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# Maryland Register

Issue Date: March 25, 2011

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Volume 38 • Issue 7 • Pages 407—458

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Governor  
General Assembly  
Open Meetings  
Compliance Board  
Judiciary  
Regulations  
Special Documents  
General Notices

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before March 7, 2011, 5 p.m.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 March 7, 2011.

Brian Morris  
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](http://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)

**Maryland Register (ISSN 0360-2834).** Postmaster: Send address changes and other mail to: Maryland Register, State House, Annapolis, Maryland 21401. Tel. 410-974-2486; Fax 410-280-5647. Published biweekly, with cumulative indexes published quarterly, by the State of Maryland, Division of State Documents, State House, Annapolis, Maryland 21401. The subscription rate for the Maryland Register is \$225 per year (first class mail). All subscriptions post-paid to points in the U.S. periodicals postage paid at Annapolis, Maryland and additional mailing offices.

**Martin O'Malley**, Governor; **John P. McDonough**, Secretary of State; **Brian Morris**, Acting Administrator; **Gail S. Klakring**, Senior Editor; **Mary D. MacDonald**, Editor, Maryland Register and COMAR; **Elizabeth Ramsey**, Editor, COMAR Online, and Subscription Manager; **Tami Cathell**, Help Desk, COMAR and Maryland Register Online.

Front cover: State House, Annapolis, MD, built 1772—79.

Illustrations by Carolyn Anderson, Dept. of General Services

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**COMAR Online**

The Code of Maryland Regulations is available at [www.dsd.state.md.us](http://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](http://www.dsd.state.md.us).

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

**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.

Issue Date	Emergency and Proposed Regulations* 5:00 p.m.	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
April 8	March 21	March 30	March 28
April 22	April 4	April 13	April 11
May 6	April 18	April 27	April 25
May 20	May 2	May 11	May 9
June 3**	May 16	May 24	May 20
June 17**	May 26	June 8	June 6
July 1	June 13	June 22	June 20
July 15	June 27	July 6	July 1
July 29**	July 11	July 20	July 18

\* Due date for documents containing 8 to 18 pages—48 hours before date shown

Due date for documents exceeding 18 pages—1 week before date shown

**NOTE: ALL DOCUMENTS MUST BE SUBMITTED IN TIMES NEW ROMAN, 9-POINT, SINGLE-SPACED FORMAT. THE REVISED PAGE COUNTS REFLECT THIS FORMATTING REQUIREMENT.**

\*\* 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.

**09.12.01.01D(2)(c)(iii)**  
 Title                      Chapter                      Section                      Paragraph  
    Subtitle                      Regulation                      Subsection                      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](http://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.

#### 03 COMPTROLLER OF THE TREASURY

03.02.06.01—.04 • 37:3 Md. R. 181 (1-29-10)

#### 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

05.05.07.01—.31 • 37:20 Md. R. 1398 (09-24-10)

05.10.01.01,.02 • 38:3 Md. R. 153 (1-28-11)

05.10.02.01—.05 • 38:3 Md. R. 153 (1-28-11)

05.10.03.01—.06 • 38:3 Md. R. 153 (1-28-11)

05.10.04.01—.03 • 38:3 Md. R. 153 (1-28-11)

05.10.05.01—.05 • 38:3 Md. R. 153 (1-28-11)

05.10.06.01,.02 • 38:3 Md. R. 153 (1-28-11)

#### 07 DEPARTMENT OF HUMAN RESOURCES

07.01.04.03 • 38:4 Md. R. 265 (2-11-11)

07.02.15.03 • 37:25 Md. R. 1743 (12-3-10)

07.02.15.12 • 37:25 Md. R. 1744 (12-3-10)

07.07.01.02 • 38:4 Md. R. 265 (2-11-11)

07.07.08.01—.06 • 38:4 Md. R. 266 (2-11-11)

#### 08 DEPARTMENT OF NATURAL RESOURCES

08.07.05.02,.03 • 38:6 Md. R. 399 (3-11-11)

08.18.14.05 • 38:7 Md. R. 435 (3-25-11)

08.18.20.04 • 38:3 Md. R. 175 (1-28-11)

#### 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

09.11.06.01—.10 • 37:18 Md. R. 1230 (8-27-10)

38:2 Md. R. 87 (1-14-11)

09.12.31 • 38:5 Md. R. 322 (2-25-11)

09.13.06.12 • 38:4 Md. R. 267 (2-11-11)

09.15.02.12 • 37:23 Md. R. 1614 (11-5-10)

09.18.02.07 • 38:1 Md. R. 25 (1-3-11)

09.20.04.01,.02 • 37:4 Md. R. 346 (2-12-10)

38:3 Md. R. 176 (1-28-11)

09.22.01.13 • 37:26 Md. R. 1790 (12-17-10)

09.22.02.03 • 37:26 Md. R. 1791 (12-17-10)

09.23.01.04 • 38:4 Md. R. 268 (2-11-11)

09.25.01.01,.01-1,.04,.06,.07 • 37:4 Md. R. 350 (2-12-10)

09.32.01.18-3 • 36:26 Md. R. 2024 (12-18-09)

09.38.01.01—.04 • 38:3 Md. R. 178 (1-28-11)

#### 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

##### Subtitles 01 — 08 (1st Volume)

10.01.04.01—.11 • 38:3 Md. R. 180 (1-28-11)

10.07.05.01—.28 • 38:4 Md. R. 269 (2-11-11)

##### Subtitle 09 (2nd Volume)

10.09.06.01,.03,.09 • 38:7 Md. R. 435 (3-25-11)

10.09.24.13 • 38:3 Md. R. 180 (1-28-11)

10.09.34.01 • 38:4 Md. R. 281 (2-11-11)

10.09.36.06,.11 • 38:4 Md. R. 281 (2-11-11)

10.09.65.20 • 38:7 Md. R. 437 (3-25-11)

10.09.81.01—.07 • 37:20 Md. R. 1409 (09-24-10)

##### Subtitles 10 — 22 (3rd Volume)

10.10.01.03 • 37:25 Md. R. 1745 (12-3-10)

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10.10.06.02 • 37:25 Md. R. 1745 (12-3-10)

10.21.25.03-1,.08,.09 • 38:3 Md. R. 192 (1-28-11)

10.22.17.02,.03,.06—.08 • 37:14 Md. R. 956 (7-2-10)

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10.24.05.01—.07 • 38:7 Md. R. 438 (3-25-11)

10.25.16.01—.07 • 37:16 Md. R. 1064 (7-30-10)  
 10.27.01.12 • 38:7 Md. R. 440 (3-25-11)  
 10.27.07.01—.11 • 38:1 Md. R. 26 (1-3-11)  
 10.27.10.01—.04 • 38:3 Md. R. 193 (1-28-11)  
 10.27.11.02,.04,.05 • 37:21 Md. R. 1456 (10-8-10)  
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 10.34.23.01—.11 • 37:12 Md. R. 806 (6-4-10)  
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**Subtitles 37—59 (5th Volume)**

10.37.01.02 • 38:6 Md. R. 400 (3-11-11) (ibr)  
 10.39.01.06 • 38:7 Md. R. 440 (3-25-11)  
 10.41.03.02 • 38:3 Md. R. 197 (1-28-11)  
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**12 DEPARTMENT OF PUBLIC SAFETY AND  
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13A.03.02.04 • 38:1 Md. R. 50 (1-3-11)  
 13A.05.01.03,.06,.07,.16 • 38:5 Md. R. 323 (2-25-11)

13A.05.02.05 • 38:5 Md. R. 325 (2-25-11)  
 13A.05.11.01—.10 • 38:3 Md. R. 204 (1-28-11)  
 13A.07.04.01,.01-1,.05,.06 • 37:16 Md. R. 1082 (7-30-10) (ibr)  
 13A.12.02.06,.08,.13,.14,.16,.17 • 38:3 Md. R. 205 (1-28-11)  
 13A.14.10.02—.04 • 38:5 Md. R. 325 (2-25-11)

**13B MARYLAND HIGHER EDUCATION COMMISSION**

13B.01.01.02—.05,.07,.14,.18,.20 • 38:7 Md. R. 443 (3-25-11)  
 13B.03.01.03,.05,.07 • 38:7 Md. R. 447 (3-25-11)

**14 INDEPENDENT AGENCIES**

14.01.10.20 • 38:3 Md. R. 206 (1-28-11)  
 14.03.02.01,.02,.07,.09,.14 • 37:24 Md. R. 1687 (11-19-10)  
 14.03.03 • 37:23 Md. R. 1622 (11-5-10)  
 14.03.04.03,.04,.06—.19 • 37:24 Md. R. 1688 (11-19-10)  
 14.03.05.01,.08,.09,.14—.16,.19 • 37:23 Md. R. 1622 (11-5-10)  
 14.09.01.01,.19 • 38:1 Md. R. 57 (1-3-11)  
 14.09.01.05 • 38:3 Md. R. 207 (1-28-11)  
 14.09.03.01,.04,.09 • 38:3 Md. R. 207 (1-28-11)  
 14.22.01.17 • 38:5 Md. R. 327 (2-25-11)  
 14.22.02.02 • 38:5 Md. R. 327 (2-25-11)  
 14.32.05.02 • 37:1 Md. R. 33 (1-4-10)  
 37:15 Md. R. 1020 (7-16-10)

**15 DEPARTMENT OF AGRICULTURE**

15.21.01.01—.05 • 38:3 Md. R. 213 (1-28-11)

**19A STATE ETHICS COMMISSION**

19A.04.01.01—.03 • 38:3 Md. R. 213 (1-28-11)  
 19A.04.02.01—.07 • 38:3 Md. R. 213 (1-28-11)  
 19A.04.03.01—.04 • 38:3 Md. R. 213 (1-28-11)  
 19A.04.04.01,.02 • 38:3 Md. R. 213 (1-28-11)  
 19A.05.01.01—.04 • 38:4 Md. R. 282 (2-11-11)  
 19A.05.02.01—.06 • 38:4 Md. R. 282 (2-11-11)  
 19A.05.03.01—.03 • 38:4 Md. R. 282 (2-11-11)  
 19A.05.04.01,.02 • 38:4 Md. R. 282 (2-11-11)

**20 PUBLIC SERVICE COMMISSION**

20.50.01.03,.05 • 38:5 Md. R. 332 (2-25-11)  
 20.50.10.01—.08 • 38:5 Md. R. 332 (2-25-11)

**21 STATE PROCUREMENT REGULATIONS**

21.11.11.05 • 38:3 Md. R. 230 (1-28-11)

**22 STATE RETIREMENT AND PENSION SYSTEM**

22.01.07.02—.05 • 38:7 Md. R. 448 (3-25-11)  
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 22.05.01.02,.03 • 38:7 Md. R. 449 (3-25-11)  
 22.05.06.01—.03 • 38:7 Md. R. 450 (3-25-11)

**26 DEPARTMENT OF THE ENVIRONMENT**

**Subtitles 01—07 (Part 1)**

26.04.11.01—.10 • 37:5 Md. R. 442 (2-26-10)

**Subtitles 08 — 12 (Part 2)**

- 26.09.01.02 • 38:2 Md. R. 96 (1-14-11)
- 26.09.02.08 • 38:2 Md. R. 96 (1-14-11)
- 26.10.04.01 • 35:21 Md. R. 1851 (10-10-08)
- 26.11.01.01 • 38:2 Md. R. 101 (1-14-11)
- 26.11.01.10,.11 • 38:2 Md. R. 104 (1-14-11)
- 26.11.02.01,.12 • 38:2 Md. R. 101 (1-14-11)
- 26.11.02.10 • 38:2 Md. R. 106 (1-14-11)
- 26.11.06.14 • 38:2 Md. R. 101 (1-14-11)
- 26.11.08.02,.04,.07,.08 • 38:2 Md. R. 110 (1-14-11)
- 26.11.09.01,.02,.10 • 38:2 Md. R. 112 (1-14-11)
- 26.11.09.01,.05 • 38:2 Md. R. 104 (1-14-11)
- 26.11.09.01,.08-1 • 38:2 Md. R. 106 (1-14-11)
- 26.11.19.07,.07-2 • 38:2 Md. R. 114 (1-14-11)
- 26.11.19.13 • 38:2 Md. R. 117 (1-14-11)
- 26.11.23.05,.06,.10,.11 • 38:2 Md. R. 120 (1-14-11)
- 26.11.31.01—.15 • 38:2 Md. R. 121 (1-14-11) (ibr)
- 26.11.34.02 • 38:2 Md. R. 125 (1-14-11) (ibr)
- 26.11.36.01—.04 • 38:2 Md. R. 106 (1-14-11)

**Subtitles 13—18 (Part 3)**

- 26.17.01.01 • 37:19 Md. R. 1329 (9-10-10) (err)
- 26.17.01.01—.11 • 37:18 Md. R. 1244 (8-27-10) (ibr)
- 26.17.01.09 • 37:19 Md. R. 1329 (9-10-10) (err)

**29 MARYLAND STATE POLICE**

- 29.06.06.01—.07 • 36:20 Md. R. 1554 (9-25-09)

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

- 30.02.02.02—.06,.09 • 38:4 Md. R. 296 (2-11-11)

**31 MARYLAND INSURANCE ADMINISTRATION**

- 31.03.15.05 • 38:3 Md. R. 235 (1-28-11) (err)
- 31.04.21.01—.03 • 38:3 Md. R. 230 (1-28-11)
- 31.09.12.01—.11 • 38:3 Md. R. 231 (1-28-11)

**34 DEPARTMENT OF PLANNING**

- 34.05.01.01—.04 • 38:6 Md. R. 401 (3-11-11)



# The Governor

## EXECUTIVE ORDER 01.01.2011.01

### State Coordination of State Small Business Credit Initiative

WHEREAS, On September 27, 2010, President Obama signed into law H.R. 5297, the Small Business Jobs Act of 2010 (the Jobs Act) to help increase credit availability for small businesses;

WHEREAS, The Jobs Act created the State Small Business Credit Initiative (SSBCI) and appropriated \$1.5 billion to be used by the U.S. Department of the Treasury (the Treasury) to provide direct support to states for use in programs designed to increase access to credit for small businesses which have found it increasingly difficult to get new loans to keep their businesses operating and to retain existing loans as credit standards are being tightened by banks;

WHEREAS, The Treasury will generally allocate funds to all fifty states and territories pursuant to the Jobs Act according to a statutory formula that takes into account a state's job losses in proportion to the aggregate job losses of all states and guarantees each state or territory a minimum allocation of .9% of the \$1.5 billion total allocation;

WHEREAS, The State of Maryland is being considered for an allocation of \$23,025,709 if its application is approved;

WHEREAS, Before a state is approved for participation in the SSBCI, the state must demonstrate that all actions required under state law have been taken to delegate administrative responsibility to a specific department, agency or political subdivision of the state; and

WHEREAS, There is a need for the State of Maryland to have a central administrative function to facilitate the application and administration of the funds received by the State pursuant to the SSBCI in order to maximize the economic development potential of the SSBCI to the residents of the State.

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, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. The State's Department of Business and Economic Development is designated as the entity responsible for the administration of the State Small Business Credit Initiative (SSBCI) in the State.

B. The Secretary of Business and Economic Development is designated as the official responsible for signing the application and any agreements required to be signed by the State in connection with the application, approval and administration of the SSBCI, including any requests to modify the application and agreements after execution.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 7th day of March, 2011.

MARTIN O'MALLEY  
Governor

ATTEST:

JOHN P. MCDONOUGH  
Secretary of State

[11-07-41]

## EXECUTIVE ORDER 01.01.2011.02

### Declaration of Emergency Due to Flooding

WHEREAS, Maryland is subject to a great variety of hazard events, including but not limited to naturally occurring human disasters and needs (including flooding, winter storms);

WHEREAS, Having been advised and informed by the Maryland Emergency Management Agency that there is the anticipation of the need for resources and use of State staff to assist with disaster response and relief efforts including but not limited to protective actions - evacuation and shelter - for impacted citizens;

WHEREAS, In order to facilitate the deployment and use of requisite resources within provisions of Maryland law;

WHEREAS, Use of resources of the Maryland National Guard may be required; and

WHEREAS, In order to implement the emergency powers of the Governor, an Executive Order of the Governor is appropriate.

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, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, DECLARE THAT A STATE OF EMERGENCY EXISTS IN MARYLAND. I CALL THE MARYLAND NATIONAL GUARD INTO STATE SERVICE AND HEREBY AUTHORIZE THE MARYLAND EMERGENCY MANAGEMENT AGENCY OR OTHER APPROPRIATE STATE AUTHORITY, DURING THIS EMERGENCY PERIOD, TO ENGAGE, DEPLOY AND COORDINATE AVAILABLE RESOURCES.

Given Under My Hand and the Great Seal of the State of Maryland in the City of Annapolis, this 10th day of March, 2011.

MARTIN O'MALLEY  
Governor

ATTEST:

JOHN P. MCDONOUGH  
Secretary of State

[11-07-42]

**EXECUTIVE ORDER 01.01.2011.03**

**Rescission of Executive Order 01.01.2011.02**

WHEREAS, I, Martin O'Malley, Governor of the State of Maryland, having declared a State of Emergency by Executive Order 01.01.2011.02 due to the threat to the public health and safety caused by the impact of severe weather; and

WHEREAS, The emergency conditions caused by the storm no longer exist.

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, DO HEREBY PROCLAIM THAT THE STATE OF EMERGENCY IN THE STATE OF MARYLAND WAS HEREBY TERMINATED EFFECTIVE AT 1800 HOURS ON THE 12<sup>TH</sup> DAY OF MARCH, 2011.

GIVEN Under My Hand and the Great Seal of the State of Maryland in the City of Annapolis, this 14th day of March, 2011.

MARTIN O'MALLEY  
Governor

ATTEST:

JOHN P. MCDONOUGH  
Secretary of State

[11-07-43]

# The General Assembly

For additional up-to-date information concerning bills introduced in the General Assembly, log on to <http://mlis.state.md.us> Click on Bill Information and Status. You may then enter a specific bill number for information about that bill. You may also click on Senate Synopsis or House Synopsis for the most recent synopsis list for each house, or click on Synopsis Index for a listing of all bill synopses since the beginning of the legislative session.

## Synopsis No. 2

### House Bills

- HB1281** Del Stukes, et al. Arts and Entertainment Districts - Artistic Work - Design.
- HB1282** Del Glenn, et al. Transportation - Vehicle Parking Facilities - Motorcycle Parking.
- HB1283** Del Glenn. Public School Buildings - Carbon Monoxide Detection and Warning Equipment.
- HB1284** Cecil County Delegation. Cecil County - Deer Hunting on Private Property - Sundays.
- HB1285** Chr HGO (Dept). Maryland Department of Aging - Continuing Care in a Retirement Community.
- HB1286** Chr HGO (Dept). Maryland Department of Aging - Continuing Care in a Retirement Community.
- HB1287** Del Walker, et al. Creation of a State Debt - Prince George's County - My Sister's Keeper Group Homes.
- HB1288** Del Malone. Vehicle Laws - Distracted Driving - Prohibition.
- HB1289** Del Serafini. State Retirement and Pension System - State Employees and Teachers - Benefits.
- HB1290** Del Serafini. State Employees' and Teachers' Retirement Savings Plan.
- HB1291** Del McIntosh, et al. Sales and Use Tax - Exemption - Energy for Homeowners Association.
- HB1292** Del Costa. Anne Arundel County - Alcoholic Beverages - Licenses and Fees.
- HB1293** Del A. Miller, et al. Creation of a State Debt - Montgomery County - Poole's Store Restoration and Warehouse Construction.
- HB1294** The Mnrtly Ldr. Deficit Reduction Financing Act of 2011.
- HB1295** Del Hixson, et al. Property Tax - Charter Counties - Limits.
- HB1296** Del Rosenberg. District Court - Electronic Transmission of Eviction-Related Documents.
- HB1297** Chr W&M (Dept). Education - Children with Disabilities - Regional Institutes for Children and Adolescents.
- HB1298** Del Harrison. Creation of a State Debt - Baltimore City - Mary Harvin Transformation Center.
- HB1299** Del Harrison. Creation of a State Debt - Baltimore City - St. Francis Xavier Head Start.
- HB1300** Del Hucker, et al. Probation - Probation Work Readiness Pilot Program.
- HB1301** Del Stukes, et al. Creation of a State Debt - Baltimore City - Academy of Success Community Empowerment Center.
- HB1302** Dels Walker and Valderrama. Creation of a State Debt - Prince George's County - Friendly High School Turf Field.
- HB1303** Del Hucker. Occupational Safety - Manholes and Confined Spaces - Training in First Aid and Cardiopulmonary Resuscitation.
- HB1304** Del Hucker, et al. National Human Trafficking Resource Center Hotline Information - Sign Posting Requirements.
- HB1305** Del Myers. Safe Schools - Reportable Offenses.
- HB1306** Del V. Turner, et al. Creation of a State Debt - Prince George's County - Crossland High School.
- HB1307** Del Morhaim. Public Employees' and Retirees' Benefit Sustainability Commission - Advance Directives.
- HB1308** Del Gilchrist, et al. Tax Incentives and Benefits - Credits and Subtraction Modifications.
- HB1309** Del Holmes, et al. Real Estate Appraisers - Valuation Appraisals - Requirements.
- HB1310** Del Conway. Tax Supported Debt - Energy Performance Contracts.
- HB1311** Del Jameson, et al. Motor Vehicle Insurers - Standards for Cancellation or Refusal of Insurance - Driving While Impaired by Alcohol.
- HB1312** Del Griffith. State Retirement and Pension System - Vested Retirement Allowance - Members and Former Members.
- HB1313** Del Myers. Alcoholic Beverages - Class A Licensees - Closing Hours.
- HB1314** Del Myers. Public Service Commission - Public Service Company - Definition.
- HB1315** Howard County Delegation. Howard County - Orphans' Court Sessions Ho. Co. 9-11.
- HB1316** Dels Waldstreicher and Simmons. Financial Crimes - Seizure and Forfeiture of Property.
- HB1317** Del Serafini. State Employees and Teachers - Cash Balance Plan.
- HB1318** Del Serafini. State Retirement and Pension System - Board of Trustees and Investment Committee - Membership.
- HB1319** Del Carr, et al. Creation of a State Debt - Montgomery County - Warner Manor.
- HB1320** Del Olszewski (By Request). Criminal Procedure - Plea Agreement Terms and the Violence Prevention Initiative Criteria.
- HB1321** Del Proctor. Maryland Consolidated Capital Bond Loan of 2006 - Prince George's County - Accokeek Foundation.
- HB1322** Del Barkley. Electric Companies and Electric Cooperatives - Standard Offer Service - Service Rights Auctions.
- HB1323** Dels Braveboy and W. Miller. Mortgage Brokers - Finder's Fee - Prohibition.
- HB1324** Del Conway, et al. Wicomico County - Board of Education - Selection of Members - Straw Ballot.
- HB1325** Del McComas, et al. Privileged Communications - Critical Incident Stress Management and Peer Support.
- HB1326** Del Serafini. State Retirement and Pension System - Investments - Independent Investment Advisory Firms.
- HB1327** Del Conaway. Criminal Law - Salvia Divinorum - Distribution to Individual Under 21 Years of Age - Penalties.
- HB1328** Del McHale, et al. Legislative Community Initiatives Loan of 2004 - Baltimore City - Carroll Mansion Museum.
- HB1329** Del Norman. Motor Vehicles - Renewal of Drivers' Licenses - Contractors for the Armed Forces of the United States.
- HB1330** Chr ECM (Dept). Construction Safety and Health Training - Public Work Contracts.

