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# Maryland Register

Issue Date: August 5, 2016

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Volume 43 • Issue 16 • Pages 889—942

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Governor  
Judiciary  
Regulations  
Errata  
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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before July 18, 2016, 5 p.m.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 July 18, 2016.

Brian Morris  
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
- 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

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 <http://www.dsd.state.md.us/PDF/CumulativeTable.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 410-260-3876.

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For subscription forms for the Maryland Register and COMAR, see the back pages of the Maryland Register. Single issues of the Maryland Register are \$15.00 per issue.

## CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

Maryland citizens and other interested persons may participate in the process by which administrative regulations are adopted, amended, or repealed, and may also initiate the process by which the validity and applicability of regulations is determined. Listed below are some of the ways in which citizens may participate (references are to State Government Article (SG), Annotated Code of Maryland):

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

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**Lawrence J. Hogan, Jr.**, Governor; **John C. Wobensmith**, Secretary of State; **Brian Morris**, 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.

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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.dsd.state.md.us](http://www.dsd.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.

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## CLOSING DATES AND ISSUE DATES through JANUARY 20, 2017

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August 19	August 1	August 10	August 8
September 2	August 15	August 24	August 22
September 16**	August 29	September 7	September 2
September 30	September 12	September 21	September 19
October 14	September 26	October 5	October 3
October 28**	October 7	October 19	October 17
November 14***	October 24	November 2	October 31
November 28***	November 4	November 16	November 14
December 9**	November 18	November 30	November 28
December 23	December 5	December 14	December 12
January 6**	December 19	December 28	December 23
January 20**	December 30	January 11	January 9

\* 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 COUNT REFLECTS THIS FORMATTING.**

\*\* Note closing date changes

\*\*\* Note issue date and closing date changes

**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.

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**01.02.08.04** • 43:13 Md. R. 715 (6-24-16)

#### 02 OFFICE OF THE ATTORNEY GENERAL

**02.06.03.01—10** • 42:13 Md. R. 798 (6-26-15)

#### 07 DEPARTMENT OF HUMAN RESOURCES

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#### 08 DEPARTMENT OF NATURAL RESOURCES

**08.02.01.01** • 43:13 Md. R. 717 (6-24-16) (ibr)  
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#### 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

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 13B.08.13.01—.10 • 43:8 Md. R. 506 (4-15-16)  
 13B.08.14.01—.15 • 43:6 Md. R. 421 (3-18-16)  
 13B.08.15.01—.16 • 43:9 Md. R. 546 (4-29-16)

**14 INDEPENDENT AGENCIES**

14.06.03.05,.06 • 42:26 Md. R. 1638 (12-28-15)  
 14.36.04.01,.03—.08 • 43:4 Md. R. 342 (2-19-16)

**15 DEPARTMENT OF AGRICULTURE**

15.14.12.02 • 43:13 Md. R. 747 (6-24-16)  
 15.20.12.01,.02,.05,.07—.09 • 43:12 Md. R. 688 (6-10-16) (ibr)

**20 PUBLIC SERVICE COMMISSION**

20.31.01.02 • 43:12 Md. R. 690 (6-10-16)  
 20.31.02.03,.07 • 43:12 Md. R. 690 (6-10-16)  
 20.50.04.01-2,.05 • 43:12 Md. R. 691 (6-10-16)  
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**22 STATE RETIREMENT AND PENSION SYSTEM**

22.06.01.02,.04,.05 • 43:2 Md. R. 215 (1-22-16)  
 22.06.02.02,.04 • 43:2 Md. R. 215 (1-22-16)  
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 22.06.06.02—.05 • 43:2 Md. R. 215 (1-22-16)  
 22.06.07.01—.10 • 43:2 Md. R. 215 (1-22-16)

**26 DEPARTMENT OF THE ENVIRONMENT**

**Subtitles 01—07 (Part 1)**

26.04.01.01,.01-1,.03,.04,.10—.11-2,.11-4,.15-2,.19,.20,.20-2,  
 .21 • 43:10 Md. R. 596 (5-13-16)  
 26.05.02.10 • 43:13 Md. R. 748 (6-24-16)  
 26.06.01.07 • 43:13 Md. R. 749 (6-24-16)

**Subtitles 08—12 (Part 2)**

26.11.02.17 • 43:13 Md. R. 751 (6-24-16)  
 26.12.03.02—.04 • 43:13 Md. R. 752 (6-24-16)

