA pursuant to COMAR 07.02.28; and*

(ii) *Reviewing records.*

C. (text unchanged)

D. *Application Procedures.*

(1) (text unchanged)

(a) — (b) (text unchanged)

(c) Another local department or program with a screening and assignment policy in place; [or]

(d) A Family Investment Administration (FIA) supervisor or worker; or

(e) The Social Services Administration (SSA) pursuant to COMAR 07.02.28.

(2) — (6) (text unchanged)

E. — H. (text unchanged)

07.02.28 Birth Match

Health-General Article, §§4-222 and 4-224; Family Law Article, §5-715; Annotated Code of Maryland

.01 Purpose.

The purpose of birth match is to ensure the local departments of social services have timely information about new births to parents whose parental rights have previously been terminated and who have been found responsible for child abuse or neglect. The local departments of social services will then be able to determine whether an assessment is necessary to identify any services the family may require.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Assessment" means an evaluation conducted under COMAR 07.02.01.04A(2).

(2) "Automated databases" means the Department's computerized databases that maintain data related to services provided by the Department and local departments.

(3) "Case records" means any computerized or other files related to services provided by a local department or the Department.

(4) "Central registry" has the meaning stated in COMAR 07.02.07.02B.

(5) "Child abuse" has the meaning stated in COMAR 07.02.07.02B.

(6) "Child neglect" has the meaning stated in COMAR 07.02.07.02B.

(7) "Department" means the Department of Human Resources.

(8) "Department of Health and Mental Hygiene (DHMH)" means the Maryland Department of Health and Mental Hygiene.

(9) "Indicated" has the meaning stated in COMAR 07.02.07.02B.

(10) "Local department" has the meaning stated in COMAR 07.02.07.02B.

(11) "Termination of parental rights" means the legal process of obtaining guardianship and ending the rights and responsibilities of the parents.

(12) "Secretary" means the Secretary or designee of the Department of Health and Mental Hygiene.

(13) "Social Services Administration (SSA)" means the Social Services Administration within the Department of Human Resources.

.03 Identification of Individuals.

A. SSA shall review automated databases and, if appropriate, case records, to identify and compile a list each month of individuals who have:

(1) Had their parental rights terminated after September 30, 2009, pursuant to Family Law Article, §§5-322 or 5-323, Annotated Code of Maryland; and

(2) Been identified as responsible for indicated child abuse or child neglect in a Central Registry.

B. SSA may not include on the list any individual whose name has been referred pursuant to Regulation .04 of this chapter for 5 or more years unless there has been a new identification pursuant to §A of this regulation.

.04 Referral of Information from SSA to the Secretary.

A. SSA shall provide to the Secretary at least once monthly the list compiled under Regulation .03 of this chapter.

B. The list required in §A of this regulation shall include for each individual:

- (1) Name;
- (2) Last known address;
- (3) Social Security Number; and
- (4) Date of birth.

C. SSA shall maintain a record of the date that refers to each individual under this regulation.

.05 Information the Secretary Provides to SSA.

A. The Secretary shall provide to SSA at least semi-monthly information regarding live births occurring after September 30, 2009, to any individual on the list referred to the Secretary under Regulation .04 of this chapter.

B. The information required in §A of this regulation shall include the:

- (1) Name of parent;
- (2) Parent's date of birth;
- (3) Name of child;
- (4) Gender of child;
- (5) Child's date of birth; and
- (6) Address of parent.

.06 Notification to Local Departments.

A. SSA shall transmit the information received from the Secretary to the local department in the jurisdiction where the parent resides not later than 2 business days after receipt.

B. Within 5 days of receipt, the local department shall review the information SSA transmits, together with all other available information, to determine whether an assessment is appropriate pursuant to COMAR 07.02.01.04.

BRENDA DONALD
Secretary of Human Resources

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.12 Adoption

Authority: Education Article, §15-106.1; Family Law Article, Title 5, Subtitle 3, Subtitle 3A, Subtitle 3B; Annotated Code of Maryland

Notice of Proposed Action

[10-003-P]

The Secretary of Human Resources proposes to amend Regulation .21 under **COMAR 07.02.12 Adoption**.

Statement of Purpose

The purpose of this action is to modify and expand the post-adoption services regulation. The program provides post-adoption support services to adopted children and their adoptive families.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. According to HB 968 of the 2007 Session, funding must be provided from existing resources of DHR. The bill provides that not more than \$250,000 from any fund source can be spent per fiscal year by the Department between FY 2009 — December 31, 2010.

| II. Types of Economic Impact. | Revenue (R+/R-) Expenditure (E+/E-) | Magnitude |
|---|--|-----------|
| A. On issuing agency: Post-Adoption Support Services Pilot Program | (E+) | \$250,000 |
| B. On other State agencies: | NONE | |
| C. On local governments: | NONE | |
| | Benefit (+) Cost (-) | Magnitude |
| D. On regulated industries or trade groups: | NONE | |
| E. On other industries or trade groups: | NONE | |
| F. Direct and indirect effects on public: | NONE | |

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. Funds will be utilized from the Federal PSSF funds for this program.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to LaVonne Oliver, Regulations Coordinator, DHR, Office of Government, Corporate and Community Affairs, 311 West Saratoga Street, Rm. 270, Baltimore, Maryland 21201, or call 410-767-7193, or email to regulations@dhr.state.md.us, or fax to 410-333-0637. Comments will be accepted through February 3, 2010. A public hearing has not been scheduled.

.21 Post-Adoption Services.

A. — E. (text unchanged)

F. Waiver of Tuition and Fees. An adoptee who is adopted from state custody foster care or their younger sibling if the younger sibling is concurrently adopted out of an out-of-home placement by the same family, may be eligible for a waiver of tuition and fees imposed by a public institution of higher education in Maryland if the following conditions are met:

- (1) The adoptee was [14] 13 years old or older at the time of adoption;
- (2) The adoptee or their younger sibling is enrolled as a candidate for an associate's or a bachelor's degree;
- (3) The adoptee or their younger sibling is younger than 21 years old at the time of enrollment as a candidate for an associate's or bachelor's degree; and
- (4) The adoptee or their younger sibling has filed for federal and state financial aid by March 1 of each year.

G. Post-Adoption Support Services Pilot Program.

(1) The purpose of establishing the Post-Adoption Support Services Pilot Program is to provide post-adoption support services to adopted children and their adoptive families [if the adoption was a consensual adoption without prior

termination of parental rights]. Families who have adopted children in Maryland from local departments of social services, private child placement agencies, or through independent adoption actions are eligible for support services.

(2) The Department of Human Resources shall provide information regarding the availability for post-adoption support services on the public website maintained by the Department.

[(2)] (3) The local department and private child placement agencies shall notify families of the availability of support services during the adoption orientation process and during the adoption/foster care approval process.

[(3)] (4) Upon the request of an adoptive parent for post-adoption support services from a local department of social services, the local department of social services shall:

(a) [Obtain a copy of the adoption petition from the adoptive family requesting support services to determine if the adoption was the result of a consensual adoption without prior termination of parental rights] Verify the adoption of the child at risk of out-of-home placement was finalized in a Maryland court;

(b) Conduct [a clinical] an assessment of the needs of the child and the adoptive family; and

(c) (text unchanged)

[(4)] (5) — [(6)] (7) (text unchanged)

(8) To ensure equitable distribution of funds allocated for the program, the Department of Human Resources shall:

(a) Allow the delivery of support services to at least 125 adoptive families and may award up to \$2,000 to each adoptive family;

(b) Dedicate 80 percent of the funds to families of children adopted through local departments and 20 percent of the funds to remaining adoptive families; and

(c) Evaluate the distribution of funds and may reallocate the funds if necessary to achieve an equitable distribution.

(9) Funds allocated for post-adoption services may not be used to purchase:

(a) Automobiles, trucks, or other vehicles; or

(b) Home renovation services.

[(7)] (10) The local department shall provide the post-adoption support services to the adopted child or the adoptive family upon approval and release of funds by the Social Services Administration. Services may include:

(a) Short-term adoption-related counseling;

(b) Medical treatment;

(c) Mental health services;

(d) Crisis intervention services; [and]

(e) Educational services;

(f) Assisting parents with issues related to gainful employment; and

[(e)] (g) (text unchanged)

BRENDA DONALD
Secretary of Human Resources

Title 08
DEPARTMENT OF
NATURAL RESOURCES
Subtitle 02 FISHERIES SERVICE

Notice of Proposed Action

[10-008-P]

The Secretary of Natural Resources proposes to amend:
 (1) Regulation .02 under **COMAR 08.02.05 Fish**; and
 (2) Regulation .03 under **COMAR 08.02.15 Striped Bass**.

Statement of Purpose

The purpose of this action is to reduce the impact of catch and release fishing on pre-spawn female striped bass. The proposed action places restrictions on recreational angling for striped bass during the catch and release period of March 1 through the third Friday of April. This action is needed to address a significant increase in fishing effort that has developed during the months of March and April since 2002, and the potential negative impacts of this fishery to the Atlantic coast population of striped bass. Specifically, there is concern about the sub-lethal (fish survives but doesn't spawn successfully) impact of catch and release fishing on pre-spawn female striped bass, as well as an increase in direct mortality. There is uncertainty in the magnitude of these impacts. The Department is proposing this action as an initial precautionary measure to ensure adequate protection of pre-spawn female striped bass. These concerns and potential regulatory options were discussed on October 20, 2009, by the Sport and Tidal Fisheries Advisory Commissions. The Department considered comments from this meeting and presented refined regulatory options to the public at a scoping meeting on November 16, 2009. The proposed action takes into consideration comments received from the public.

The proposed action places restrictions in all open catch and release areas during the pre-spawn time period of March 1 through the third Friday in April. Specifically, the action prohibits the use of stinger hooks, requires barbless hooks to be used when trolling, requires the use of circle hooks or J hooks with a gap of less than 1/2 inch when using bait, and restricts boats to the use of not more than six lines when trolling, regardless of the number of individuals on board the vessel.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The action has an economic impact on the regulated industries.

| II. Types of Economic Impact. | Revenue (R+/R-) Expenditure (E+/E-) | Magnitude |
|--------------------------------------|--|-----------|
| A. On issuing agency: | NONE | |
| B. On other State agencies: | NONE | |
| C. On local governments: | NONE | |

| | Benefit (+) Cost (-) | Magnitude |
|--|-------------------------|-----------|
|--|-------------------------|-----------|

| | | |
|---|---------|----------------|
| D. On regulated industries or trade groups: | | |
| (1) Recreational anglers | (-)/(+) | Indeterminable |
| (2) Charter boat industry | (-)/(+) | Indeterminable |
| (3) Bait and tackle shop industry | (-)/(+) | Indeterminable |
| E. On other industries or trade groups: | NONE | |
| F. Direct and indirect effects on public: | NONE | |

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D(1). There may be a small negative economic impact on recreational anglers since they would have to purchase the correct type of hook if they did not already own them. It is not possible to determine the magnitude of the negative impact. There is expected to be a long-term positive impact to recreational anglers and supporting businesses, as the proposed action will ensure there is adequate regulatory protection for the long-term sustainability and use of this resource.

D(2). There may be a small negative impact to the charter boat industry in response to the limit on the number of lines used when trolling. Only a small number of charter boat captains currently participate in this catch and release fishery. The proposed action should have a long-term positive impact on the charter boat industry as it will ensure the sustainability of this resource over time. It is not possible to determine the extent of the economic impact of the restrictions.

D(3). There may be a positive economic impact on bait and tackle shops that sell circle hooks and barbless hooks and on the industry that makes them. There may be a negative economic impact on the tackle shops selling stinger hooks and the industry which makes them.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows. Please see Assumptions under Estimate of Economic Impact.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Regulatory Staff, Fisheries Public Comment, Maryland Department of Natural Resources Fisheries Service, 580 Taylor Ave., B-2, Annapolis, MD 21401, or call 410-260-8260, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 410-260-8310. Comments will be accepted through February 3, 2010. A public hearing will be held on Thursday, January 21, 2010, at 6 p.m., at Calvary United Methodist Church, Fellowship Hall, 301 Rowe Blvd., Annapolis, MD 21401.

08.02.05 Fish

Authority: Natural Resources Article, §§4-215 and 4-2A-03,
 Annotated Code of Maryland

.02 Definitions and General Fishing Prohibitions.

A. Definitions. In this subtitle, the following terms have the meanings indicated:

- (1) — (22) (text unchanged)

(23) “Stinger hook” means any hook which trails another hook, either by direct physical attachment to the lead hook or by a connective device such as a swivel or chain, and is part of the same bait or lure.

[(23)] (24) — [(24)] (25) (text unchanged)

(26) “Trolling” means the method of angling in which fish are attracted to a lure or bait being trailed behind a boat which is being moved by mechanical power.

B. Prohibitions and Limitations on Fishing in General.

(1) — (6) (text unchanged)

(7) An individual recreationally angling in waters of the Chesapeake Bay and its tidal tributaries that are not restricted in accordance with COMAR 08.02.15.03D(1), during the period from March 1 through the third Friday in April, shall abide by the restrictions listed in COMAR 08.02.15.03E.

[(7)] (8) — [(14)] (15) (text unchanged)

08.02.15 Striped Bass

Authority: Natural Resources Article, §§4-215 and 4-2A-03,
Annotated Code of Maryland

.03 Spawning Rivers, Areas, and Reaches.

A. — D. (text unchanged)

E. Fishing Restrictions for the Period March 1 Through the third Friday in April. The restrictions in this section apply to the waters of the Chesapeake Bay and its tidal tributaries that are not closed in accordance with §D(1) of this regulation. During the period from March 1 through the third Friday in April:

(1) A person recreationally angling:

(a) When using fish, crabs, or worms as bait, or processed bait, shall use:

(i) Circle hooks; or

(ii) “J” hooks with a gap of less than 1/2 inch between the point and the shank;

(b) May not use stinger hooks; and

(c) Shall use barbless hooks while trolling; and

(2) No more than six lines, regardless of the number of people on board a vessel, may be used for recreationally angling from a boat when trolling.

JOHN R. GRIFFIN
Secretary of Natural Resources

Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

08.18.21 Potomac River

Authority: Natural Resources Article, §8-704,
Annotated Code of Maryland

Notice of Proposed Action

[10-009-P]

The Secretary of Natural Resources proposes to amend Regulations .03 and .04 under COMAR 08.18.21 Potomac River. This action was considered at the Maryland Boat Act Advisory Committee public comment meeting held on October 22, 2009.

Statement of Purpose

The purpose of this action is to ensure safe boating on the waterway.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Bob Lunsford, Regulations Coordinator, Department of Natural Resources — Boating Services, 580 Taylor Avenue, E-4, Annapolis, Maryland 21401, or call 410-260-8321, or email to blunsford@dnr.state.md.us, or fax to 410-260-8404. Comments will be accepted through February 3, 2010. A public hearing has not been scheduled.

.03 Potomac River North Shore.

A. The Potomac River north shore areas, with their corresponding speed limits, are set forth in [§§B — E of] this regulation.

B. — H. (text unchanged)

I. Smoot Cove encompasses all of the area east of a line beginning at the southerly tip of Rosalie Island, at or near Lat. 38°47.458'N., Long. 77°1.339'W.; then running 189° True to a point on the shore at the southern entrance of Smoot Cove, at or near Lat. 38°46.825'N., Long. 77°1.473'W. Within this area, a person operating a vessel may not create a wake or exceed minimum/no wake speed in an area marked by the Department with no wake buoys.

.04 Potomac River Prohibited Areas.

A. (text unchanged)

B. Adjacent to Caledon [State Park] Natural Area (DCR), King George County, Virginia. Except for boats used in commercial fishing operations pursuant to a commercial fishing license, and operating at a 6-knot or less speed limit, and boats operated under the supervision of the Caledon Natural Area, all boats are prohibited from that portion of the Potomac River within 1,000 feet of the mean low water mark adjacent to Caledon [State Park] Natural Area DCR, King George County, Virginia, as designated by buoys, during the period from April 15 through October 15 each year.