**HB1331** Del Waldstreicher. Peace Orders - Surrender of Firearms.  
**HB1332** Del McConkey. Anne Arundel County - Drug-Free Zones Pilot Program - Public Parks and Recreation Areas.  
**HB1333** Del Howard. Legislative Community Initiatives Loan of 2004 - Prince George's County - Ivy Youth and Family Center.  
**HB1334** Dels McDermott and Conway. Worcester County - Berlin - Alcoholic Beverages - Micro-Brewery License.  
**HB1335** Del Hershey. Zoning, Construction, and Stormwater - Permits and Variances - Solar Panels.  
**HB1336** Del Holmes. Maryland Consolidated Capital Bond Loan of 2009 - Prince George's County - South Bowie Boys and Girls Club.  
**HB1337** Del Holmes, et al. Real Property - Residential Property Owned by Bank or Investment Company - Required Maintenance.  
**HB1338** Del Kipke. Health Insurance - Pharmacy Benefits Managers - Contracts, Disclosures, and Audits.  
**HB1339** Del Braveboy, et al. Real Property - Homeowners Associations - Election of Governing Body.  
**HB1340** Dels Haddaway-Riccio and O'Donnell. Natural Resources - Oysters - Sanctuaries and Poaching.  
**HB1341** Chr HGO (Dept). State Government - Transportation - School Bus Use in Emergencies.  
**HB1342** Del Stukes, et al. Police and Court Records - Nonviolent Crimes - Expungement.  
**HB1343** Allegany County Delegation. Economic Development - Tri-County Council for Western Maryland - Membership and Leadership.  
**HB1344** Del Serafini, et al. State Retirement and Pension System - Guaranteed Retirement Income Plan and Retirement Savings Plan.  
**HB1345** Del Hubbard. Food Service Facilities - Artificial Trans Fats - Prohibition.  
**HB1346** Del B. Robinson, et al. Creation of a State Debt - Baltimore City - Delta Lambda Foundation Head Start Facility.  
**HB1347** Del Bohanan. Southern Maryland Higher Education Council.  
**HB1348** Charles County Delegation. Creation of a State Debt - Charles County - Greater Baden Medical Services Facility.

[11-07-37]

**Senate Bills**

**SB0939** Sen Manno. Commission on Organic and Locally Grown Agricultural Products.  
**SB0940** Sen Conway. Bail Bonds - Time of Payment.  
**SB0941** Sen Kelley. Title Insurance - Closing Protection.  
**SB0942** Sen Muse. Creation of a State Debt - Prince George's County - Friendly High School Turf Field.  
**SB0943** Sen Muse. State Board of Education - Student Member - Voting Rights.  
**SB0944** Sen Muse. Washington Suburban Sanitary Commission - Procurement and Minority Business Enterprises - WSSC Procurement Oversight Committee.  
**SB0945** Sen McFadden. Creation of a State Debt - Baltimore City - Mount Pleasant Family Life Center.  
**SB0946** Sens Mathias and Manno. Condominiums and Homeowners Associations - Priority of Liens - "The Residential Association Sustainability Act of 2011".  
**SB0947** Sen Jones-Rodwell. State Retirement and Pension System - Vested Retirement Allowance - Members and Former Members.

**SB0948** Sen Glassman, et al. Harford County - One or Two Family Dwellings Constructed as Industrialized Buildings - Sprinkler System Requirement.  
**SB0949** Sen Ramirez. Prince George's County - Single Bottles or Cans of Beer - Size Prohibition.  
**SB0950** Sen Ramirez. Prince George's County - Secondhand Precious Metal Object Dealers - Precious Metal Objects - Holding Period.  
**SB0951** Sen Ramirez. Prince George's County - Foreclosed-On Property Registry.  
**SB0952** Sen Ramirez. Prince George's County - Bladensburg - Alcoholic Beverages - Development District Licenses.  
**SB0953** Sen Ramirez. Prince George's County - Police Departments - Use of Force - Reports.  
**SB0954** Sen Ramirez. Prince George's County - Real Property - Age 55 and Older - Residential Leases.  
**SB0955** Sen Benson. Creation of a State Debt - Prince George's County - City of Seat Pleasant Public Works Facility.  
**SB0956** Sen Benson. Creation of a State Debt - Prince George's County - Vesta Glenarden Facility.  
**SB0957** Sen Madaleno, et al. Creation of a State Debt - Montgomery County - Warner Manor.  
**SB0958** Sen Garagiola. Maryland Clean Energy Incentive Act - Qualified Energy Resources.  
**SB0959** Sen Garagiola. Bio-Heating Oil - Income Tax Credit.  
**SB0960** Sen Middleton. Health Care Providers - Investigations - Information Sharing Among State Agencies.  
**SB0961** Sen Garagiola. State Vehicle Fleet - Use of Biofuels.  
**SB0962** Sen Kelley. Maryland Department of Aging - Continuing Care in a Retirement Community.  
**SB0963** Sen Kelley. Maryland Department of Aging - Continuing Care in a Retirement Community.  
**SB0964** Sen Astle. Renewable Energy - Poultry Litter - Net Energy Metering and Renewable Energy Portfolio Standard.  
**SB0965** Sen Benson. Prince George's County - Age for Compulsory Public School Attendance - Exemption.  
**SB0966** Sen Benson. Family Law - Child Support - Age of Majority - Postsecondary Education.  
**SB0967** Sen Benson. Maryland Consolidated Capital Bond Loan of 2010 - Prince George's County - John E. Feggans Center Renovation.  
**SB0968** Sen Middleton. Creation of a State Debt - Charles County - Greater Baden Medical Services Facility.  
**SB0969** Sen Ferguson. Labor and Employment - Administrative Leave - Parent-Teacher Conferences.  
**SB0970** Sen Simonaire. Creation of a State Debt - Anne Arundel County - Lake Shore Volunteer Fire Company.  
**SB0971** Sen Young. Labor and Employment - User Name and Password Privacy Protection.  
**SB0972** Sen DeGrange. Creation of a State Debt - Anne Arundel County - Carroll Field Puglise Stadium Field Lights.  
**SB0973** Sen Astle. Legislative Community Initiatives Loan of 2004 - Anne Arundel County - Carrie Weedon Science Center.  
**SB0974** Sen Astle. Health Insurance - Pharmacy Benefits Managers - Contracts, Disclosures, and Audits.  
**SB0975** Sen Edwards. Economic Development - Tri-County Council for Western Maryland - Membership and Leadership.

**SB0976** Sen Middleton. Income Tax - Credit for Charitable Contributions to Community Foundations.

**SB0977** Sens Gladden and Dyson. Freedom of Speech - Picketing at a Funeral - Distance.

**SB0978** Sen Muse. Prince George's County - Landlord and Tenant - Reclaiming Property After Repossession.

**SB0979** Sen Jones-Rodwell. Taxation of Corporations - Alternative Minimum Assessment.

**SB0980** Sen Middleton. Credit Unions - Boards of Directors - Electronically Conducted Elections.

**SB0981** Sens Mathias and Colburn. Wicomico County - Board of Education - Selection of Members - Straw Ballot.

**SB0982** Sen Simonaire. Criminal Law - Funerals, Burials, Memorial Services, and Funeral Processions - Picketing and Penalties.

**SB0983** Sen Conway. Maryland Consolidated Capital Bond Loan of 2010 - Baltimore City - Long-Term Care at Stadium Place.

[11-07-38]

# Open Meetings Compliance Board

## OPINIONS

November 16, 2010

Allen Dyer, Esquire  
Howard County Board of Education

The Open Meetings Compliance Board has considered your complaint that the Howard County Board of Education ("County Board") violated the Open Meetings Act in connection with a closed meeting held on August 19, 2010. Though you yourself are an elected member of the County Board, you stated that you were filing the complaint in your individual capacity.

For the reasons explained below, we find that no violation occurred.

### I

#### Complaint and Response

According to the complaint, the County Board closed its meeting on August 19, 2010, under the authority of §10-508(a)(7) and (9).<sup>1</sup> These provisions authorize a public body to close a meeting in order to consult with counsel to obtain legal advice and to either conduct collective bargaining negotiations or consider matters related to collective bargaining negotiations, respectively. In the complainant's view, however, "much and possibly all of the discussion ... should have taken place in open session."

The complaint outlined a series of events leading up to the closed session, including the County Board's ratification of collective bargaining agreements with employee bargaining units, the reduction of the County Board's contribution towards employee health benefits, and the impact of the federal regulations implementing the federal health care legislation enacted this year. Outside counsel had been retained to advise the County Board on implications of federal law. Outside counsel provided a draft legal memorandum; an email from staff indicated that the closed meeting scheduled for August 19 would involve negotiations. Before the August 19 meeting, the complainant sent an email to the school system's Chief Financial Officer, with copies to other elected members of the County Board, seeking clarification about the negotiations to be discussed and questioning the County Board's authority to renegotiate a collective bargaining agreement as well as the legality of a closed meeting under §10-508(a)(9).

During the August 19 meeting, following a motion to close the meeting, the complainant again questioned the legality of the closed session to discuss whether to reopen negotiations. In response, Ms. Ellen Giles, chair of the County Board, offered a letter from Judith Bresler, the County Board's counsel, which Ms. Giles said provided justification for closure. The County Board voted to close the meeting, with the complainant voting in opposition. The complaint identified the County Board members and eight staff members present during the closed session. Among those present was Mark Blom, the school system's general counsel. Three confidential documents were distributed during the closed session - (1) a legal memorandum by outside counsel Amy Gordon captioned "Contract Changes with Regard to the Patient Protection and Affordable Care Act"; (2) a cost analysis report by the school systems' chief financial

officer; and (3) "Parameter Recommendations for all Bargaining Units Closed Session on 8/19/10." According to the complaint, neither Ms. Gordon nor Ms. Bresler was present or available by telephone; Mr. Blom was present, but "he did not present himself as the author or co-author of any legal memorandum or letter of advice presented during the meeting."

The Superintendent started the closed session with a brief introduction, the Chief Financial Officer explained the cost analysis, and the Director of Finance presented a more detailed analysis. The Superintendent indicated that the County Board needed to decide whether to ask the union to reopen negotiations. The complainant argued that discussions whether to seek the reopening of negotiations should be considered in open session, a position that was not followed. Following an extensive discussion of legal and financial options, the County Board voted to seek to reopen negotiations, a vote in which the complainant abstained.

The complainant argued that reliance on §10-508(a)(7) was inappropriate in that the only lawyer representing the school system who was present during the closed session was not the source of advice. The complaint further noted that, once legal advice is provided, a public body must return to open session to discuss policy implications of advice it had received. As to §10-508(a)(9), the complaint noted that this provision must be strictly construed. Citing a prior Compliance Board opinion, the complainant argued that to come within the exception, discussions must have a "direct and material bearing on the conduct of negotiations." In this matter, the County Board had "no assurance that the union [would] agree to renegotiate the ... agreement nor ... is it clear, without public discussion, whether it is in the public's interest to have the ratified ... agreement renegotiated." Further, in the complainant's view, "the mere possibility of the union returning to the negotiating table immediately after a successful conclusion of the negotiating process is too remote to justify closure under §10-508(a)(9)."

In a timely response on behalf of the County Board, Judith Bresler explained that the County Board adjourned from open session to a closed session pursuant to §10-508(7), (9), and (13), "to receive legal advice regarding negotiated agreement and to discuss potential reopening of negotiations." According to the response, "[t]he subject matter dealt with legal advice the Board of Education received on the impact of interim final rules of the Patient Protection and Affordable Care Act on the administration of employee health benefits under collective bargaining agreements...with employee unions and further negotiations with the unions...In the closed session, Board members, staff, and the school system's General Counsel, Mark Blom, discussed the legal opinion [the County Board] received ... and what it meant to the school system. There was [also] discussion of an opinion by Special Counsel to the Board of Education regarding the Board of Education's legal responsibilities under the laws governing collective bargaining..." Other matters reportedly discussed were legal parameters to be provided to the County Board's negotiators should the unions agree to reopen negotiations.

The response disputed the suggestion that the lawyer who authored particular legal advice need be present in order for a public body to invoke §10-508(a)(7). According to the response, "[i]t was not a violation of the Open Meetings Act to consult with the school system's General Counsel about legal opinions authored by [outside counsel] on the health care legislation or by [Ms. Bresler] on ... collective bargaining laws." As to the County Board's reliance on §10-508(a)(9), the response noted that "[t]he discussion in closed session related to whether the Board of Education had an obligation to seek negotiations ... and, if so, what ... parameters ... did the Board

<sup>1</sup> All statutory references are to the Open Meetings Act, Title 10, Subtitle 5 of the State Government Article, Annotated Code of Maryland.

Although not mentioned in the complaint, the County Board also relied on §10-508(a)(13) in closing the meeting on August 19, 2010. This provision authorizes a public body to close a meeting to the public to "comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter[.]"

... want to set.” The latter matter, according to the response, “directly related to negotiations.”<sup>2</sup>

**II  
Analysis**

The Open Meetings Act allows a public body to close a meeting in order to “consult with counsel to obtain legal advice.” §10-508(a)(7). Like every exception under §10-508(a), this exception must be narrowly construed. §10-508(c). As the complaint correctly noted, we have previously opined that this exception cannot be invoked unless counsel is actually present. See 1 *OMCB Opinions* 145, 149 (1995). But we have never suggested that advice on a legal issue must come from a single lawyer. There is nothing inappropriate about in-house counsel providing legal advice in connection with a matter previously addressed by a public body’s outside counsel. Of course, a lawyer’s presence must amount to more than a potted plant. The exception only applies if counsel is present and legal advice is being provided. 3 *OMCB Opinions* 16, 20 (2000); see also 5 *OMCB Opinions* 130 (2007). Based on the response, it appears that Mr. Blom did actually provide legal advice in connection with the two subjects that were addressed by other lawyers in written memos. To the extent members of the County Board sought Mr. Blom’s views as to these matters or Mr. Blom provided an overview of the legal issues addressed, the County Board was entitled to rely on §10-508(a)(7).

Of course, had §10-508(a)(7) been the sole basis for closure, the County Board would have been required to return to open session to discuss any policy implications that might flow from the legal advice provided. §10-508(b); see 6 *OMCB Opinions* 151, 153-54 (2009). There is no question that part of the discussion would not qualify for legal advice, such as the fiscal implication presentations presented by the school system’s chief financial officer and director of finance. Thus, the question remains were these matters appropriately addressed in a closed session in reliance of §10-508(a)(9).

As noted in the complaint, we have previously held that, to come within the exception, “discussions must have a ‘direct and material bearing on the conduct of negotiations.’” 4 *OMCB Opinions* 104, 109 (2004), citing 3 *OMCB Opinions* 245, 249 (2002). In the 2004 opinion, we noted that “[n]ot every discussion of how to apply an existing collective bargaining agreement to a set of facts is covered by the exception.” (emphasis in original) In that opinion, the board of education had acknowledged that there was never any discussion of amending an existing agreement. While recognizing that the issue could arise in future collective bargaining negotiations, we held that this possibility was too remote to justify closure under §10-508(a)(9). In the 2002 opinion, we addressed a county governing body’s decision to close a meeting under §10-508(a)(9) involving negotiations between a board of education and employees’ representatives. Even though the county governing body played no direct role in the negotiations, we decided that reliance on the exception was appropriate given that the topic was the availability of county funds to pay for benefits under a potential collective bargaining agreement.

Here the discussions concerning the impact of recent federal regulations and the desirability to reopen negotiations were linked. The decision to explore reopening negotiations apparently would not have occurred absent the legal questions and fiscal impact on the County Board driven by the federal interim final regulations. Even though collective bargaining agreements had been recently ratified, in

our view, the county board’s discussions concerning the possibility of approaching the union about reopening negotiations and parameters of such negotiations should they occur fell within §10-508(a)(9) in that the discussion involved “matters that relate to ... negotiations.” Thus, we find that no violation occurred.

The complaint argued that “the mere possibility of the union returning to the negotiating table immediately after a successful conclusion of the negotiating process is too remote to justify closure under §10-508(a)(9).” However, it might also be argued that participation in negotiations is a continuing responsibility that does not necessarily end once a contract is ratified. We express no opinion as to this matter since it goes beyond interpretation of the Open Meetings Act. We simply note that the Court of Appeals has recognized that whether negotiations are in “good faith” is “a subjective measure which can be applied only in light of the totality of the circumstances.” *Carroll County Educ. Ass’n, Inc. v. Bd. of Educ. of Carroll County*, 294 Md. 144, 151, 448 A.2d 345 (1982) (internal cite omitted). In our view, §10-509(a)(9) is not to be construed so narrowly as to preclude a public body from relying on the exception when it meets to consider in good faith whether to ask a union to reopen negotiations on a particular matter.<sup>3</sup>

**III  
Conclusion**

In our opinion, the County Board did not violated the Open Meetings Act when it meet in closed session under §10-509(a)(7) and (9) on August 19, 2010, to confer with a school system attorney on two matters on which the County Board previously received written advice from other counsel and to evaluate whether to request that collective bargaining negotiations be reopened in light of recent federal interim final rules impacting employee health benefits.

Open Meetings Compliance Board  
Elizabeth L. Nilson, Esquire  
Courtney J. McKeldin  
Julio Morales, Esquire

[11-07-23]

**OPINIONS**

November 30, 2010

Craig O’Donnell  
Kent County News

The Open Meetings Compliance Board has considered your complaint that the Maryland Transportation Authority (“MDTA”) violated the Open Meetings Act by failing to provide the full text of minutes of meetings of two groups established to advise the MDTA—the Bay Bridge Reconstruction Advisory Group (“BBRAG”) and the Bay Bridge Peer Review Group. The complaint also alleged that, to your knowledge, the Peer Review Group never provided public notice or kept minutes of its meetings.

For the reasons explained below, we find that the redacted minutes of the BBRAG did not violate the Open Meetings Act because, at the time the meetings occurred, it was not a public body subject to the Act. We express no opinion as to whether the Peer Review Group complied with the Act; however, we find that the response failed to adequately address this part of the complaint.

<sup>2</sup> Included with the response were copies of the closing statement prepared in connection with the August 19 meeting and the minutes of the closed session that date. Unless the public body chose to make the latter document available to the public, the Compliance Board is required to maintain the confidentiality of closed session minutes submitted for its review. §10-502.5(c)(2)(iii).

<sup>3</sup> As noted above, the County Board also cited §10-508(a)(13) in closing the meeting. Reliance on this provision was not further addressed in the record; therefore, we express no opinion as to its merits. But we remind the County Board that the Act does not permit an exception under §10-508(a) to be invoked absent a bona fide basis. 3 *OMCB Opinions* 345, 348 (2003).

## I Complaint and Response

Your complaint addressed access to minutes of Bay Bridge Reconstruction Advisory Group meetings. We understand that you made a Public Information Act request for minutes in December 2009. Four months later, you received copies of minutes for public meetings, but certain information in the documents had been redacted. Based on attachments included with your complaint, the meetings at issue were held March 5, 2008, September 3, 2008, October 1, 2008, and March 4, 2009. As we understand the facts, redactions were made in each set of minutes by the former Executive Secretary of the MDTA based on his view that the redacted information was protected by executive privilege—a position you labeled as “spurious.” The complaint noted that if particular matters were “discussed in open session, [agency personnel] can’t go back and redact the minutes.” Based on your subsequent email message, we understand that MDTA later released the minutes to you without the redactions because the information was determined to be less sensitive with the passing of time. However, you made clear that you wanted to pursue the complaint.

Your complaint also addressed your efforts to get minutes for meetings of the Bay Bridge Peer Review Group. You indicated that the MDTA first demanded that you submit a Public Information Act request and then refused to indicate whether minutes exist. According to your complaint, “[a]pparently a complaint is necessary...to determine if the ‘Peer Review Group’ is in fact a public body.” Included with the complaint were two press releases, one from the Governor’s Office indicating that the Governor had directed the then-Secretary of Transportation to establish a peer review group to examine MDTA’s bridge and tunnel inspection program, and one from Secretary of Transportation Beverly Swaim-Staley announcing that the panel had completed its work. Your complaint included an added note indicating your belief that the Peer Review Group did not advertise its meetings and did not prepare or approve minutes of its meetings.

In a timely response on behalf of both entities, Assistant Attorney General Sherita Harrison explained the reasons why certain information was redacted from the minutes of BBRAG meetings. The response also noted that, on September 8, 2010, unredacted copies were provided to the complainant when the Acting Executive Secretary determined that “the passage of time and subsequent events reduced the sensitive nature and need for confidentiality of the information that was previously redacted.”

Citing 7 *OMCB Opinions* 30 (2010), the response argued that the issue raised in the complaint, namely the complainant’s request for copies of minutes, is governed by the Public Information Act rather than the Open Meetings Act. Thus, in the respondent’s view, the Compliance Board lacks jurisdiction to consider matters raised in the complaint. As to the BBRAG, the response indicated that the entity was informally created by the Executive Secretary of the MDTA. Thus, before October 1, 2009, when the definition of “public body” under the Open Meetings Act was expanded, the BBRAG was not a “public body” governed by the Act. The minutes at issue involved meetings held before that date. Thus, access to minutes was governed by the Public Information Act rather than the Open Meetings Act.

As to the Peer Review Group, the response argued that the complaint failed to establish “any breach of any provision or duty...under the [Open Meetings] Act.” Further, the response noted that the Peer Review Group is now defunct. Citing 4 *OMCB Opinions* 111, 112 (2004), the response argued that, “[a] defunct entity...is not subject to an Open Meetings Act complaint.”