**29 DEPARTMENT OF STATE POLICE**

29.01.02.01,.02,.11,.16 • 43:10 Md. R. 609 (5-13-16)  
 29.05.02.01—.08 • 43:12 Md. R. 693 (6-10-16)

**30 MARYLAND INSTITUTE FOR EMERGENCY MEDICAL  
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30.01.02.01 • 43:16 Md. R. 930 (8-5-16) (ibr)  
 30.03.06.01—.09 • 43:15 Md. R. 870 (7-22-16)

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**31 MARYLAND INSURANCE ADMINISTRATION**

- 31.04.02.01—.08 • 43:4 Md. R. 343 (2-19-16)  
43:13 Md. R. 753 (6-24-16)
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- 31.15.15.01—.09 • 43:1 Md. R. 76 (1-8-16)  
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- 36.05.18.01—.13 • 43:16 Md. R. 933 (8-5-16)
- 36.05.19.01—.13 • 43:16 Md. R. 933 (8-5-16)

**32 MARYLAND DEPARTMENT OF AGING**

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**33 STATE BOARD OF ELECTIONS**

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- 33.16.03.01,.02 • 43:4 Md. R. 346 (2-19-16)
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- 33.22.01.01—.03 • 43:7 Md. R. 472 (4-1-16)
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CONTROL AGENCY**

- 36.03.02.11,.18 • 43:15 Md. R. 873 (7-22-16)
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- 36.05.05.01—.12 • 43:16 Md. R. 933 (8-5-16)
- 36.05.06.01—.21 • 43:16 Md. R. 933 (8-5-16)
- 36.05.07.01—.06 • 43:16 Md. R. 933 (8-5-16)
- 36.05.08.01—.03 • 43:16 Md. R. 933 (8-5-16)
- 36.05.09.01—.13 • 43:16 Md. R. 933 (8-5-16)
- 36.05.10.01—.13 • 43:16 Md. R. 933 (8-5-16)
- 36.05.11.01—.13 • 43:16 Md. R. 933 (8-5-16)
- 36.05.12.01—.14 • 43:16 Md. R. 933 (8-5-16)



# The Governor

## EXECUTIVE ORDER 01.01.2016.08

### Declaration of Emergency in Howard County

WHEREAS, The State of Maryland is subject to a variety of hazards or disasters including but not limited to severe storms and significant coastal and riverine flooding as well as flash flooding, and other weather related events;

WHEREAS, Having been advised and informed by the Maryland Emergency Management Agency that there may be a need to take protective actions to protect the lives and property of citizens expected to be impacted by severe weather and flooding;

WHEREAS, Because of the potential impacts of this severe weather and flooding in Howard County including effects on roadways, critical infrastructure, and other critical resources and services and because we must prepare for all contingencies, an emergency exists in Howard County;

WHEREAS, In order to waive certain regulations to facilitate emergency response and restoration activities, to activate certain emergency contracts, and to facilitate the deployment of requisite resources within provisions of Maryland law;

WHEREAS, An Executive Order to implement the emergency powers of the Governor, is a prerequisite for potential federal emergency and disaster assistance; and

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

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND THE LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. A State of Emergency exists in Howard County.

B. I authorize the Maryland Emergency Management Agency and all other appropriate state authorities to engage, deploy, and coordinate available resources in support of local jurisdictions and the citizens of Maryland.

Given Under my Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 31st Day of July 2016.

LAWRENCE J. HOGAN, JR.  
Governor

ATTEST:

JOHN C. WOBENSMITH  
Secretary of State

[16-16-20]

# The Judiciary

## COURT OF APPEALS OF MARYLAND

### DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of the Court of Appeals dated July 19, 2016, **KENNETH H. ROSENAU**, Rosenau, LLP, 1801 18th Street, NW, Washington, DC 20009, has been suspended for thirty (30) days by consent, effective immediately, 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 19-737).

\* \* \* \* \*

This is to certify that by an Order of the Court of Appeals dated July 18, 2016, **ERICA S. WHITE**, 2706 Claflin Court, Baltimore, MD 21225, has been indefinitely suspended by consent, effective immediately, from the further practice of law in this State, and her name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-772(d)).