JOHN R. GRIFFIN
Secretary of Natural Resources

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 25 MARYLAND HEALTH CARE COMMISSION

10.25.06 Maryland Medical Care Data Base and Data Collection

Authority: Health-General Article §§19-101, 19-103(c)(3), (4), (7) and (8), 19-109(a)(1), (6), and (7), 19-133, and 19-134, [and 19-138,] Annotated Code of Maryland

Notice of Proposed Action

[10-007-P]

The Maryland Health Care Commission proposes to repeal existing Regulations .01 — .14 and adopt new Regulations .01 — .17 under **COMAR 10.25.06 Maryland Medical Care Data Base and Data Collection**. This action was considered by the Commission at an open meeting held on November 19, 2009, notice of which was given through publication in the Maryland Register under State Government Article, §10-506, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to replace existing regulations governing the submission of health care claims and encounters to the Maryland Health Care Commission (MHCC) with new regulations which allow the Commission to expand the types of information that may be collected as part of the Maryland Medical Care Data Base (MCDB) and to make technical changes by repealing and adopting revised regulations. The revisions and expansion will allow the MHCC to provide a more complete picture of health care spending by private insurers.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. These regulations modify and expand the reporting requirements for payers that submit health care encounters and claims to the Maryland Health Care Commission (MHCC). COMAR 10.25.06 applies to payers whose health care premium volume in Maryland exceeds \$1 million based on information reported by payers on the MHCC Fiscal Year User Fee Assessments Survey. The proposed changes and new requirements will benefit the Commission by expanding the ability to examine the cost of and variations in care across the State and among different populations. Activities resulting from the collection of these new data will be completed within the current MHCC budget, by existing MHCC staff and through a current MHCC contract with Social and Scientific Systems of Silver Spring Maryland.

Approximately 25 payers with total annual Maryland health care premiums of about \$4.3 billion must comply with these regulations. The Commission's proposed changes to the current reporting requirements and expansion of the Medical Care Data Base will have moderate cost impact on payers and will increase the value of the information to MHCC. Aside from information on race, ethnicity, and spoken language, all new data elements are currently collected by the payers that are subject to this regulation. Collection of race, ethnicity, and language spoken are needed by the Commission to meet statutory responsibilities to report on racial disparities in Maryland. These data elements will be collected beginning in 2011 and will entail expense to payers as these data items are not cur-

rently collected by most payers. The federal government and a number of organizations including private sector payers have recommended the collection of race and ethnicity to support studies that examine factors that contribute to differences in the health status and outcomes.

The Commission has established a waiver process in the regulations that will allow a payer to request a temporary exemption from some of the submission requirements if sufficient cause is demonstrated. The waiver process will allow a payer to align MHCC's requirements with their own collection of race and ethnicity information.

II. Types of Economic Impact.

| | Revenue (R+/R-) | |
|---|------------------------|-----------|
| | Expenditure (E+/E-) | Magnitude |
| A. On issuing agency: | NONE | |
| B. On other State agencies: | NONE | |
| C. On local governments: | NONE | |
| | Benefit (+) | |
| | Cost (-) | Magnitude |
| D. On regulated industries or trade groups: | (-) | \$750,000 |
| E. On other industries or trade groups: | NONE | |
| F. Direct and indirect effects on public: | (+) | Moderate |

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. The Commission will not incur additional contractor costs associated with developing and processing the new information because other deliverables will be dropped and the contractor will experience efficiencies in other domains.

B. The data collection activities of MHCC are not duplicative of any other State data collection effort; therefore the proposed regulations have no impact on other State agencies.

D. The MHCC estimates that COMAR 10.25.06 will affect 25 payers. No payer is currently collecting race and ethnicity information. MHCC assumes that payers will expend from \$10,000 to \$35,000 per payer to upgrade information systems to collect race and ethnicity information. Other data fields requested are collected or created by payers during the process of paying health care claims or enrolling individuals.

F. Availability of complete costs for treatment will enable employers to identify differences in costs among providers and to compare the total payments among payers. This information is thought to assist employers in identifying cost-effective care which would lead to lower health care premiums.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Lawrence Monroe, Health Policy Analyst, Cost and Quality Analysis, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215, or call (410) 764-3390, or email to lmonroe@mhcc.state.md.us, or fax to (410) 358-1236. Comments will be accepted through February 5, 2010. A public hearing has not been scheduled.

.01 Scope.

A. This chapter applies to payers whose total premiums collected in the State for health benefit plans exceed \$1,000,000. With the exception of Medicare supplemental plans and certain dental and vision information, the appli-

cability of this chapter to an individual payer is based on the information reported by the payer to the Maryland Health Care Commission (MHCC) on the MHCC Fiscal Year User Fee Assessment Surveys and required under Health-General Article, §19-111, Annotated Code of Maryland. Premiums collected in the State for Medicare supplemental, and dental and vision plans, shall be counted toward the \$1,000,000 threshold. Third-party administrators and pharmacy benefit managers servicing standalone prescription benefits plans are expected to submit data, if requested by the Executive Director or the Executive Director's designee, but are not subject to the penalties described in COMAR 10.25.12.

B. This chapter identifies the five types of health care data reports that payers shall submit to the Commission on a calendar year basis. These reports are the:

- (1) Professional Services Data Report;
- (2) Pharmacy Data Report;
- (3) Provider Directory Report;
- (4) Institutional Services Data Report; and
- (5) Medical and Pharmacy Eligibility Data Report.

C. All reports shall be submitted in accordance with this chapter. The Commission shall annually notify each payer in writing of the payer's reporting responsibilities under this chapter and will post current submission updates on the Commission's official website.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Adjudicated" means paid, resolved, or settled.
- (2) "Claim control number" means a payer's internal number used to track a claim.
- (3) "Commission" means the Maryland Health Care Commission.
- (4) "Crosswalk" means a list of all codes and their definitions in a separate file that maps to a specific data field.
- (5) "Diagnosis Related Groups (DRGs)" means groupings of diagnostic categories that classify an inpatient hospital stay on the basis of diagnoses, procedures, age, gender, and discharge status into one of 500 mutually exclusive groups numbered 0 to 500.
- (6) "DRG Grouper" means a computer program or module which takes clinical and demographic data as input and gives a corresponding Diagnosis Related Group as output.
- (7) "DRG Grouper Name" means the actual DRG Grouper used to produce the DRGs. The three major DRG Groupers currently in use include: All Patient DRGs (AP-DRGs); All Patient Refined DRGs (APR-DRGs); and, Centers for Medicare and Medicaid Services DRGs (CMS-DRGs).
- (8) "Executive Director" means the Executive Director of the Maryland Health Care Commission.
- (9) "Fee-for-service encounter" means a medical care visit in which a health care practitioner or office facility provided a health care service for which a claim was submitted to a payer for payment, and payment was made on a per service basis.
- (10) "Health benefit plan" means a:
 - (a) Hospital or medical policy or certificate that is written on an expense incurred basis, including those issued under multiple employer trusts or associations located in Maryland or any other state covering Maryland residents;
 - (b) Policy, contract, or certificate that is written on an expense incurred basis issued by a nonprofit health service plan that covers Maryland residents;
 - (c) Health maintenance organization subscriber or group master contract;

(d) Medicare supplemental health insurance (as defined under §1882(g)(1) of the Social Security Act);

(e) Health benefit offered by a private, self-insured employer pursuant to the Employee Retirement Income Security Act (ERISA) or a public, self-insured employer; and

(f) Limited scope prescription drug plan offered by a private, self-insured employer pursuant to the Employee Retirement Income Security Act (ERISA) or a public, self-insured employer.

(11) "Health care practitioner" means a person who is licensed, certified, or otherwise authorized under Health Occupations Article, Annotated Code of Maryland, to provide health care services.

(12) "Health care service" means a health or medical care procedure or service rendered by a health care practitioner that:

- (a) Provides testing, diagnosis, or treatment of human disease or dysfunction; or
- (b) Dispenses drugs, medical devices, medical appliances, or medical goods for the treatment of human disease or dysfunction.

(13) Line Item.

(a) "Line item" means a single entry on a bill associated with a health care service reimbursed by a payer.

(b) "Line item" contains information on the procedure performed, the rendering practitioner, service dates, practitioner charges, and payer reimbursement.

(14) "Medical Care Data Base" means the Maryland Medical Care Data Base.

(15) "MHCC Fiscal Year User Fee Assessment Survey" means the Commission's fiscal year survey detailing premiums attributable to health benefit plans for determining applicability of the Medical Care Data Base requirements set forth in this chapter.

(16) "NCPDP number" means the unique 7-digit number assigned by the National Council for Prescription Drug Program.

(17) "NDC number" means the 11-digit National Drug Code number.

(18) "NPI number" means the 10-digit National Provider Identifier number assigned by the federal government for use in all HIPAA transactions to:

- (a) An individual practitioner; and
- (b) An organization for billing purposes.

(19) "Office facility" means a freestanding facility providing:

- (a) Ambulatory surgery;
- (b) Radiologic or diagnostic imagery; or
- (c) Laboratory services.

(20) "Office of Management and Budget (OMB)" means the Federal Government agency that conducts the final review of federal regulations.

(21) "Payer" means:

(a) An insurer or nonprofit health service plan that holds a certificate of authority and provides health insurance policies or contracts in Maryland;

(b) A health maintenance organization (HMO) that holds a certificate of authority in Maryland;

(c) A Pharmacy Benefits Manager (PBM) that manages prescription drug services on behalf of an insurer, nonprofit health service plan, HMO, or self-insured employer; and

(d) A Third Party Administrator (TPA) that manages a health benefit plan on behalf of a self-insured employer.

(22) "Pharmacy Benefits Management Services" means:

(a) The procurement of prescription drugs at a negotiated rate for dispensation within the State to beneficiaries;
 (b) The administration or management of prescription drug coverage provided by a purchaser for beneficiaries; and

(c) Any of the following services provided with regard to the administration of prescription drug coverage:

- (i) Mail service pharmacy;
- (ii) Claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to beneficiaries;
- (iii) Clinical formulary development and management services;
- (iv) Rebate contracting and administration;
- (v) Patient compliance, therapeutic intervention, and generic substitution programs; or
- (vi) Disease management programs.

(23) "Pharmacy Benefits Manager" means a person that performs pharmacy benefits management services.

(24) "Practitioner federal tax ID number" means the federal tax identification number of the practitioner/practice/supplier or office facility receiving reimbursement for the service provided.

(25) "Practitioner/supplier ID number" means the unique identification number used by the submitting payer to identify the particular practitioner or supplier.

(26) "Primary diagnosis" means the principal diagnosis for the health care service visit.

(27) "Specialty care capitated encounter" means a health care visit:

(a) In which a health care practitioner or office facility provides a service pursuant to an agreement with a payer for reimbursement on an aggregate fixed sum or per capita basis; and

(b) Which requires a referral or preauthorization from a primary care physician.

(28) "Supplier" means a person or entity, including a health care practitioner, which supplies medical goods or services.

(29) "Third Party Administrator (TPA)" means a person that, to the extent that the person is acting for a plan sponsor, has discretionary authority over the adjustment, payment, or settlement of benefit claims under the plan.

.03 Designation of Payers to Submit Data Reports.

A. By December 31 of the prior year for which the data is to be submitted, the Executive Director or the Executive Director's designee shall designate the payers that are required to submit data reports based on the payer's premium volume as defined in Regulation .01 of this chapter.

B. The Commission shall timely notify each designated payer of the data reporting requirements.

.04 Time for Submitting Data Reports.

A. On or before June 30 of each year, a designated payer shall submit to the Commission a complete set of the payer's previous calendar year's data as described in Regulations .06 — .10 of this chapter.

B. Each annual submission consists of all claims for services provided in the previous calendar year. Claims from the previous calendar year that must be submitted are claims adjudicated between January 1 of the previous calendar year through April 30 of the year the submission is due.

.05 Encryption.

A. MHCC shall provide each payer an encryption algorithm using one-way hashing consistent with the Advanced Encryption Standard (AES) recognized by the National In-

stitute of Standards and Technology. Each payer shall encrypt the following data elements in such a manner that each unique value for a data element produces an identical unique encrypted data element:

- (1) Patient / Enrollee Identifiers;
- (2) Internal subscriber contract numbers; and
- (3) Internal employer registration numbers.

B. Each payer shall maintain the security and preserve the confidentiality of the encryption algorithms provided by MHCC.

.06 Professional Services Data Report Submission.

A. Each payer shall submit a professional services data report that reports all fee-for-service encounters and specialty care capitated encounters provided by health care practitioners and office facilities. This report shall include all health care services provided to Maryland residents, including vision services provided under a health benefit plan, whether those services were provided:

- (1) By a health care practitioner located in-State or out-of-State; or
- (2) Under a health benefit plan.

B. Each payer shall submit pharmacy data in a separate professional services data file format as set forth in Regulation .07 of this chapter.

C. Each professional services data report shall contain the data elements in §D of this regulation.

D. Data Elements.

- (1) Record Identifier.
- (2) Encrypted Patient Identifier. The value shall be generated by the payer as set forth in Regulation .05 of this chapter.
- (3) Patient Year and Month of Birth.
- (4) Patient Sex.
- (5) Consumer Directed Health Plan Indicator.
- (6) Patient Zip Code.
- (7) Patient Covered by Other Insurance Indicator.
- (8) Coverage Type.
- (9) Delivery System Type.
- (10) Claim-Related Condition.
- (11) Practitioner Federal Tax ID.
- (12) Participating Provider Flag.
- (13) Record Status (renamed from Type of Bill).
- (14) Claim Control Number.
- (15) Claim Paid Date.
- (16) Number of Diagnosis Codes.
- (17) Number of Line Items.
- (18) Diagnosis Code 1.
- (19) Diagnosis Code 2.
- (20) Diagnosis Code 3.
- (21) Diagnosis Code 4.
- (22) Diagnosis Code 5.
- (23) Diagnosis Code 6.
- (24) Diagnosis Code 7.
- (25) Diagnosis Code 8.
- (26) Diagnosis Code 9.
- (27) Diagnosis Code 10.
- (28) Service from Date.
- (29) Service thru Date.
- (30) Place of Service.
- (31) Service Location Zip Code.
- (32) Service Unit Indicator.
- (33) Units of Service.
- (34) Procedure Code. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the professional services data report.

(35) *Modifier I.* If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the professional services data report.

(36) *Modifier II.* If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the professional services data report.

(37) *Servicing Practitioner ID.*

(38) *Billed Charge.*

(39) *Allowed Amount.*

(40) *Reimbursement Amount.*

(41) *Date of Enrollment.*

(42) *Date of Disenrollment.*

(43) *Patient Deductible.*

(44) *Patient Coinsurance or Patient Co-payment.*

(45) *Other Patient Obligations.*

(46) *Plan Liability.*

(47) *Servicing Practitioner Individual National Provider Identifier Number.*

(48) *Practitioner National Provider Identifier Number used for Billing.*

.07 Pharmacy Data Report Submission.

A. Each payer shall submit a pharmacy data report for all prescription drug encounters. This report shall include all pharmacy services provided to Maryland residents whether the services were provided by a pharmacy located in-State or out-of-State.

B. Each pharmacy data report shall contain the data elements listed in §C of this regulation.

C. *Data Elements.*

(1) *Record Identifier.*

(2) *Encrypted Patient Identifier.* The value shall be generated by the payer as set forth in Regulation .05 of this chapter.

(3) *Patient Sex.*

(4) *Patient Zip Code.*

(5) *Patient Year and Month of Birth.*

(6) *Pharmacy NCPDP Number.*

(7) *Pharmacy Zip Code.*

(8) *Practitioner DEA #.* This value shall be identical to element 12 in the provider directory report.

(9) *Fill Number.*

(10) *NDC Number.*

(11) *Drug Compound.*

(12) *Drug Quantity.*

(13) *Drug Supply.*

(14) *Date Filled.*

(15) *Date Prescription Written.*

(16) *Billed Charge.*

(17) *Reimbursement Amount.*

(18) *Prescription Claim Number.*

(19) *Prescribing Practitioner Individual National Provider Identifier Number.*

(20) *Patient Deductible.*

(21) *Patient Coinsurance or Patient Co-Payment.*

(22) *Other Patient Obligations.*

(23) *Date of Enrollment.*

(24) *Date of Disenrollment.*

.08 Provider Directory Report Submission.

A. Each payer shall submit a provider directory report detailing all health care practitioners and suppliers that provided services to that payer's enrollees during the reporting period. This report shall contain information for all in-State

Maryland practitioners/suppliers and all those out-of-State practitioners/suppliers serving Maryland residents.

B. Each provider directory report shall contain a crosswalk of every practitioner and supplier ID listed in the professional services data report and the pharmacy data report.