## II Analysis

### *A. Access to Minutes - In General*

As a preliminary matter, we want to clarify our recent opinion addressing access to copies of minutes of public meetings governed by the Open Meetings Act, 7 *OMCB Opinions* 30 (2010). In that opinion, involving the same complainant and the MDTA, we recognized that any person has a right to visit the office of a public body to inspect approved minutes of an open meeting and written closing statements under the Act. 7 *OMCB Opinions* at 33. We also held that the right to copies of minutes is governed by the Public Information Act rather than the Open Meetings Act. (We recognized an exception for written closing statements—a document that generally consists of one or two pages.) 7 *OMCB Opinions* at 34. We have also held that a person should not need to submit a written request to obtain copies of written minutes. 5 *OMCB Opinions* 14, 16 (2006). In issuing the 2010 opinion referring to the Public Information Act, our underlying concern was that the agency should not have to subsidize an extensive volume of copying when a significant volume of minutes were requested, a situation where the agency could have recouped the reasonable costs of such copying had the request been governed by the Public Information Act. We also recognized that the decision to provide copies in paper form or electronically is a decision for the record custodian with advice of its counsel. *Id.*

But we did not hold that the content of minutes of public meetings governed by the Open Meetings Act was subject to redaction under the Public Information Act. We can only construe the Open Meetings Act. But we note that provisions governing access to records under the Public Information Act defer to other law. *See, generally*, Office of the Attorney General, *Maryland Public Information Act Manual* ch. 3 (11<sup>th</sup> ed. 2008). In this instance, the Open Meetings Act provides that minutes of open meetings are accessible to the public. §10-509(d). Stated otherwise, a copy of the document provided to a requester should look no different than had the requester visited the office of the public body where the requester would be entitled to review approved minutes of open meetings at any time during ordinary business hours. If a matter was discussed in an open session governed by the Open Meetings Act—even if the meeting could have been closed under §10-508(a),<sup>4</sup> but the public body did not elect to do so – the minutes of that meeting are available to the public. A privilege cannot be applied after the fact.

### *B. BBRAG*

The question remains whether the minutes of the meetings at issue were governed by the Open Meetings Act. According to the response, the BBRAG was informally created by a former Executive Secretary of the MDTA in 2005. If the BBRAG was not a public body at the time of the meetings were held, access to the minutes would not be governed by the Open Meetings Act. The requirements of the Act pertaining to minutes are limited to meetings of a “public body” as that term is defined for purposes of the Act. §§10-502(h); 10-509. As the response correctly pointed out, the definition of “public body” was expanded effective October 1, 2009. But before that date, BBRAG was not a public body under §10-502(h) in that it was not created by any instrument identified in §10-502(h)(1), nor was it apparently established by the MDTA or an official subject to the policy direction of the Governor. The Executive Secretary is accountable to the MDTA, an independent agency. The Executive Secretary is not subject to the policy direction of the Governor. As a result, the BBRAG was not, at that time, a “public body,” and the

<sup>4</sup> All statutory references are to the Open Meetings Act, Title 10, Subtitle 5 of the State Government Article, Annotated Code of Maryland.



minutes of the meetings at issue would not have been regulated by the Open Meetings Act.<sup>5</sup>

### C. Peer Review Group

The response failed to address your comment raising questions as to whether the Peer Review Group provided notice or kept minutes of its meetings. Citing 4 *OMCB Opinions* 111 (2004), the response simply argued that a defunct entity was not subject to the Compliance Board's complaint process. The response ignored subsequent amendments to the Open Meetings Act designed to address that very situation. See Chapter 643, Laws of Maryland 2007. Under the 2007 amendments, when an entity identified in the complaint no longer exists, a complaint is to be sent to the official or entity that appointed the public body. To the extent feasible, that official or entity is to produce a response. §10-502.5(c)(3).

Based on the press releases included with the complaint, the Governor directed the then-Secretary of Transportation to establish to establish the Peer Review Group. The Secretary also serves as chair of the MDTA. In our view, the MDTA was the most appropriate entity to respond to a complaint concerning the Peer Review Group. Because of the limited record as to the Peer Review Group, we decline to rule on whether this entity satisfied the provisions concerning notice and minutes or whether the Peer Review Group was even a public body whose meetings were subject to the Act. §10-502.5(f)(2). We do find that the response failed to satisfy §10-502.5(c)(3).

### III Conclusion

In summary, we find that no violation of the Open Meetings Act occurred when portions of minutes were redacted because, at the time the meetings occurred, the BBAG was not a public body subject to the Open Meetings Act. As to the Peer Review Group, we are unable to address the allegations in the complaint based on the limited record. However, we find that the response failed to satisfy §10-502.5(c)(3).

Open Meetings Compliance Board  
Elizabeth A. Nilson, Esquire  
Courtney J. McKeldin  
Julio Morales, Esquire

[11-07-24]

## OPINIONS

December 22, 2010

Nick Myers

The Open Meetings Compliance Board has considered your complaint concerning the application of the Open Meetings Act to the Calvert County School System's Barstow Redistricting Committee ("BRC") and BRC subcommittees. Your complaint also suggested that the Calvert County Board of Education ("County Board") may have violated the Act on February 28, 2008, when it held a closed administrative session in connection with school redistricting.

<sup>5</sup> As the response correctly points out, the definition of "public body" was expanded by Chapter 164, Laws of Maryland 2009, effective October 1, 2009. Under the 2009 legislation, the definition of public body was extended to include a multi-member entity "appointed by...an entity in the Executive Branch...the members of which are appointed by the Governor, and that otherwise meets the definition of a public body...or [by] an official who is subject to the policy direction of [such] an entity..." This expansion would likely extend to the BBAG.

For the reasons explained below, we find that the BRC and its subcommittees were not subject to the Open Meetings Act in that the entities did not meet the definition of a public body. The relevant discussion during the closed portion of the County Board meeting involved an administrative function to which the Act did not apply.<sup>1</sup>

### I Complaint and Response

According to the complaint, the BRC was tasked with developing school redistricting options for presentation to the County Board. In your view, the BRC and its subcommittees are "public bodies" governed by the Open Meetings Act. Among the attachments to your complaint were policy statements governing the County Board's redistricting process. You noted that the Superintendent of Schools recommended individuals to serve on the BRC to the County Board and the County Board in turn made the appointments. According to the complaint, the public only learned of the BRC meetings through a press release announcing County Board hearings on redistricting after the BRC had developed two redistricting plans. You indicated that no notice of BRC meetings was provided to the public nor were minutes adopted reflecting the BRC's work. Citing a document captioned "Redistricting Principles," your complaint noted that the BRC did not intend to operate in view of the public.

In the words of the complaint, "[t]here was no publicly available information about the [BRC] meetings: [no] agenda; location; minutes; records; actions; membership; meeting locations; public viewing options whatsoever."<sup>2</sup> The complaint also noted that the BRC formed subcommittees that operated without regard to the requirements of the Open Meetings Act.

The complaint further questioned whether the County Board violated the Open Meetings Act on February 28, 2008. According to the complaint, the County Board did not record the vote to close its meeting nor did it report in its minutes the decision to make recommendations to the BRC. The complaint also questioned whether the topic of redistricting ought to have been discussed by the County Board in a closed meeting.

In a timely response on behalf of the County Board and BRC, Dario Agnolutto, Esquire, indicated that the school system has long operated with the understanding that committees appointed at the sole discretion of the Superintendent of Schools are not subject to the Open Meetings Act. The response offered a different interpretation of the policies relied on by the complainant. According to the response, the County Board's policy requires that the Superintendent develop procedures to implement the County Board's redistricting policy, a policy that acknowledges the importance of community involvement in the educational process. But the County Board "is not involved in the creation, adoption, administration or interpretation of the Superintendent's administrative procedures" and there is no "requirement that a redistricting committee be established as the means by which the [p]olicy is to be implemented." While Superintendents have historically chosen to use a committee as a means of providing school and community input for

<sup>1</sup> We addressed the County Board's February 28, 2010, meeting in an earlier opinion, 6 *OMCB Opinions* 171 (2009). Because of pending litigation concerning school redistricting, the response to the earlier complaint did not address redistricting. Therefore, we were unable to address the issue at that time.

<sup>2</sup> In this regard, the complaint goes beyond what the Open Meetings Act requires. While the Act grants the public a right to attend open meetings and requires that reasonable notice be given and meeting minutes be maintained, it does not require that an agenda for a meeting made available. See, e.g., 6 *OMCB Opinions* 196, 198 (2009).

recommendations to the County Board, alternative methods could have been used to satisfy the County Board's policy. As to the concern the County Board "approves" the redistricting committee members, the response indicated that, "this is not the practice, intent, nor application" of the Superintendent's administrative process. The only language in the Superintendent's administrative process relevant to approval is Section A—a provision that "is nothing more than the Superintendent affirming that he does not commence the redistricting process until the [County] Board is ready for him to do so." According to the response, this language "has never been interpreted to require the [County] Board to approve any committee or committee members."

The response further argued that, even if it was found that the Open Meetings Act applied to the BRC, the two subcommittees would not have been subject to the Act. At no time was a quorum of the BRC present or expected at a subcommittee meeting.

The response also argued that the County Board did not violate the Open Meetings Act at its administrative session on February 28, 2008. The response noted that "[t]he issues discussed ... related to the Superintendent's performance of his administrative duties, the administration of the laws of the State and policies of the [County] Board and general housekeeping matters." "[D]iscussion...pertained to the Superintendent's explanation of what his staff was prepared to cover in the Work Session to immediately follow the Administrative session; not consideration of the items themselves.... There were no decisions made, or discussion, by Board members of the redistricting in the Administrative session; the entire discussion by the Board members occurred in the duly advertised public Work Session."

As to the allegation concerning the failure to record the vote to close the meeting, the response simply noted that this issue was resolved in 6 *OMCB Opinions* 171 (2009). Among attachments to the response were affidavits of Dr. Jack R. Smith, Superintendent of Schools, and William J. Phalen, Sr., President of the County Board, affirming factual information included in the response.

## II BRC and Subcommittees

The initial issue we must consider is whether the BRC is a "public body" as that term is defined in the Open Meetings Act. If the BRC or its subcommittees are not public bodies, the Open Meetings Act requirements do not apply to them.

Both the complaint and response cite 7 *OMCB Opinions* 21 (2010), where we addressed the application of the Act to the West Towson Elementary School Boundary Study Committee. In that opinion, we explored the different scenarios under which a multi-member entity might qualify as a public body under the Open Meetings Act. We first ruled out §10-502(h)(2),<sup>3</sup> concluding that this aspect of the definition did not apply. 7 *OMCB Opinions* at 26. We then focused on §10-502(h)(1). Even though the committee was appointed by an area assistant superintendent and the committee advised an area assistant superintendent rather than the board, we determined that it nonetheless qualified as a public body because a school board policy required establishment of a redistricting committee. 7 *OMCB Opinions* at 27. Although the policy was not specific as to the composition of the committee, the detail necessary

to apply the Act was adequately addressed through the Assistant Superintendent's actions. *Id.*<sup>4</sup>

In arguing that the BRC is a public body, the complaint distinguished the West Towson opinion in that, in Calvert County, the members of the BRC were recommended by the Superintendent to the County Board and the County Board approves the actual appointments. The response also distinguished the West Towson in that, in Calvert County, there is no school board policy mandating establishment of a committee. The committee was created solely by action of the Superintendent and the County Board did not name the committee members.

Given the description of the appointment process in the Superintendent's procedures implementing the County Board's policy, we understand why it would appear to the complainant that the BRC is actually appointed by the County Board.<sup>5</sup> Nonetheless, given the explanation of the County Board's counsel and the descriptions in the accompanying affidavits, we accept the school system's explanation of the limited role of the County Board. It is clear that the policy adopted by the County Board does not require that a committee such as the BRC be established. Nor were the Superintendent's procedures ever adopted as a policy of the County Board. Unlike the process employed in the West Towson opinion, we find that the BRC does not qualify as a public body under the Open Meetings Act in that it was not established by formal action of the County Board so as to trigger §10-502(h)(1). And for the reasons we explained in 7 *OMCB Opinions* 21, the BRC does not qualify as a public body under §10-502(h)(2).

The response did not explain how the two subcommittees of the BRC were actually established. Apparently, the subcommittees were informally created by the BRC itself. While the Superintendent's procedures implementing the County Board's policy provides for the creation of subcommittees, it does not appear that the County Board played any role in the subcommittees' creation. For the reasons explained above in connection with the BRC, we find that subcommittees did not qualify as public bodies as defined by the Act.

In summary, we find that the BRC and its subcommittees were not public bodies. Thus, the requirements of the Open Meetings Act did not apply the meetings.

## III Board of Education Meeting

The final aspect of the complaint focused on a County Board meeting on February 28, 2008. As we understand the facts, the County Board conducted distinct sessions as part of a single meeting on that date. According to the response, the "issues discussed at the Administrative Function Meeting" were limited to "the Superintendent's performance of his administrative duties, the administration of the laws of the state and the policies of the Board and general housekeeping matters...[including] the Superintendent's explanation of what his staff was prepared to cover in the Work Session to immediately follow the Administrative session ..." This description was supported by the affidavits included with the response. As to the work session, the response indicated it was an

<sup>4</sup> We went on to determine that the meeting at issue did not violate the Act because it did not involve a quorum of the committee. 7 *OMCB Opinions* at 28.

<sup>5</sup> Section A of the Superintendent's procedures provides, in part, that "[t]he Superintendent will recommend to the Board of Education representatives from [enumerated] groups... Upon approval by the Board of Education, the Superintendent will send letters to each representative informing them of their appointment."

<sup>3</sup> Unless otherwise noted, statutory references throughout this opinion are to the Open Meetings Act, Title 10, Subtitle 5 of the State Government Article, Annotated Code of Maryland.

open session and televised. Included with the response was a copy of the minutes reflecting both sessions and an accompanying transcript of the redistricting portion of the public work session.

In a prior opinion, we addressed at considerable length the administrative function exclusion—then known as the executive function—under the Open Meetings Act as it applied to local boards of education. 3 *OMCB Opinions* 39 (2000). Since that time, the Legislature has changed the name of an “executive function” to “administrative function,” but the substantive definition as well as the test we have long applied remain unchanged. §10-502(b); 3 *OMCB Opinions* at 40. We noted, without deciding, that consideration of a proposed redistricting plan (as opposed to proposed policies governing future redistrictings) may well be an executive function outside the scope of the Act. 3 *OMCB Opinions* 39, 46 n. 6 (2000). For example, if a local school board was administering §4-109(c) of the Education Article and applying a previously adopted policy to reach a redistricting decision, the school board would likely be engaged in an administrative function as defined by the Act. On the other hand, if a local school board was developing policy in connection with a particular redistricting proceeding, by definition, its actions would constitute a legislative function, therefore, could not qualify as an administrative function under the Act.

According to the County Board’s response, the Superintendent used this closed administrative session to address matters under his authority and, among other matters, set the stage for the presentation on the redistricting process that the Superintendent’s staff would follow in the subsequent public work session. The affidavits submitted as part of the County Board’s response support this position. The County Board did not discuss the proposed redistricting plans at that time. Under the circumstances, we find that Superintendent’s briefing of the County Board concerning a matter that had been delegated to him, *i.e.*, development of the plans recommendation to the County Board, qualified as an administrative function outside the scope of the Act. §10-503(a)(1)(i).<sup>6</sup> Nevertheless, given that the County Board would need to subsequently act on the redistricting issue, the better course would have been to include the Superintendent’s presentation as part of the public work session.

As to the disclosure of the vote closing the meeting that date, we agree with the County Board that this matter was fully addressed in an earlier opinion involving the County Board. 6 *OMCB Opinions* 171 (2009).

#### IV Conclusion

In summary, we find that BRC and its subcommittees did not constitute public bodies subject to the Open Meetings Act. As to the closed portion of the County Board meeting on February 28, we find that discussions concerning redistricting were limited to the Superintendent briefing the County Board on the manner by which his staff would brief the County Board during the subsequent public work session on a matter that had been delegated to the Superintendent. Because the County Board would subsequently be involved in the redistricting issue, the better course would have been to include the Superintendent’s presentation as part of the public

work session. Nonetheless, we find that this briefing did qualify as an administrative function to which the Open Meetings Act did not apply.

Open Meetings Compliance Board  
Elizabeth A. Nilson, Esquire  
Courtney J. McKeldin  
Julio Morales, Esquire

[11-07-25]

<sup>6</sup> Although the Open Meetings Act ordinarily has no application to a meeting involving matters that qualify as an administrative function, when a public body addresses such matters in a meeting closed to the public during part of a meeting governed by the Open Meetings Act, the Act does require certain minimum disclosure requirements. *See* §10-503(c). We express no opinion as to whether the County Board complied with this provision in that it was not addressed in the record before us.

# The Judiciary

## COURT OF APPEALS OF MARYLAND DISCIPLINARY PROCEEDINGS

This is to certify that by Opinion and Order of this Court dated March 4, 2011, **JOEL DESINGCO LARA**, 13002 Town Commons Drive, Germantown, MD 20874, 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).

[11-07-40]

### RULES ORDER

This Court's Standing Committee on Rules of Practice and Procedure having submitted its One Hundred Sixty-Seventh Report to the Court recommending adoption on an emergency basis amendments to Rules 11 and 19 of the Rules Governing Admission to the Bar of Maryland; and

This Court having considered at an open meeting, notice of which was posted as prescribed by law, all those proposed rules changes, making on its own motion certain deletions and additions to the proposed rules changes, and finding that an emergency does in fact exist with reference to the proposed rules changes, it is this 7<sup>th</sup> day of March, 2011,

ORDERED, by the Court of Appeals of Maryland, that the amendments to Rules 11 and 19 of the Rules Governing Admission to the Bar of Maryland be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that the rules changes hereby adopted by this Court shall take effect on March 7, 2011 and apply to all admissions to the Bar of Maryland on an after that date; 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

\* Judge Adkins declined to sign the Rules Order.

Filed: March 7, 2011

BESSIE M. DECKER  
Clerk

### MARYLAND RULES OF PROCEDURE RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Rule 11 of the Rules Governing Admission to the Bar of Maryland to add provisions concerning the development and approval of a course on legal professionalism, to require specification of certain structure and features in a course proposal, to modify provisions concerning the person or entity that conducts the course, to provide under certain circumstances for decertification of a conditionally admitted attorney who fails to take the course, to provide for the attorney's recertification under certain circumstances, provide that the Rule remains in effect until January 1, 2016, to

require a certain evaluation prior to expiration of the Rule, and to make stylistic changes, as follows:

#### Rule 11. REQUIRED COURSE ON PROFESSIONALISM

(a) *Course on Legal Professionalism -- Development and Approval*

*The Chief Judge of the Court of Appeals may designate a unit within the Judicial Branch, or any other qualified person or entity willing to undertake the responsibility, to develop for consideration and approval by the Court the structure and features of a course on legal professionalism, including (1) the course content, (2) recommended faculty and support staff, (3) the times and places at which the course will be given, (4) estimated expenses for conducting the course, (5) a proposed fee, which shall be adequate to meet the estimated expenses, and (6) any other desirable and appropriate feature. The proposal shall require that the course be given at least twice each year, during the period between the announcement of the Bar examination results and the scheduled Bar admission ceremonies next following that announcement, in the number of locations determined from time to time by the Court. In its discretion, the Court may develop the structure and features of the course on its own.*

(b) *Course Presentation*

*The approved plan shall be implemented as directed by the Court of Appeals.*

[(a)] (c) *Duty to Complete Course*

*Before admission to the Bar, [a person] an individual recommended for admission pursuant to Rule 10 shall successfully complete a course on legal professionalism approved by the Court of Appeals. For good cause shown, the Court [of Appeals] may admit [a person] an individual who has not completed the course, [provided that the person represents to the Court that he or she will complete] on condition that the individual complete the next regularly scheduled course. If the attorney does not successfully complete the next post-admission course, the Court shall enter a Decertification Order prohibiting the individual from practicing law in the State and shall mail, by first-class mail, a copy of the order to the individual. Mailing of the copy shall constitute service. The decertification shall remain in effect until the Court, after having received satisfactory proof that the individual has successfully completed the course, enters a Recertification Order that restores the individual to good standing. The Clerk of the Court of Appeals shall send a copy of each Decertification Order and each Recertification Order to the Clerk of the Court of Special Appeals, the Clerk of each circuit court, the Chief Clerk of the District Court, and the Register of Wills of each county.*

[(b) *Course and Faculty; Costs*

*The course and faculty shall be proposed by the Maryland State Bar Association and approved by the Court of Appeals. The Association shall give the course at least twice annually during the period between the announcement of examination results and the scheduled admission ceremony. The Association may charge a reasonable fee to defray the expenses of giving the course.]*

[(c)] (d) *Duration of Requirement; Evaluation*

*[The requirement set forth in section (a)] This Rule shall remain in [force for a period of ten years beginning January 1, 2001 and ending December 31, 2010] effect until January 1, 2016. [During that period] Prior to that date, the Court of Appeals shall evaluate the results of the course requirement to determine whether to extend [the requirement] this Rule. The [Chief Judge of the] Court of Appeals, may appoint a committee consisting of one or more judges, lawyers, legal educators, bar association representatives, and other interested*

and knowledgeable [persons] *individuals* to assist the Court in the evaluation *and make appropriate recommendations to the Court.*

Source: This Rule is new.

**MARYLAND RULES OF PROCEDURE**  
**RULES GOVERNING ADMISSION TO THE BAR OF**  
**MARYLAND**

AMEND Rule 19 of the Rules Governing Admission to the Bar of Maryland to clarify that disclosure of the names and addresses of persons recommended for bar admission is permitted to the Maryland State Bar Association and to each entity selected to give the course on legal professionalism required by Rule 11 and to make stylistic changes, as follows:

Rule 19. CONFIDENTIALITY

...

(c) When Disclosure Authorized  
The Board may disclose:

- (1) statistical information that does not reveal the identity of [any] *an* individual applicant;
- (2) the fact that an applicant has passed the bar examination and the date of the examination;
- (3) any material pertaining to an applicant that the applicant would be entitled to inspect under section (b) of this Rule[,] if the applicant has consented in writing to the disclosure;
- (4) any material pertaining to an applicant requested by
  - (A) a court of this State, another state, or the United States[,];
  - (B) Bar Counsel, the Attorney Grievance Commission, or the attorney disciplinary authority in another state[,];
  - (C) the authority in another jurisdiction [that is] responsible for investigating the character and fitness of an applicant for admission to the bar of that jurisdiction, or
  - (D) Investigative Counsel, the Commission on Judicial Disabilities, or the judicial disciplinary authority in another jurisdiction for use in:
    - (i) a pending disciplinary proceeding against the applicant as an attorney or judge;
    - (ii) a pending proceeding for reinstatement of the applicant as an attorney after disbarment; or
    - (iii) a pending proceeding for original admission of the applicant to the Bar;
  - (5) any material pertaining to an applicant requested by a judicial nominating commission or the Governor of this State, a committee of the Senate of Maryland, or a committee of the United States Senate in connection with an application by or nomination of the applicant for judicial office;
  - (6) to a law school, the names of persons who graduated from that law school who took a bar examination and whether they passed or failed the examination;
  - (7) *to the Maryland State Bar Association and to each entity selected to give the course on legal professionalism required by Rule 11, the name and address of a person recommended for bar admission pursuant to Rule 10;*

[[7]] (8) to the National Conference of Bar Examiners, the following information regarding persons who have filed applications for admission pursuant to Rule 2 or petitions to take the attorney's examination pursuant to Rule 13: the applicant's name and aliases, applicant number, birthdate, Law School Admission Council number, law school, date that *a* juris doctor degree *was* conferred, bar examination results and pass/fail status, and *the* number of bar examination attempts;

[[8]] (9) to any member of a Character Committee, the report of any Character Committee or the Board following a hearing on an application; and

[[9]] (10) to the Child Support Enforcement Administration, upon its request, the name, Social Security number, and address of a person who has filed an application pursuant to Rule 2 or a petition to take the attorney's examination pursuant to Rule 13.