[16-16-19]

# Final Action on Regulations

## Symbol Key

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

## Title 05

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

#### Subtitle 04 SPECIAL LOAN PROGRAMS

##### 05.04.06 Lead Hazard Reduction Grant and Loan Program

Authority: Housing and Community Development Article, §4-706, Annotated Code of Maryland

#### Notice of Final Action

[16-120-F]

On July 19, 2016, the Secretary of Housing and Community Development adopted amendments to Regulations .07 and .09 under **COMAR 05.04.06 Lead Hazard Reduction Grant and Loan Program**. This action, which was proposed for adoption in 43:11 Md. R. 636—637 (May 27, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

KENNETH C. HOLT

Secretary of Housing and Community Development

## Title 08

### DEPARTMENT OF NATURAL RESOURCES

#### Subtitle 03 WILDLIFE

##### 08.03.03 Open Seasons, Bag Limits for Game Birds and Game Animals

Authority: Natural Resources Article, §10-410, Annotated Code of Maryland

#### Notice of Final Action

[16-139-F]

On July 26, 2016, the Secretary of Natural Resources adopted amendments to Regulation .01 under **COMAR 08.03.03 Open Seasons, Bag Limits for Game Birds and Game Animals**. This action, which was proposed for adoption in 43:12 Md. R. 670 (June 10, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

MARK J. BELTON

Secretary of Natural Resources

#### Subtitle 03 WILDLIFE

##### 08.03.03 Open Seasons, Bag Limits for Game Birds and Game Animals

Authority: Natural Resources Article, §§10-205, 10-405, and 10-406, Annotated Code of Maryland

#### Notice of Final Action

[16-136-F]

On July 26, 2016, the Secretary of Natural Resources adopted the repeal of existing Regulations .03—**.05**, **.07**, and **.08** and new Regulations **.03—**.05, **.07**, and **.08** under **COMAR 08.03.03 Open Seasons, Bag Limits for Game Birds and Game Animals**. This action, which was proposed for adoption in 43:12 Md. R. 670—677 (June 10, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

MARK J. BELTON

Secretary of Natural Resources

#### Subtitle 03 WILDLIFE

##### 08.03.04 Forest Wildlife

Authority: Natural Resources Article, §§10-205, 10-408 and 10-415, Annotated Code of Maryland

#### Notice of Final Action

[16-138-F]

On July 26, 2016, the Secretary of Natural Resources adopted amendments to Regulations **.02**, **.03**, **.05**, **.11**, **.20**, and **.22** under **COMAR 08.03.04 Forest Wildlife**. This action, which was proposed for adoption in 43:12 Md. R. 677—679 (June 10, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

MARK J. BELTON

Secretary of Natural Resources

#### Subtitle 03 WILDLIFE

##### 08.03.10 General Wildlife Hunting Regulations

Authority: Natural Resources Article, §10-205, Annotated Code of Maryland

#### Notice of Final Action

[16-137-F]

On July 26, 2016, the Secretary of Natural Resources adopted amendments to Regulation **.02** under **COMAR 08.03.10 General Wildlife Hunting Regulations**. This action, which was proposed for adoption in 43:12 Md. R. 679 (June 10, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

MARK J. BELTON

Secretary of Natural Resources

**Subtitle 07 FORESTS AND PARKS****08.07.03 Forest Management Programs**

Authority: Natural Resources Article, §§5-209(a), 5-210, 5-219, and 5-410; Tax Property Article, §8-211(p); Annotated Code of Maryland

**Notice of Final Action**

[16-132-F]

On July 26, 2016, the Department of Natural Resources adopted Regulations **.01— .04** under **COMAR 08.07.03 Forest Management Programs**. This action, which was proposed for adoption in 43:12 Md. R. 679—680 (June 10, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

MARK J. BELTON  
Secretary of Natural Resources

**Title 10****DEPARTMENT OF HEALTH AND MENTAL HYGIENE****Subtitle 32 BOARD OF PHYSICIANS****10.32.01 General Licensure Regulations**

Authority: Health Occupations Article, §§14-205(a)(2), 14-301, and 14-307, Annotated Code of Maryland

**Notice of Final Action**

[16-140-F]

On July 26, 2016, the Secretary of Health and Mental Hygiene adopted amendments to Regulation **.04** under **COMAR 10.32.01 General Licensure Regulations**. This action, which was proposed for adoption in 43:12 Md. R. 684 (June 10, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

**Subtitle 32 BOARD OF PHYSICIANS****10.32.06 Licensure of Polysomnographic Technologists**

Authority: Health Occupations Article, §§14-5C-07(a)(8), 14-5C-09(c)(3), and 14-5C-10(a), Annotated Code of Maryland

**Notice of Final Action**

[16-141-F]

On July 26, 2016, the Secretary of Health and Mental Hygiene adopted amendments to Regulations **.02, .04, and .08** under **COMAR 10.32.06 Licensure of Polysomnographic Technologists**. This action, which was proposed for adoption in 43:12 Md. R. 684—685 (June 10, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