C. Each provider directory report shall contain the data elements listed in §D of this regulation.

D. *Data Elements.*

(1) *Record Identifier.*

(2) *Practitioner/Supplier ID.*

(3) *Practitioner/Supplier Federal Tax ID without embedded dashes.*

(4) *Practitioner/Supplier Last Name or Multi-Practitioner Health Care Organization.*

(5) *Practitioner/Supplier First Name.*

(6) *Practitioner Middle Initial.*

(7) *Practitioner Name Suffix.*

(8) *Practitioner Credential.*

(9) *Practitioner/Supplier Specialty — 1.*

(10) *Practitioner/Supplier Specialty — 2.*

(11) *Practitioner/Supplier Specialty — 3.*

(12) *Practitioner DEA #.*

(13) *Indicator for Multi-Practitioner Health Care Organization.*

(14) *Practitioner Individual National Provider Identifier Number.*

(15) *Practitioner Organizational National Provider Identifier Number.*

.09 Institutional Services Data Report Submission

A. Each payer shall submit an institutional services data report that reports all institutional health care services provided to Maryland residents, whether those services were provided:

(1) By a health care facility located in-State or out-of-State; or

(2) Under a health benefit plan.

B. Each institutional services data report shall contain the data elements in §C of this regulation.

C. *Data Elements.*

(1) *Record Identifier.*

(2) *Encrypted Patient Identifier.* The value shall be generated by the payer as set forth in Regulation .05 of this chapter.

(3) *Patient Year and Month of Birth.*

(4) *Patient Sex.*

(5) *Patient Zip Code of Residence.*

(6) *Date of Enrollment.*

(7) *Date of Disenrollment.*

(8) *Hospital/Facility Tax ID.*

(9) *Hospital/Facility National Provider Identifier Number.*

(10) *Hospital/Facility Medicare Provider Number.*

(11) *Hospital/Facility Participating Provider Flag.*

(12) *Claim Control Number.*

(13) *Record Type.*

(14) *Type of Admission.*

(15) *Source of Admission.*

(16) *Patient Discharge Status.*

(17) *Date of Admission or Start of Service.*

(18) *Date of Discharge or End of Service.*

(19) *Primary Diagnosis.*

(20) *Primary Diagnosis present on Admission.*

(21) *Other Diagnosis Code 1.*

(22) *Other Diagnosis Code 1 present on Admission 1.*

(23) *Other Diagnosis Code 2.*

(24) *Other Diagnosis Code 2 present on Admission 2.*

- (25) *Other Diagnosis Code 3.*
- (26) *Other Diagnosis Code 3 present on Admission 3.*
- (27) *Other Diagnosis Code 4.*
- (28) *Other Diagnosis Code 4 present on Admission 4.*
- (29) *Other Diagnosis Code 5.*
- (30) *Other Diagnosis Code 5 present on Admission 5.*
- (31) *Other Diagnosis Code 6.*
- (32) *Other Diagnosis Code 6 present on Admission 6.*
- (33) *Other Diagnosis Code 7.*
- (34) *Other Diagnosis Code 7 present on Admission 7.*
- (35) *Other Diagnosis Code 8.*
- (36) *Other Diagnosis Code 8 present on Admission 8.*
- (37) *Other Diagnosis Code 9.*
- (38) *Other Diagnosis Code 9 present on Admission 9.*
- (39) *Other Diagnosis Code 10.*
- (40) *Other Diagnosis Code 10 present on Admission 10.*
- (41) *Other Diagnosis Code 11.*
- (42) *Other Diagnosis Code 11 present on Admission 11.*
- (43) *Other Diagnosis Code 12.*
- (44) *Other Diagnosis Code 12 present on Admission 12.*
- (45) *Other Diagnosis Code 13.*
- (46) *Other Diagnosis Code 13 present on Admission 13.*
- (47) *Other Diagnosis Code 14.*
- (48) *Other Diagnosis Code 14 present on Admission 14.*
- (49) *Other Diagnosis Code 15.*
- (50) *Other Diagnosis Code 15 present on Admission 15.*
- (51) *Other Diagnosis Code 16.*
- (52) *Other Diagnosis Code 16 present on Admission 16.*
- (53) *Other Diagnosis Code 17.*
- (54) *Other Diagnosis Code 17 present on Admission 17.*
- (55) *Other Diagnosis Code 18.*
- (56) *Other Diagnosis Code 18 present on Admission 18.*
- (57) *Other Diagnosis Code 19.*
- (58) *Other Diagnosis Code 19 present on Admission 19.*
- (59) *Other Diagnosis Code 20.*
- (60) *Other Diagnosis Code 20 present on Admission 20.*
- (61) *Other Diagnosis Code 21.*
- (62) *Other Diagnosis Code 21 present on Admission 21.*
- (63) *Other Diagnosis Code 22.*
- (64) *Other Diagnosis Code 22 present on Admission 22.*
- (65) *Other Diagnosis Code 23.*
- (66) *Other Diagnosis Code 23 present on Admission 23.*
- (67) *Other Diagnosis Code 24.*
- (68) *Other Diagnosis Code 24 present on Admission 24.*
- (69) *Other Diagnosis Code 25.*
- (70) *Other Diagnosis Code 25 present on Admission 25.*
- (71) *Other Diagnosis Code 26.*
- (72) *Other Diagnosis Code 26 present on Admission 26.*
- (73) *Other Diagnosis Code 27.*
- (74) *Other Diagnosis Code 27 present on Admission 27.*
- (75) *Other Diagnosis Code 28.*
- (76) *Other Diagnosis Code 28 present on Admission 28.*
- (77) *Other Diagnosis Code 29.*
- (78) *Other Diagnosis Code 29 present on Admission 29.*
- (79) *Attending Practitioner Individual National Provider Identifier Number.*
- (80) *Operating Practitioner Individual National Provider Identifier Number.*
- (81) *Billed Charge.*
- (82) *Allowed Amount.*
- (83) *Reimbursement Amount.*
- (84) *Total Patient Deductible.*
- (85) *Total Patient Coinsurance or Patient Co-payment.*
- (86) *Total Other Patient Obligations.*
- (87) *Coordination of Benefit Savings or Other Payer Payments.*
- (88) *Type of Bill.*
- (89) *Patient Covered by Other Insurance Indicator.*
- (90) *Procedure Code Indicator.*
- (91) *Principal Procedure Code 1. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.*
- (92) *Procedure Code 1 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.*
- (93) *Procedure Code 1 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.*
- (94) *Other Procedure Code 2. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.*
- (95) *Procedure Code 2 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.*
- (96) *Procedure Code 2 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.*
- (97) *Other Procedure Code 3. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.*
- (98) *Procedure Code 3 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.*
- (99) *Procedure Code 3 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.*
- (100) *Other Procedure Code 4. If a payer uses a payer-specific code, other than CPT-4, HCPCS, or ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.*
- (101) *Procedure Code 4 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.*
- (102) *Procedure Code 4 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.*
- (103) *Other Procedure Code 5. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.*
- (104) *Procedure Code 5 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.*
- (105) *Procedure Code 5 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.*
- (106) *Other Procedure Code 6. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-*

10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.

(107) Procedure Code 6 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(108) Procedure Code 6 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(109) Other Procedure Code 7. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.

(110) Procedure Code 7 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(111) Procedure Code 7 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(112) Other Procedure Code 8. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.

(113) Procedure Code 8 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(114) Procedure Code 8 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(115) Other Procedure Code 9. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.

(116) Procedure Code 9 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(117) Procedure Code 9 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(118) Other Procedure Code 10. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.

(119) Procedure Code 10 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(120) Procedure Code 10 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(121) Other Procedure Code 11. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.

(122) Procedure Code 11 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(123) Procedure Code 11 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(124) Other Procedure Code 12. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.

(125) Procedure Code 12 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(126) Procedure Code 12 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(127) Other Procedure Code 13. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.

(128) Procedure Code 13 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(129) Procedure Code 13 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(130) Other Procedure Code 14. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.

(131) Procedure Code 14 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(132) Procedure Code 14 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(133) Other Procedure Code 15. If a payer uses a payer-specific code, other than CPT-4, HCPCS, ICD-9-CM, or ICD-10-CM, the payer shall provide a crosswalk that accompanies the institutional services data report.

(134) Procedure Code 15 Modifier I. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report.

(135) Procedure Code 15 Modifier II. If a submitting payer uses modifiers, the payer shall provide a crosswalk of their modifiers and their definitions that accompanies the institutional services data report. The following three data elements are required only if Procedure Codes cannot be provided:

(136) Diagnosis Related Groups (DRGs) Number.

(137) DRG Grouper Name (see Regulation .02B(7)).

(138) DRG Grouper Version.

.10 Medical and Pharmacy Eligibility Report Submission.

A. Each payer shall submit a medical and pharmacy eligibility data report that reports information on the characteristics of all enrollees for medical and pharmacy services covered under policies and contracts issued by the payer that are subject to this chapter.

B. Each medical and pharmacy eligibility data report shall contain the data elements in §C of this regulation.

C. Data Elements.

- (1) *Record Identifier.*
- (2) *Encrypted Enrollee Identifier. The value shall be generated by payer as set forth in Regulation .05 of this chapter.*
- (3) *Enrollee Year and Month of Birth.*
- (4) *Enrollee Sex.*
- (5) *Enrollee Zip Code of Residence.*
- (6) *Enrollee County of Residence.*
- (7) *Source of Enrollee Race/Ethnicity Information.*
- (8) *Enrollee OMB Race 1.*
- (9) *Enrollee OMB Race 2.*
- (10) *Enrollee OMB Hispanic Ethnicity 1.*
- (11) *Enrollee Other Ethnicity 2 (for future use).*
- (12) *Enrollee Preferred Spoken Language.*
- (13) *Coverage Type.*
- (14) *Delivery System Type.*
- (15) *Policy Type.*
- (16) *Plan Number.*
- (17) *Encrypted Contract Number. The value shall be generated by the payer as set forth in Regulation .05 of this chapter.*
- (18) *Encrypted Employer Number. The value shall be generated by the payer as set forth in Regulation .05 of this chapter.*
- (19) *Medical Services Indicator.*
- (20) *Pharmacy Services Indicator.*
- (21) *Behavioral Health Services Indicator.*
- (22) *Dental Services Indicator.*
- (23) *Plan Liability.*
- (24) *Consumer Directed Health Plan Indicator.*
- (25) *Date of Enrollment.*
- (26) *Date of Disenrollment.*
- (27) *Relationship to Policyholder.*
- (28) *Patient Covered by Other Insurance Indicator.*

.11 Report Submission Methods.

- A. *The Commission shall provide payers with technical specifications, encryption algorithms, layouts, and definitions necessary for filing the five reports required by Regulation .01B of this chapter.*
- B. *The information under §A of this regulation shall be provided to payers by April 1 for data due that year.*
- C. *Payers shall be timely notified of any changes to the requirements specified in §A of this regulation.*

.12 Security Safeguards.

- A. *To protect the privacy and confidentiality of the data that payers submit to the Medical Care Data Base, safeguards developed in accordance with State agency data systems security practices shall be used.*
- B. *Access to the Maryland Medical Care Data Base is limited to authorized personnel only.*
- C. *The Executive Director or the Executive Director's designee shall:*
 - (1) *Designate in writing each individual authorized to have access to the Medical Care Data Base; and*
 - (2) *Establish the scope of access for each authorized individual.*
- D. *Each authorized individual shall sign a confidentiality security agreement as specified by the Commission.*

.13 Waiver or Exception Requests.

- A. *No requirements in these regulations preclude the collection of more granular information by the payer. However, the payer must provide a conversion table that describes how internal values are mapped to the required categories.*

- B. *A payer not able to meet the reporting requirements must:*

- (1) *Submit a request for a waiver if the payer is unable to submit the entire data report; or*
- (2) *Submit a written exception request for a format modification on the file layout when values for a specific data element cannot be submitted.*

- C. *The Executive Director or the Executive Director's designee shall grant requests only upon a payer showing extraordinary cause.*

D. Waiver or Exception Request Requirements.

- (1) *In order to be considered for a waiver or format modification exception request, the payer shall comply with this section.*
- (2) *All waivers or format modification exception requests shall be in writing to the Executive Director or the Executive Director's designee by April 30 for data due that year.*
- (3) *Full Waiver Request. The written request shall explain the reason or reasons for the waiver application. If premium volume for health benefit plans in Maryland is in question, a statement of premium volume form shall accompany the waiver request.*
- (4) *Format Modification Request. The written request shall explain the reason or reasons for the format exceptions and describe in detail the payer's proposed layout or submission method, or both.*

- E. *A payer may file a written appeal for the review of a denial of a full waiver or format modification request.*

- F. *The Commission shall review the decision of the Executive Director or the Executive Director's designee if an appeal by the payer is filed within 14 days of a written decision by the Executive Director or the Executive Director's designee. The Commission may affirm, reverse, or modify the decision of the Executive Director or the Executive Director's designee after providing the payer with an opportunity to present its position to the Commission.*

.14 Extension of Time.

- A. *A payer may request an extension of time for up to 60 days after the due date of June 30.*
- B. *The payer shall:*
 - (1) *Submit a written request to the Executive Director or the Executive Director's designee by May 30 for data due that year;*
 - (2) *Explain the reasons for the extension request; and*
 - (3) *Propose a reasonable submission date for the Commission to receive the data report.*

- C. *The Executive Director or the Executive Director's designee shall grant requests only upon a payer showing extraordinary cause.*

- D. *A payer may file a written petition for review of a denial of an extension of time request.*

- E. *The Commission shall review the decision of the Executive Director or the Executive Director's designee if an appeal by the payer is filed within 14 days of a written decision by the Executive Director or the Executive Director's designee. The Commission may affirm, reverse, or modify the decision of the Executive Director or the Executive Director's designee after providing the payer with an opportunity to present its position to the Commission.*

.15 Failure to File Data Reports.

- A. *A payer that does not timely file a data report may be subject to penalties as described in COMAR 10.25.12.*

.16 Summaries and Compilations.

The Commission shall develop public-use data, summaries, and compilations for public disclosure, pursuant to Health-General Article, §§19-103(c)(3), 19-109(a)(6), and 19-134, Annotated Code of Maryland, in compliance with all applicable federal and state laws and regulations.

.17 Disclosure of Data for Research Use

All disclosures of data that qualify as “directly or indirectly identifiable health information”, shall be subject to review by the Institutional Review Board as described in COMAR 10.25.11.

MARILYN MOON, PH.D.
Chair
Maryland Health Care Commission

Subtitle 42 BOARD OF SOCIAL WORK EXAMINERS

10.42.06 Continuing Education Requirements

Authority: Health Occupations Article, §§19-205 and 19-308, Annotated Code of Maryland

Notice of Proposed Action

[10-006-P]

The Secretary of Health and Mental Hygiene proposes to repeal existing Regulations **.01 — .11** and adopt new Regulations **.01 — .11** under **COMAR 10.42.06 Continuing Education Requirements**. At this time, the Secretary of Health and Mental Hygiene is also withdrawing the Notice of Proposed Action docketed as [09-184-P] and published in 36:13 Md. R. 929 — 933 (June 19, 2009).

This action was considered by the Board of Social Work Examiners at a public meeting held on October 9, 2009, notice of which was given by publication in 36:20 Md. R. 1571 (September 25, 2009), pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to update the continuing education requirements for licensed social workers in Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhmh.state.md.us, or fax to 410-333-7687. Comments will be accepted through February 3, 2010. A public hearing has not been scheduled.

.01 Scope and Objectives.

A. This chapter establishes continuing education requirements for licensed social workers in the State.

B. The objectives of this chapter include:

- (1) Maintenance and enhancement of professional competence;
- (2) Ongoing improvement of professional skills and knowledge; and
- (3) Enrichment of social work services provided to the citizens of Maryland.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Approved programs” means programs that are presented by professionals who are qualified in the content area with education as the focus and that:

(a) Are offered or provided under the auspices of an authorized sponsor; or

(b) Are offered or approved by the Board.

(2) “Authorized sponsor” means an individual or organization that is authorized to provide continuing education programs and to offer under its auspices programs as set forth in Regulation .05 of this chapter.

(3) “Board” means the Board of Social Work Examiners.

(4) “Category I” means activities that are formally organized face-to-face learning experiences provided by Board-approved sponsors.

(5) “Category II” means activities that are independent, less structured learning experiences.

(6) “Committee” means the Advisory Committee for Continuing Education appointed by the Board.