Unless information disclosed pursuant to paragraphs (4) and (5) of this section is disclosed with the written consent of the applicant, an applicant shall receive a copy of the information and may rebut, in writing, any matter contained in it. Upon receipt of a written rebuttal, the Board shall forward a copy to the person or entity to whom the information was disclosed.

...

[11-07-30]

# Emergency Action on Regulations

## Symbol Key

- Roman type indicates text existing before emergency status was granted.
- *Italic type* indicates new text.
- [Single brackets] indicate deleted text.

## Emergency Regulations

Under State Government Article, §10-111(b), Annotated Code of Maryland, an agency may petition the Joint Committee on Administrative, Executive, and Legislative Review (AELR), asking that the usual procedures for adopting regulations be set aside because emergency conditions exist. If the Committee approves the request, the regulations are given emergency status. Emergency status means that the regulations become effective immediately, or at a later time specified by the Committee. After the Committee has granted emergency status, the regulations are published in the next available issue of the Maryland Register. The approval of emergency status may be subject to one or more conditions, including a time limit. During the time the emergency status is in effect, the agency may adopt the regulations through the usual promulgation process. If the agency chooses not to adopt the regulations, the emergency status expires when the time limit on the emergency regulations ends. When emergency status expires, the text of the regulations reverts to its original language.

## Title 09

### DEPARTMENT OF LABOR, LICENSING, AND REGULATION

#### Subtitle 38 STATE BOARD OF INDIVIDUAL TAX PREPARERS

##### **09.38.01 General Regulations**

*Authority: Business Occupations and Professions Article, §§21-101, 21-203, 21-205, 21-207, and 21-301—21-304, Annotated Code of Maryland; Section 6, Ch. 623, Acts of 2008*

#### Notice of Emergency Action

[11-078-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to new Regulations **.01—.04** under a new chapter, **COMAR 09.38.01 General Regulations**.

**Emergency status began: February 25, 2011.**

**Emergency status expires: August 24, 2011.**

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 38:3 Md. R. 178—180 (January 28, 2011), referenced as [11-078-P].

PATRICIA SNELL  
Chair

State Board of Individual Tax Preparers

## Title 34

### DEPARTMENT OF PLANNING

#### Subtitle 05 CENSUS AND REDISTRICTING

##### **34.05.01 Redistricting Prison Populations**

*Authority: State Finance and Procurement Article, §§5-203, 5-301, and 5-306, Annotated Code of Maryland*

#### Notice of Emergency Action

[11-099-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to new Regulations **.01—.04** under a new chapter, **COMAR 34.05.01 Redistricting Prison Populations**, under a new subtitle, **Subtitle 05 Census and Redistricting**.

**Emergency status began: February 25, 2011.**

**Emergency status expires: August 15, 2011.**

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 38:6 Md. R. 401—402 (March 11, 2011), referenced as [11-099-P].

RICHARD E. HALL  
Secretary of Planning

# 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 08 DEPARTMENT OF NATURAL RESOURCES

### Subtitle 02 FISHERIES SERVICE

#### 08.02.01 General

Authority: Natural Resources Article, §4-701, Annotated Code of Maryland

#### Notice of Final Action

[11-061-F]

On March 15, 2011, the Secretary of Natural Resources adopted amendments to Regulation **.05** under **COMAR 08.02.01 General**. This action, which was proposed for adoption in 38:3 Md. R. 160—161 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOHN R. GRIFFIN  
Secretary of Natural Resources

### Subtitle 02 FISHERIES SERVICE

#### Notice of Final Action

[11-062-F]

On March 15, 2011, the Secretary of Natural Resources adopted:

(1) Amendments to Regulations **.02** and **.04** and new Regulations **.07** and **.08** under **COMAR 08.02.01 General**;

(2) Amendments to Regulation **.09** under **COMAR 08.02.03 Crabs**;

(3) The repeal of Regulation **.09** under **COMAR 08.02.05 Fish**;

(4) Amendments to Regulation **.10** under **COMAR 08.02.11 Fishing in Nontidal Waters**; and

(5) Amendments to Regulation **.06** under **COMAR 08.02.18 Fishing Guide Provisions**.

This action, which was proposed for adoption in 38:3 Md. R. 158—160 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOHN R. GRIFFIN  
Secretary of Natural Resources

### Subtitle 02 FISHERIES SERVICE

#### 08.02.04 Oysters

Authority: Natural Resources Article, §§4-11A-04 and 4-11A-05, Annotated Code of Maryland

#### Notice of Final Action

[11-059-F-I]

On March 15, 2011, the Secretary of Natural Resources adopted amendments to Regulation **.17** under **COMAR 08.02.04 Oysters**. This action, which was proposed for adoption in 38:3 Md. R. 161—162 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOHN R. GRIFFIN  
Secretary of Natural Resources

### Subtitle 02 FISHERIES SERVICE

#### Notice of Final Action

[11-057-F]

On March 15, 2011, the Secretary of Natural Resources adopted amendments to:

(1) Regulation **.02** under **COMAR 08.02.05 Fish**; and

(2) Regulations **.07** and **.12** under **COMAR 08.02.15 Striped**

**Bass**.

This action, which was proposed for adoption in 38:3 Md. R. 162—163 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOHN R. GRIFFIN  
Secretary of Natural Resources

### Subtitle 02 FISHERIES SERVICE

#### 08.02.13 Fishing Licenses — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure

Authority: Natural Resources Article, §§4-206 and 4-701, Annotated Code of Maryland

#### Notice of Final Action

[11-060-F]

On March 15, 2011, the Secretary of Natural Resources adopted amendments to Regulations **.02**, **.03**, and **.06** under **COMAR 08.02.13 Fishing Licenses — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure**. This action, which was proposed for adoption in 38:3 Md. R. 163—168 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOHN R. GRIFFIN  
Secretary of Natural Resources

**Subtitle 02 FISHERIES SERVICE**

**08.02.13 Fishing Licenses — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure**

Authority: Natural Resources Article, §4-701, Annotated Code of Maryland

**Notice of Final Action**  
[11-058-F]

On March 15, 2011, the Secretary of Natural Resources adopted new Regulations .07 and .08 under **COMAR 08.02.13 Fishing Licenses — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure**. This action, which was proposed for adoption in 38:3 Md. R. 168—173 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOHN R. GRIFFIN  
Secretary of Natural Resources

**Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS**

**08.18.07 Chesapeake Bay**

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

**Notice of Final Action**  
[11-049-F]

On March 15, 2011, the Secretary of the Department of Natural Resources adopted amendments to Regulation .01 under **COMAR 08.18.07 Chesapeake Bay**. This action, which was proposed for adoption in 38:3 Md. R. 174 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOHN R. GRIFFIN  
Secretary of Natural Resources

**Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS**

**08.18.18 Ocean City — Back Bay Areas**

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

**Notice of Final Action**  
[11-051-F]

On March 15, 2011, the Secretary of Natural Resources adopted amendments to Regulation .02 under **COMAR 08.18.18 Ocean City-Back Bay Areas**. This action, which was proposed for adoption in 38:3 Md. R. 174 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOHN R. GRIFFIN  
Secretary of Natural Resources

**Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS**

**08.18.30 Wicomico River**

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

**Notice of Final Action**  
[11-048-F]

On March 15, 2011, the Secretary of Natural Resources adopted amendments to Regulation .02 under **COMAR 08.18.30 Wicomico River**. This action, which was proposed for adoption in 38:3 Md. R. 175—176 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOHN R. GRIFFIN  
Secretary of Natural Resources

**Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS**

**08.18.31 Elk River**

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

**Notice of Final Action**  
[11-050-F]

On March 15, 2011, the Secretary of Natural Resources adopted amendments to Regulation .03 under **COMAR 08.18.31 Elk River**. This action, which was proposed for adoption in 38:3 Md. R. 176 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOHN R. GRIFFIN  
Secretary of Natural Resources

**Title 10  
DEPARTMENT OF HEALTH  
AND MENTAL HYGIENE**

**Subtitle 09 MEDICAL CARE PROGRAMS**

**Notice of Final Action**  
[10-343-F]

On March 8, 2011, the Secretary of Health and Mental Hygiene adopted amendments to:

- (1) Regulation .06 under **COMAR 10.09.01 Nurse Practitioner Services**;
- (2) Regulation .07 under **COMAR 10.09.02 Physicians' Services**;
- (3) Regulation .09 under **COMAR 10.09.08 Freestanding Clinics**;
- (4) Regulation .07 under **COMAR 10.09.09 Medical Laboratories**;
- (5) Regulation .07 under **COMAR 10.09.14 Vision Care Services**;



- (6) Regulation .07 under COMAR 10.09.15 Podiatry Services;
- (7) Regulation .06 under COMAR 10.09.17 Physical Therapy Services;
- (8) Regulation .07 under COMAR 10.09.21 Nurse Midwife Services;
- (9) Regulation .06 under COMAR 10.09.39 Nurse Anesthetist Services; and
- (10) Regulation .06 under COMAR 10.09.77 Urgent Care Centers.

Also at this time, the Secretary is withdrawing the proposed amendments to Regulation .06 under COMAR 10.09.42 Free-Standing Medicare-Certified Ambulatory Surgical Centers, which was printed in the same Notice of Proposed Action.

This action, which was proposed for adoption in 37:26 Md. R. 1792—1795 (December 17, 2010), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

## Subtitle 09 MEDICAL CARE PROGRAMS

### 10.09.07 Medical Day Care Services

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-111, Annotated Code of Maryland

#### Notice of Final Action

[11-038-F]

On March 9, 2011, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .03, .04, and .09 under COMAR 10.09.07 Medical Day Care Services. This action, which was proposed for adoption in 38:2 Md. R. 89 (January 14, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

## Subtitle 09 MEDICAL CARE PROGRAMS

### 10.09.51 Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Audiology Services

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105, Annotated Code of Maryland

#### Notice of Final Action

[11-037-F-I]

On March 9, 2011, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .04, .06, and .07 under COMAR 10.09.51 Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Audiology Services. This action, which was proposed for adoption in 38:2 Md. R. 89—90 (January 14, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

## Subtitle 09 MEDICAL CARE PROGRAMS

#### Notice of Final Action

[11-056-F]

On March 15, 2011, the Secretary of Health and Mental Hygiene adopted amendments to:

(1) Regulation .19 under COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations; and

(2) Regulation .14 under COMAR 10.09.76 Primary Adult Care Program.

This action, which was proposed for adoption in 38:3 Md. R. 188—191 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

## Subtitle 09 MEDICAL CARE PROGRAMS

### 10.09.69 Maryland Medicaid Managed Care Program: Rare and Expensive Case Management

Authority: Health-General Article, §§15-102.1(b)(1) and 15-103(b)(4)(i), Annotated Code of Maryland

#### Notice of Final Action

[11-055-F]

On March 15, 2011, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .14 under COMAR 10.09.69 Maryland Medicaid Managed Care Program: Rare and Expensive Case Management. This action, which was proposed for adoption in 38:3 Md. R. 191—192 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

## Subtitle 20 KIDNEY DISEASE PROGRAM

### 10.20.01 General Regulations

Authority: Health-General Article, §§13-301—13-315 and 16-204, Annotated Code of Maryland

#### Notice of Final Action

[11-039-F]

On March 15, 2011, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .01—, .03, .05, and .07—, .09 under COMAR 10.20.01 General Regulations. This action, which was proposed for adoption in 38:2 Md. R. 90—93 (January 14, 2011), has been adopted with the nonsubstantive changes shown below.

**Effective Date: April 4, 2012.**

#### Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following

changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

Regulation .08B: The effective date of these amendments has been inserted into text of the regulation.

**.08 Limitations.**

A. (proposed text unchanged)

B. *Effective* ~~[[1 year after the adoption of this proposed amendment]]~~ April 4, 2012, a manufacturer or its designee may not dispute or request repayment of any rebate paid under §A(1) of this regulation more than 1 year after the date the rebate was paid.

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

## Subtitle 42 BOARD OF SOCIAL WORK EXAMINERS

### 10.42.01 Regulations Governing Licensure

Authority: Health Occupations Article, §19-302.1, Annotated Code of Maryland

**Notice of Final Action**

[10-314-F]

On March 3, 2011, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .02, the repeal of existing Regulation .12, and new Regulation .12 under **COMAR 10.42.01 Regulations Governing Licensure**. This action, which was proposed for adoption in 37:23 Md. R. 1616—1617 (November 5, 2010), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

## Subtitle 50 TISSUE BANKS

### 10.50.01 Tissue Banks

Authority: Health-General Article, §17-302, Annotated Code of Maryland

**Notice of Final Action**

[11-044-F]

On March 15, 2011, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .03, .04, and .11 under **COMAR 10.50.01 Tissue Banks**. This action, which was proposed for adoption in 38:2 Md. R. 94-96 (January 14, 2011), has been adopted with the nonsubstantive changes shown below.

**Effective Date: April 4, 2011.**

**Attorney General's Certification**

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

Regulation .11A(1): Regulation .11A(1) states that a tissue bank permittee “shall ensure that a prospective donor of tissue, including both leukocyte-rich and leukocyte-poor cell and tissue, intended to be used as an allograft are tested for biochemical, immunological, or serological evidence of” six different diseases, listed as (a) through (f), including “(e) Human transmissible spongiform encephalopathy, including Creutzfeldt-Jakob disease.”

The changing of the verb “are” to “is” is not a substantive change; it is only a grammatical correction, which does not change the meaning of the regulation. The elimination of “(e) Human

transmissible spongiform encephalopathy, including Creutzfeldt-Jakob disease” is also not a substantive change. This change is necessitated by the fact that the promulgating agency has learned since the publication of this proposed amendment that there is no test to determine the biochemical, immunological, or serological evidence of this disease, and thus it is impossible for the permittee to conduct such a test. Deleting this provision and designating the disease at .11A(1)(f) as .11A(1)(e) places no disadvantage or greater burden on the permittee and, in fact, merely clarifies the permittee’s testing responsibilities.

### .11 Tissue Bank Standards — Testing to Minimize Disease Transmission.

A. *Required Testing.*

(1) *General — All Donors.* A permittee shall ensure that a prospective donor of tissue, including both leukocyte-rich and leukocyte-poor cell and tissue, intended to be used as an allograft ~~[[are]]~~ is tested for biochemical, immunological, or serological evidence of:

(a)—(c) (proposed text unchanged)

(d) *Human immunodeficiency virus type 2 (HIV-2); and*

~~[[e]]~~ *Human transmissible spongiform encephalopathy, including Creutzfeldt-Jakob disease; and*

~~[[f]]~~ (e) (proposed text unchanged)

(2) (proposed text unchanged)

B.—C. (proposed text unchanged)

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

## Title 13B MARYLAND HIGHER EDUCATION COMMISSION

### Subtitle 02 ACADEMIC REGULATIONS

### 13B.02.04 Exemption Procedures for Religious Educational Institutions and Religious Institutions

Authority: Education Article, §§11-105(u), 11-201, and [11-202] *11-202.1*, Annotated Code of Maryland

**Notice of Final Action**

[11-001-F]

On February 23, 2011, the Maryland Higher Education Commission adopted amendments to Regulations .01 and .02 under **COMAR 13B.02.04 Exemption Procedures for Religious Educational Institutions and Religious Institutions**. This action, which was proposed for adoption in 38:1 Md. R. 56 (January 3, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

JAMES E. LYONS  
Secretary of Higher Education

**Title 14**  
**INDEPENDENT AGENCIES**  
**Subtitle 03 COMMISSION ON HUMAN**  
**RELATIONS**  
**14.03.01 Rules of Procedure; Public Hearing**  
**Process**

Authority: State Government Article, §§10-204, 10-304, 20-207(f) and 20-1106-20-1015, Annotated Code of Maryland

**Notice of Final Action**  
[10-308-F]

On February 15, 2011, the Maryland Commission on Human Relations adopted amendments to Regulations .01—.06, .09—.11, .13—.19, and .22 under **COMAR 14.03.01 Rules of Procedure; Public Hearing Process**. This action, which was proposed for adoption in 37:23 Md. R. 1619—1622 (November 5, 2010), has been adopted as proposed.

**Effective Date: April 4, 2011.**

GLENDORA C. HUGHES  
General Counsel

**Title 15**  
**DEPARTMENT OF**  
**AGRICULTURE**

**Subtitle 14 BOARD OF VETERINARY**  
**MEDICAL EXAMINERS**

**Notice of Final Action**  
[11-081-F]

On March 16, 2011, the State Board of Veterinary Medical Examiners adopted:

(1) Amendments to Regulation .04 under **COMAR 15.14.03 Licensing and Minimum Sanitary Requirements for Veterinary Facilities**; and

(2) Amendments to Regulations .02—.09 under **COMAR 15.14.13 Qualifications for Examination and Registration of a Veterinary Technician**.

This action, which was proposed for adoption in 38:3 Md. R. 210-212 (January 28, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

EARL F. HANCE  
Secretary of Agriculture

**Title 29**  
**DEPARTMENT OF STATE**  
**POLICE**  
**Subtitle 07 OFFICE OF THE STATE**  
**FIRE MARSHAL**

**29.07.01 Nongovernmental Electrical Inspectors**

Authority: Public Safety Article, §12-605, Annotated Code of Maryland

**Notice of Final Action**  
[11-040-F]

On February 28, 2011, the Secretary of State Police adopted amendments to Regulations .01 and .02 under **COMAR 29.07.01 Nongovernmental Electrical Inspectors**. This action, which was proposed for adoption in 38:2 Md. R. 129—130 (January 14, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

TERRENCE B. SHERIDAN  
Secretary of State Police

**Title 31**  
**MARYLAND INSURANCE**  
**ADMINISTRATION**

**Subtitle 03 INSURANCE PRODUCERS**  
**AND OTHER INSURANCE**  
**PROFESSIONALS**

**31.03.15 Senior or Retiree Designations and**  
**Credentials**

Authority: Insurance Article, §§2-109(a)(1), 10-212, 27-201, and 27-223, Annotated Code of Maryland

**Notice of Final Action**  
[11-043-F]

On March 1, 2011, the Acting Insurance Commissioner in consultation with the Securities Commissioner adopted new Regulations .01 — .07 under new chapter, **COMAR 31.03.15 Senior or Retiree Designations and Credentials**. This action, which was proposed for adoption in 38:2 Md. R. 130—131 (January 14, 2011), has been adopted as proposed.

**Effective Date: April 4, 2011.**

ELIZABETH SAMMIS  
Acting Insurance Commissioner

# Withdrawal of Regulations

## Title 15 DEPARTMENT OF AGRICULTURE

### Subtitle 01 OFFICE OF THE SECRETARY

#### *15.01.09 Advertising Agricultural Products as Local or Locally Grown*

*Authority: Agriculture Article, §10-1701, Annotated Code of Maryland*

#### **Notice of Withdrawal**

[10-358-W]

The Secretary of Agriculture withdraws the proposal to adopt Regulations **.01—.06** under a new chapter, **COMAR 15.01.09 Advertising Agricultural Products as Local or Locally Grown**, as published in 37:26 Md. R. 1817—1818 (December 17, 2010)

EARL F. HANCE  
Secretary of Agriculture

# 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 08 DEPARTMENT OF NATURAL RESOURCES

### Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

#### 08.18.14 Middle River

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

#### Notice of Proposed Action

[11-101-P]

The Secretary of Natural Resources proposes to amend Regulation .05 under **COMAR 08.18.14 Middle River**. This action was considered at the Maryland Boat Act Advisory Committee meeting on December 21, 2010.

#### 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 Gaudette, Director, Boating Services, Department of Natural Resources — Boating Services, 580

Taylor Avenue, E-4, Annapolis, Maryland 21401, or call 410-260-8462, or email to [bgaudette@dnr.state.md.us](mailto:bgaudette@dnr.state.md.us), or fax to 410-260-8453. Comments will be accepted through April 25, 2011. A public hearing has not been scheduled.

#### .05 Frog Mortar Creek and Stansbury Creek.

Frog Mortar Creek and Stansbury Creek encompass the area upstream of a line beginning at Wilson Point at or near Lat. 39°18'30"N., Long. 76°24'37"W., then running approximately 090° True to Galloway Point at or near Lat. 39°18'30"N., Long. 76°24'07"W. This area has a 6-knot (6.9 MPH) speed limit Saturdays, Sundays, and State holidays], all year] *during the boating season only, which is April 15 through October 15.*

JOHN R. GRIFFIN

Secretary of Natural Resources

## Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

### Subtitle 09 MEDICAL ASSISTANCE PROGRAMS

#### 10.09.06 Hospital Services

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105, Annotated Code of Maryland

#### Notice of Proposed Action

[11-104-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01, .03, and .09 under **COMAR 10.09.06 Hospital Services**.

#### Statement of Purpose

The purpose of this action is to remove obsolete conditions for participation and to require out-of-State hospitals, including DC

hospitals, to allow MCOs to pay no more than the Medicaid fee-for-service rate.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The reduction in the MCOs capitation payments will result in a cost savings of \$12,000,000 in FY 2011.

II. Types of Economic Impact	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E-)	\$12,000,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	\$12,000,000
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. There will be a cost savings for the Department of \$12,000,000 due to the decrease in the MCO's capitation payments.

D. There will be a negative impact on DC hospitals due to the reduction in rates paid by the MCOs.

**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, Department of Health and Mental Hygiene, 201 W. Preston St., Room 512, Baltimore, MD 21201, or call 410-767-6499, TTY:800-735-2258, or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through April 25, 2011. A public hearing has not been scheduled.

**.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(20) (text unchanged).

(20-1) "Managed care" means the provision of primary care and referral services to a managed care enrollee, in accordance with the provisions of COMAR [10.09.24.15B, 10.09.35, 10.09.43, or 10.09.44] 10.09.62 through 10.09.75.