**Subtitle 32 BOARD OF PHYSICIANS****10.32.08 Licensure of Athletic Trainers**

Authority: Health Occupations Article, §14-5D-11(c), Annotated Code of Maryland

**Notice of Final Action**

[16-134-F]

On July 26, 2016, the Secretary of Health and Mental Hygiene adopted amendments to Regulation **.06** under **COMAR 10.32.08 Licensure of Athletic Trainers**. This action, which was proposed for adoption in 43:12 Md. R. 685—686 (June 10, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

**Subtitle 32 BOARD OF PHYSICIANS****10.32.20 Licensure of Perfusionists**

Authority: Health Occupations Article, §§14-5E-01—14-5E-20, Annotated Code of Maryland

**Notice of Final Action**

[16-125-F]

On July 26, 2016, the Secretary of Health and Mental Hygiene adopted amendments to Regulations **.03, .08— .10, .15, .17, and .18** under **COMAR 10.32.20 Licensure of Perfusionists**. This action, which was proposed for adoption in 43:12 Md. R. 686—688 (June 10, 2016), has been adopted with the nonsubstantive changes shown below.

**Effective Date: August 15, 2016.**

**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 .03A(2): In response to public comment, cardiothoracic anesthesiologist was added as a specialist that may occupy a position on the perfusion advisory committee. Because the scope of practice is the same for a cardiac anesthesiologist and a cardiothoracic anesthesiologist, the change was not substantive.

**.03 Perfusion Advisory Committee.**

A. The Board shall appoint members of the Committee as follows:

- (1) (proposed text unchanged)
- (2) Three physicians, at least one of whom **[[performs]]:**
  - (a) Performs* cardiac or cardio-thoracic surgery; *or* **[[is]]**
  - (b) Is a cardiac or cardio-thoracic anesthesiologist;* and
- (3) (proposed text unchanged)

B.—F. (proposed text unchanged)

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

## Subtitle 47 ALCOHOL AND DRUG ABUSE ADMINISTRATION

### 10.47.06 Substance Abuse Treatment Outcomes Partnerships — (S.T.O.P.) Fund

Authority: Health-General Article, §§8-6C-01—8-6C-04, Annotated Code of Maryland

#### Notice of Final Action

[16-124-F]

On July 21, 2016, the Secretary of Health and Mental Hygiene adopted amendments to Regulations **.02— .04** under **COMAR 10.47.06 Substance Abuse Treatment Outcomes Partnerships (S.T.O.P.) Fund**. This action, which was proposed for adoption in 43:11 Md. R. 638—639 (May 27, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

VAN T. MITCHELL  
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

[16-130-F-I]

On July 26, 2016, the Secretary of Health and Mental Hygiene adopted amendments to Regulation **.04** under **COMAR 10.50.01 Tissue Banks**. This action, which was proposed for adoption in 43:12 Md. R. 688 (June 10, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

## Title 22 STATE RETIREMENT AND PENSION SYSTEM

### 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 Final Action

[16-119-F]

On July 19, 2016, the Board of Trustees for the State Retirement and Pension System adopted amendments to Regulations **.01 — .05** under **COMAR 22.02.01 Option Factors and Annuity Values**. This action, which was proposed for adoption in 43:11 Md. R. 640—641 (May 27, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

R. DEAN KENDERDINE  
Executive Director

## Title 31 MARYLAND INSURANCE ADMINISTRATION

### Subtitle 06 TAXES AND FEES

#### Notice of Final Action

[16-118-F]

On June 19, 2016, the Insurance Commissioner adopted amendments to:

(1) The **authority line** under **COMAR 31.06.01 Allocation and Taxation of Premiums**;

(2) Regulations **.01** and **.02** under **COMAR 31.06.02 Retaliatory Tax**; and

(3) Regulation **.04** under **COMAR 31.06.04 Premium Tax— Required Filings, Payments, Penalties, and Interest**.

This action, which was proposed for adoption in 43:11 Md. R. 643—644 (May 27, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

ALFRED W. REDMER, JR.  
Insurance Commissioner

## Subtitle 04 INSURERS

### 31.04.18 Form Filings Under *the* Maryland Insurance Acquisitions Disclosure and Control Act

Authority: Insurance Article, §§2-109 and 2-209.1 and Title 7, Annotated Code of Maryland

#### Notice of Final Action

[16-054-F]

On July 18, 2016, the Insurance Commissioner adopted the repeal of existing Regulation **.02** and new Regulations **.02— .14** under **COMAR 31.04.18 Form Filings Under the Maryland Insurance Acquisitions Disclosure and Control Act**. This action, which was proposed for adoption in 43:2 Md. R. 228—232 (January 22, 2016) and repropoed in 43:11 Md. R. 641—643 (May 27, 2016), has been adopted as repropoed.