(7) “Continuing education” means completing approved programs designed to provide:

(a) Enhancement of social work practice, values, skills, and knowledge; and

(b) Enrichment of social work services and competence.

(8) “Continuing education unit” means 1 hour (60 minutes) of an approved program as set forth in Regulation .04 of this chapter.

(9) “Extension” means a period of time, not to exceed 6 months for renewal or 1 year for reactivation or reinstatement, that the Board authorizes to permit additional time for the social worker to obtain the required continuing education units needed for renewal, reactivation, or reinstatement of a license as set forth in Regulation .08 of this chapter.

(10) “Renewal date” means the date the license expires, as specified in the notice sent to the social worker by the Board in accordance with Health Occupations Article, §19-308(b), Annotated Code of Maryland.

(11) “Renewal period” means the period from the date the license was issued or November 1 of the renewal year to October 31 of the expiration year.

.03 Continuing Education Requirements.

A. The Board shall renew a license for an additional 2-year period if the social worker:

(1) Completes 40 (30 for Licensed Social Work Associates) continuing education units within the renewal period, of which a minimum of:

(a) 20 (15 for Licensed Social Work Associates) continuing education units shall be obtained from approved programs which are Category I; and

(b) 3 of the required Category I continuing education units shall have a content area focusing on ethics and professional conduct, including boundary issues, or pertaining to the standards of practice and laws governing the profession of social work in Maryland;

(2) Submits an application as set forth in COMAR 10.42.01 attesting to completion of the required continuing education units in approved programs; and

(3) Completes the required continuing education units within a 2-year period as set forth in §B of this regulation.

B. Time Frame.

(1) Renewed licenses are valid for a 2-year period from November 1 through and including October 31, during which time continuing education units may be earned.

(2) Continuing education units obtained in one renewal period may not be carried over to the next renewal period.

.04 Continuing Education Activities.

A. The social worker shall complete continuing education units relating to the practice of social work that foster improvement, advancement, and extension of the social worker's professional skill, knowledge, and competence.

B. Documentation shall be provided for the continuing education units listed in §C — F of this regulation as set forth in Regulation .07 of this chapter.

C. Continuing Education Unit.

(1) In an academic classroom setting in an accredited academic institution, if a course is taken for academic credit, 1 academic credit is equal to 5 continuing education units.

(2) In an academic classroom setting in an accredited academic institution, if a course is audited, 1 academic credit is equal to 3 continuing education units.

(3) Programs may include the terms "contact hour", "CEU", "clock hour", and "hour" in the description of the course. Any program described with these terms that lasts 60 minutes provides 1 continuing education unit.

D. Of the 40 (30 for Licensed Social Work Associates) required continuing education units, 20 (15 for Licensed Social Work Associates) shall be earned and all may be earned from one or any combination of the following Category I activities:

(1) A course, including but not limited to a series of learning experiences with a specific content and offered for credit, noncredit, or audit by an accredited educational institution;

(2) A workshop, including but not limited to a session designed to bring together individuals around a common theme to solve problems and gain new knowledge, skills, and attitudes, with ample opportunity to interact;

(3) A seminar, including but not limited to a group of social workers who meet under expert leadership or a resource individual who conducts a discussion on a specific topic;

(4) A symposium, including but not limited to a presentation or presentations by professional specialists on a particular subject;

(5) A conference, including but not limited to sessions of 1 or more days duration designed to explore a central theme;

(6) Attendance at programs offered at professional or scientific meetings of local, State, regional, national, and international professional or scientific organizations; and

(7) Attending staff development, professional training, and invited in-house speaker sessions, including but not limited to an educational program planned by an agency to assist employees in becoming knowledgeable and competent about professional social work practice.

E. Of the 40 (30 for Licensed Social Work Associates) required continuing education units, a maximum of 20 (15 for Licensed Social Work Associates) continuing education units may be earned from one or any combination of the following Category II activities:

(1) Peer case conferences among licensed social workers designed to promote more effective interventions and advanced practice;

(2) Journal clubs that meet for at least 1 hour and are organized for the purpose of examining the literature and incorporating in the discussion the application of current literature to social work practice;

(3) Preparing and presenting approved face-to-face programs of instruction with 1 hour of preparation or presentation equal to 1 continuing education unit up to a maximum of 12 hours;

(4) Preparing and presenting a scientific or professional paper at a meeting of a professional or scientific organization with 1 hour of preparation or presentation equal to 1 continuing education unit up to a maximum of 12 hours;

(5) Authoring a professional publication (including peer-reviewed journals, books, and other professional publications) with 1 hour of authoring equal to 1 continuing education unit earned at the time the publication is published up to a maximum of 12 hours;

(6) Teaching a social work related course in an academic setting;

(7) Home-study, audiovisual and Internet on-line courses provided by an approved sponsor; and

(8) Taking foreign or sign language courses intended to enhance the delivery of social work services up to a maximum of 6 hours.

.05 Authorization of Sponsors and Approval of Continuing Education Programs.

A. Automatically Authorized Sponsors.

(1) Automatically authorized sponsors shall offer continuing education programs that meet the objectives set forth in Regulations .01B and .04 of this chapter.

(2) The following are automatically authorized sponsors:

(a) National, regional, or State accredited academic institutions offering academic courses or programs recognized as acceptable social work curriculum subject areas;

(b) State, regional, national, or international social work associations, including but not limited to social work licensing boards, the Association of Social Work Boards, and the National Association of Social Workers; and

(c) State, regional, national, or international non-social-work professional membership organizations providing programs that are relevant to the professional development of social workers.

B. Board Authorized Sponsors.

(1) Individuals and organizations not included in §A(2) of this regulation may become authorized sponsors of continuing education programs by:

(a) Submitting an application on a form provided by the Board at least 45 days before conducting the sponsor's first program;

(b) Paying a fee as provided in COMAR 10.42.05.02; and

(c) Being approved by the Board.

(2) Board authorized sponsors will receive authorization upon approval and shall provide to the Board all program announcements.

C. The Board shall establish a committee for continuing education that is responsible for recommending to the Board

approval for proposed activities, sponsors, and programs offered by individuals or organizations that come under §A(2) of this regulation.

D. The Board shall maintain a roster of authorized sponsors.

E. Authorized Sponsor.

(1) An authorized sponsor shall:

(a) Include the following in the program announcement, flyer, or brochure:

(i) The date, title, location, objectives, and content of the program;

(ii) The number of continuing education units that will be awarded by the sponsor on a certificate awarded to the social worker on completion of the program;

(iii) A statement that the named sponsor is authorized by the Board; and

(iv) A statement that the named sponsor maintains responsibility for the program;

(b) Include the following on a program certificate or letter of completion:

(i) The name of the social worker;

(ii) The date, title, and location of the program;

(iii) The number of continuing education units that are being awarded to the social worker on completion of the program only for actual time in attendance;

(iv) An authorizing name, signature, and contact information for the person responsible for awarding the certificate or letter of completion;

(v) A statement that the named sponsor is authorized by the Board; and

(vi) A statement that the named sponsor maintains responsibility for the program; and

(c) Maintain documentation of continuing education activity for 4 years, which may include pretests and post-tests, but shall include:

(i) Registration and attendance records;

(ii) Stated purpose;

(iii) Content of presentation;

(iv) Time and length of activity; and

(v) Participant evaluations.

(2) The Board may audit authorized sponsors' continuing education programs and activities at any time.

F. Suspension or Revocation of an Authorized Sponsor. Authorization as a sponsor may be suspended or revoked if the sponsor does not comply with the requirements of §E of this regulation or the criteria set forth in Regulation .04 of this chapter.

.06 Exceptions from Any of the Requirements.

Before attending a program, a social worker requesting an exception from any of the requirements of this chapter shall provide:

A. Official documentation that confirms circumstances beyond the control of the social worker because of:

(1) A functional impairment or prolonged illness that has been diagnosed by a health care practitioner;

(2) Mandatory military service or deployment;

(3) A prolonged absence from the United States;

(4) Officially declared disasters; or

(5) Financial hardship;

B. Documentation that describes the continuing education programs selected by the social worker considered equivalent to continuing education activities described in this chapter; and

C. An acceptable procedure for documenting the continuing education units.

.07 Reporting, Documenting, and Auditing Compliance with Continuing Education Requirements.

A. A social worker who has completed the continuing education requirements shall attest to that on a form supplied by the Board as part of the application for license renewal, reinstatement, or reactivation.

B. The Board shall audit a percentage of social workers, to be selected by the Board, for each renewal period.

C. On request by the Board, a social worker shall provide full documentation of the continuing education units completed in accordance with the requirements of §D of this regulation.

D. Documentation. A social worker shall provide to the Board:

(1) An official transcript for continuing education units earned in a course taken for credit;

(2) A certificate of completion for approved programs;

(3) If a certificate of completion is not available:

(a) Dates on which the program was presented;

(b) Names of the presenters;

(c) Topics presented; and

(d) An outline of the presentation;

(4) A reprint of the social worker's completed publication;

(5) If a certificate of completion is not available for an audiovisual instructional program or a home study course, proof of completion of the program or course, such as a post-test passing score or other satisfactory proof as determined by the Board;

(6) Proof of presentations made; and

(7) Topics, dates, times, and names of participants in structured peer-case conferences and journal club activities.

E. Record Retention for Active, Expired, or Inactive License.

(1) Active Licenses.

(a) A social worker with an active license shall retain records documenting completion of continuing education requirements for 2 years after the licensing renewal date for which the report of continuing education was submitted to the Board.

(b) The documentation required in §E(1)(a) of this regulation may be requested by the Board at any time within that 2-year period.

(2) Expired Licenses. A social worker with an expired, non-renewed license shall:

(a) Retain records documenting completion of continuing education requirements for each 2-year period that the license was expired, up to a maximum of 40 (30 for Licensed Social Work Associates) continuing education units; and

(b) File with the Board documentation of completion of continuing education units at the time of reinstatement or submit a written request for an extension of time in order to obtain the required credit hours.

(3) Inactive Licenses. A social worker with an inactive license shall:

(a) Retain records documenting completion of continuing education requirements for the 2 years immediately preceding reactivation; and

(b) File with the Board documentation of completion of continuing education units at the time of reactivation or submit a written request for an extension of time in order to obtain the required credit units.

F. Responsibility for Conducting the Audits.

(1) The Board staff shall:

(a) Review and evaluate the documentation submitted for the purpose of the audits; and

(b) Report the findings to the Board.

(2) The Board may require a social worker to submit a copy of the purpose, objectives, and content areas from the continuing education program.

(3) The Board may require a social worker to obtain additional continuing education units if a program is disapproved as a result of a review and evaluation.

(4) The Board may take disciplinary action under COMAR 10.42.04 against any social worker who fraudulently attests to or does not submit continuing education documentation.

.08 Extension of Time.

A. A social worker shall file a request for an extension of time, including the supporting documentation, with the Board. The request shall be in writing and filed before August 31 of the renewal year.

B. The Board shall consider and render a decision on the request within 45 days of receiving the written request.

C. The Board may grant an extension and conditionally renew a license for up to 6 months if the Board determines that:

(1) Failure to fulfill the requirements is a result of:

- (a) Functional impairment;
- (b) Prolonged illness;
- (c) Mandatory military service or deployment;
- (d) A prolonged absence from the United States;
- (e) An officially declared disaster; or
- (f) Financial hardship; and

(2) The social worker attempted to meet the requirements.

D. Failure to obtain the required continuing education units on or before the 6-month extension shall result in the social worker's inability to practice social work in Maryland. Alternatively, the social worker may submit an application for inactive status.

E. The Board may grant an exception for all or part of the continuing education requirements for circumstances set forth in Regulation .06 of this chapter.

F. Continuing education hours earned after October 31 of the second year to fulfill the conditions of an extension may be credited only to the preceding 2-year period.

G. The Board shall audit a social worker who has been granted an extension of time for the completion of continuing education requirements.

.09 Consequences of Failure to Comply with Continuing Education Requirements.

The Board shall notify a social worker by first class mail that the license has not been renewed if the following has occurred:

A. The Board has not received the required certification of completion of continuing education requirements by October 31 of the renewal year and an extension has not been requested;

B. Continuing education requirements have not been met, and an extension request has been denied by the Board;

C. An extension was not submitted to the Board; or

D. The social worker has not responded to audit requirements within the time required.

.10 Reinstatement of Licenses.

A social worker whose license has not been renewed is entitled to reinstatement within 5 years of the date the license expired, by:

A. Paying the reinstatement fee established by the Board, as provided in COMAR 10.42.05.02; and

B. Demonstrating to the Board that the social worker has met all continuing education requirements by obtaining 40 (30 for Licensed Social Work Associates) continuing education units in the 2 years preceding the social worker's application for reinstatement.

.11 Reactivation of Licenses.

A social worker whose license was placed on inactive status is entitled to reactivation within 5 years of the date the license expired, by:

A. Paying the reactivation fee established by the Board, as provided in COMAR 10.42.05.02; and

B. Demonstrating to the Board that the social worker has met all continuing education requirements by obtaining 40 (30 for Licensed Social Work Associates) continuing education units in the 2 years preceding the social worker's application for reactivation.

JOHN M. COLMERS
Secretary of Health and Mental Hygiene

**Title 14
INDEPENDENT AGENCIES**

**Subtitle 32 STATE LABOR RELATIONS
BOARD**

14.32.05 Unfair Labor Practice Complaint Process

Authority: State Personnel and Pensions Article, §§3-204, 3-205, 3-206, and 3-306, Annotated Code of Maryland

Notice of Proposed Action

[10-005-P]

The State Labor Relations Board proposes to amend Regulation .02 under **COMAR 14.32.05 Unfair Labor Practice Complaint Process**. This action was considered at a public meeting on November 19, 2009.

Statement of Purpose

The purpose of this action is to make the unfair labor practice complaint process more streamlined and efficient.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Erica Snipes, Executive Director, State Labor Relations Boards, 839 Bestgate Road, Suite

400, Annapolis, MD 21401, or call (410) 260-3216, or email to esnipes@laborboards.maryland.gov, or fax to (410) 260-3219. Comments will be accepted through February 3, 2010. A public hearing has not been scheduled.

.02 Relief from Unfair Labor Practices.

A. — F. (text unchanged)

G. *Investigation.* Pursuant to State Personnel and Pensions Article, §§3-205(b)(3) and 3-207(a), Annotated Code of Maryland, the Board authorizes and directs the Executive Director or designee to:

(1) Consider properly filed complaints to determine if an unfair labor practice has been alleged and, if so, commence an investigation of the facts;

(2) Dismiss administratively the complaint if the Executive Director:

(a) Finds that the complaint fails to state an actionable claim under the Maryland Collective Bargaining Law, State Personnel and Pensions Article, §§3-101 — 3-602, Annotated Code of Maryland, or regulations under this chapter; or

(b) Determines that the Board holds no jurisdiction over the claims presented; and

(3) Establish appropriate internal procedures, as considered necessary, to further implement §G(1) or (2) of this regulation.

H. *Written Report.* The results of the investigation shall be set forth in a written report and served on all parties to the unfair labor practice complaint. The report shall set forth the Executive Director's recommendations as to:

(1) Whether, based on the totality of the factual circumstances ascertained during the investigation and known at the time of the determination, probable cause exists to believe that the alleged unfair labor practice has occurred; and

(2) The disposition of the alleged unfair labor practice, including any need for a hearing.

I. *Board Action.*

(1) For a written report containing a finding of no probable cause, the complainant shall be given 15 days from service of the report to request that the Board reconsider the finding and recommended disposition. The Board shall take final action, as appropriate.

(2) If no request for reconsideration of a written report containing a finding of no probable cause is filed, or, in the case of a written report finding probable cause, the written report shall be transmitted to the Board for final or further action, respectively, on the recommendations made in the report.

J. Only the unfair labor practices set forth in this chapter and specified in the complaint shall be considered in the proceeding.

K. In a hearing held to resolve the issues raised by the complaint, the filing party shall have the burden of proof by the preponderance of the evidence.

L. If the Board finds an unfair labor practice has been or is being committed, the Board shall take the action that it deems necessary to remedy the unfair labor practice including:

(1) Issuing a cease-and-desist order;

(2) Requiring a party to make reports from time to time showing the extent of compliance with the Board's order or ruling;

(3) Back pay;

(4) Reinstatement;

(5) Communicating directly with employees about their rights; and

(6) Such further action as the Board may require.