(20-2) "Managed care enrollee" means a recipient who is enrolled in managed care, in accordance with the provisions of COMAR [10.09.24.15B, 10.09.35, 10.09.43, or 10.09.44] 10.09.63.

(21)—(47) (text unchanged)

**.03 Conditions for Participation.**

A. (text unchanged)

B. Specific requirements for participation in the Program as a hospital services provider require that the provider:

(1) Shall [be certified by the Department as meeting] *meet* the requirements of Title XIX participation as a hospital, as issued by the Department of Health and Human Services;

(2) Shall, if licensed [as Special Hospital—Mental or Special Hospital—Psychiatric and providing] *to provide* inpatient psychiatric services for individuals under 21 years old;

(a) Meet the requirements for participation as defined in 42 CFR §440.160 (inpatient psychiatric services for individuals under age 21)[,]; and

(b) (text unchanged)

(3) Shall directly provide or make available through contractual arrangements or transfer agreements, covered services medically necessary for the recipient and accept payment by the Program as payment in full for the covered services[, except as provided in Regulation .10D of this chapter];

(4) Shall make available to the [utilization control agent] *Department or its designee* the patients' medical records [including those of psychiatric admissions,] for review and certification as to medical necessity for admissions, and continuations of stay;

(5) Shall submit a hospital cost report to the Department or its designee within 3 months of the close of the hospital's fiscal year *as required by the Department*;

(6) (text unchanged)

[(7) Shall notify a managed care enrollee's care manager of any inpatient hospital admission before seeking preauthorization for an elective admission from the Program's utilization control agent, and not more than 72 hours following an emergency admission or when outpatient hospital services are delivered on an emergency basis to the enrollee;

(8) Shall inform the Managed Care and Quality Assurance Programs of the Department's Medical Care Finance and Compliance Administration within 30 days of a current recipient's discharge from a hospital inpatient stay for a diabetes-related diagnosis;

(9) Shall comply with the provider requirements in COMAR 10.09.24.15B, 10.09.35, 10.09.43, or 10.09.44 when a recipient who presents for services is enrolled in one of these managed care programs; and]

[(10) (7) Shall comply with the requirements for the delivery of mental health services contained in COMAR 10.09.70;

(8) *If an out-of-State or District of Columbia hospital, shall:*

(a) *Have in effect a utilization review plan applicable to all patients who receive Medical Assistance under Title XVII of the Social Security Act which meets the requirements of §1861(k) of the Social Security Act unless a waiver has been granted by the Secretary of Health and Human Services;*

(b) *Comply with all applicable regulations of this chapter and COMAR 10.09.36;*

(c) *Allow all HealthChoice managed care organizations to pay no more than the reimbursement rates established in COMAR 10.09.06.09A(7)(a)—(f); and*

(9) *If a District of Columbia hospital, shall allow all HealthChoice managed care organizations to pay no more than the reimbursement rates in COMAR 10.09.06.15B and COMAR 10.09.06.15-1A.*

C. (text unchanged)

**.09 Payment Procedures.**

A. Reimbursement Principles.

(1)—(6) (text unchanged)

(7) Out-of-State [Providers] *Hospitals*.

[(a) To be reimbursed for services provided to Maryland Medical Assistance recipients, an out-of-State hospital shall meet all of the following requirements:

(i) The out-of-State provider is licensed or formally approved as a hospital in the state in which it is located by an officially designated state standard authority;

(ii) The out-of-State provider is qualified to participate under Title XVIII of the Social Security Act, or is determined currently to meet the requirements for this participation;

(iii) The out-of-State provider has in effect a utilization review plan applicable to all patients who receive Medical Assistance under Title XIX of the Social Security Act which meets the requirements of §1861(k) of the Social Security Act unless a waiver has been granted by the Secretary of Health and Human Services;

(iv) The out-of-State provider complies with all applicable regulations of this chapter and COMAR 10.09.36.]

[(b)] (a)—[(h)] (g) (text unchanged)

B.—C. (text unchanged)

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations**

Authority: Insurance Article, §§15-112, 15-605, and 15-1008; Health-General Article, §§2-104, 15-102.3, and 15-103; Annotated Code of Maryland

**Notice of Proposed Action**

[11-105-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .20 under **COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations**.

**Statement of Purpose**

The purpose of this action is to require a managed care organization (MCO) to pay for emergency care provided in a non-participating federally qualified health center (FQHC) under certain circumstances.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The economic impact, if any, of this change can not be determined until the newly covered services are utilized.

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

	Benefit (+) Cost (-)	Magnitude
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D. On regulated industries or trade groups:		
MCO	(-)	Undetermined
E. On other industries or trade groups:		
FQHC	(+)	Undetermined
F. Direct and indirect effects on public:	NONE	

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

D. It's assumed these services would be provided at another location if they were not provided at the FQHC; therefore, it's expected that there will be little or no economic impact for the MCOs.

E. There is a positive impact for the FQHCs because they will be reimbursed for these services but the amount cannot be determined until the services are utilized.

**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, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhhm.state.md.us, or fax to 410-767-6483. Comments will be accepted through April 25, 2011. A public hearing has not been scheduled.

**.20 MCO Payment for Self-Referred, Emergency, and Physician Services.**

A. (text unchanged)

B. [For emergency services, an] *MCO Payment for Emergency Services Provided at a Hospital*. An MCO shall reimburse a hospital emergency facility and provider, which is not required to obtain prior authorization or approval for payment from an MCO in order to obtain reimbursement under this regulation, for:

(1)—(4) (text unchanged)

C. *MCO Payment for Emergency Services Provided by an Out-of-Network Federally Qualified Health Center*.

(1) *Effective October 1, 2010, an MCO shall reimburse an out-of-network federally qualified health center (FQHC) for emergency services provided to an enrollee if:*

(a) *The FQHC participates in the Medical Assistance Program;*

(b) *The FQHC does not have a contract with the MCO;*

(c) *The services are immediately required due to the enrollee's unforeseen illness, injury, or condition;*

(d) *The emergent services are provided on site at the FQHC; and*

(e) *The FQHC has, before rendering services, verified with the enrollee's primary care provider that the enrollee cannot be seen within a reasonable amount of time based on the severity of the enrollee's condition.*

(2) *An MCO may require that the FQHC provide documentation that the FQHC has obtained the verification required under §C(1)(e) of this regulation. An MCO is not required to*

reimburse an out-of-network FQHC for emergent services provided to an enrollee if the FQHC fails to provide the documentation.

(3) An MCO may require that the FQHC provide documentation that services were required for the reasons identified under §C(1)(c) of this regulation. An MCO is not required to reimburse an out-of-network FQHC for emergent services provided to an enrollee if the FQHC fails to provide the documentation.

(4) The rate at which the MCO shall reimburse an out-of-network FQHC for services provided under §C(1) of this regulation shall be the rate identified in COMAR 10.09.65.21.

(5) For any reimbursement paid by an MCO under §C of this regulation, the Program shall pay the MCO the difference between the rates identified in COMAR 10.09.65.21 and COMAR 10.09.08.05-1.

[C.] D. (text unchanged)

JOSHUA M. SHARFSTEIN, MD  
Secretary of Health and Mental Hygiene

**Subtitle 24 MARYLAND HEALTH CARE COMMISSION**

**10.24.05 [Research Waiver Applications: Atlantic C-PORT Study of Non-Primary PCI] Continuation of Non-Primary Research Waivers Through Participation in the Follow-On C-PORT E Registry**

Authority: Health-General Article, §§19-101, 19-118, and 19-120, Annotated Code of Maryland

**Notice of Proposed Action**

[11-109-P]

The Maryland Health Care Commission proposes to amend Regulations .01—.07 under **COMAR 10.24.05 Continuation of Non-Primary Research Waivers Through Participation in the Follow-On C-PORT E Registry**. This action was considered by the Commission at an open meeting held on February 17, 2011, notice of which was given through publication in the Maryland Register pursuant to State Government Article, §10-506, Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to establish an application process by which the Maryland Health Care Commission can extend the research waivers of certain hospitals that are participating in the C-PORT E research study of non-primary percutaneous coronary intervention (npPCI) in hospitals without on-site cardiac surgery services, and can require such hospitals to participate in the follow-on C-PORT E Registry of Non-Primary PCI. Patient accrual into the C-PORT E research study will likely be completed by the end of February 2011or, if an extension is approved by the Johns Hopkins Institutional Review Board, mid-April 2011; however, data on each patient must be collected for a 9-month period post-procedure. The regulations would establish an application process by which the Maryland Health Care Commission can extend the research waivers of hospitals that are participating in the C-PORT E research study, and can require these hospitals to participate in the follow-on C-PORT E Registry of Non-Primary PCI. Extension of the waivers and enrollment of the hospitals into a follow-on Registry to the randomized trial should assure continued patient safety and optimal

medical outcomes, as well as the highest quality follow-up data for the main trial. The Commission will use data from the C-PORT E trial and the Registry to guide State policy regarding the regulation of npPCI. In the absence of action to continue the research waiver program, there would be a gap in the provision of services between the completion of patient accrual and the availability of study findings.

**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 Pamela Barclay, Director, Center for Hospital Services, Maryland Health Care Commission, 4160 Patterson Ave., Baltimore, MD 21215, or call (410) 764-3460, or fax to (410) 358-1311. Comments will be accepted through April 25, 2011. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by the Commission during a public meeting to be held on May 19, 2011, at 4160 Patterson Ave., Baltimore, Maryland 21215.

**.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) — (6) (text unchanged)

(7) “Registry” means the C-PORT E Registry of Non-Primary PCI that follows-on the C-PORT E Study of Non-Primary PCI and that is:

(a) Maintained by the Principal Investigator in the C-PORT E Study of Non-Primary PCI;

(b) Overseen by the Johns Hopkins Institutional Review Board;

(c) Overseen by a Data and Safety Monitoring Board.

[(7)] (8) — [(9)] (10) (text unchanged)

**.02 Purpose.**

A. [This Chapter establishes] *In 2007, the Commission established a one-time process by which [a] certain licensed acute general [hospital] hospitals without on-site cardiac surgery services [may seek a] were awarded time-limited research [waiver] waivers from the requirements of COMAR 10.24.17.04E, Policy 5.0, and [be] were permitted to provide non-primary PCI services as part of the C-PORT E study to assess the safety and efficacy of providing non-primary PCI services for certain patient groups without on-site cardiac surgery, as provided in COMAR 10.24.17.04E, Policy 5.3.*

B. [The] *In 2007, the Commission [has] determined that the C-PORT E study [offers] offered a means of acquiring information to support future evidence-based State health care policy and planning with regard to cardiovascular services.*

[C.] — [D.] (proposed for repeal)

C. *As the C-PORT E research study nears the attainment of its patient accrual target, the principal investigator of the research study has recommended that the Commission continue the C-PORT E research waiver of each hospital that is in good standing so that each such hospital will not have to shut down its program while the required follow-up data on C-PORT E patients is collected and analyzed.*



D. *The Commission has determined that the term of an existing research waiver held by a hospital that maintains good standing under the Commission's requirements should be extended while the hospital participates in the Registry, thereby permitting the hospital to continue to perform non-primary PCI under the limitations and for the Registry term provided in these regulations until such time as the Commission has the information from the research study that is needed to guide State policy about the regulation of non-primary PCI.*

E. The Commission shall consider data collected by the C-PORT E study and information from the Registry in updating its State Health Plan for cardiovascular services, including planning policies governing the requirement to have cardiac surgical services on-site for non-primary PCI. The analysis conducted as part of this update will consider the system impact, including access, cost-effectiveness, and quality implications, of non-primary PCI being performed in hospitals without on-site cardiac surgery.

**.03 [Waiver Application] The C-PORT E Follow-On Registry of Non-Primary PCI.**

A. [Application] *Continuation of Research Waiver and Entry into Registry.*

(1) An acute general hospital that [desires] *has an non-primary PCI research waiver in good standing that permits the hospital to perform non-primary PCI without on-site cardiac surgery services shall file an application to enter the Registry in a form and manner acceptable to the Commission, and according to a [review] schedule established by the Commission.*

(2) The Commission publishes separately from these regulations the application forms to be used *by an existing non-primary PCI research waiver hospital to [apply for a waiver to perform non-primary PCI services without on-site cardiac surgery] continue its research waiver and participate in the Registry.* An application is not complete unless the applicant has provided to the Commission all information required of the applicant by the Commission.

(3) (text unchanged)

[B.] — [C.] (proposed for repeal)

[D.] B. [Completeness Review, Docketing, and Additional Information] *Applications to Participate in Registry.*

(1) [Within 15 business days of the filing of an application, the] *The Commission staff shall review [the] an application for participation in the Registry for completeness to determine whether an application may be [docketed for review] presented to the Commission for its consideration.*

(2) — (3) (text unchanged)

(4) If the Commission staff's review of the application determines that the application is complete, staff shall [docket the application for review] *notify the applicant and publish a dated posting on the Commission's website [and in the Maryland Register].*

(5) (text unchanged)

**.04 Review of Applications for Participation in Registry.**

A. Review Criteria.

(1) An applicant *C-PORT E research waiver hospital shall meet the study site inclusion criteria established in the Atlantic C-PORT E research study protocol.*

(2) *An applicant shall document that it will meet the criteria established in the manual of operations of the C-PORT E Registry of Non-Primary PCI that follows-on the C-PORT E Study of Non-Primary PCI.*

[(2)] (3) [The] *An applicant shall document that it will continue to satisfy the following requirements:*

(a) For institutional resources:

(i) An applicant shall [provide] *maintain a patient prioritization plan that guarantees that a patient who requires primary*

*PCI for STEMI is given immediate preference for care in the cardiac catheterization laboratory;*

(ii) An applicant shall [submit] *maintain a formal and properly executed written agreement with a tertiary care center that provides for the unconditional transfer of each non-primary PCI patient who requires additional care, including emergent or non-primary cardiac surgery or PCI, from the applicant hospital to the tertiary institution; and*

(iii) An applicant shall [provide documentation that it has] *maintain its agreement with an advanced cardiac support emergency medical services provider that guarantees arrival of the air or ground ambulance at the applicant hospital within 30 minutes of a request for non-primary PCI patient transport by the applicant;*

(b) For physician resources, an applicant shall [document that it has or will recruit] *maintain adequate staff necessary for the provision of primary and non-primary PCI services, including a minimum of three interventional cardiologists who:*

(i) Meet the requirements in the C-PORT E study research protocol and in COMAR 10.24.17, Table A-1;

(ii) (text unchanged)

(iii) Agree to abide by the Device Selection Criteria in the [C-PORT study protocol defined in its] *applicable Manual of Operations;*

(c) For minimum volumes, an applicant shall [document that it will meet and] *maintain a minimum volume of [100 PCI procedures during the first year of its waiver, and] 200 PCI procedures during [the second] each year of its waiver; [and]*

(d) For [patient] *follow-up of patients enrolled in the C-PORT E study, an applicant shall [commit to meet and] maintain a patient follow-up rate of 98 percent [for patients enrolled in the C-PORT study.]; and*

(e) *For follow-up of patients enrolled in the Registry, an applicant shall commit to meet and maintain patient follow-up at 6 weeks post-procedure.*

[(3)] (4) In determining whether to *extend the research waiver of an existing C-PORT E research waiver hospital and permit it to enter the Registry, [grant a waiver application,] the Commission shall consider appropriate factors, including:*

[(a)] An applicant's potential to improve the geographic distribution of cardiovascular services;

[(b)] An applicant's potential to increase access to PCI services for minorities and medically underserved populations;

[(c)] An applicant's ability and commitment to serve as a site for conducting research;

[(d)] An applicant's demonstration of successful and timely acquisition of follow-up data on primary PCI patients; and]

[(e)] (a) An applicant's current performance under its [primary] *non-primary PCI research waiver; and*

(b) *An applicant's current performance under its primary PCI waiver.*

B. The Commission staff shall prepare a staff [report and] recommendation on [a waiver] *an application to enter the Registry for consideration by the Commission.*

C. The burden of proof that a *non-primary research waiver hospital meets the applicable review criteria rests with the applicant.*

**.05 Waiver Term.**

A. [A waiver to perform non-primary PCI issued by the Commission] *A hospital's ability to provide non-primary PCI by virtue of the extension of its research waiver and entry into the Registry expires on the earlier of:*

[(1)] 2 years from the date on which the waiver was first issued;]

[(2)] (1) The date [patient accrual into the C-PORT study ends] *upon which the Commission determines, through implementation in*

COMAR 10.24.17 or other appropriate regulation, that the results of the C-PORT E study are sufficiently complete to guide public policy;

[(3) A finding made by the Commission that the C-PORT study is not accruing patients at an acceptable rate; or]

[(4)] (2) A finding by the Commission that the C-PORT E study is unlikely to produce reliable results to guide public policy; or

(3) A finding by the Commission that the evidence is insufficient to change Policy 5.0 of COMAR 10.24.17.04E that requires non-primary PCI to be performed in hospitals with on-site cardiac surgery services.

B. [The] Pending the Commission's consideration of applications made pursuant to regulatory changes anticipated in §A(1) of this regulation, the Commission may extend a waiver to perform non-primary PCI by an affirmative vote of the majority of the quorum present and voting.

**.06 Conditions for Maintaining a Waiver.**

A. A hospital with a waiver to perform non-primary PCI shall notify the Commission in writing within 3 business days of the occurrence of any of the following:

(1) The hospital performs non-primary PCI on a patient not enrolled in the C-PORT E study or in the Registry;

(2) (text unchanged)

(3) The hospital fails to notify the Commission of death or coronary artery bypass surgery experienced by a patient participating in the C-PORT E study or in the Registry;

[(4)] (4) The hospital fails to perform a minimum of 100 PCI procedures by the first year anniversary of its non-primary PCI waiver;

[(5)] (4) The hospital fails to perform a minimum of 200 PCI procedures during the second and each subsequent year [of its] after it received a non-primary PCI research waiver from the Commission; or

[(6)] (5) The hospital fails to meet and maintain the criteria required by the Commission for participation in the C-PORT E study, or its participation in the C-PORT E study or in the Registry ends for any reason.

B. — C. (text unchanged)

**.07 Waiver Performance and Monitoring.**

A. Each hospital granted a waiver to perform non-primary PCI within the C-PORT E study or within the Registry shall provide data to the Commission in a form and manner acceptable to the Commission.

B. Each hospital granted a waiver to perform non-primary PCI within the C-PORT E study or within the Registry shall submit periodic progress reports in a format specified by the Commission and, at the conclusion of the research project and, if requested, at the end of the Registry, submit [a] final [report] reports in a form and manner acceptable to the Commission, as provided in COMAR 10.24.17.05D(2)(d).

C. Each hospital granted a waiver to perform non-primary PCI within the C-PORT E study or within the Registry shall authorize the C-PORT E study principal investigator and the Registry coordinator to provide data requested by the Commission.

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

**Notice of Proposed Action**

[11-106-P]

The Secretary of Health and Mental Hygiene proposes to amend:

(1) Regulation .12 under COMAR 10.27.01 Examination and Licensure; and

(2) Regulation .06 under COMAR 10.39.01 Certification of Nursing Assistants.

This action was considered by the Maryland Board of Nursing at a public meeting held on December 14, 2010, notice of which was given by publication on the Board's website under Board News on November 1, 2010.

**Statement of Purpose**

The purpose of this action is to clarify the calendar dates for nursing and nursing assistant renewal applicants who must have a criminal history record check as a condition of their renewal. The program was initiated in June 2010, instead of April 2010 as originally planned, and these amendments correct the dates. This change is necessary to prevent any confusion as to when a criminal history record check is required.

**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 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dnhm.state.md.us, or fax to 410-767-6483. Comments will be accepted through April 25, 2011. A public hearing has not been scheduled.

**Subtitle 27 BOARD OF NURSING**

**10.27.01 Examination and Licensure**

Authority: Health Occupations Article, §§1-213, 8-201, 8-205, 8-206, 8-301—8-315, and 8-703, Annotated Code of Maryland

**.12 Renewal of License.**

A.—I. (text unchanged)

I-1. Criminal history record checks for renewal applicants shall be scheduled according to the licensee's birth month as follows:

(1) In 2010—all applicants with [an April] a June birth month;

(2) In 2011—all applicants with a [May] July birth month;

(3) In 2012—all applicants with [a June] an August birth month;

(4) In 2013—all applicants with a [July] September birth month;

(5) In 2014—all applicants with an [August] October birth month;

(6) In 2015—all applicants with a [September] November birth month;

(7) In 2016—all applicants with [an October] a December birth month;

(8) In 2017—all applicants with a [November] January birth month;

(9) In 2018—all applicants with a [December] February birth month;

(10) In 2019—all applicants with a [January] March birth month;

- (11) In 2020—all applicants with [a February] *an April* birth month; and
  - (12) In 2021—all applicants with a [March] *May* birth month.
- I-2. (text unchanged)  
 J.—K. (text unchanged)

**Subtitle 39 BOARD OF NURSING —  
 CERTIFIED NURSING ASSISTANTS**

**10.39.01 Certification of Nursing Assistants**

Authority: Health Occupations Article, §§8-205, 8-206, 8-303, and 8-6A-01—8-6A-16, Annotated Code of Maryland

**.06 Renewal.**

A.—M. (text unchanged)

N. Criminal history records checks for renewal applicants shall be scheduled according to the licensee’s birth month as follows:

- (1) In 2010—all applicants with [an April] *a June* birth month;
  - (2) In 2011—all applicants with a [May] *July* birth month;
  - (3) In 2012—all applicants with [a June] *an August* birth month;
  - (4) In 2013—all applicants with a [July] *September* birth month;
  - (5) In 2014—all applicants with an [August] *October* birth month;
  - (6) In 2015—all applicants with a [September] *November* birth month;
  - (7) In 2016—all applicants with [an October] *a December* birth month;
  - (8) In 2017—all applicants with a [November] *January* birth month;
  - (9) In 2018—all applicants with a [December] *February* birth month;
  - (10) In 2019—all applicants with a [January] *March* birth month;
  - (11) In 2020—all applicants with [a February] *an April* birth month; and
  - (12) In 2021—all applicants with a [March] *May* birth month.
- O.—P. (text unchanged)

JOSHUA M. SHARFSTEIN, M.D.  
 Secretary of Health and Mental Hygiene

**Subtitle 42 BOARD OF SOCIAL WORK  
 EXAMINERS**

**10.42.03 Code of Ethics**

Authority: Health Occupations Article, §§1-212 and 19-101—19-502, Annotated Code of Maryland

**Notice of Proposed Action**

[11-107-P]

The Secretary of Health and Mental Hygiene proposes to repeal existing Regulations .01 and .04—.06, adopt new Regulations .01 and .04—.07, and amend Regulations .02 and .03 under **COMAR 10.42.03 Code of Ethics**. This action was considered at a public meeting on December 10, 2010, notice of which was given by publication in 37:25 Md. R. 1772 (December 3, 2010), pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to:

- (1) Define dual relationship, impairment, sexual misconduct, and therapeutic relationship;
- (2) Require that licensees establish a plan by which to transfer records or clients in the event of the licensee’s incapacitation, death, or termination of service;
- (3) Prohibit solicitation that amounts to fraud, intimidation, or undue influence through social media;
- (4) Establish responsibilities of a licensee to their colleagues;
- (5) Prohibit dual relationships with clients and sexual misconduct with current or former clients or anyone over whom the licensee exercises professional authority;
- (6) Prohibit a licensee from terminating services or a professional relationship with a client for the purpose of having a nonprofessional relationship with the same client;
- (7) Prohibit the providing of services to an individual with whom a licensee had a previous sexual relationship; and
- (8) Establish new standards of practice, especially relating to professional competency, research, and treatment modalities involving physical contact.