**Effective Date: November 7, 2016.**

ALFRED W. REDMER, JR.  
Insurance Commissioner

**Subtitle 10 HEALTH INSURANCE —  
GENERAL**

**31.10.21 Private Review Agents**

Authority: Insurance Article, §§2-109(a)(1) and 15-10B-03(h), Annotated  
Code of Maryland

**Notice of Final Action**

[16-121-F]

On July 19, 2016, the Insurance Commissioner adopted amendments to Regulation .03 under **COMAR 31.10.21 Private Review Agents**. This action, which was proposed for adoption in 43:11 Md. R. 644 (May 27, 2016), has been adopted as proposed.

**Effective Date: August 15, 2016.**

ALFRED W. REDMER, JR.  
Insurance Commissioner

# 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 02 FISHERIES SERVICE

### 08.02.01 General

Authority: Natural Resources Article, §§4-407 and 4-602, Annotated Code of Maryland

#### Notice of Proposed Action

[16-201-P]

The Secretary of Natural Resources proposes to amend Regulation .13 under **COMAR 08.02.01 General**.

#### Statement of Purpose

The purpose of this action is to limit hunting at Urbana Lake Fishery Management Area to the use of archery equipment only. The primary goal for Urbana Lake is to provide access for fishing. This small 60-acre tract will be managed to provide quality deer hunting for archery hunters in balance with the goals and purpose of this fish management area. The proposal will create a new archery-only area for bowhunters in Maryland.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

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

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

## Opportunity for Public Comment

Comments may be sent to Fishery Management Area Regulations, Regulatory Staff, Department of Natural Resources Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21301, or call 410-260-8300, or email to [fisheriespubliccomment.dnr@maryland.gov](mailto:fisheriespubliccomment.dnr@maryland.gov), or fax to 410-260-8310. Comments will be accepted through September 19, 2016. A public hearing has not been scheduled.

### .13 Fishery Management Areas.

A.—C. (text unchanged)

D. Hunting and Trapping.

(1) (text unchanged)

(2) Hunting is allowed in the following areas described in §C of this regulation:

(a) North Branch Potomac River — Laurel and Folly Run;

and

(b) North Branch Potomac River — McCoole[; and

(c) Urbana Lake].

(3) *Urbana Lake*.

(a) *Hunting is allowed only with archery equipment.*

(b) *Firearms are prohibited.*

[(3)] (4) (text unchanged)

MARK J. BELTON  
Secretary of Natural Resources

## Subtitle 02 FISHERIES SERVICE

### 08.02.03 Crabs

Authority: Natural Resources Article, §4-803, Annotated Code of Maryland

#### Notice of Proposed Action

[16-198-P]

The Secretary of Natural Resources proposes to amend Regulation .15 under **COMAR 08.02.03 Crabs**.

**Statement of Purpose**

The purpose of this action is to align the term of the crabbing charter decal with the term of the commercial licenses that are prerequisites to acquiring the decal.

Currently, the crabbing charter decal is valid from the time of purchase through the end of the calendar year. In order to receive a crabbing charter decal, an individual must be licensed under Natural Resources Article, §4-701, Annotated Code of Maryland, as either a fishing guide or a master fishing guide. These licenses are valid from September 1 through August 31. This action will make the term of the decal match the term of the underlying license in order to make renewal of the decal easier for licensees.

**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 Crabbing Charter Regulations, Regulatory Staff, Department of Natural Resources, Fisheries Service B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through September 6, 2016. A public hearing will be held on August 25, 2016, at 2 p.m., at Tawes State Office Building, 580 Taylor Avenue C-1, Annapolis MD 21401

**.15 Crabbing Charters.**

A.—C. (text unchanged)

D. Crabbing Charters.

(1) (text unchanged)

(2) Crabbing Charter Decal.

(a) (text unchanged)

(b) A decal issued for a crabbing charter:

(i)—(iii) (text unchanged)

(iv) Is valid [from the date of issuance through the remainder of the calendar year following the date of issuance] *for the current commercial license year.*

(3)—(7) (text unchanged)

MARK J. BELTON

Secretary of Natural Resources

**Subtitle 03 WILDLIFE**

**08.03.01 General**

Authority: Natural Resources Article, §§10-405 and 10-407, Annotated Code of Maryland

**Notice of Proposed Action**

[16-202-P]

The Secretary of Natural Resources proposes to amend Regulation **.01** under **COMAR 08.03.01 General**.