M. *If it has not been shown by a preponderance of the evidence that a party has engaged in or is engaging in an unfair labor practice, then the Board shall state its findings of facts and conclusions of law and issue an order dismissing the complaint.*

ERICA SNIPES
Executive Director
State Labor Regulations Board

Title 28 OFFICE OF ADMINISTRATIVE HEARINGS

Subtitle 02 RULES OF PROCEDURE

28.02.01 Rules of Procedure

Authority: State Government Article, §§9-1604(a)(8) and (b)(i)(v) and
10-206(a),
Annotated Code of Maryland

Notice of Proposed Action

[10-001-P]

The Office of Administrative Hearings proposes to repeal existing Regulations **.01 — .28** and adopt new Regulations **.01 — .27** under **COMAR 28.02.01 Rules of Procedure**.

Statement of Purpose

The purpose of this action is to renumber and reorganize the Rules of Procedure for the Office of Administrative Hearings into a more logical and sequential format. Minor revisions were made to help clarify certain procedural rules.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Wayne A. Brooks, Deputy Director of Operations, Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, MD 21031, or call 410-229-4132, or email to Wbrooks@oah.state.md.us, or fax to 410-229-4111. Comments will be accepted through February 3, 2010. A public hearing has not been scheduled.

.01 Scope.

A. *Applicability.* This chapter applies to all hearings before the Office of Administrative Hearings.

B. This chapter shall be construed to ensure the fair and expeditious determination of every action.

C. Subject to §D of this regulation, this chapter supplements the procedures required by law.

D. Unless federal or State law requires that a federal or State procedure shall be observed, this chapter takes precedence in the event of conflict.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administrative law judge" or "judge" means an individual appointed by the Chief Administrative Law Judge under State Government Article, §9-1604, Annotated Code of Maryland, or designated by the Chief Administrative Law Judge under State Government Article, §9-1607, Annotated Code of Maryland.

(2) "Agency" means:

(a) Any unit of government whose action gives rise to a contested case hearing under State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland; or

(b) Any other unit of government or private entity having a proceeding before the Office of Administrative Hearings to which the Chief Administrative Law Judge may assign a judge pursuant to State Government Article, §9-1604(b), Annotated Code of Maryland.

(3) "Authorized representative" means an attorney or, when permitted by applicable law, another individual.

(4) Docket Entry.

(a) "Docket entry" means the filing of a pleading by a party, a request for a hearing date, or the scheduling of a proceeding.

(b) "Docket entry" does not include the entry or withdrawal of appearance of counsel, case status reports, or other inquiries.

(5) "Filed" means, unless otherwise indicated in this chapter, the earlier of when the document is postmarked or received at the Office and, when required, served on the other parties to a proceeding or an administrative law judge.

(6) "Final decision maker" means the person or entity authorized by law or delegation to render the final decision in a contested case or other proceeding before the Office.

(7) "Initial pleading" means a notice of agency action, an appeal of an agency action, or any other request for a hearing by a person.

(8) "Law" means State and federal constitutions, statutes, regulations, and relevant case law.

(9) "Office" means the Office of Administrative Hearings.

(10) "Party" means a person or agency named or permitted to participate in a case before the Office.

(11) "Person" means an individual, representative, corporation, or other entity, including a public or nonprofit corporation, or an agency or instrumentality of federal, State, or local government.

(12) "Proposed decision" means the document issued by an administrative law judge in accordance with law or an agency's delegation, when final decision-making authority has not been vested in the Office, and includes recommended decisions and proposed orders.

.03 Transmittal of Request for Hearing.

A. Initiation. A hearing may be initiated:

(1) On transmittal forms provided by the Office and accompanied by copies of all pertinent documents;

(2) On forms provided by the agency; or

(3) In any other manner permitted by law.

B. A hearing request shall include and be accompanied by the following:

(1) The name of the person requesting the hearing;

(2) The mailing address of the person requesting the hearing;

(3) The notice of agency action or the name of the person or agency against whom the hearing request has been filed; and

(4) Any documents, fees set forth in COMAR, or other information required by law.

C. Dismissal. A case may be dismissed if an initial pleading is received without an item required by §B of this regulation.

D. Unless a case is dismissed pursuant to §C of this regulation, a hearing request received without an item required by §B of this regulation may be returned to the person requesting the hearing for resubmission with all of the required items. Return of the initial pleading under this section does not extend the time within which the initial pleading is required to be filed.

.04 Initial Pleading; Commencement of Case; Computation of Time.

A. Unless otherwise provided for by law, the Office acquires jurisdiction over a matter when an initial pleading is filed with the Office by:

(1) An agency, pursuant to law or delegation of authority; or

(2) A person when directed by an agency pursuant to law or a delegation of authority.

B. Timeliness. An initial pleading is timely when it is filed:

(1) Within the time period specified by relevant law; or

(2) If no time period is specified, within 30 days of the date of the notice of contested action.

C. Computation of Time.

(1) In computing any period of time, the day of the act, event, or default, after which the designated period of time begins to run, is not to be included.

(2) The last day of the period so computed is to be included unless:

(a) It is a Sunday or a legal holiday, in which event, the period runs until the end of the next day which is not a Sunday or a holiday; or

(b) The act to be done is the filing of some paper at the Office on the last day of the period and the Office is not open, or is closed for part of the day, in which event, the period runs until the end of the next day which is not a Sunday, Saturday, legal holiday, or a day on which the Office is not open the entire day during ordinary business hours.

(3) When the period of time is more than 7 days, intermediate Sundays and holidays shall be considered as other days.

(4) When the period of time is 7 days or less, intermediate Sundays and holidays may not be counted in computing the period of time.

D. A hearing request is considered filed on the earlier of the date of the request, along with any fees, documents, or other information required by law, is postmarked or received by the:

(1) Office, if required to be filed with the Office; or

(2) Agency, if required to be filed with the Agency.

.05 Notice of Hearing.

A. Reasonable written notice of the hearing shall be provided to the parties.

B. A hearing notice provided by the Office shall contain:

(1) The date, time, place, and nature of the hearing;

(2) A statement of the right to present witnesses and documents, or other evidence, and the right to cross-examine any witness that another party calls under State Government Article, §10-213(f), Annotated Code of Maryland, if applicable;

(3) A statement of the right to request subpoenas for witnesses and evidence, and specifying the costs, if any, associated with the request;

(4) A statement that a copy of the hearing procedures is available on request, and specifying the costs, if any, associated with the request;

(5) A statement of any rights, restrictions, or requirements pertaining to representation;

(6) A statement that failure to appear for the scheduled hearing may result in an adverse action against that party; and

(7) A statement that, unless otherwise prohibited by law, the parties may agree to the evidence and may waive their right to appear at the hearing.

C. Method of Giving Notice.

(1) The Office shall give any notice required by this regulation by U.S. mail, or other method of personal or courier delivery, to the person at the address on record with the Office.

(2) If notice is given by U.S. mail, the notice is effective at the end of the 5th day after its deposit in the mail.

(3) Proof that notice has been given may be made by the dated file copy in the case file.

.06 Expedited Hearings.

A. A motion for an expedited hearing may be filed by any party. The motion shall set forth the reasons for expediting the hearing.

B. Any response to the motion shall be filed within 10 days of the date the motion is filed.

C. All parties shall be notified promptly of the decision on the motion. If the motion is granted, the Office shall schedule the hearing as soon as practical.

D. Unless the parties agree to a longer period, or a shorter period is required by law, the judge shall render the proposed or final decision within 30 days after the close of the record.

.07 Venue.

Hearings shall be conducted at the site designated by the Office in accordance with applicable law.

.08 Appearance of Parties at Hearing; Representation.

A. Unless prohibited by law, a party may represent himself or herself.

B. A party may be represented by an attorney authorized to practice law in Maryland or, when authorized by law, appear through a representative who is not an attorney.

C. Power of Attorney.

(1) An employee of a business entity who is representing that business entity in accordance with State Government Article, §9-1607.1, Annotated Code of Maryland, shall provide the Office with a power of attorney.

(2) The Office shall accept any properly executed power of attorney meeting the requirements of State Government Article, §9-1607.1, Annotated Code of Maryland.

(3) The Office may provide a form for a power of attorney.

(4) A power of attorney required by this regulation may be:

(a) Kept on file with the Office;

(b) Provided to the judge at the outset of a hearing in which the power of attorney is required; or

(c) In the discretion of the judge, provided to the judge at any time before the close of the record.

D. A party's representative shall enter the representative's appearance with the Office.

E. A party's representative of record shall be served with all notices, pleadings, and other correspondence.

.09 Appointment of Interpreter; Request for Accommodations.

A. Upon request of a party or witness who cannot hear, speak, or understand the spoken or written English language, the Office shall provide a qualified interpreter during the hearing.

B. An interpreter shall take an oath or affirmation that the interpreter will accurately interpret the proceedings.

C. If a party or witness requests a reasonable accommodation required by the Americans with Disabilities Act, the Office shall provide the accommodation.

.10 Service.

A. A copy of any pleading, motion, response, correspondence, or other paper filed in any proceeding shall be served promptly on all other parties to the proceeding by the party making the filing.

B. Unless otherwise required by law, services of pleadings, correspondence, and all other documents shall be made by personal delivery, by U.S. mail, or by other form of personal or courier delivery.

C. Proof of Service.

(1) Every pleading, motion response, correspondence, or other paper filed with the Office shall contain or be accompanied by a certificate of service.

(2) The certificate of service shall be signed and shall contain the:

(a) Date of service;

(b) Manner of service;

(c) Name of each person served; and

(d) Address at which each person was served.

.11 Powers and Duties of Judges.

A. A judge shall:

(1) Conduct a full, fair, and impartial hearing;

(2) Take action to avoid unnecessary delay in the disposition of the proceedings; and

(3) Maintain order.

B. A judge has the power to regulate the course of the hearing and the conduct of the parties and authorized representatives, including the power to:

(1) Administer oaths and affirmations;

(2) Issue subpoenas for witnesses and the production of evidence;

(3) Rule upon offers of proof and receive relevant and material evidence;

(4) Consider and rule upon motions in accordance with this chapter;

(5) Examine witnesses and call witnesses as necessary to ensure a full and complete record;

(6) Limit unduly repetitious testimony and reasonably limit the time for presentations;

(7) Grant a continuance or postponement;

(8) Modify or waive, reasonably and for good cause, any time periods established by this chapter;

(9) Request parties to submit legal memoranda, proposed findings of fact, and proposed conclusions of law;

(10) Make proposed or final decisions and take any other appropriate action authorized by law;

(11) Issue orders as are necessary to secure procedural simplicity and administrative fairness and to eliminate unjustifiable expense and delay;

(12) Conduct the hearing in a manner suited to ascertain the facts and safeguard the rights of the parties to the hearing; and

(13) Impose appropriate sanctions for failure to abide by this chapter or any lawful order of the judge.

C. Disqualification; Substitution of Judges.

(1) Conditions.

(a) A judge shall withdraw from participation in any proceeding in which personal bias or other reasons render the judge unable to provide an impartial hearing and decision, or when an appearance of impropriety may reasonably be inferred from the facts.

(b) For purposes of this section, personal bias shall be presumed under circumstances set forth in the Code of Judicial Conduct for Administrative Law Judges at the Maryland Office of Administrative Hearings.

(2) Motion for Disqualification. A party shall move promptly for disqualification of a judge upon discovering facts that establish grounds for disqualification.

(3) Substitution of Judges.

(a) If, for any reason, a judge is unable to continue presiding over a pending hearing, or issue a proposed or final decision after the conclusion of the hearing, to the extent that it is allowed by law, another judge may be assigned to conclude the hearing process and render a proposed or final decision.

(b) The substituted judge may use the existing record and conduct further proceedings as are necessary and proper.

.12 Motions.

A. Unless otherwise provided by this chapter, this regulation pertains to all motions filed with the Office.

B. In General.

(1) An application to the Office for an order shall be by motion that, unless made during a hearing, shall be made in writing, and shall set forth the relief or order sought.

(2) A written motion and response to a motion shall state their respective grounds and a party shall attach any relevant documents as exhibits.

(3) An answer to a written motion shall be filed on the earlier of:

(a) 15 days after the date the motion was filed; or

(b) The date of the hearing.

(4) Upon notice to all parties, the judge may schedule a conference to consider a written motion.

(5) The judge may issue a written decision on a motion or state the decision on the record.

(6) If a ruling on a motion is not stated on the record, the ruling shall be included in the judge's proposed or final decision.

(7) The filing or pendency of a motion does not alter or extend any time limit otherwise established by this chapter.

C. Motion to Dismiss. Upon motion, the judge may issue a proposed or final decision dismissing an initial pleading which fails to state a claim for which relief may be granted.

D. Motion for Summary Decision.

(1) Any party may file a motion for summary decision on all or part of an action, at any time, on the ground that there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law. Motions for summary decision shall be supported by affidavits.

(2) The response to a motion for summary decision shall identify the material facts that are disputed.

(3) An affidavit supporting or opposing a motion for summary decision shall be made upon personal knowledge, shall set forth the facts that would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit.

(4) The judge may issue a proposed or final decision in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.

E. Motion for Judgment.

(1) A party may move for judgment on any or all of the issues in any action at the close of the evidence offered by an opposing party. The moving party shall state all reasons why the motion should be granted. No objection to the motion for judgment shall be necessary. A party does not waive the right to make the motion by introducing evidence during the presentation of any opposing party's case.

(2) When a party moves for judgment at the close of the evidence offered by an opposing party, the judge may:

(a) Proceed to determine the facts and to render judgment against an opposing party; or

(b) Decline to render judgment until the close of all evidence.

(3) A party who moves for judgment at the close of the evidence offered by an opposing party may offer evidence if the motion is not granted, without having reserved the right to do so and to the same extent as if the motion had not been made. In so doing, the party withdraws the motion.

.13 Discovery.

A. By written request filed not later than 30 days before the scheduled hearing, a party may require any other party to produce within 15 days, for inspection or copying, any file, memorandum, correspondence, document, object, or tangible item, including electronically stored information, that is:

(1) Relevant to the subject matter of the case; and

(2) Not privileged.

B. Unless provided by law or by agreement of the parties, no other discovery procedure may be required.

C. On motion by the parties or on the judge's own initiative, the judge may enter an order establishing reasonable limits on the scope of discovery and/or prohibiting specific discovery.

D. The parties may enter into binding agreements concerning the inadvertent production and handling of privileged materials.

E. A party who has filed a timely discovery request under this regulation but who has not received a reply may, after providing reasonable notice to the opposing party, file a motion seeking to compel a response and/or a motion for sanctions.

F. Copies.

(1) Copies of requested documents and records shall be made at the expense of the party making the request.

(2) The charge for copies of requested documents and records may be waived by the custodian of the documents in accordance with State Government Article, §10-611 et seq., Annotated Code of Maryland, or other applicable law.

.14 Subpoenas.

A. Issuance of Subpoenas. On request of a party, or at the direction of a judge, the Office may issue subpoenas requiring the attendance and testimony of witnesses and the pro-

duction at the hearing of any tangible items in the possession or under the control of the witness.

B. Requests.

(1) A request for a subpoena shall be made, in writing, to the Office.

(2) To the extent practicable, subpoena requests shall be filed at least 10 days before the hearing.

(3) A request for a subpoena shall specify the:

(a) Name and full address of the person to be subpoenaed; and

(b) Name, full address, and telephone number of the party requesting the subpoena.

(4) A subpoena that requests the production of tangible items, books, papers, or other documents shall describe those items with particularity.

(5) A subpoena that requests the production of medical records shall be made in accordance with Health-General Article, §4-306, Annotated Code of Maryland.

C. Delivery of Subpoenas.

(1) Subpoenas may be served:

(a) By personal delivery by an individual 18 years old or older who is not a party to the proceeding;

(b) By certified mail to the person at the address specified in the subpoena request; or

(c) If served by the Office, by U.S. Mail, or other personal or courier delivery.

(2) Unless the subpoena request specifies otherwise, the subpoena shall be mailed by the Office as provided in §C(1) of this regulation.

(3) The subpoena may not be enforced pursuant to State Government Article, §9-1605(d)(2), Annotated Code of Maryland, absent proof of service by certified mail or personal delivery.

(4) Costs of certified mailing or personal delivery of subpoenas are the responsibility of the person requesting service.

(5) Proof of service of subpoenas by certified mail or personal delivery is the responsibility of the person requesting the subpoenas.

(6) The party requesting the subpoena is responsible for notifying the person subpoenaed if the hearing is cancelled or postponed. Subpoenas shall remain in effect until the conclusion of the hearing.