**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 (TTY 800-735-2258), or email to regs@dhhm.state.md.us, or fax to 410-767-6483. Comments will be accepted through April 25, 2011. A public hearing has not been scheduled.

**.01 Scope and Purpose.**

A. *This chapter governs the professional conduct of social workers licensed by the Board regardless of whether the service delivery is in person, telephonically, or electronically.*

B. *The objective of this chapter is the protection of the public. The best interest of the public shall be the primary guide in determining the appropriate professional conduct of all individuals whose activities are regulated by the Board.*

C. *A social worker has a responsibility to practice ethically by considering the potential benefit versus risk of harm to clients when planning and delivering professional social work services, including respecting and facilitating clients’ rights to make informed decisions.*

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

- (1)—(2) (text unchanged)
- (3) *“Dual relationship” means a relationship in which a licensee is involved with a client professionally and in any other capacity.*
- (4) *“Impairment” means a licensee whose diminished capacity affects the licensee’s practice of social work because of:*
  - (a) *Substance abuse;*
  - (b) *Psychological illness; or*

(c) *Physical illness.*

[(3)] (5) “Inappropriate sexual language” means:

[(a)] A sexualized harassing comment;

[(b)] (a) An eroticized or sexually provocative comment [not reasonably associated with a health care matter]; or

[(c)] (b) An inappropriate discussion of a [sexually related] sexual matter *unrelated to client treatment.*

[(4)] (6)—[(5)] (7) (text unchanged)

[(6)] (8) “Sexual harassment” means [a]:

(a) A deliberate or repeated comment[,] *unrelated to client treatment; or*

(b) An advance, gesture, solicitation, request, *intimidation*, or physical contact of a sexual nature.

(9) “Sexual misconduct” means:

(a) *Inappropriate sexual language;*

(b) *Sexual exploitation;*

(c) *Sexual harassment;*

(d) *Sexual behavior; or*

(e) *Therapeutic deception.*

[(7)] (10)—[(8)] (11) (text unchanged)

(12) “*Therapeutic relationship*” means *the relationship between a licensee and a client, in the practice of social work.*

**.03 [General Conduct] Responsibilities to Clients.**

A. The licensee shall:

(1) (text unchanged)

(2) Make the fee for service clear, maintain adequate financial records, *stipulate payment schedules*, and confirm arrangements for financial reimbursement with the client;

(3) Notify the client promptly and seek the transfer, referral, or continuation of service in relation to the client’s need or preference if the licensee anticipates the termination or interruption of service [to the client];

(4) [Obtain voluntary and informed consent from a client for participation in research, without direct or implied deprivation or penalty for refusal to participate] *Prepare and disseminate to an identified colleague or record custodian a written plan for the transfer of clients and files in the event of the licensee’s incapacitation, death, or termination of service; and*

(5) Maintain documentation in the client’s record which:

(a) (text unchanged)

(b) Accurately reflects the services provided, including treatment plans, treatment goals, and [progress] *contact* notes;

(c)—(d) (text unchanged)

(e) Is sufficient and timely to facilitate the delivery and continuity of services to be delivered in the future; [and]

(f) Is reasonably accessible for the period required [by law] *in Health General Article, §4-403, Annotated Code of Maryland, after termination of services; and*

(g) *Ensures that no confidential information is disseminated and identities are protected when computer and internet technologies are used.*

[(6)] Inform the Board of unethical conduct by a licensed social worker; and

(7) Inform the Board about an individual who is not licensed by the Board but who represents that the individual is a social worker and is practicing, attempting to practice, or offering to practice social work.]

B. [In the capacity of or identity as a licensed social worker, the] *The licensee may not:*

(1)—(3) (text unchanged)

(4) Engage in solicitation which amounts to fraud, intimidation, or undue influence, including but not limited to in-person, telephone, *social media*, or direct mail solicitation;

(5) Practice, condone, facilitate, or collaborate with discrimination on the basis of race, [color, sex] *gender*, sexual orientation, age, religion, national origin, [marital status, political belief, mental or physical handicap, or other preference or personal characteristic, condition, or status with an individual or group of individuals] *socioeconomic status, disability, or any other basis proscribed by law;*

(6)—(8) (text unchanged)

[C. The licensee may not enter into a nonprofessional, social, or dual relationship with a client, or an individual with whom the client has a close personal relationship.]

**.04 Responsibilities to Colleagues.**

A. *The licensee shall inform the Board:*

(1) *Of unethical conduct by a licensed social worker; and*

(2) *About an individual who is not licensed by the Board but who represents that the individual is a social worker and is practicing, attempting to practice, or offering to practice social work.*

B. *Licensees may not sexually harass, verbally abuse, or intimidate supervisees, students, trainees, or colleagues.*

C. *Licensees having knowledge of a colleague’s impairment or incompetence should take reasonable measures to assist the colleague in taking remedial action. In cases where the colleague does not address the problem, or in any case in which welfare of a client appears to be in danger, the licensee shall report the impairment or incompetence to the Board.*

**.05 Relationships.**

A. *The licensee may not enter into a dual relationship with a client or an individual with whom the client has a close personal relationship.*

B. *The licensee may enter into a nonsexual relationship with an individual with whom the licensee’s prior professional contact:*

(1) *Was of a brief, peripheral, or indirect nature; and*

(2) *Did not constitute a therapeutic relationship.*

C. *The licensee may not engage in sexual misconduct with either current or former clients.*

D. *The licensee may not engage in sexual misconduct with a client, supervisee, student, trainee, or colleague over whom the licensee exercises professional authority.*

E. *The licensee may not terminate professional services or a professional relationship with a client in order to enter into a nonprofessional, social, or sexual relationship with the client or an individual with whom the client has a personal relationship.*

F. *Prior Sexual Relationships. The licensee may not provide professional services to an individual with whom the licensee has previously engaged in sexual behavior.*

**.06 Standards of Practice.**

A. *Professional Competence. The licensee shall:*

(1) *Limit practice to the areas in which the licensee has gained proficiency through education, training, and experience;*

(2) *Acquire specialized education and training in order to provide the client with services that are culturally informed;*

(3) *Use interventions and assessment techniques only when the licensee knows that the circumstances justify those interventions and techniques;*

(4) *Monitor the effectiveness of his or her interventions;*

(5) *Maintain and enhance professional competence by meeting the requirements of continuing education as set forth in COMAR 10.42.06;*

(6) *Engage in ongoing consultation with other professionals with relevant knowledge, experience, and training, when developing competence in a new service or technique;*

(7) *Document and maintain appropriate records of professional service, supervision, and research work;*

(8) Represent accurately and objectively the licensee's professional qualifications; and

(9) Seek competent professional assistance to determine whether to suspend, terminate, or limit the scope of professional or scientific activities when the licensee becomes aware that the licensee's competence is impaired.

B. A licensee may not:

(1) Undertake or continue a professional relationship with a client when the competence or objectivity of the licensee is or could reasonably be expected to be impaired due to:

(a) Mental, emotional, physiological, pharmacological, substance abuse, or personal problems; or

(b) The licensee's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative, legal, or other relationship with the client or a person associated with or related to the client; or

(2) Engage in other relationships that could limit the licensee's objectivity or create a conflict of interest or the appearance of a conflict of interest.

C. Research. A licensee shall:

(1) Comply with all requirements under Health General Article, §§13-2001—13-2004, Annotated Code of Maryland;

(2) Obtain informed consent from a client for participation in research that clearly defines for the client:

(a) Why the client is being asked to participate;

(b) What modalities will be employed;

(c) What standardized instruments will need to be completed;

(d) The timeline for the consent;

(e) Any potential benefits; and

(f) Any potential adverse reactions;

(3) Inform the client of the client's right to discontinue participation in the research;

(4) Provide the client with treatment options and referral sources in the event of an adverse reaction;

(5) Respect the dignity and protect the welfare of the research subject, and comply with all relevant statutes, regulations, and institutional and administrative rules concerning treatment of the research subject;

(6) Ensure the ethical treatment of the research participant by collaborators, supervisees, and employees;

(7) Make clear, either as a researcher or a writer, the:

(a) Nature of the participation;

(b) The costs; and

(c) The licensee's obligations to the research participants;

and

(8) Report research findings accurately, presenting only the licensee's work or making appropriate citations when needed.

D. The licensee engaging in physical contact with a client as an accepted component of a professionally recognized, nontraditional treatment modality shall document in the client's record:

(1) An assessment of the client;

(2) A written rationale for the use of the treatment modality for the client; and

(3) A copy of the informed consent signed and dated by the client and the licensee, which addresses:

(a) The risks and benefits of the treatment modality;

(b) The objective or objectives and intended outcome or outcomes of the proposed treatment;

(c) Available alternative interventions; and

(d) A description of the physical contact which may be reasonably anticipated by the client in the course of the proposed treatment.

**.07 Sanctions.**

A. The licensee who engages in ethical misconduct is subject to sanctions by the Board.

B. The Board shall advise the Association of Social Work Boards and the National Practitioner Data Bank of any formal sanction of a licensee on the grounds of ethical misconduct.

C. The licensee may not prohibit the client from reporting misconduct as a condition of settlement of a legal cause of action.

JOSHUA M. SHARFSTEIN, M.D.  
Secretary of Health and Mental Hygiene

**Title 13B  
MARYLAND HIGHER  
EDUCATION COMMISSION**

**Subtitle 01 NONPUBLIC SCHOOLS**

**13B.01.01 Minimum Requirements for Private Career Schools**

Authority: Education Article, §§11-105, 11-202, and 11-203, Annotated Code of Maryland

**Notice of Proposed Action**

[11-102-P]

The Maryland Higher Education Commission proposes to amend Regulations .02—.05, .07, .14, .18, and .20 under COMAR 13B.01.01 Minimum Requirements for Private Career Schools. This action was considered by the Maryland Higher Education Commission and approved at its meeting on January 26, 2011, notice of which was given pursuant to State Government Article, §10-506, Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to revise regulations governing private career schools by providing for phased-in increases in annual assessments to schools for the Guaranty Student Tuition Fund, increasing the initial payment into the Fund, and increasing the maximum Fund amount to \$2,000,000. The revised regulations also require that the director of a private career school be under the direct supervision and control of the school's owner. In addition, the amended regulations conform definitions and exemptions related to private career schools with provisions in Education Article, Annotated Code of Maryland; clarify exemptions and provide for an exemption process; conform language; and make stylistic changes.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** It is estimated there may be an economic impact in the form of cost increases in providing educational services by private career schools. These cost increases are related to increased assessments against private career schools to strengthen the Guaranty Student Tuition Fund. Therefore, there is also an economic impact in the form of a benefit by increased financial protection for private career school students.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
<hr/>		
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	(-)	Phased-in increases in existing assessments
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Increased funds in Guaranty Student Tuition Fund

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

D. MHEC estimates that approximately 170 private career schools will be affected by increases in annual assessments for the Guaranty Student Tuition Fund. The increases will be phased in over 4 years, culminating in an assessment of 1/4 of 1% of adjusted gross tuition.

F. Guaranty Student Tuition Fund revenues over time will increase the Fund value to \$2,000,000 from its current \$1,000,000 level, providing more protection for students.

**Economic Impact on Small Businesses**

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

A majority of the private career schools are small businesses. The increased annual assessments may have an economic impact, but because the increase is based on the schools' reported adjusted gross tuition, all businesses will be affected in the same relative manner.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Sue A. Blanshan, Director of Academic Affairs, Maryland Higher Education Commission, 839 Bestgate Road, Suite 400, Annapolis, MD 21401, or call 410-260-4533, or email to sblansha@mhec.state.md.us. Comments will be accepted through April 25, 2011. A public hearing has not been scheduled.

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) — (20) (text unchanged)

(21) "Private career school" means a privately owned and privately operated institution of postsecondary education, other than an institution of higher education, that furnishes or offers to furnish programs, whether or not requiring a payment of tuition or a fee, for the purpose of training, retraining, or upgrading individuals for

gainful employment as skilled or semiskilled workers or technicians in recognized occupations or in new and emerging occupations.

(22) — (32) (text unchanged)

**.03 Scope, [and] Applicability, and Exemption.**

A. These regulations apply to all private career schools that require a certificate of approval to commence or continue to operate, [or seek to operate or] do business, or function in the State.

B. These regulations do not apply to:

(1) A program delivered entirely by distance education to a single individual at a Maryland location by [persons, firms, corporations, or other organizations] a person, firm, corporation, or other organization that [operate] operates all aspects of [their] the business outside of Maryland, including but not limited to, the origination, transmission, and administration of the distance education program from outside of Maryland[.];

(2) [Workshops, seminars, and demonstrations which are not part of a program.] Continuing education activities involving courses, seminars, workshops, and demonstrations that provide instruction or knowledge for the purpose of maintaining professional or occupational competence, licensure, or certification;

(3) Refresher or continuing education instruction sponsored by [any] a professional group for the exclusive use and benefit of the members of that professional group[.];

(4) Instruction conducted by [persons, firms, corporations, or other organizations] a person, firm, corporation, or other organization exclusively for [their] its own employees[. This exclusion does not apply to these agencies or organizations if they enroll individuals other than their employees.];

(5) Apprenticeship [and other training offered by unions for their members.] as registered with the Maryland Department of Labor, Licensing, and Regulation;

[(6) A church or other religious institution offering a postsecondary instructional program designed for and aimed at persons who hold or seek to learn the particular religious faiths or beliefs of that church or religious organization, as provided in Education Article, §11-202, Annotated Code of Maryland.]

[(7)] (6) [Individual instructors] Instruction provided by an individual instructor who [go] goes to various places to offer instruction to not more than one individual[.];

(7) A religious educational institution that certifies, in accordance with COMAR 13B.02.04, that the institution:

(a) Is founded and operated by a church or other religious institution or organization of churches or religious institutions as an integral part of the religious ministry of that institution or organization;

(b) Offers sectarian instruction only designed for and aimed at persons who hold or seek to learn particular religious faiths or beliefs of religious institutions or religious organizations, and provides only educational programs for religious vocations; and

(c) States on the certificate or diploma the religious nature of the award; or

(8) A church or other religious institution offering a postsecondary instructional program leading to a certificate or diploma only if designed for and aimed at persons who hold or seek to learn the particular religious faith or beliefs of that church or religious institution, and providing only educational programs for religious purposes.

C. Exemption.

(1) A person providing training or instruction that is within the scope of §B of this regulation may be granted an exemption by the Secretary. A person seeking an exemption shall file documentation as required by the Secretary.

(2) Each exemption is subject to review on a periodic basis or on receipt of a complaint by the Secretary, who may require the

person holding the exemption to provide further supporting documentation as determined necessary by the Secretary. A person holding an exemption shall comply with the Secretary's request for documentation.

(3) On review by the Secretary, if a person providing training or instruction no longer qualifies for an exemption, the Secretary shall withdraw the exemption and, as required by law, the person shall cease operation and may file an application for approval to operate a private career school.

**.04 School Approval Process.**

- A. — B. (text unchanged)
- C. Renewal of Approval to Operate.

(1) — (4) (text unchanged)

(5) A certificate of approval may be issued by the Secretary for a period not to exceed 5 years. If the certificate of approval is issued for less than a 5-year period, the Secretary shall specify what actions or steps the [institution] school shall be required to take to attain a certificate of approval for a 5-year period. Failure to meet specified requirements within the time allotted by the Secretary constitutes a violation of these regulations. An approval issued before the effective date of these regulations remains valid for the period set by the Secretary at the time of issuance, provided that no provisions of these regulations are violated.

(6) — (7) (text unchanged)

- D. — E. (text unchanged)

**.05 Program Approval Process.**

- A. (text unchanged)
- B. Appeal Procedure.
- (1) — (6) (text unchanged)
- (7) Commission Action.
- (a) (text unchanged)

(b) After an advance written request to the Chairman of the Commission, the chairman may permit [an institution] a school to present a statement in support of or in opposition to the recommendation of the committee.

(c) (text unchanged)

(8) (text unchanged)

**.07 Organization and Administration.**

A. The organization of [an institution] a school shall be designed to accomplish the [institution's] school's objectives as stated in its application for certification of approval.

B. The owner, [or owners] director, and employees of an applicant for approval or of a school shall have a demonstrated history of ethical personal and professional practices. The school shall be administered in conformity with generally accepted educational, professional, and ethical standards.

C. The owner [or owners] of a school that closes may not subsequently own, operate, or finance a school, unless the Secretary determines that all required fines and student tuition refunds were paid by the closed school.

D. At the time of initial approval and renewal of approval, the school shall submit to the Secretary, on forms provided by the Secretary, such information as the Secretary may require on the education, training, and experience of its administrative, marketing and sales, supervisory, and instructional staff. These forms shall be maintained at the school for each new and continuing employee.

- E. Director.

(1) To assure proper supervision, a full-time responsible administrative employee or officer of the school, who is the director or the director's designee, shall be present when the school is in operation. *The director and any designee shall be under the direct supervision and control of the school's owner.* The extent of the authority and responsibilities of the director shall be clearly stated in

the application for approval. Lack of sufficient authority for effective management on the part of the director is considered sufficient reason for denying an application for approval or for revoking a certificate of approval.

(2) The minimum qualifications for a director of a school are 4 years of experience in the area in which training is offered or completion of a standard 4-year college or technical program and 2 years of experience in the area. The Secretary may waive this requirement if it is determined that the minimum qualifications for a director have been met through other specific qualifications. If the school offers instruction in an area in which the director is not qualified, another staff member shall have the qualifications stated above. A director or principal whose qualifications were approved before the effective date of these regulations is considered as having met these requirements.

F. [Administrative Staff.] The administrative staff shall be organized in a structure that is appropriate to the size and purpose of the [institution] school. The duties and responsibilities shall be defined and stated clearly in the application and the administrative policies of the school.

G. The [owners or directors, or both,] director of a school proposed for approval shall demonstrate administrative capability before a certificate of approval is issued.

H. The school's administrative and instructional staff shall be of sufficient size, organization, and quality to perform the duties and responsibilities required of the school and shall be appropriate for the size and purpose of the [institution] school.

- I. (text unchanged)

**.14 Procedure for Student Grievances.**

- A. (text unchanged)

B. The [institution] school shall publish a student grievance procedure in its catalog, student handbook, or other appropriate publication.

- C. — D. (text unchanged)

**.18 Guaranty Student Tuition Fund.**

A. [For purposes of ] In this regulation, the following terms have the meanings indicated:

(1) "Adjusted gross tuition" means all fees received on a cash or accrual accounting method basis for all instructional programs or courses, except the registration, application, and enrollment fees and charges for materials, supplies, and books which have been purchased by, and are the property of, the student, less refunds paid to students.

[(1)] (2) "Assessment year" means [the calendar year (July 1 through June 30) to which the term "gross tuition collected" is applicable, as specified in these regulations] a 12-month period from July 1 to June 30.

[(2)] (3) (text unchanged)

[(3) "Gross tuition collected" means all fees received on a cash or accrual accounting method basis for all instructional programs or courses, except the registration, application, and enrollment fees and charges for materials, supplies, and books which have been purchased by, and are the property of, the student.]

(4) (text unchanged)

[(5) "Unearned tuition" means the refund due a student in accordance with Regulation .12H of this chapter.]

B. The [Maryland Higher Education] Commission shall create and provide for a Guaranty Student Tuition Fund.

- C. — D. (text unchanged)

E. Payment into the Fund.

[(1) Each private career school shall pay an annual fee into the Fund as required by the Secretary.

(2) The Secretary may not issue a certificate of approval to, and shall revoke any certificate of approval previously issued to, a school that fails to pay an annual fee or reassessment to the Fund.

(3) Failure to pay any fee required by the Secretary, including the annual fee, within 30 days of the end of the assessment year is a violation of these regulations.]

[(4)] (1) [New Schools. For a] *An applicant school receiving initial approval[, payment] shall make an initial payment of \$2,500 into the Fund [is as follows:] before a certificate of approval is issued.*

(table proposed for repeal)

[(5)] Applicants seeking initial approval to operate shall make the required payment into the Fund before approval to operate is granted.

(6) Approved Schools. After an approved school has been operating 1 assessment year, that school shall make an annual payment into the Fund in accordance with the following schedule until the Fund contains \$1,000,000:]

(table proposed for repeal)

(2) *Approved Schools.*

(a) *Except as provided in §E(4) of this regulation, an approved school in operation during an assessment year shall make a payment into the Fund following the end of the assessment year in the amount of:*

(i) *.12 percent of the school's adjusted gross tuition, beginning with the assessment year that begins on July 1, 2011;*

(ii) *.165 percent of the school's adjusted gross tuition, beginning with the assessment year that begins on July 1, 2012;*

(iii) *.21 percent of the school's adjusted gross tuition, beginning with the assessment year that begins on July 1, 2013; and*

(iv) *.25 percent of the school's adjusted gross tuition, beginning with the assessment year that begins on July 1, 2014, and for each assessment year that follows.*

(b) *The minimum amount of the annual payment into the Fund is \$250, to be paid by a school whether or not the school charges tuition.*

(c) *The payment shall be made to the Commission with the school's annual report for that year.*

[(7)] If the moneys in the Fund are insufficient to satisfy duly authorized claims, the Secretary may reassess the approved schools as necessary, in addition to the annual assessment, and the approved schools shall pay the additional amounts assessed.]