**Statement of Purpose**

The purpose of this action is to conform to changes made by the U.S. Fish and Wildlife Service for the age at which a youth hunter may hunt waterfowl during the junior waterfowl hunting days. The

U.S. Fish and Wildlife Service recently increased the maximum age allowed for hunters participating in junior waterfowl hunting days to 16 years old or younger. The previous eligibility was for junior hunters 15 years old or younger.

**Comparison to Federal Standards**

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

**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 Peter Jayne, Associate Director, Wildlife and Heritage Service, Department of Natural Resources, P.O. Box 68, Wye Mills, MD 21679, or call 410-827-8612, or email to peter.jayne@maryland.gov, or fax to 410-827-5186. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) — (20) (text unchanged)

(21) "Junior hunting day" means a day set aside only for individuals[:

(a)] 16 years old or younger to hunt deer [and], wild turkeys[;], and *waterfowl*.

[(b) 15 years old or younger to hunt waterfowl.]

(22) — (41) (text unchanged)

MARK J. BELTON

Secretary of Natural Resources

**Title 09**

**DEPARTMENT OF LABOR,  
LICENSING, AND  
REGULATION**

**Subtitle 20 BOARD OF PLUMBING**

**09.20.01 State Plumbing Code**

Authority: Business Occupations and Professions Article, §§12-205 and 12-207, Annotated Code of Maryland

**Notice of Proposed Action**

[16-196-P-I]

The State Board of Plumbing proposes to amend Regulations **.01— .04** and adopt new Regulation **.05** under **COMAR 09.20.01 State Plumbing Code**. This action was considered at a public meeting of the Maryland Board of Plumbing held on May 19, 2016, notice of which was provided by posting on the Board of Plumbing's website pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.



**Statement of Purpose**

The purpose of this action is to incorporate by reference the 2015 National Standard Plumbing Code Illustrated, the 2015 National Fuel Gas Code (ANSI Z223.1, NFPA 54) and the 2014 Liquefied Petroleum Gas Code (NFPA 58). The Board further proposes to adopt revised Maryland modifications to the National Standard Plumbing Code Illustrated, the National Fuel Gas Code (ANSI Z223.1, NFPA 54) and the Liquefied Petroleum Gas Code (NFPA 58).

**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 Robin Bailey, Executive Director, Mechanical Licensing Boards, Department of Labor, Licensing and Regulation, 500 North Calvert Street, Second Floor, Baltimore, MD 21202, or call 410-230-6160, or email to robin.bailey@maryland.gov, or fax to 410-244-0977. Comments will be accepted through October 7, 2016. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by Board of Plumbing during a public meeting to be held on October 20, 2016, at 500 North Calvert Street, Third Floor, Baltimore, Maryland 21202.

**Editor’s Note on Incorporation by Reference**

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the 2015 National Standard Plumbing Code Illustrated, National Fuel Gas Code, ANSI Z223.1, NFPA 54, 2015 Edition, and Liquefied Petroleum Gas Code, NFPA 58, 2014 Edition, have been declared documents generally available to the public and appropriate for incorporation by reference. For this reason, they will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories was published in 43:1 Md. R. 10 (January 8, 2016), and is available online at www.dsd.state.md.us. These documents may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

**.01 Incorporation by Reference.**

- A. (text unchanged)
- B. Documents Incorporated.
  - (1) [2012] 2015 National Standard Plumbing Code Illustrated (National Association of Plumbing-Heating-Cooling Contractors).
  - (2) National Fuel Gas Code, ANSI Z223.1, NFPA 54, [2012] 2015 Edition.
  - (3) Liquefied Petroleum Gas Code, NFPA 58, [2011] 2014 Edition.

**.02 Modifications to the National Standard Plumbing Code Illustrated.**

- A. (text unchanged)
- B. Basic Principles Section.
  - (1)—(3) (text unchanged)

(4) Add a new Principle No. 23—INSTALLATION OF GAS APPLIANCES GAS PIPING, which shall read: “All installations of gas appliances gas piping shall conform to requirements contained in the codes promulgated by the National Fire Protection Association, ANSI, National Fuel Gas Code, Z223.1, NFPA 54, [2012] 2015, and the Liquefied Petroleum Gas Code, NFPA 58, [2011] 2014, which are incorporated by reference.”