D. Return of service shall be made as follows:

(1) When service is by certified mail, by the filing of the original return receipt; and

(2) When service is by personal delivery, by the filing of an affidavit, signed by the person who made service, containing:

(a) The name of the person served;

(b) The date on which the person was served;

(c) The particular place of service; and

(d) A statement that the affiant is 18 years old or older and not a party to the proceeding.

E. Objections to Subpoenas. A person may object to a subpoena by filing with the Office a motion to quash or for other relief.

F. Enforcement of Subpoenas. If a person fails to comply with a properly served subpoena, at the request of an administrative law judge, the Office may apply to the appropriate circuit court for an order to show cause why the person should not be committed to jail for refusal to comply with a subpoena.

.15 Intervention.

A. Upon motion filed not later than 15 days before the earlier of the prehearing conference or the hearing date, a person may be permitted to intervene in an action when the person:

(1) Has an unconditional right to intervene as a matter of law; or

(2) Claims an interest relating to the subject matter of the hearing that is:

(a) Adversely affected; and

(b) Not adequately represented by existing parties.

B. The motion shall state the grounds for the motion, accompanied by a statement setting forth the claim or defense for which intervention is sought.

C. Order of Intervention.

(1) The judge shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(2) As soon as practicable, the judge shall issue an order denying or allowing intervention.

(3) In an order allowing intervention, the judge may place conditions upon the intervenor's participation in the proceedings.

D. Appeal.

(1) If the judge is not the final decision maker, the denial of a motion to intervene may be appealed to the final decision maker in accordance with the agency's regulations.

(2) When the judge is the final decision maker, a party or other affected person may seek review of the denial of a motion to intervene in accordance with law.

(3) In the discretion of the judge, a request for further review of the denial of a motion to intervene may stay the proceedings.

.16 Postponements.

A. Except as provided in §D of this regulation, a request for postponement shall be made in writing and filed not less than 5 days before the scheduled hearing.

B. Documentation of the reasons for the postponement shall be required from the party making the request.

C. A request for postponement shall be granted only if the party requesting the postponement establishes good cause for the postponement.

D. Emergency Request for Postponement.

(1) For purposes of this section, "emergency" means a sudden, unforeseen occurrence requiring immediate attention which arises within 5 days of the hearing.

(2) In an emergency, a request for postponement may be made by telephone.

E. When practicable, all parties to a proceeding shall be contacted before a ruling on a postponement request is made.

.17 Prehearing Conferences.

A. When appropriate, the judge may hold a prehearing conference to resolve matters preliminary to the hearing.

B. The judge may require the parties to submit information before the prehearing conference.

C. A prehearing conference may be convened to address the following matters:

(1) Issuance of subpoenas;

(2) Factual and legal issues;

(3) Stipulations;

(4) Requests for official notice;

(5) Identification and exchange of documentary evidence;

(6) Admissibility of evidence;

(7) Identification and qualification of witnesses;

- (8) Motions;
- (9) Discovery disputes;
- (10) Order of presentation;
- (11) Scheduling;
- (12) Alternative dispute resolution; and
- (13) Any other matters that will promote the orderly and prompt conduct of the hearing.

D. Conduct.

(1) Except as otherwise indicated in this chapter, at the discretion of the judge, all or part of a prehearing conference may be recorded.

(2) Prehearing conferences may be conducted via the telephone or videoconference.

E. Prehearing Orders.

(1) Unless otherwise stated in this chapter, when a prehearing conference has been held, a prehearing order shall be issued by the judge.

(2) The prehearing order shall set forth the actions taken or to be taken with regard to any matter addressed at the prehearing conference.

(3) If a prehearing conference is not held, the judge may issue a prehearing order to regulate the conduct of the proceedings.

(4) The prehearing order shall be a part of the case record.

.18 Alternative Dispute Resolution.

A. For purposes of this regulation, “alternative dispute resolution” means the process of resolving matters pending before the Office through a settlement conference, neutral case evaluation, neutral fact finding, mediation, other non-adversarial dispute resolution process, or combination of those processes.

B. If all parties agree, an alternative dispute resolution proceeding may be scheduled by the Office.

C. An individual who presides at an alternative dispute resolution proceeding may not be the judge at the prehearing conference, hearing on the merits, or other state of the proceedings.

D. Confidentiality of Alternative Dispute Resolution Proceedings.

(1) Alternative dispute resolution proceedings are confidential and are closed to the public.

(2) Discussions in an alternative dispute resolution proceeding may not be made a part of the case record in any subsequent proceeding.

(3) Alternative dispute resolution proceedings may not be recorded electronically or in any other manner.

(4) A judge or other individual who conducts an alternative dispute resolution proceeding may not be called to testify, participate in discovery, or otherwise provide information in any subsequent proceeding related to the alternative dispute resolution proceeding.

.19 Proceedings Open to the Public.

A. Unless prohibited by law, all proceedings before the Office are open to the public.

B. Unless otherwise provided by law, documents, notices, and records in the possession of the Office as a result of a contested case proceeding may be inspected and copied by any person as provided in State Government Article, §10-611 et seq., Annotated Code of Maryland, and regulations adopted by the Office under that Act.

C. The judge may:

(1) Remove individuals whose conduct impedes the orderly progress of the hearing; and

(2) Restrict attendance because of the physical limitations of the hearing room.

D. Audio recording equipment, cameras, or other electronic or photographic equipment shall be excluded from the hearing room when required by law or if the judge determines that the use of this equipment may impede the orderly progress of the hearing or otherwise interfere with the hearing process.

.20 Conduct of Hearings.

A. In General.

(1) On a genuine issue in a contested case, each party is entitled to call witnesses, offer evidence, cross-examine any witness who testifies, and make opening and closing statements.

(2) A hearing shall be called to order by the judge. The judge shall explain briefly the purpose of the hearing and state the order of presentation of the evidence. The judge may allow the parties to present preliminary matters.

(3) Witnesses shall be sworn or put under affirmation to tell the truth.

B. Telephone Hearings.

(1) The judge may conduct all or part of a hearing by telephone or other similar audio-electronic means, provided each party has an opportunity to participate in and hear the entire proceeding.

(2) If a party establishes good cause in opposition to the holding of a hearing by telephone or other similar audio electronic means, the hearing shall be held in person or by video conferencing or other similar audiovisual electronic means.

(3) All substantive and procedural rights apply to telephone hearings, subject only to the limitations of the physical arrangement.

(4) Documentary Evidence. For a telephone hearing, documentary evidence to be offered shall be mailed or delivered by the proponent to all parties and the Office at least 5 days before the hearing.

C. Video Hearings.

(1) The judge may conduct all or part of a hearing by video or other similar audiovisual electronic means if each party in the hearing has an opportunity to participate in, hear, and see the entire proceeding.

(2) If a party establishes good cause in opposition to the holding of a hearing by video or other similar audiovisual electronic means, the hearing shall be held in person.

(3) All substantive and procedural rights apply to video hearings, subject only to the limitations of the physical arrangement.

(4) Documentary Evidence. For a video hearing not involving the Inmate Grievance Office, documentary evidence to be offered shall be mailed or delivered by the proponent to all parties and the Office at least 5 days before the hearing.

D. Waivers.

(1) Waiver of Right to Appear at a Hearing.

(a) A party may waive the right to appear personally at a hearing unless prohibited by law.

(b) A waiver shall be in writing and filed with the Office.

(c) A party may withdraw a waiver by written notice filed not later than 5 days before the scheduled hearing.

(d) When a party has filed a waiver permitted by law, the failure of a party to appear personally or by representative may not result in a finding of default. The hearing shall be held and the matter decided in the absence of the party.

(2) Waiver of Hearing. A hearing before a judge is not necessary if all parties agree to the admission of the evidence and waive their rights to appear.

.21 Evidence.

A. Evidence shall be admitted in accordance with State Government Article, §10-213, Annotated Code of Maryland, and other pertinent law.

B. The judge may admit evidence that reasonable and prudent individuals commonly accept in the conduct of their affairs, and give probative effect to that evidence.

C. Evidence may not be excluded solely on the basis that it is hearsay.

D. Exclusion of Witnesses.

(1) Upon request by a party, the judge shall exclude witnesses other than parties from the hearing room, except when testifying.

(2) A party, representative, witness, or spectator may not disclose to a witness excluded under this section the nature, substance, or purpose of testimony, exhibits, or other evidence introduced during that witness's absence.

(3) A party that is not an individual may designate an employee or officer as its representative to remain in the hearing room, even though the employee or officer may be a witness.

(4) An expert witness who is to render an opinion based on testimony given at the hearing may remain during the testimony.

(5) The judge may exclude the testimony of a witness who receives information in violation of this section, or take other appropriate action.

E. Prefiled Testimony.

(1) In the discretion of the judge, testimony may be received in written form.

(2) The testimony shall be filed and served on all parties not later than 10 days before the hearing.

F. Official Notice.

(1) At the request of a party or on the judge's own motion, a judge may take official notice of a fact that is:

(a) Judicially noticeable; or

(b) General, technical, or scientific and within the specialized knowledge of the agency.

(2) Before taking official notice of a fact, the judge shall:

(a) Notify each party before or during the hearing; and

(b) Give each party an opportunity to contest the fact.

G. Stipulations.

(1) The parties may, in accordance with law, agree to any substantive or procedural matter.

(2) A stipulation may be filed in writing or entered on the record at the hearing.

(3) The judge may require additional development of stipulated matters.

H. Affidavits. A judge may admit an affidavit as evidence.

.22 The Record.

A. The Office shall prepare an official case record of each hearing.

B. The record shall include:

(1) All pleadings, motions, responses, correspondence, memoranda, including proposed findings of fact and conclusions of law, and requests filed by the parties;

(2) All hearing notices;

(3) All documentary and other tangible evidence received or considered;

(4) A statement of each fact officially noticed;

(5) All stipulations;

(6) All offers of proof and objections;

(7) All rulings, orders, and decisions, proposed or final;

(8) Matters placed on the record in connection with *ex parte* communication;

(9) The recording of the hearing, and any prehearing proceeding, and any transcript of the recording prepared by a court reporting service; and

(10) Any other item required by law.

C. All exhibits marked for identification, whether or not offered in evidence and, if offered, whether or not admitted, shall be retained for purposes of judicial review.

.23 Failure to Attend or Participate in a Hearing, Conference, or Other Proceeding; Default.

A. If, after receiving proper notice, a party fails to attend or participate in a prehearing conference, hearing, or other state of a proceeding, the judge may proceed in that party's absence or may, in accordance with the hearing authority delegated by the agency, issue a final or proposed default order against the defaulting party.

B. Final Default Orders.

(1) Unless otherwise provided by law, a party may move to vacate a final order of default within 30 days after the date of the order. The motion shall state the reasons for the failure to attend or participate in the proceeding.

(2) If the judge finds that there is good cause for the party's failure to attend or participate in the proceeding, the judge shall vacate the order and set the case in for further proceedings as appropriate.

(3) If a motion is not filed under §B(1) of this regulation, or is filed and denied, the final default order is effective.

C. Proposed Default Orders. A proposed default order is reviewable in accordance with the delegating agency's regulations governing review of proposed decisions.

.24 Dismissal for Lack of Prosecution.

A. Unless otherwise required by law, a case pending before the Office may not be placed on inactive status.

B. At the expiration of 6 months from the last docket entry, a case is subject to dismissal, on request of a party or on a judge's own initiative, for lack of prosecution.

C. If dismissal is initiated by a judge or requested by a party, the judge shall send notice to all parties that a final or proposed dismissal for lack of prosecution will be entered after the expiration of 30 days from the date of the notice unless a motion is filed under §D of this regulation.

D. On motion filed within 30 days after the date of the notice, the judge, for good cause shown, may defer issuance of the final or proposed order of dismissal for the period and on the terms the judge considers proper.

E. Issuance of Order.

(1) If a motion is not filed under §D of this regulation within 30 days or if a motion is filed and denied, the judge shall issue an order or proposed order of dismissal within 30 days after the time for filing the motion has expired.

(2) If a motion is filed and good cause is shown for deferral of the dismissal, the judge shall issue an order deferring dismissal and specifying the period and the terms of the deferral.

.25 Final Decision or Proposed Decision.

A. A judge shall issue a final decision or proposed decision in accordance with the agency's delegation and pertinent law.

B. Proposed Decision.

(1) If the judge is not the final decision maker, the judge shall submit the proposed decision to the final decision maker with a copy to each party, unless otherwise provided by law or the agency's delegation.

(2) When permitted by law, an adversely affected party may file exceptions to the proposed decision in accordance with the delegating agency's regulations or as otherwise provided by law.

C. *Final Decision.* Except as otherwise provided by law, when the judge is the final decision maker, the decision is the final decision for purposes of judicial review.

.26 Cases Remanded to the Office.

A. A case remanded to the Office by a court or agency for further proceedings is considered filed with the Office when the court's or agency's order is received by the Office.

B. Unless the remand order specifies otherwise, the Office shall promptly schedule further proceedings as necessary and issue a decision in accordance with State Government Article, §10-205(e), Annotated Code of Maryland.

.27 Revision.

A. A final decision may be revised only by the judge who rendered the decision for which revision is requested.

B. On motion of any party filed at any time, the judge may exercise revisory power and control over a final decision in the event of fraud, mistake, or irregularity.

C. Clerical mistakes in final decisions, orders, or other parts of the record may be corrected by the judge at any time on the judge's own initiative, or on motion of any party after such notice, if any, the judge orders.

D. A request for revision does not automatically stay the action or toll the time for filing an appeal.

E. Proposed decisions may not be revised by the judge.

THOMAS E. DEWBERRY
Chief Administrative Law Judge

**Title 31
MARYLAND INSURANCE
ADMINISTRATION**

**Subtitle 08 PROPERTY AND CASUALTY
INSURANCE**

**31.08.12 Temporary Moratoriums and Weather
Events**

Authority: Insurance Article, §§2-108, 2-109, 19-107, and 27-501,
Annotated Code of Maryland

Notice of Proposed Action

[09-266-R]

The Insurance Commissioner proposes to adopt new Regulations .01 — .06 under new chapter, **COMAR 31.08.12 Temporary Moratoriums and Weather Events**. Because substantive changes have been made to the original proposal as published in 36:18 Md. R. 1406 — 1407 (August 26, 2009), this action is being repropose at this time.

Statement of Purpose

The purpose of this action is to ensure that insurers who utilize temporary moratoriums on the writing of property and casualty insurance, the addition of endorsements for additional coverages, or other policy changes, do so in a way that balances the interests of consumers, insurers, producers, and the Maryland businesses. With these regulations,

the Maryland Insurance Administration intends to create a safeguard to protect consumers before a crisis hits. Insurers issue temporary moratoriums on writing new policies when a particular area is threatened by approaching weather events or the government declares an emergency. These temporary moratoriums protect the interests of the insurer. When a weather crisis is pending, a consumer without insurance is in dire need. The proposed regulations will control and define protocol for the temporary moratoriums in order to protect the consumer.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Alexis E. Gibson, Regulations Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, or call 410-468-2011, or email to agibson@mdinsurance.state.md.us, or fax to 410-468-2020. Comments will be accepted through February 3, 2010. A public hearing has not been scheduled.

Ed. Note: Pursuant to State Government Article, §10-113, Annotated Code of Maryland, if a promulgating agency substantively alters the text of regulations that have been previously proposed in the Maryland Register, the altered text must be published in the Maryland Register as though it were initially proposed. The text of regulations appearing immediately below has been altered substantively from the initially proposed text.

Symbols: Roman type indicates existing text of regulations. *Italic* type indicates initially proposed new text. **Helvetica Bold Italic** type indicates new text that substantively alters the text as initially proposed. [Single brackets] indicate existing text proposed for repeal. [[[Triple brackets]]] indicate text proposed for repeal which substantively alters the originally proposed text.

.01 Purpose.

The purpose of this chapter is to ensure that all authorized insurers that utilize temporary moratoriums on the writing of property and casualty insurance, the addition of endorsements for additional coverages, or other policy changes do so in a way that balances the interests of consumers, insurers, producers, and Maryland businesses.

.02 Filing of Moratorium.

A. (originally proposed text unchanged)

B. *The moratorium protocol shall:*

(1) *Be filed with the Administration either as an underwriting guideline or as a rating rule prior to its use;[[[and]]]*

(2) *Be filed for all programs to which the underwriting guideline or rating rule applies; and*

[[[(2)]]] (3) (originally proposed text unchanged)

C. (originally proposed text unchanged)

.03 Moratorium Protocol.