[(8)] (3) [Change of Ownership. If, after the effective date of this regulation,] *If the Secretary authorizes the operation of a school upon a change in ownership, the school shall make a payment into the Fund[, ] without regard to payments[, if any,] previously made by the [institution] school or its predecessor, under the following conditions:*

(a) *If [an institution] a school has been operating for less than 1 assessment year, [the institution,] under its new ownership, the school shall make a payment into the Fund [in accord with §E(4)] as an applicant school under §E(2) of this regulation; and*

(b) *If [an institution] a school has been operating for at least 1 assessment year, [the institution,] under its new ownership, the school shall pay into the Fund [in accord with the schedule established in §E(6)] as an approved school under §E(2) of this regulation for the last assessment year of operation under the old ownership, and the payment shall be due before approval to operate under new ownership is granted.*

(4) *An accounting shall be made at the end of each assessment year. If at the end of any assessment year, the accounting indicates that the Fund contains \$2,000,000 or more, then during the next assessment year an assessment may not be made against the schools.*

(5) *If the moneys in the Fund are insufficient to satisfy duly authorized claims, the Secretary may reassess the approved schools*

*as necessary, in addition to the annual assessment, and the approved schools shall pay the additional amounts assessed.*

(6) *The Secretary may not issue a certificate of approval to, and may revoke any certificate of approval previously issued to, a school that fails to pay an annual fee or reassessment to the Fund.*

F. — G. (text unchanged)

H. Claims against the Fund may be paid in whole or in part, taking into consideration the:

(1) — (2) (text unchanged)

(3) Size and number of claims caused by the cessation of operation of [an institution] a school;

(4) — (5) (text unchanged)

I. — L. (text unchanged)

M. When a claim is allowed, the Secretary, as agent for the Fund, shall be subrogated in writing to the amount of the claim, and the Secretary is authorized to take all steps necessary to perfect the subrogation rights before payment of the claim. If payment of [an institution's] a school's obligation is made from the Fund, the Secretary shall seek repayment of the sums from the [institution] school or such other persons or entities as may be responsible for the [institution's] school's obligations. This provision is enforced through the Office of the Attorney General.

N. (text unchanged)

**.20 Sanctions.**

A. — F. (text unchanged)

G. Sanctions.

(1) Notice.

(a) — (d) (text unchanged)

(e) If a hearing is timely requested, action on any approval request by [an institution] a school issued a notice of deficiencies may be stayed until a determination is made after the hearing.

(2) If a hearing is not requested within the specified time period, or if the notice of deficiencies is upheld in whole or in part after a hearing, the Commission may reprimand the [institution] school or suspend or revoke the [institution's] school's certificate of approval or any other approval issued by the Commission or Secretary.

(3) (text unchanged)

(4) In imposing any sanctions under this section, the Secretary shall consider one or more of the following:

(a) — (b) (text unchanged)

(c) The good faith of the [institution] school and any corrective actions taken, including all reasonable steps or procedures taken by the [institution] school that are necessary and appropriate to comply with statutes and regulations and to correct the violations;

(d) — (e) (text unchanged)

(5) (text unchanged)

(6) Judicial Remedies.

(a) (text unchanged)

(b) If a court grants relief before a hearing that was requested on a timely basis, the Commission shall schedule a hearing in regard to the notice of deficiencies within 2 weeks of the issuance of the court's order, unless the [institution] school requests a delay. The hearing before the Commission shall be conducted in accordance with the Administrative Procedure Act, State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 13B.04.01.

(7) Judicial Review.

(a) (text unchanged)

(b) The decision of the Commission shall be presumed correct and the [institution] school has the burden of proving otherwise.

(c) (text unchanged)



(8) (text unchanged)

JAMES E. LYONS, SR.  
Secretary of Higher Education

**Subtitle 03 FIRE-RESCUE EDUCATION AND TRAINING COMMISSION**

**13B.03.01 Certification Standards and Procedures for Emergency Services Instructors**

Authority: Education Article, §§11-105(u) and 11-503, Annotated Code of Maryland

**Notice of Proposed Action**

[11-108-P]

The Maryland Higher Education Commission proposes to amend Regulations .03, .05, and .07 under **COMAR 13B.03.01 Certification Standards and Procedures for Emergency Services Instructors**. This action was considered by the Maryland Education Commission and approved at its meeting on January 26, 2011, notice of which was given pursuant to State Government Article, §10-506, Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to make the State's Certification Standards and Procedures for Emergency Services Instructors consistent with national model standards adopted by the National Fire Protection Association.

**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 Sue A. Blanshan, Director of Academic Affairs, Maryland Higher Education Commission, 839 Bestgate Road, Suite 400, Annapolis, MD 21401, or call 410-260-4533, or email to [sblansha@mhec.state.md.us](mailto:sblansha@mhec.state.md.us), or fax to 410-260-3200. Comments will be accepted through April 25, 2011. A public hearing has not been scheduled.

**.03 State Emergency Services Instructor Certification Standard.**

A. — D. (text unchanged)

E. Six Sequential Stages of Instructor Candidate System.

(1) — (2) (text unchanged)

(3) Instructor Training.

(a) — (c) (text unchanged)

(d) *A level I instructor training program shall be taught by an MICRB-approved State emergency services instructor approved as an instructor evaluator or instructor trainer. A level II instructor training program shall be taught by an MICRB-approved State emergency services instructor trainer.*

(4) Skills Development.

(a) — (e) (text unchanged)

(f) *In lieu of the prescribed skills development program, the MICRB may consider credentials, experience, or another such program.*

(5) — (6) (text unchanged)

F. Application for Certification.

(1) (text unchanged)

(2) *Application Process.*

(a) *To be considered for certification, the candidate shall submit an application for certification through the sponsoring agency to the MICRB on the form prescribed by the MICRB.*

(b) *A candidate shall complete the application process within 5 years of completion of an MICRB-approved instructor training course.*

(c) *If a candidate has completed the instructor training course between 5 and 10 years before beginning the application process, the candidate shall, in addition to the prescribed initial certification requirements, complete 12 hours of approved instructor methodology.*

(d) *If a candidate has completed the instructor training course more than 10 years before beginning the application process, the candidate shall be required to successfully complete a current, MICRB-approved instructor training program.*

G. — H. (text unchanged)

I. Procedure for Reentering after Failing to Recertify.

(1) (text unchanged)

(2) *An individual who has a certification lapse in excess of 3 years is required to meet initial certification requirements, beginning at the instructor training course.*

**.05 Certification.**

A. — B. (text unchanged)

C. [Currency Requirements.] *To retain approval, an instructor trainer shall teach at least 60 hours in a 3-year certification cycle, 30 of which shall be in instructor training, have at least one successful evaluation in the 3-year certification period by an approved instructor trainer, and complete one of the following requirements:*

(1) *Successfully complete a 3 credit-hour course in teacher education, or the equivalent of 3 credit hours on in-service professional development; [or]*

(2) *Successfully complete 12 hours of continuing education in an approved professional development seminar for instructors; or*

(3) *Research, develop, and teach a professional development seminar for instructors of at least 3 hours in length.*

D. [Reentry.] *An instructor trainer who does not meet currency requirements may reapply after satisfactory completion of §C(1), [or] (2), or (3) of this regulation and be recommended by the sponsoring agency. The MICRB shall review the entire file and may require the applicant to complete other certification requirements.*

**.07 Maryland Instructor Certification Review Board Administration.**

A. — F. (text unchanged)

G. *An MICRB-approved instructor evaluator must administer at least one evaluation during the appointment period as a condition of reappointment as an instructor evaluator. An instructor evaluator not meeting this requirement must successfully complete an MICRB-approved evaluator workshop prior to being recommended and approved for reappointment.*

H. *An instructor receiving initial certification as an MICRB-approved State emergency services instructor may not be approved as an instructor evaluator. An instructor must complete at least one certification cycle and successfully complete an MICRB-approved instructor evaluator workshop before becoming eligible for recommendation and approval as an instructor evaluator.*

[G.] I. (text unchanged)

JAMES E. LYONS, SR.  
Secretary of Higher Education

# Title 22

## STATE RETIREMENT AND PENSION SYSTEM

### Subtitle 01 GENERAL REGULATIONS

#### 22.01.07 Designation of Beneficiary

Authority: State Personnel and Pensions Article, §21-110; Title 21, Subtitle 4; and Title 29, Subtitle 2; Annotated Code of Maryland.

##### Notice of Proposed Action [11-111-P]

The Maryland State Retirement and Pension System proposes to amend Regulation .02, repeal existing Regulation .03, recodify existing Regulation .04 to be .03, and amend and recodify existing Regulation .05 to be Regulation .04 under **COMAR 22.01.07 Designation of Beneficiary**. This action was considered by the State Retirement Agency at an open meeting on June 15, 2010, notice of which was given by publication in 37:11 Md. R. pursuant to State Government Article, §10-560(c), Annotated Code of Maryland.

##### Statement of Purpose

The purpose of this action is to update the Board of Trustee’s regulation pertaining to designation of beneficiaries to clarify what is necessary to properly complete and file a designation of beneficiary form with the Retirement Agency, including the fact that the completed form must be filed with the Retirement Agency to be in effect. The action also outlines the process for changing a designation of beneficiary by a retiree under the so-called dual life options — Options 2, 3, 5, or 6 — that provide a monthly benefit to a beneficiary following the retiree’s death and removes the reference to honoring a designation of beneficiary under a court order of divorce in order to clarify that it is the member’s, former member’s, or retiree’s responsibility to comply with any court order when designating a beneficiary.

##### 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 Howard Pleines, Director, Legislation, State Retirement Agency, 120 E. Baltimore Street, Baltimore, Maryland 21202, or call 410-625-5602, or email to hpleines@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through April 25, 2010. A public hearing has not been scheduled.

#### **.02 Designation of Beneficiary Form.**

A. [The Retirement Agency shall provide a designation of beneficiary form to a member, former member, or retiree who is eligible to designate a beneficiary to receive a survivor benefit.] *Completion and Filing of Designation of Beneficiary Form.*

(1) A member, former member, or retiree may designate a beneficiary to receive a survivor benefit by properly completing the

appropriate form that the Retirement Agency provides and filing it with the Retirement Agency.

(2) A designation of beneficiary form is properly completed if it is completed in accordance with the form’s instructions, dated, signed by the member, former member, or retiree, and properly acknowledged by a notary public.

(3) *Filing a Designation of Beneficiary Form.*

(a) A designation of beneficiary form is filed on the date that it is received by the administrative offices of the Retirement Agency at the address provided on the designation of beneficiary form.

(b) A designation of beneficiary form is not considered filed if it is submitted to the employing agency of a member, former member, or retiree.

[B. A member, former member, or retiree shall complete a designation of beneficiary form and file it with the Retirement Agency.]

[C.] *B. Designation of Multiple Beneficiaries.*

(1) Except as provided in [§C(2)] §B(2) of this regulation, a member, former member, or retiree may designate [one or more] multiple beneficiaries on the designation of beneficiary form to receive the survivor benefit [on the designation of beneficiary form] in equal shares.

(2) [A] *Subject to State Personnel and Pensions Article, §21-402(b)(2), Annotated Code of Maryland, for an optional form of allowance providing for payment to a designated beneficiary for life, a retiree may designate only [the number of beneficiaries permitted by the optional form of allowance selected by the retiree under State Personnel and Pensions Article, §21-403, Annotated Code of Maryland] one individual.*

[D.] *C. On the death of a member, former member, or retiree, the Retirement Agency shall use the last designation of beneficiary form properly completed and filed with the Retirement Agency by the member, former member, or retiree on or before the date of death [and accepted by the Retirement Agency] to ascertain who is entitled to receive the survivor benefit.*

[E.] *D. The Board of Trustees is not liable for an improper payment if the Board of Trustees pays the survivor benefit [to the person or persons designated on] in accordance with the last designation of beneficiary form filed on or before the date of death of [by] the member, former member, or retiree [and accepted by the Retirement Agency].*

[F.] *E. Change of Designation of Beneficiary Form.*

(1) Except as provided in [§F(2)] §E(2) of this regulation, a member, former member, or retiree may change the designation of beneficiary [form] at any time before the death of the member, former member, or retiree.

(2) [A retiree who elects to receive payment of the retiree’s allowance under Option 5 or Option 6 described in State Personnel and Pensions Article, §21-403(e) or (f), Annotated Code of Maryland, may not change the designation of beneficiary form at any time on or after the death of the designated beneficiary.] *Change of Designation of Beneficiary by Retiree Under Optional Forms of Allowance 2, 3, 5, or 6.*

(a) *This subsection applies only to a retiree who elected an optional form of allowance providing for payment to a designated beneficiary for life.*

(b) *Before a retiree may change the retiree’s designated beneficiary, the retiree shall first request a recalculation of the amount of the retiree’s allowance based on the new proposed beneficiary.*

(c) *The submission of a request for recalculation pursuant to §E(2)(b) of this regulation does not change the retiree’s designation of beneficiary.*

(d) Upon receipt of a request for recalculation pursuant to §E(2)(b) of this regulation, the Retirement Agency will provide the retiree with the following:

(i) A written estimate of the retiree's recalculated allowance based on the new proposed beneficiary; and

(ii) A form that may be used by the retiree to change the retiree's designation of beneficiary to the new proposed beneficiary.

(e) A retiree may not change the retiree's designated beneficiary until after receipt of the items specified in §E(2)(d) of this regulation.

**[.05] .04 No Designated Beneficiary.**

[The] Upon the death of a member, former member, or retiree, the Board of Trustees shall pay any survivor benefit to the estate of [an individual] the member, former member or retiree if:

A. The [individual] member, former member, or retiree did [does] not properly complete and file a designation of beneficiary form; or

B. Each designated beneficiary has predeceased the [individual] member, former member, or retiree.

R. DEAN KENDERDINE  
Executive Director  
State Retirement Agency

**Subtitle 02 OPTION AND ANNUITY TABLES**

**22.02.01 Option Factors and Annuity Values**

Authority: State Personnel and Pensions Article, §§20-202, 21-108, 21-110, 21-125, and 21-402, Annotated Code of Maryland

**Notice of Proposed Action**

[11-113-P]

The Maryland State Retirement and Pension System proposes to amend Regulation .03 under **COMAR 22.02.01 Option Factors and Annuity Values**. This action was considered by the State Retirement Agency at an open meeting held on October 19, 2010, notice of which was given by publication in the 37:20 Md. R. pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to update the title of the Natural Resources Pension System to the Law Enforcement Officers' Pension System.

**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 Howard Pleines, Director, Legislation, State Retirement Agency, 120 E. Baltimore Street, Baltimore, Maryland 21202, or call 410-625-5602, or email to hpleines@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through April 25, 2011. A public hearing has not been scheduled.

**.03 Law Enforcement Annuity Factors.**

The law enforcement option factors and annuity values, set forth in Chapter 03 of Option Factors and Annuity Values, shall be applicable to the [Natural Resources] Law Enforcement Officers' Pension System, Local Fire and Police System, and State Police Retirement System.

R. DEAN KENDERDINE  
Executive Director  
State Retirement Agency

**Subtitle 05 SERVICE CREDIT**

**22.05.01 Qualifying Leaves of Absence**

Authority: State Personnel and Pensions Article, §§21-110, 22-304, 23-306, and 26-306, Annotated Code of Maryland

**Notice of Proposed Action**

[11-112-P]

The Maryland State Retirement and Pension System proposes to amend Regulations .02 and .03 under **COMAR 22.05.01 Qualifying Leaves of Absence**. This action was considered by the State Retirement Agency at an open meeting held on October 19, 2010, notice of which was given by publication in 37:20 Md. R. pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to remove obsolete language related to granting approved leave for service in a professional or employee organization.

**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 Howard Pleines, Director, Legislation, State Retirement Agency, 120 E. Baltimore Street, Baltimore, Maryland 21202, or call 410-625-5602, or email to hpleines@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through April 25, 2011. A public hearing has not been scheduled.

**.02 Definition.**

"Qualifying leave of absence" means a leave of absence which is approved by a member's employer for one of the following reasons:

A. — C. (test unchanged)

[D. Service in a professional or employee organization;]

[E.] D. — [F.] E. (text unchanged)

**.03 Service Credit for a Qualifying Leave of Absence.**

A. Grant of Eligibility and Creditable Service Credit.

(1) — (2) (text unchanged)

[(3) A member who is absent from employment to serve as a full-time executive officer of an employee organization designated as exclusive representative under a public bargaining law or the State affiliate of an organization so designated may receive eligibility or creditable service credit for the period of the member's absence if the

Retirement Agency receives:

(a) The completed application for a qualifying leave of absence form stating the date when the member's qualifying leave of absence begins; and

(b) Payment during the period of the member's absence of the member contributions, if any, and the employer contributions payable with respect to the member's earnable compensation as provided in the member's State system.]

B. (text unchanged)

C. Member Contributions.

[(1) This section does not apply to a member who is on a qualifying leave of absence under §A(3) of this regulation.]

[(2)] (1) — [(4)] (3) (text unchanged)

D. (text unchanged)

R. DEAN KENDERDINE  
Executive Director  
State Retirement Agency

## Subtitle 05 SERVICE CREDIT

### 22.05.06 Service Credit for Officers of Employee Organizations

Authority: State Personnel and Pensions Article, §21-110, Annotated Code of Maryland

#### Notice of Proposed Action

[11-110-P]

The Maryland State Retirement and Pension System proposes to adopt new Regulations .01 — .03 under a new chapter, **COMAR 22.05.06 Service Credit for Officers of Employee Organizations**. This action was considered by the State Retirement Agency at an open meeting on October 19, 2010, notice of which was given by publication in 37:20 Md. R. pursuant to State Government Article, §10-560(c), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to promulgate new Regulations for those members who are elected to serve in a professional or employee organization to clarify the service credit they may receive while holding office.

#### 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 Howard Pleines, Director, Legislation, State Retirement Agency, 120 E. Baltimore Street, Baltimore, Maryland 21202, or call 410-625-5602, or email to hpleines@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through April 25, 2011. A public hearing has not been scheduled.

#### .01 Definitions.

A. In this chapter, the following term has the meaning indicated.

B. Term Defined. "Employee organization" means an organization designated as the exclusive representative under a public bargaining law or the State affiliate of an organization so designated.

#### .02 Grant of Eligibility and Creditable Service Credit.

A member who is elected to serve as a full-time executive officer of an employee organization may receive eligibility and creditable service for the period the member serves as such officer if, during that period:

A. the member remits member contributions, if any; and

B. the participating employer remits employer contributions payable with respect to the member's earnable compensation as provided in the member's State system. The employee organization may not remit payments of member or employer contributions to the Retirement Agency.

#### .03 Limits on Service Credit.

If the member elected as an officer of the employee organization becomes eligible to receive a retirement benefit of any type from the employee organization, the member shall notify the Retirement Agency and is subject to the following limitations with respect to his retirement benefit from the State system:

A. The member may only receive a maximum of 5 years eligibility and creditable service; and

B. The member must have 5 years of eligibility or creditable service with one or more participating employers before receiving eligibility or creditable service for time spent as an officer of an employee organization.

R. DEAN KENDERDINE  
Executive Director  
State Retirement Agency

# Special Documents

## MARYLAND HEALTH CARE COMMISSION

### Schedules for Certificate of Need Review

The Maryland Health Care Commission provides the following schedules to interested members of the public and potential developers of projects involving health services and facilities that are subject to Certificate of Need (“CON”) review and approval. The general criteria for Certificate of Need review are set forth at COMAR 10.24.01.08G(3). An applicant must demonstrate that the proposed project is consistent with these review criteria, as well as with applicable standards and need projections in the State Health Plan for Facilities and Services (State Health Plan), in order to be approved for a Certificate of Need.

This Certificate of Need review schedule updates and extend the schedules published in 37:21 *Md. Register*, pages 1469-1472 (October 8, 2010) and 37:26, *Md. Register*, page 1821 (December 17, 2010) by repealing each previously published scheduled review for which the due date for receipt of Letters of Intent has not yet occurred. This review schedule is not a solicitation by the Commission for Certificate of Need applications, and does not indicate in itself that additional capacity is needed in services subject to Certificate of Need review, or that Certificate of Need applications submitted for the services described will be approved by the Commission.

Applicants are encouraged to discuss their development plans and projects with the Commission Staff prior to filing letters of intent or applications.

Letters of Intent and Applications for scheduled reviews may only be received and reviewed according to these published schedules. All Letters of Intent and Certificate of Need applications, including all of the required number of copies of CON applications, must be received at the offices of the **Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215, no later than 4:30 p.m.** on the scheduled date of submission.

For further information about review schedules or procedures, call Paul Parker, Chief of Certificate of Need, at (410) 764-3261.

#### Acute Care Hospital Projects: Capital Construction and Changes to Bed Capacity

The Commission hereby publishes the following schedules for the submission of Certificate of Need applications by acute care hospitals, for projects that involve capital expenditures related to replacement hospital facilities, new construction or renovation to existing acute care hospitals, proposed increases in licensed medical-surgical-gynecology-addictions and/or pediatric bed capacity at existing hospitals, or projects that involve more than one of these categories. Note that the following schedules do not apply to a project to establish a new acute care hospital.

#### Schedule One: All Acute Care Hospital Projects

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Allegany, Frederick, Garrett, Washington	May 6, 2011	May 19, 2011	July 8, 2011
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	June 3, 2011	June 15, 2011	August 5, 2011
Caroline, Cecil, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, Worcester	July 8, 2011	July 20, 2011	September 9, 2011
Calvert, Charles, Montgomery, Prince George’s, St. Mary’s	August 5, 2011	August 17, 2011	October 7, 2011

#### Schedule Two: All Acute Care Hospital Projects

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Allegany, Frederick, Garrett, Washington	November 4, 2011	November 16, 2011	January 6, 2012
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	December 2, 2011	December 14, 2011	February 3, 2012
Caroline, Cecil, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, Worcester	January 6, 2012	January 18, 2012	March 9, 2012
Calvert, Charles, Montgomery, Prince George’s, St. Mary’s	February 3, 2012	February 15, 2012	April 6, 2012

**SPECIAL DOCUMENTS**

**Special Hospitals (Pediatric, Psychiatric, Chronic, and Rehabilitation)**

The Commission hereby publishes the following schedules for the submission of applications for any action related to facilities within the “special hospital” license category (psychiatric, chronic, rehabilitation, or pediatric), for projects including a replacement facility for an existing special hospital, capital expenditures for new construction or renovation at an existing special hospital, or changes to service categories or bed capacity in an existing special hospital. Note that the following schedules do not apply to a project to establish a new special hospital.