**C. Chapter 1 DEFINITIONS — Section 1.2 DEFINITION OF TERMS.**

- (1)—(2) (text unchanged)
  - (3) On page 37, insert a new definition after the definition of [“House Trap”] “IDR”. The new defined term is: “Incidental Plumbing Services: Repair of faucets, ball-cock valves, and shutoff valves; cleaning of choked drain lines and repairing of minor leaks. Incidental Plumbing Services does not include replacement of any plumbing fixture, new installation, or any work, including repairs of faucets, ball-cock valves, and shutoff valves, cleaning of choked drain lines, and repairing of minor leaks, that requires a permit from a local administrative authority.”
  - (4) (text unchanged)
  - (5) On page [42] 41, insert a new definition after the definition of “Medical Vacuum Systems”. The new defined term is: “Minor Repair Services: Repair or replacement of faucets, ball-cock valves, and shut-off valves; cleaning of choked drain lines; and repairing leaks in piping and fixtures that do not require changes in sizes, types of materials, or pipe configuration. Minor Repair Services does not include complete replacement of any plumbing fixture, new installation, or any work described in this paragraph if a permit is required from the local administrative authority.”
  - (6) On page [45] 44, insert at the end of the definition “Plumbing System”, the language, “within the property line.” Add this sentence to the end of the definition: “It does not include the mains of a public sewer system or private or public sewage treatment or disposal plant outside the property line.”
  - (7) On page [50] 49, insert a new definition after the definition “Sanitary Sewer”. The new defined term is: “Scavenger: Any person engaged in the business of cleaning and emptying septic tanks, seepage pits, privies, or any other sewage disposal facility.”
  - (8) On page [50] 49, insert a new definition after the definition [“Seepage Well or Pit”] “Self-draining”. The new defined term is: “Separator: See Interceptor”.
  - (9) On page [58] 56, insert a new definition after [“Vacuum Breaker, Spillproof”] “Vacuum Breaker, Spill-resistant (SVB)”. The new definition is: “Vacuum Intake: A vacuum intake has no trap or mechanical device to keep gasses from leaving the sewer line. An intake is a vertical pipe installed to provide circulation of air to the drainage system. No intake terminal shall be located directly beneath any door, window or other ventilating opening of the building or of an adjacent building, nor shall any such intake terminal be within 10 feet horizontally of such an opening unless it is at least 2 feet above the top of such opening.”
- D. Chapter 2 GENERAL REGULATIONS.**
- (1) On page 86, after Section 2.30, add the following:
    - 2.31 PLUMBING IN FLOOD HAZARD AREAS**
      - a. Plumbing in buildings and structures that are located in flood hazard areas shall comply with the requirements of the Maryland regulations for the design and construction of utility systems in flood-prone areas.
      - b. In new construction or substantial improvement, no plumbing shall be installed on or above the lowest floor level until the constructed elevation of the lowest floor has been inspected, measured, verified for compliance, documented, and accepted by the Authority Having Jurisdiction.
      - c. Plumbing work shall not be installed on or penetrate through walls that are designed to break away under flood conditions.

d. *Underground piping for water service, building drains, and building sewers shall be installed according to ASCE 24, Section 7.3.1.*

e. *Plumbing piping, fixtures, and equipment within a building or structure shall be installed at or above the required base flood elevation (BFE) or design flood elevation (DFE) as indicated in ASCE 24, Table 7-1. Plumbing piping includes piping for water service, water distribution, sanitary drainage, venting, and storm water drainage.*

f. *Sanitary drain piping and vent piping shall be installed according to ASCE 24, Section 7.3.4 to prevent infiltration from or discharge into floodwater.*

g. *Vertical piping from underground to above the flood level elevation shall be supported from a flood-protected building structural member and covered to protect it from damage by debris according to ASCE 24, Section 7.3.2.*

h. *Water heaters shall be installed at an elevation at or above the required BFE or DFE protection level in ASCE 24, Table 7-1. If installed in an attic or unfinished area, they shall have adequate structural support, access for maintenance and replacement, and a drip pan per NSPC Section 10.15.9 with drainage.*

i. *Where a plumbing fixture or piping has a drain or vent opening below the required BFE or DFE protection level in ASCE 24, Table 7-1 that is subject to backflow or infiltration, it shall be protected according to ASCE 24, Section 7.3.3.*

j. *Manhole covers shall be sealed unless elevated to or above the required BFE or DFE protection level in ASCE 24, Table 7-1.*

[D.] E. Chapter 3 MATERIALS.