A. Moratoriums shall be designed to have the least impact on the conduct of business throughout the State as **reasonably possible**.

B. (originally proposed text unchanged)

C. Moratoriums shall be based on the **[[[information provided by the National Weather Service or be government-declared disasters,]]] following weather or non-weather related events, or emergencies and are not effective until:**

(1) The National Weather Service issues a hurricane or tropical storm watch, warning, or advisory for part of the State or the entire State; **[[[or]]]**

(2) The Governor or other governmental entity declares a state of emergency for part of the State or the entire State **[[[.]]]**;

(3) **The announcement of an evacuation, whether mandatory or voluntary, for part of the State or the entire State;**

(4) **The imposition of a special curfew for part of the State or the entire State; or**

(5) **The onset of an earthquake that is in an area within:**

(a) **50 miles of the epicenter of an earthquake that is 5.0 to 5.9 on the Richter scale; or**

(b) **100 miles of the epicenter of an earthquake measured 6.0 or greater on the Richter scale.**

D. The moratorium shall be limited to:

(1) **[[[Areas]]] Those areas of the State that are impacted by the National Weather Service watch, warning, or advisory; [[[or]]]**

(2) **Areas of the State that are included within the government-declared area of disaster or emergency[[[.]]];**

(3) **Areas of the State that are under an evacuation order, whether mandatory or voluntary;**

(4) **Areas of the State under a special curfew; or**

(5) **Areas of the State that are within:**

(a) **50 miles of the epicenter of an earthquake that is 5.0 to 5.9 on the Richter scale; or**

(b) **100 miles of the epicenter of an earthquake measured 6.0 or greater on the Richter scale.**

E. A moratorium applies only to lines of business that are reasonably expected to be affected by the **[[[disaster or]]] the impending weather or non-weather related event or disaster or government-declared emergency for part of the State or the entire State that was the basis for the moratorium.**

.04 (originally proposed text unchanged)

.05 Lifting of Moratorium.

A. A moratorium issued by an insurer shall be **[[[constantly]]] regularly monitored by the insurer.**

B. Except as provided in §C of this regulation, a moratorium **for a weather related event** may not continue for more than 24 hours after the termination of the last warning issued for part of the State or the entire State.

C. Earthquake.

[[[(1) A moratorium need not be lifted after 24 hours if the moratorium is issued because of an earthquake.

(2) **A moratorium issued based on an earthquake may remain in place until the aftershocks have ceased.]]]**

(1) **A moratorium issued because of an earthquake shall be lifted 72 hours after the onset of the earthquake.**

(2) **An aftershock of 5.0 or greater on the Richter scale that occurs during the restricted period shall be treated as a new earthquake, resulting in a new 72 hour period of suspended binding authority.**

.06 Notice to the Commissioner.

A. An insurer shall notify the Administration of its **[[[intent to implement]]] implementation of a moratorium filed pursuant to Regulation .02 of this chapter, [[[before the insurer implements the moratorium.]]] either by;**

(1) **Email to an electronic mailbox as identified in §B of this regulation; or**

(2) **Filing through the System for Electronic Rate and Form Filing (SERFF).**

B. The Administration shall establish an electronic mailbox which shall be available at all times to receive notice that a carrier **[[[intends to implement]]] has implemented its filed moratorium.**

C. The Administration shall post on the **home page of the Administration's website the electronic mailbox address described in §B of this regulation.**

D. The notice required by §A of this regulation, shall be **[[[given at least 2 hours in advance of the insurer's implementation of the moratorium.]]] provided when a moratorium has been implemented.**

E. (originally proposed text unchanged)

RALPH S. TYLER
Insurance Commissioner

Title 32 MARYLAND DEPARTMENT OF AGING

Subtitle 02 PROVIDER REGULATIONS

32.02.01 Certificate of Registration for Continuing Care Facilities and Providers

Authority: Human Services Article, §10-403(a)(4),
Annotated Code of Maryland

Notice of Proposed Action

[10-004-P]

The Secretary of Aging proposes to amend Regulations **.05, .07, .13, .14, and .28** under **COMAR 32.02.01 Certificate of Registration for Continuing Care Facilities and Providers**.

Statement of Purpose

The purpose of this action is to: (1) amend the requirements related to actuarial studies, in part to reflect recent changes to the actuarial standards of practice for continuing care retirement communities; and (2) amend the requirements related to submission of continuing care agreements, in part to reflect the amendment of Human Services Article, §10-445, Annotated Code of Maryland (Ch. 750, Acts of 2009).

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Sandra E. Cobb, Planning Administrator, Maryland Department of Aging, 301 West Preston Street, Room 1007, Baltimore, Maryland 21201, or call (410) 767-1084, or email to scobb@ooa.state.md.us, or fax to (410) 333-7943. Comments will be accepted through February 10, 2010. A public hearing has not been scheduled.

.05 Feasibility Study.

A. The feasibility study shall be prepared in a form satisfactory to the Department, by an authority recognized by the Department, and shall include at least the following information:

(1) — (16) (text unchanged)

(17) Except as provided in §B of this regulation, an actuarial study, prepared or reviewed by a qualified actuary, which includes:

(a) [An actuarial balance sheet] *A cohort pricing analysis* which demonstrates that for a typical cohort of new subscribers the sum of the entrance fees paid at occupancy plus the actuarial present value at occupancy of periodic fees exceeds the actuarial present value at occupancy of the costs of performing all obligations assumed by the provider, with appropriate provision for surplus;

(b) Supporting detailed documentation for the [actuarial balance sheet] *cohort pricing analysis* required in §A(17)(a) of this regulation, including:

(i) — (ii) (text unchanged)

(c) Cash flow [statements] *projections* for a 20-year period, which project positive cash balances; and

(d) (text unchanged)

(18) — (23) (text unchanged)

B. — C. (text unchanged)

.07 Department Action on Feasibility Study and Application for a Preliminary Certificate of Registration.

A. The Department shall approve a feasibility study when it determines that:

(1) — (4) (text unchanged)

(5) The actuarial study as required in Regulation .05 of this chapter has been submitted and includes:

(a) [An actuarial balance sheet] *A cohort pricing analysis* that demonstrates that, for a typical cohort of new subscribers, the sum of the entrance fees paid at occupancy plus the actuarial present value at occupancy of periodic fees exceeds the actuarial present value at occupancy of the costs of performing all obligations assumed by the provider, with appropriate provision for surplus;

(b) Cash flow [statements] *projections* for a 20-year period, which project positive cash balances;

(c) Supporting detailed documentation for the [actuarial balance sheet] *cohort pricing analysis* which includes a:

(i) — (iii) (text unchanged)

(d) (text unchanged)

(6) — (9) (text unchanged)

B. — C. (text unchanged)

.13 Application for Renewal Certificate of Registration.

A. — B. (text unchanged)

C. The application for a renewal certificate of registration shall include the following information and attachments:

(1) — (7) (text unchanged)

[(8) A copy of any continuing care agreement currently in use for which changes are proposed for implementation in the succeeding year, including the proposed changes;]

[(9)] (8) — [(17)] (16) (text unchanged)

D. Actuarial Study Exceptions.

(1) (text unchanged)

(2) Section E of this regulation does not apply to a facility:

(a) Where the only health care provided to subscribers is either priority admission to an independent nursing facility or paid for on a fee-for-service basis; [or]

(b) *Where:*

(i) *The provider is in the process of decertifying as a provider; and*

(ii) *Fewer than five of the facility's subscribers have continuing care agreements that promise the provider will provide more than 90 days of nursing care on a basis other than fee-for-service; or*

[(b)] (c) (text unchanged)

E. Actuarial Study.

[(1) Every 3 years after occupancy of the facility has begun, a provider shall submit an actuarial study, including an actuarial balance sheet, prepared or reviewed by a qualified actuary, which:

(a) Demonstrates that a facility's resources available for current and replacement subscribers, including the actuarial present value of periodic fees expected to be paid in the future by present subscribers, are equal to the actuarial present value of the expected costs of performing all remaining obligations to the subscribers under the subscribers' agreements, with appropriate provision for surplus;

(b) Includes cash flow statements for 20 years which demonstrate that cash balances are projected to remain positive;

(c) Includes a statement of the opinion of a qualified actuary as to whether:

(i) The data and assumptions used are appropriate,

(ii) The methods employed are consistent with sound actuarial principles and practices, and

(iii) Provision has been made for all actuarial liabilities and related statement items; and

(d) Includes supporting detailed documentation for the actuarial balance sheet including a projection of future population flows and health care bed needs for 20 years using appropriate inflation factors, mortality, morbidity, withdrawal, and other demographic assumptions.]

(1) *Unless exempted by §D of this regulation, every 3 years after occupancy of the facility has begun, a provider shall submit to the Department with its renewal application an actuarial study, prepared or reviewed by a qualified actuary. The actuarial study shall include:*

(a) *An actuarial balance sheet for current subscribers;*

(b) *A cohort pricing analysis for a cohort of new subscribers; and*

(c) *Projected cash and investment balances for a period of 20 years.*

(2) *The actuarial study required by §E(1) of this regulation shall be performed in accordance with generally accepted actuarial principles and the standards of practice adopted by the Actuarial Standards Board of the American Academy of Actuaries. The actuarial study shall include or be accompanied by a statement of the opinion of a qualified actuary as to whether:*

- (a) *The data and assumptions used are appropriate;*
- (b) *The methods employed are consistent with sound actuarial principles and practices;*
- (c) *Provision has been made for all actuarial liabilities and related statement items; and*
- (d) *The provider is in satisfactory actuarial balance.*

(3) *The actuarial study shall include supporting detailed documentation, including a projection of future population flows and health care bed needs for 20 years using appropriate inflation factors, mortality, morbidity, withdrawal, and other demographic assumptions.*

[(2)] (4) The Department may request the information required in [§E(1)] §E(1) — (3) of this regulation more frequently to assist in the determination of possible financial difficulty as provided in Regulation .26 of this chapter.

F. — G. (text unchanged)

.14 Action of the Department on Application for Annual Renewal Certificate of Registration.

A. The Department shall approve an application for a renewal certificate of registration when it determines that:

- (1) (text unchanged)
- (2) [The proposed and existing agreements] *Any revised agreements meet the applicable requirements of the Act and this chapter;*
- (3) — (6) (text unchanged)
- (7) If required under Regulation .13 of this chapter, an actuarial study, prepared or reviewed by a qualified actuary, has been submitted which [:
 - (a) Includes an actuarial balance sheet;
 - (b) Demonstrates that the facility's resources available for current and replacement subscribers, including the actuarial present value of periodic fees expected to be paid in the future by present subscribers, are equal to the actuarial present value of the expected costs of performing all remaining obligations to the subscribers under the subscribers' agreements, with appropriate provision for surplus;
 - (c) Projects positive cash balances for a 20-year period;
 - (d) Includes a statement of the opinion of a qualified actuary as to whether:
 - (i) The data and assumptions used are appropriate,
 - (ii) The methods employed are consistent with sound actuarial principles and practices, and
 - (iii) Provision has been made for all actuarial liabilities and related statement items;
 - (e) Includes supporting detailed documentation for the actuarial balance sheet including a projection of future population flows and health care bed needs using appropriate inflation factors, mortality, morbidity, withdrawal, and other demographic assumptions; and
 - (f) Includes a cash flow projection for the next 20 years;] *meets the requirements of Regulation .13E of this chapter;*
- (8) — (10) (text unchanged)

B. Upon review of a provider's application for a renewal certificate of registration, the Department may make a finding of possible financial difficulty. The Department [shall] *may refer the application of a provider found to be in pos-*

sible financial difficulty to the Financial Review Committee. Applications that are referred to the Committee are subject to Regulations .25 and .26 of this chapter.

C. If the conditions in §A of this regulation and, if applicable, Regulation .26 of this chapter are not met, the Department [shall] *may issue in writing a denial of an application for a renewal certificate of registration. The Department shall include the reasons for denying [the] an application in the written denial.*

D. *If the actuary responsible for an actuarial study required by Regulation .13E of this chapter does not opine that the provider is in satisfactory actuarial balance, the provider shall submit to the Department with its renewal application a detailed plan that specifies how and when the provider plans to attain satisfactory actuarial balance.*

.28 Continuing Care Agreement.

A. — B. (text unchanged)

C. A preliminary certificate of registration may not be issued by the Department if the agreement submitted with the application does not contain all of the provisions of §A of this regulation. The Department shall return to the provider for [amendment] *revision any agreement which it finds in violation of the applicable requirements of the Act or this chapter. The provider shall submit the agreement to an attorney for legal sufficiency as to content and form before resubmission to the Department.*

D. — E. (text unchanged)

F. *If changes to the form of any continuing care agreement currently in use are proposed for implementation, the provider or its attorney shall submit a separate cover letter to the Department with the following:*

(1) *Two clean copies of the entire proposed continuing care agreement or such portion of the proposed continuing care agreement as is acceptable to the Department under the circumstances;*

(2) *Two redlined copies that highlight all proposed additions, deletions, and other changes, by underlining, italic type, blacklining, or such other method or symbols that indicate clearly any changes, to:*

(a) *If applicable, the last version of the document in question that was approved by the Department;*

(b) *If requested by the Department, the provider's prior draft of the document in question; and*

(c) *If requested by the Department, the provider's other similar version of the document in question; and*

(3) *If the continuing care agreement is being substantially revised, a completed copy of a contract worksheet form issued by the Department.*

GLORIA G. LAWLAH
Secretary of Aging

COMAR 07.02.07

At 36:14 Md. R. 988 (July 6, 2009), column 1, line 4 from the bottom:

For: *staff suspects the child is at high risk of abuse or neglect.*

Read: *staff suspects the child is at substantial risk of harm.*

[10-01-41]

COMAR 09.32.09

At 36:26 Md. R. 2025 (December 18, 2009), column 1, line 19 from the bottom:

For: **09.32.09 Employer Audits**

Read: **09.32.10 Employer Audits**

At 36:26 Md. R. 2025 (December 18, 2009), column 1, line 12 from the bottom:

For: der a new chapter, **COMAR 09.32.09 Employer Audits.**

Read: der a new chapter, **COMAR 09.32.10 Employer Audits.**

[10-01-53]

COMAR 10.15.06

At 36:26 Md. R. 2046 (December 18, 2009), column 2, line 2 from the top:

For: **10.15.06 Processing, Transportation, Storage**

Read: **10.15.06 Production, Processing, Transportation, Storage**

[10-01-52]

MARYLAND HEALTH CARE COMMISSION

Application for Waiver to Provide Primary Percutaneous Coronary Intervention (pPCI) Services

The Maryland Health Care Commission hereby publishes this schedule for the submission of applications to request a waiver to provide primary percutaneous coronary intervention (pPCI) services in a hospital without on-site cardiac surgery. The Commission will receive applications on the dates listed below. This schedule extends the schedule published in 35:10 Md. R. 1003 (May 9, 2008). A hospital that seeks to initiate pPCI services without on-site cardiac surgery must submit an application for a waiver. A hospital with a 2-year pPCI waiver must submit an application for the renewal of its waiver. A hospital that has received a 1-year waiver to initiate a pPCI program must provide pPCI services for a 1-year period before receiving a 2-year waiver. An applicant must demonstrate the ability to comply with all requirements for pPCI programs without on-site cardiac surgery as specified in the regulations. The general procedure to obtain a pPCI waiver is set forth at COMAR 10.24.17.05D(1). For further information about this schedule or the waiver application/renewal process, see http://mhcc.maryland.gov/hospital_services/specialservices/cardiovascular/ppci.html, or call Dolores Sands, Chief, Specialized Services Policy & Planning, at 410-764-3371.

Applications from Hospitals Seeking to Initiate pPCI Services

Metropolitan Baltimore — February 3, 2010
Metropolitan Washington — April 14, 2010
Eastern Shore — July 14, 2010
Western Maryland — October 13, 2010
Metropolitan Baltimore — January 14, 2011

Renewal Applications from Hospitals with 2-Year pPCI Waivers

Waiver Issued in February 2009 — November 17, 2010
Waiver Issued in March 2009 — December 15, 2010
Waiver Issued in May 2009 — February 16, 2011
Waiver Issued in June 2009 — March 16, 2011
Waiver Issued in September 2009 — June 15, 2011
Waiver Issued in December 2009 — September 14, 2011

Applications for 2-Year Waivers from Hospitals with 1-Year pPCI Waivers

A hospital with a 1-year pPCI waiver must file an application seeking a 2-year waiver 90 days before the anniversary date of its initiation of primary PCI services at the hospital.