For this special hospital services schedule, the Commission will use the following regional configuration of counties:

<b>Western Maryland:</b> Allegany, Carroll, Frederick, Garrett, Washington	<b>Central Maryland:</b> Anne Arundel, Baltimore, Harford, Howard, Baltimore City
<b>Montgomery :</b> Montgomery County	<b>Southern Maryland:</b> Calvert, Charles, Prince George’s, St. Mary’s
<b>Eastern Shore:</b> Caroline, Cecil, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, Worcester	

**Schedule One  
Special Hospitals (Pediatric, Psychiatric, Chronic, and Rehabilitation)**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Western Maryland	April 1, 2011	April 13, 2011	June 3, 2011
Montgomery County	June 3, 2011	June 15, 2011	August 5, 2011
Southern Maryland	July 1, 2011	July 13, 2011	September 2, 2011
Central Maryland	August 5, 2011	August 17, 2011	October 7, 2011
Eastern Shore	September 2, 2011	September 14, 2011	November 4, 2011

**Schedule Two  
Special Hospitals (Pediatric, Psychiatric, Chronic, and Rehabilitation)**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Western Maryland	October 7, 2011	October 19, 2011	December 9, 2011
Montgomery County	December 2, 2011	December 14, 2011	February 3, 2012
Southern Maryland	January 6, 2012	January 18, 2012	March 9, 2012
Central Maryland	February 3, 2012	February 15, 2012	April 6, 2012
Eastern Shore	March 2, 2012	March 14, 2012	May 4, 2012

**Neonatal Intensive Care Units (NICU)**

The Commission hereby publishes the following schedules for the submission of applications to establish a new neonatal intensive care unit at an acute care hospital.

**Schedule One  
Neonatal Intensive Care Units (NICU)**

	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
All regions	July 1, 2011	July 13, 2011	September 2, 2011

**Schedule Two  
Neonatal Intensive Care Units (NICU)**

	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
All regions	December 2, 2011	December 14, 2011	February 3, 2012

**Alcohol and Substance Abuse Treatment Facilities**

The Commission hereby publishes the following schedules for the submission of Certificate of Need applications to establish intermediate care facilities for the treatment of alcohol and substance abuse. Applications will be considered according to this schedule for programs categorized by the Commission as “Track 1,” or privately-funded facilities, which are required by State Health Plan policies to treat 15 to 30% indigent and “gray area” clients, for adults or adolescents (up to age 17), respectively, in the health service areas in which the Commission’s projections indicate need for new treatment capacity.

Letters of intent and applications to establish “Track 2,” or publicly-funded facilities, defined by the State Health Plan as those “substantially funded by the budget processes of the State” or “by one or more jurisdictional governments,” [(COMAR 10.24.14.08B(21)], which must reserve at least 50% of their proposed annual adolescent or adult bed capacity for indigent and “gray area” patients, may be submitted at any time.

In the State Health Plan for this service and in this schedule, the following regional configuration of counties applies:

<b><u>Western Maryland:</u></b> Allegany, Carroll, Frederick, Garrett, Washington	<b><u>Central Maryland:</u></b> Anne Arundel, Baltimore, Harford, Howard, Baltimore City
<b><u>Montgomery:</u></b> Montgomery County	<b><u>Southern Maryland:</u></b> Calvert, Charles, Prince George’s, St. Mary’s
<b><u>Eastern Shore:</u></b> Caroline, Cecil, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, Worcester	

**Schedule One: Track 1 (Private) Facilities for Adults  
Alcohol and Substance Abuse Treatment Facilities**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Southern Maryland	April 1, 2011	April 13, 2011	June 3, 2011
Eastern Shore	May 6, 2011	May 18, 2011	July 8, 2011
Montgomery County	June 3, 2011	June 15, 2011	August 5, 2011
Western Maryland	July 1, 2011	July 13, 2011	September 2, 2011
Central Maryland	August 5, 2011	August 17, 2011	October 7, 2011

**Schedule Two: Track 1 (Private) Facilities for Adults  
Alcohol and Substance Abuse Treatment Facilities**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Southern Maryland	October 7, 2011	October 19, 2011	December 9, 2011
Eastern Shore	November 4, 2011	November 16, 2011	January 6, 2012
Montgomery County	December 2, 2011	December 14, 2011	February 3, 2012
Western Maryland	January 6, 2012	January 18, 2012	March 9, 2012
Central Maryland	February 3, 2012	February 15, 2012	April 6, 2012

**Freestanding Ambulatory Surgical Facilities**

The Commission hereby establishes the following schedules for the submission of applications for new freestanding ambulatory surgical facilities, as defined in statute at Health-General Article §19-114(b).

**SPECIAL DOCUMENTS**

**Schedule One  
Freestanding Ambulatory Surgical Facilities**

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Calvert, Charles, Montgomery, Prince George's, St. Mary's	April 1, 2011	April 13, 2011	June 3, 2011
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	May 6, 2011	May 18, 2011	July 8, 2011
Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot Wicomico, Worcester	June 3, 2011	June 15, 2011	August 5, 2011
Allegany, Frederick, Garrett, Washington	August 5, 2011	August 17, 2011	October 7, 2011

**Schedule Two  
Freestanding Ambulatory Surgical Facilities**

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Calvert, Charles, Montgomery, Prince George's, St. Mary's	October 7, 2011	October 19, 2011	December 2, 2012
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	November 4, 2011	November 16, 2011	January 6, 2012
Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot Wicomico, Worcester	December 2, 2011	December 14, 2011	February 3, 2012
Allegany, Frederick, Garrett, Washington	February 3, 2012	February 15, 2012	April 6, 2012

**Comprehensive Care Facility Projects**

The Commission hereby publishes the following schedule for Certificate of Need review of proposed projects affecting comprehensive care facilities (CCFs).

In the State Health Plan for this service, the following regional configuration of jurisdictions applies:

<b><u>Western Maryland:</u></b> Allegany, Carroll, Frederick, Garrett, Washington	<b><u>Central Maryland:</u></b> Anne Arundel, Baltimore, Harford, Howard, Baltimore City
<b><u>Montgomery :</u></b> Montgomery County	<b><u>Southern Maryland:</u></b> Calvert, Charles, Prince George's, St. Mary's
<b><u>Eastern Shore:</u></b> Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, Worcester	

**Schedule One:  
Comprehensive Care Facility Projects**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Eastern Shore	April 1, 2011	April 13, 2011	June 3, 2011
Western Maryland	May 6, 2011	May 18, 2011	July 8, 2011
Montgomery County	June 3, 2011	June 15, 2011	August 5, 2011
Central Maryland	July 1, 2011	July 13, 2011	September 2, 2011
Southern Maryland	August 5, 2011	August 17, 2011	October 7, 2011



**Schedule Two:  
Comprehensive Care Facility Projects**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Eastern Shore	October 7, 2011	October 19, 2011	December 2, 2011
Western Maryland	November 4, 2011	November 16, 2011	January 6, 2012
Montgomery County	December 2, 2011	December 14, 2011	February 3, 2012
Central Maryland	January 6, 2012	January 18, 2012	March 9, 2012
Southern Maryland	February 3, 2012	February 15, 2012	April 6, 2012

**Schedule One:  
Part A: Proposed New Comprehensive Care Facility Beds**

Jurisdiction	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Calvert County	March 11, 2011	March 23, 2011	May 13, 2011

[11-07-36]

# General Notices

## Notice of 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 FOR THE CERTIFICATION OF RESIDENTIAL CHILD CARE PROGRAM ADMINISTRATORS

**Subject:** Public Meeting  
**Date and Time:** April 8, 2011, 9:30 a.m. — 12:30 p.m.  
**Place:** 4201 Patterson Ave., Rms. 100/107 Baltimore, MD  
**Add'l. Info:** Standards Examination  
**Contact:** Carol Johnson (410) 764-5996  
 [11-07-26]

### BOARD OF CHIROPRACTIC AND MASSAGE THERAPY EXAMINERS

**Subject:** Public Meeting  
**Date and Time:** April 14, 2011, 10 a.m. — 1 p.m.  
**Place:** Dept. of Health and Mental Hygiene, 4201 Patterson Ave., Rm. 108, Baltimore, MD  
**Contact:** Maria Ware (410) 764-5902  
 [11-07-16]

### CORRECTIONAL TRAINING COMMISSION

**Subject:** Public Meeting  
**Date and Time:** April 26, 2011, 10 a.m. — 12 p.m.  
**Place:** Public Safety Education and Training Center, 6852 4th St., Sykesville, MD  
**Contact:** Thomas C. Smith (410) 875-3605  
 [11-07-15]

### BOARD OF COSMETOLOGISTS

**Subject:** Public Meeting  
**Date and Time:** April 4, 2011, 9:30 a.m. — 4 p.m.  
**Place:** 500 N. Calvert St., 2nd Fl., Baltimore, MD  
**Add'l. Info:** Centre St. Entrance  
**Contact:** Robert Wood (410) 230-6195  
 [11-07-28]

### BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS

**Subject:** Public Meeting  
**Date and Time:** April 15, 2011, 9 a.m. — 1 p.m.  
**Place:** 4201 Patterson Ave., Baltimore, MD  
**Contact:** Tracey DeSheilds (410) 764-4732  
 [11-07-05]

### CRIMINAL JUSTICE INFORMATION ADVISORY BOARD

**Subject:** Public Meeting  
**Date and Time:** April 11, 2011, 1 — 3 p.m.  
**Place:** Judicial Training Center, 2009D Commerce Park Dr., Upper Level Rm. 5, Annapolis, MD  
**Contact:** Robyn Lyles (410) 585-3185  
 [11-07-20]

### PROFESSIONAL STANDARDS AND TEACHER EDUCATION BOARD

**Subject:** Public Meeting  
**Date and Time:** April 7, 2011, 9 a.m. — 12 p.m.; Additional Dates: May 5, June 2, July 7 (tentative), August 4, September 1, October 6, November 3, and December 1, 2011, 9 a.m. — 12 p.m.  
**Place:** 200 W. Baltimore St., Baltimore, MD  
**Contact:** Madeline Koum (410) 767-0385  
 [11-07-14]

### EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

**Subject:** Public Meeting  
**Date and Time:** April 7, 2011, 1 — 3 p.m.  
**Place:** 653 W. Pratt St., Ste. 212, Baltimore, MD  
**Add'l. Info:** The State Emergency Medical Services Advisory Council (SEMSAC) meets regularly on the 1st Thursday of each month.  
**Contact:** Leandrea Gilliam (410) 706-4449  
 [11-07-11]

### EMERGENCY MEDICAL SERVICES BOARD

**Subject:** Public Meeting  
**Date and Time:** April 12, 2011, 9 — 11 a.m.; part of the meeting may include a closed session.  
**Place:** 653 W. Pratt St., Ste. 212, Baltimore, MD  
**Add'l. Info:** The State Emergency Medical Services Board (EMS Board) meets regularly on the 2nd Tuesday of each month.  
**Contact:** Leandrea Gilliam (410) 706-4449  
 [11-07-10]

### BOARD FOR PROFESSIONAL ENGINEERS

**Subject:** Public Meeting  
**Date and Time:** April 14, 2011, 9 a.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Pamela J. Edwards (410) 230-6263  
 [11-07-35]

### DEPARTMENT OF THE ENVIRONMENT/LAND MANAGEMENT ADMINISTRATION

**Subject:** Public Meeting  
**Date and Time:** April 7, 2011, 9:30 — 11:30 a.m.  
**Place:** MDE, Aeris Conf. Rm., 1800 Washington Blvd., Baltimore, MD  
**Add'l. Info:** Meeting of the Governor's Lead Poisoning Prevention Commission  
**Contact:** Tracy Smith (410) 537-3847  
 [11-07-21]

### BOARD OF ENVIRONMENTAL SANITARIANS

**Subject:** Public Meeting  
**Date and Time:** May 5, 2011, 10 a.m. — 4:30 p.m.  
**Place:** Howard Co. Bureau of Utilities, 8250 Old Montgomery Rd., Columbia, MD  
**Add'l. Info:** A portion of this meeting may be held in closed session.  
**Contact:** Pat Kratochvil (410) 537-3167  
 [11-07-02]

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE

**Subject:** Public Meeting  
**Date and Time:** April 13, 2011, 10 a.m. — 1 p.m.  
**Place:** 201 W. Preston St., 3rd Fl. Conf. Rm., Baltimore, Maryland  
**Add'l. Info:** Youth Camp Safety Advisory Council Meeting  
**Contact:** Linda Rudie (410) 767-8419  
 [11-07-27]

**BOARD OF HEATING,  
VENTILATION, AIR-  
CONDITIONING, AND  
REFRIGERATION CONTRACTORS  
(HVACR)**

**Subject:** Public Meeting  
**Date and Time:** April 13, 2011, 9:30 a.m. — 12 p.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Steve Smitson (410) 230-6169  
[11-07-04]

**HOME IMPROVEMENT  
COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** April 7, 2011, 10 a.m. — 12 p.m.  
**Place:** 500 N. Calvert St., 2nd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Steven Smitson (410) 230-6169  
[11-07-09]

**COMMISSION ON KIDNEY DISEASE**

**Subject:** Public Meeting  
**Date and Time:** April 21, 2011, 2 — 3:30 p.m.  
**Place:** 4201 Patterson Ave., Baltimore, MD  
**Contact:** Eva Schwartz (410) 764-4785  
[11-07-31]

**DIVISION OF LABOR AND  
INDUSTRY/BOARD OF BOILER  
RULES**

**Subject:** Public Meeting  
**Date and Time:** April 15, 2011, 9 a.m.  
**Place:** Laurel College Center, 312 Marshall Ave., 6th Fl., Laurel, MD  
**Contact:** Deborah Stone (410) 767-2225  
[11-07-39]

**BOARD FOR PROFESSIONAL LAND  
SURVEYORS**

**Subject:** Public Meeting  
**Date and Time:** April 6, 2011, 10 a.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Add'l. Info:** A public hearing will be held at 11 a.m. to hear comments on proposed amendments to COMAR 09.13.06.12 "Professional Certification". Contact Pam Edwards at 410-230-6263 for more information.  
**Contact:** Pamela J. Edwards (410) 230-6263  
[11-07-32]

**BOARD FOR PROFESSIONAL LAND  
SURVEYORS AERIAL  
PHOTOGRAMMETRIC  
COMMITTEE**

**Subject:** Public Meeting  
**Date and Time:** April 6, 2011, 1 p.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Pamela J. Edwards (410) 230-6263  
[11-07-33]

**MARYLAND HEALTH CARE  
COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** April 21, 2011, 1 p.m.  
**Place:** Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD  
**Add'l. Info:** Individuals requiring special 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 days before the meeting to make arrangements.  
**Contact:** Valerie Wooding (410) 764-3460  
[11-07-07]

**MINORITY BUSINESS ENTERPRISE  
ADVISORY COMMITTEE**

**Subject:** Public Meeting  
**Date and Time:** April 13, 2011, 8:30 a.m. — 5 p.m.  
**Place:** Harry R. Hughes Dept. of Transportation Bldg., 7201 Corporate Center Dr., 1st Fl., Richard Trainor Conf. Rm., Hanover, MD  
**Contact:** Pam Gregory (410) 865-1253  
[11-07-03]

**BOARD OF MORTICIANS AND  
FUNERAL DIRECTORS**

**Subject:** Public Meeting  
**Date and Time:** April 13, 2011, 10:30 a.m. — 12:30 p.m.  
**Place:** 4201 Patterson Ave., Rms. 108/109, 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:** Robin Bailey (410) 764-4792  
[11-07-08]

**BOARD OF OCCUPATIONAL  
THERAPY PRACTICE**

**Subject:** Public Meeting  
**Date and Time:** April 15, 2011, 8:30 a.m. — 2 p.m.  
**Place:** Spring Grove Hospital Center, 55 Wade Ave., 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  
[11-07-13]

**BOARD OF PILOTS**

**Subject:** Public Meeting  
**Date and Time:** April 8, 2011, 10:30 a.m.  
**Place:** 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Pamela J. Edwards (410) 230-6263  
[11-07-34]

**BOARD OF TRUSTEES OF THE  
PUBLIC DEFENDER SYSTEM FOR  
THE STATE OF MARYLAND**

**Subject:** Public Meeting  
**Date and Time:** April 15, 2011, 3 p.m.  
**Place:** The Judiciary Education and Conference Center, 2011D Commerce Park Dr., Training Rm., Annapolis, MD  
**Add'l. Info:** This is a joint meeting of the Board of Trustees and the OPD v. State workgroup.  
**Contact:** T. Wray McCurdy (410) 686-2200  
[11-07-19]

**RACING COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** April 19, 2011, 12:30 — 1 p.m.  
**Place:** Triple Crown Room, Pimlico Race Course, Baltimore, MD  
**Contact:** J. Michael Hopkins (410) 296-9682  
[11-07-22]

**COMMISSION OF REAL ESTATE  
APPRAISERS AND HOME  
INSPECTORS**

**Subject:** Public Meeting  
**Date and Time:** April 12, 2011, 10:30 a.m.  
— 12 p.m.  
**Place:** 500 N. Calvert St., Baltimore, MD  
**Contact:** Patti Schott (410) 230-6165  
[11-07-01]

**BOARD OF SOCIAL WORK  
EXAMINERS**

**Subject:** Public Meeting  
**Date and Time:** April 8, 2011, 12 — 3  
p.m.  
**Place:** 4201 Patterson Ave., Baltimore,  
MD  
**Add'l. Info:** The Board may discuss/vote  
on proposed regulations. A portion of this  
meeting will be held in closed session.  
**Contact:** James T. Merrow (410) 764-4788  
[11-07-18]

**MARYLAND TRANSPORTATION  
AUTHORITY**

**Subject:** Public Meeting  
**Date and Time:** April 6, 2011, 6 — 8 p.m.  
**Place:** Maryland Transportation Authority,  
MDTA Police/Automotive/Maintenance  
Bldg., 881 Oceanic Dr., Annapolis, MD  
**Add'l. Info:** BBRAG Meeting  
**Contact:** Gail Moran (410) 537-1032  
[11-07-17]

**WORKERS' COMPENSATION  
COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** April 28, 2011, 9 — 11  
a.m.  
**Place:** 10 E. Baltimore St., Baltimore, MD  
**Add'l. Info:** Portions of this meeting may  
be held in closed session.  
**Contact:** Amy Lackington (410) 864-5300  
[11-07-12]

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Title 20	Public Service Commission	\$49	\$32	_____	_____
Title 21	State Procurement Regulations	\$48	\$30	_____	_____
Title 22	State Retirement and Pension System	\$22	\$13	_____	_____
Title 23	Board of Public Works	\$18	\$11	_____	_____
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Title 18	Assessments and Taxation	\$28	\$18	_____	_____
Title 19A	State Ethics Commission	\$33	\$20	_____	_____
Title 20	Public Service Commission	\$64	\$42	_____	_____
Title 21	State Procurement Regulations	\$65	\$42	_____	_____
Title 22	State Retirement and Pension System	\$33	\$18	_____	_____
Title 23	Board of Public Works	\$26	\$15	_____	_____
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Title 30	MD Institute for Emergency Medical Services Systems	\$34	\$20	_____	_____
Title 31	Maryland Insurance Administration	\$90	\$62	_____	_____
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## CODE OF MARYLAND REGULATIONS

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### Title 10

Department of Health and Mental Hygiene: Part & Subtitles

#### Part 1

- 01 Procedures
- 02 Division of Reimbursements
- 03 Health Statistics
- 04 Fiscal
- 05 Freestanding Ambulatory Care Facilities
- 06 Diseases
- 07 Hospitals
- 08 Health Facilities Grants

#### Part 2

- 09 Medical Care Programs

#### Part 3

- 10 Laboratories
- 11 Maternal and Child Health
- 12 Adult Health
- 13 Drugs
- 14 Cancer Control
- 15 Food
- 16 Housing
- 17 Sanitation
- 18 Human Immunodeficiency Virus (HIV) Infection and  
Acquired Immunodeficiency Syndrome (AIDS)
- 19 Dangerous Devices and Substances
- 20 Kidney Disease Program
- 21 Mental Hygiene Regulations
- 22 Developmental Disabilities

#### Part 4

- 23 Advance Directive Registry
- 24 Maryland Health Care Commission
- 25 Maryland Health Care Commission
- 26 Board of Acupuncture
- 27 Board of Nursing
- 28 Board of Examiners in Optometry
- 29 Board of Morticians and Funeral Directors
- 30 Commission on Kidney Disease
- 31 Health Occupation Boards
- 32 Board of Physicians
- 33 Board of Examiners of Nursing Home Administrators
- 34 Board of Pharmacy
- 35 Postmortem Examiners Commission
- 36 Board of Examiners of Psychologists

#### Part 5

- 37 Health Services Cost Review Commission
- 38 Board of Physical Therapy Examiners
- 39 Board of Nursing – Certified Nursing Assistants
- 40 Board of Podiatric Medical Examiners
- 41 Board of Examiners for Audiologists, Hearing Aid  
Dispensers, and Speech-Language Pathologists
- 42 Board of Social Work Examiners
- 43 Board of Chiropractic Examiners
- 44 Board of Dental Examiners
- 45 Maryland Community Health Resources Commission
- 46 Board of Occupational Therapy Practice
- 47 Alcohol and Drug Abuse Administration
- 48 Child Abuse and Neglect Medical Reimbursement Program
- 49 State Anatomy Board
- 50 Tissue Banks
- 51 Vacant
- 52 Preventive Medicine
- 53 Board of Nursing—Electrology Practice Committee
- 54 Special Supplemental Nutrition Program for Women,  
Infants, and Children (WIC)
- 55 State Board of Spinal Cord Injury Research
- 56 Board of Dietetic Practice
- 57 Board for Certification of Residential Child Care Program  
Professionals
- 58 Board of Professional Counselors and Therapists
- 59 Catastrophic Health Emergencies

### Title 11

Department of Transportation – Volume & Subtitles

#### Volume 1

- 01 Office of the Secretary
  - 02 Transportation Service Human Resources System
  - 03 Maryland Aviation Administration
  - 04 State Highway Administration
  - 05 Maryland Port Administration
  - 06 Mass Transit Administration
  - 07 Maryland Transportation Authority
  - 08 Vacant
  - 09 Vacant
  - 10 Vacant
- #### Volume 2 and Volume 3
- 11 Motor Vehicle Administration – Administrative Procedures
  - 12 MVA – Licensing of Businesses and Occupations
  - 13 MVA – Vehicle Equipment
  - 14 MVA – Vehicle Inspections
  - 15 MVA – Vehicle Registration
  - 16 MVA – Vehicle Operations
  - 17 MVA – Driver Licensing and Identification Documents
  - 18 MVA – Financial Responsibility Requirements
  - 19 MVA – School Vehicles
  - 20 MVA – Motorcycle Safety Program
  - 21 MVA – Commercial Motor Vehicles
  - 22 MVA – Preventive Maintenance Program
  - 23 MVA – Drivers' Schools, Instructors, Driver Education Program

### Title 26

Department of the Environment – Part & Subtitles

#### Part 1

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- 02 Occupational, Industrial, and Residential Hazards
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