[10-01-50]

Notice on ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

BOARD OF ACUPUNCTURE

Subject: Public Hearing on Regulations
Date and Time: January 12, 2010, 1 — 4 p.m.
Place: 4201 Patterson Ave., Baltimore, MD
Contact: Cynthia Dobbins (410) 764-4766

[10-01-05]

BOARD OF ACUPUNCTURE

Subject: Public Meeting on Regulations
Date and Time: January 12, 2010, 1 — 4 p.m.
Place: MD Board of Acupuncture, 4201 Patterson Ave., Rm. 105, Baltimore, MD
Contact: Cynthia Dobbins (410) 764-4766

[10-01-19]

ATHLETIC COMMISSION

Subject: Public Meeting
Date and Time: January 21, 2010, 2 — 4:30 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Patrick Pannella (410) 230-6223

[10-01-55]

BOARD OF CHIROPRACTIC EXAMINERS

Subject: Public Meeting on Regulations
Date and Time: January 21, 2010, 10 a.m. — 3 p.m.
Place: Dept. of Health and Mental Hygiene, 4201 Patterson Ave., Rms. 108/109, Baltimore, MD
Add'l. Info: The MD Board of Chiropractic & Massage Therapy Examiners will meet to review and discuss proposed revisions to COMAR Title 10, Subtitle 43 et seq. (covering all chiropractic and massage regulations). Further information may be obtained by calling the Executive Director, Mr. J.J. Vallone at (410) 764-4726.

Contact: Maria Ware (410) 764-5902

[10-01-32]

BOARD OF COSMETOLOGISTS

Subject: Public Meeting
Date and Time: February 1, 2010, 9:30 a.m. — 4 p.m.
Place: 500 N. Calvert St., 2nd Fl. Conf. Rm., Centre Street Entrance, Baltimore, MD
Contact: Robert Wood (410) 230-6195

[10-01-17]

BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS

Subject: Public Meeting
Date and Time: January 15, 2010, 12 — 4:30 p.m.
Place: 4201 Patterson Ave., Baltimore, MD

Contact: Aileen Taylor (410) 764-4732

[10-01-16]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: January 11, 2010, 3 — 5 p.m.
Place: Loch Raven Library, Baltimore, MD

Contact: Jessica Winpigler (410) 821-2829

[10-01-33]

BOARD OF DIETETIC PRACTICE

Subject: Public Meeting
Date and Time: January 21, 2010, 12:30 — 5:30 p.m.
Place: 4201 Patterson Ave., Rms. 100/107, Baltimore, MD

Contact: Lenelle Cooper (410) 764-4733

[10-01-15]

MARYLAND STATE BOARD OF EDUCATION

Subject: Public Meeting
Date and Time: January 26, 2010, 9 a.m. — 5 p.m.; January 27, 2010, 9 a.m. — 12 p.m.

Place: Nancy S. Grasmick State Education Bldg., 200 W. Baltimore St., Baltimore, MD

Contact: Charlene Necessary (410) 767-0467

[10-01-10]

MARYLAND STATE DEPARTMENT OF EDUCATION/DIVISION OF SPECIAL EDUCATION/EARLY INTERVENTION SERVICES

Subject: Public Meeting
Date and Time: January 29, 2010, 9 a.m. — 12 p.m.

Place: Nancy S. Grasmick State Education Bldg., 200 W. Baltimore St., Baltimore, MD

Add'l. Info: The workshop is required for new Autism Waiver Providers and persons interested in becoming providers. Registration is required. Please direct all questions regarding the training sessions to Veda Usilton, Autism Education Program Specialist,

410-767-1446 or vusilton@msde.state.md.us. Appropriate accommodations for individuals with Disabilities will be provided with 7 calendar days notice.
Contact: Veda Usilton (410) 767-1446

[10-01-04]

BOARD OF MASTER ELECTRICIANS

Subject: Public Meeting
Date and Time: January 26, 2010, 10 a.m. — 12 p.m.

Place: 500 N. Calvert St., Baltimore, MD

Contact: Gae Herzberger (410) 230-6163

[10-01-22]

EMERGENCY MEDICAL SERVICES BOARD

Subject: Public Meeting
Date and Time: January 12, 2010, 10 a.m. — 12 p.m.

Place: 653 W. Pratt St., Ste. 212, Baltimore, MD

Add'l. Info: The EMS Board and SEMSAC meet jointly once a year. Part of the meeting may include a closed session.

Contact: Leandrea M. Gilliam (410) 706-4449

[10-01-34]

MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)

Subject: Public Meeting
Date and Time: January 15, 2010, 10 a.m. — 12 p.m.

Place: 653 W. Pratt St., Ste. 508, Baltimore, MD

Add'l. Info: The EMS Provider Review Panel meets regularly on the 3rd Friday of every other month.

Contact: Leandrea M. Gilliam (410) 706-4449

[10-01-35]

BOARD FOR PROFESSIONAL ENGINEERS

Subject: Public Meeting
Date and Time: January 14, 2010, 9 a.m.

Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD

Contact: Pamela J. Edwards (410) 230-6263

[10-01-48]

**DEPARTMENT OF THE
ENVIRONMENT/LAND
MANAGEMENT ADMINISTRATION**

Subject: Public Meeting
Date and Time: January 21, 2010,
 9 — 11:30 a.m.
Place: MDE, 1800 Washington Blvd.,
 Potomac Conf. Rm., Baltimore, MD
Add'l. Info: Meeting of the Controlled
 Hazardous Substances Advisory Council
Contact: Ed Hammerberg (410) 537-
 3314

[10-01-21]

**DEPARTMENT OF HEALTH AND
MENTAL HYGIENE**

Subject: Public Meeting
Date and Time: February 9, 2010, 10
 a.m. — 2 p.m.; Snow Date: February
 17, 2010
Place: Crofton Library, 1681 Riedel Rd.,
 Crofton, MD
Add'l. Info: This is a Youth Camp
 Safety Advisory Council meeting.
Contact: Linda Rudie (410) 767-8419
 [10-01-42]

**DEPARTMENT OF HEALTH AND
MENTAL HYGIENE/MARYLAND
BOARD OF PHYSICIANS**

Subject: Public Meeting
Date and Time: January 27, 2010,
 9 — 10 a.m.; Open meetings will be
 held at 9 a.m. and 3 p.m.
Place: 4201 Patterson Ave., Rms. 108/
 109, Baltimore, MD
Add'l. Info: Appropriate auxiliary aids
 and services provided for qualified in-
 dividuals upon request. Call Ellen D.
 Smith at (410) 764-2477.
Contact: Tammy Austin (410) 764-4769
 [10-01-18]

**BOARD OF HEATING, VENTILATION,
AIR-CONDITIONING, AND
REFRIGERATION CONTRACTORS
(HVACR)**

Subject: Public Meeting
Date and Time: January 13, 2010, 9:30
 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf.
 Rm., Baltimore, MD
Contact: Steve Smitson (410) 230-6169
 [10-01-24]

**BOARD OF HEATING, VENTILATION,
AIR-CONDITIONING, AND
REFRIGERATION CONTRACTORS
(HVACR)**

Subject: Public Meeting
Date and Time: February 10, 2010,
 9:30 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf.
 Rm., Baltimore, MD
Contact: Steve Smitson (410) 230-6169
 [10-01-23]

COMMISSION ON KIDNEY DISEASE

Subject: Public Meeting
Date and Time: January 28, 2010, 2
 p.m.
Place: 4201 Patterson Ave., Rm. 108,
 Baltimore, MD
Contact: Eva Schwartz (410) 764-4799
 [10-01-03]

**DEPARTMENT OF LABOR,
LICENSING, AND
REGULATION/DIVISION OF LABOR
AND INDUSTRY/MARYLAND
APPRENTICESHIP AND TRAINING
COUNCIL**

Subject: Public Meeting
Date and Time: January 12, 2010, 9
 a.m. — 12 p.m.
Place: Dept. of Labor, Licensing, and
 Regulation, 1100 N. Eutaw St., Lower
 Level Training Rm., Baltimore, MD
Add'l. Info: The Apprenticeship and
 Training Council will consider the
 approval and registration of new ap-
 prenticeship programs, revisions to
 presently approved apprenticeship
 programs, and other business which
 may come before the Council.
Contact: Roger M. Lash, Jr. (410) 767-
 2246

[10-01-47]

**BOARD OF EXAMINERS OF
LANDSCAPE ARCHITECTS**

Subject: Public Meeting
Date and Time: January 19, 2010, 1:30
 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf.
 Rm., Baltimore, MD
Contact: Pamela J. Edwards (410) 230-
 6263

[10-01-49]

**MARYLAND STATE LOTTERY
COMMISSION**

Subject: Public Meeting
Date and Time: January 15, 2010, 10
 a.m. — 12 p.m.
Place: Montgomery Park Business Cen-
 ter, 1800 Washington Blvd., Ste. 330,
 Baltimore, MD
Contact: Marie A. Torosino (410) 230-
 8790

[10-01-51]

**MARYLAND HEALTH CARE
COMMISSION**

Subject: Public Meeting
Date and Time: January 21, 2010, 1
 p.m.
Place: Maryland Health Care Commis-
 sion, 4160 Patterson Ave., Conf. Rm.
 100, Baltimore, MD
Add'l. Info: Individuals requiring spe-
 cial accommodations are requested to
 contact Valerie Wooding at (410) 764-
 3460, or the Department of Health and
 Mental Hygiene TTY at (410) 383-
 7755, not later than 20 working days

before the meeting to make arrange-
 ments.

Contact: Valerie Wooding (410) 764-
 3460

[10-01-11]

**MARYLAND HEALTH CARE
COMMISSION**

Subject: Receipt of Application
Add'l. Info: On December 4, 2009 the
 Maryland Health Care Commission
 (MHCC) received two applications for
 Certificate of Need submitted by:

Kaiser Permanente Gaithersburg
 Surgical Center — Matter No. 09-15-
 2303 — Establishment of a new free-
 standing ambulatory surgery facility
 through the relocation of 2 operating
 rooms from the Kaiser Permanente
 Kensington Surgical Facility to a new
 location at 665 Watkins Mill Road,
 Gaithersburg. The proposed cost of the
 project is \$9,780,233. The approximate
 date the project will be initiated is 22
 months from CON approval.

Kaiser Permanente Largo Surgical
 Center — Matter No. 09-16-2304 —
 Establishment of a new freestanding
 ambulatory surgery facility with 6 op-
 erating to be located at 1221 Mercan-
 tile Lane, Largo. The proposed cost of
 the project is \$18,700,211. The ap-
 proximate date the project will be ini-
 tiated is 19 months from CON ap-
 proval. The MHCC shall review the
 applications under Health-General Ar-
 ticle, §19-101 et seq., Annotated Code
 of Maryland, and COMAR 10.24.01.

Any affected person may make a
 written request to the Commission to
 receive copies of relevant notices con-
 cerning the applications. All further
 notices of proceedings on the applica-
 tions will be sent only to affected per-
 sons who have registered as interested
 parties.

Please refer to the Matter No. listed
 above in any correspondence on the
 applications. A copy of the applications
 are available for review in the office of
 the MHCC, during regular business
 hours by appointment. All correspon-
 dence should be addressed to: Pamela
 W. Barclay, Director, Center for Hospi-
 tal Services, MHCC, 4160 Patterson
 Avenue, Baltimore, Maryland 21215.
Contact: Ruby Potter (410) 764-3276

[10-01-40]

**MINORITY BUSINESS ENTERPRISE
ADVISORY COMMITTEE**

Subject: Public Meeting
Date and Time: January 20, 2010, 8:30
 a.m. — 5 p.m.
Place: Harry R. Hughes Dept. of Trans-
 portation Bldg., 7201 Corporate Cen-
 ter Dr., Richard Trainor Conf. Rm., 1st
 Fl., Hanover, MD
Contact: Catherine Svoboda (410) 865-
 1357

[10-01-45]

**BOARD OF MORTICIANS AND
FUNERAL DIRECTORS**

Subject: Public Meeting on Regulations
Date and Time: January 11, 2010, 10 a.m. — 12 p.m.
Place: 4201 Patterson Ave., Baltimore, MD
Add'l. Info: Review statutes and regulations and vote as necessary. Sign language interpreter and/or other appropriate accommodations for qualified individuals with disabilities will be provided upon request.
Contact: LouAnn Cox (410) 764-4792
 [10-01-31]

**BOARD OF OCCUPATIONAL
THERAPY PRACTICE**

Subject: Public Meeting
Date and Time: January 15, 2010, 8:30 a.m. — 2 p.m.
Place: Spring Grove Hospital Center, 55 Wade Ave., Tulip Dr., Benjamin Rush Bldg., Catonsville, MD
Add'l. Info: Health Occupations Article, Title 10, Annotated Code of Maryland, and COMAR 10.46, amendments, additions, and revisions, including fee changes, may be discussed/voted on. Budget information may also be discussed. It may be necessary to go into executive session. Sign language interpreters and/or appropriate accommodations for qualified individuals with disabilities will be provided upon request. Please call 1-800-735-2255.
Contact: Marilyn Pinkney (410) 402-8556
 [10-01-39]

BOARD OF PLUMBING

Subject: Public Meeting
Date and Time: January 21, 2010, 10:30 a.m. — 12:30 p.m.
Place: 500 N. Calvert St., Rm. 302, Baltimore, MD
Contact: Brenda Clark (410) 230-6461
 [10-01-01]

**BOARD OF PODIATRIC MEDICAL
EXAMINERS**

Subject: Public Meeting
Date and Time: January 14, 2010, 1 — 6 p.m.
Place: DHMH, Metro Executive Bldg., Baltimore, MD
Contact: Eva Schwartz (410) 764-4785
 [10-01-27]

BOARD OF PUBLIC ACCOUNTANCY

Subject: Public Meeting
Date and Time: February 2, 2010, 9 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Dennis L. Gring (410) 230-6224
 [10-01-09]

**STATE ADVISORY COUNCIL ON
QUALITY CARE AT THE END OF
LIFE**

Subject: Public Meeting
Date and Time: January 22, 2010, 10 a.m. — 12 p.m.
Place: Office on Aging, 301 W. Preston St., Rm. 2007, Baltimore, MD
Contact: Kathy Izdebski (410) 576-6327
 [10-01-13]

RACING COMMISSION

Subject: Public Meeting
Date and Time: January 19, 2010, 12:30 — 1:30 p.m.
Place: Laurel Park, Laurel, MD
Contact: J. Michael Hopkins (410) 296-9682
 [10-01-29]

**MARYLAND BUSINESS TAX
REFORM COMMISSION**

Subject: Public Meeting
Date and Time: January 25, 2010, 2 — 4 p.m.
Place: Louis L. Goldstein Treasury Bldg., 80 Calvert St., Assembly Rm., Annapolis, MD
Contact: Linda I. Vasbinder (410) 260-7450
 [10-01-12]

**DEPARTMENT OF VETERANS
AFFAIRS/MARYLAND VETERANS
COMMISSION**

Subject: Public Meeting
Date and Time: January 19, 2010, 10:30 a.m. — 1 p.m.
Place: Medford Armory, Annapolis, MD
Contact: Cate Conroy (410) 260-3840
 [10-01-02]

BOARD OF WELL DRILLERS

Subject: Public Meeting
Date and Time: January 27, 2010, 9 a.m. — 4 p.m.
Place: MDE, 1800 Washington Blvd., Terra Conf. Rm., Baltimore, MD
Add'l. Info: A portion of this meeting may be held in closed session.
Contact: Kathy Glass (410) 537-3597
 [10-01-07]

**WORKERS' COMPENSATION
COMMISSION**

Subject: Public Meeting
Date and Time: January 14, 2010, 9 — 11 a.m.
Place: 10 E. Baltimore St., Baltimore, MD
Add'l. Info: A portion of this meeting may be held in a closed session.
Contact: Amy Lackington (410) 864-5300
 [10-01-08]



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- 05 Freestanding Ambulatory Care Facilities
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Title 11

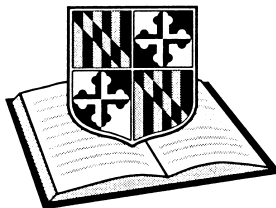
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