(1) On page [89] 88, under Section 3.1 MATERIALS, add new Subsection 3.1.6 which would be defined as:

“3.1.6 Adoption of Uniform Color

All subsurface pipes must be permanently marked or completely colorized for easy identification as follows:

- a. YELLOW—gas, oil, steam, petroleum, or gaseous materials;
- b. BLUE—water;
- c. PURPLE—reclaimed water.”

(2) On page 90, revise Section 3.4.2 Water Service Piping as indicated below:

“a. Water service pipe and fittings to the point of entrance into the building through a foundation wall or floor shall be of materials listed in Table 3.4 and shall be water pressure rated not less than 160 psi at 73 deg F. Water service pipe and pipe fittings shall comply with NSF 61.

b. The working pressure rating of certain approved plastic water piping varies depending on the pipe size, material composition, wall thickness, and methods of joining. Refer to Table 3.4.2.

c. Copper piping for water service shall be ASTM B88, Type L or K.”

(3) On page 91, revise Section 3.4.6.a to read as indicated below:

“a. Materials used in potable water supply systems, including piping, valves, faucets, and other items with contact to potable water for human consumption shall be “lead-free” if required by COMAR 09.20.01.03 Limit on Lead Content.”

[ (2) ] (4) On page [95] 94, under Section 3.12 ALTERNATE MATERIALS AND METHODS, add the following subsection:

“3.12.6 Fire Rating

a. All pipe penetrating a fire-rated wall or ceiling shall meet the integrity of the wall or ceiling.

b. Conformance to this requirement shall be evidenced by a test report from a nationally recognized fire testing laboratory.”

(5) On page 104, Table 3.4 MATERIALS FOR POTABLE WATER PIPING, revise Item 2 as indicated below:

“2. Copper Tube, seamless, Type K, L, or M

Note: Type M is not approved for water service”

[E.] F. Chapter 5 TRAPS, CLEANOUTS AND BACKWATER VALVES.

On page [143] 141, in Section 5.1 SEPARATE TRAPS FOR EACH FIXTURE, paragraph [d(3)] c(3), add the words: “, one compartment is not more than 6 inches deeper than the other, and neither outlet is equipped with a food-waste grinder”, after the word “inlet”.

[F.] G. Chapter 6 LIQUID WASTE TREATMENT EQUIPMENT.

(text unchanged)

[G.] H. Chapter 7 PLUMBING FIXTURES, FIXTURE FITTINGS AND PLUMBING APPLIANCES.

(1) On page [174] 173, in Subsection 7.4.5 Water Closet Seats, add a new paragraph: (text unchanged)

(2) On page [192] 191, in Section 7.21 MINIMUM NUMBER OF REQUIRED FIXTURES, Subsection 7.21.4 Separate Facilities, add the following after EXCEPTION (4):

(text unchanged)

[H.] I. Chapter 9 INDIRECT WASTE PIPING AND SPECIAL WASTE.

On page [215] 214, add a new subsection:

(text unchanged)

[I.] J. Chapter 10 WATER SUPPLY AND DISTRIBUTION.

(1) On page 219, in Section 10.4 PROTECTION OF POTABLE WATER SUPPLY, replace existing subsection 10.4.6 as indicated below:

“10.4.6 Used Water Return

Potable water used for cooling equipment and other applications shall not be returned for reuse in a potable water system. The used water shall be discharged to a drainage system through an air gap or may be used for other approved non-potable applications having required backflow prevention.”

[(1)] (2)— [(3)] (4) (text unchanged)

(5) On page 236, add subsection 10.6.6 as indicated below:

“10.6.6 Water Service Tracer Wiring

a. Underground non-metallic water service piping shall be made detectable by the installation of tracer wiring that complies with Public Utilities Article, §12-129 of the Annotated Code of Maryland.

b. The wire shall be an insulated copper tracer wire suitable for direct burial, at least 10 AWG, or equivalent. Insulation shall be 30 mil minimum thickness, HMWPE or HDPE polyethylene, color coded blue. The wire shall be installed in the same trench as the piping, tied or taped to the pipe every 5 to 8 feet in the 3 o'clock position or installed within 12 inches of the pipe in fill. One end of the wire shall terminate within five feet of the building served, at or above grade, accessible for use, and resistant to physical damage.

c. Tracer wiring installations shall be tested by location with line tracing equipment upon completion of rough grading and again prior to final acceptance.”

[(4)] (6) On page [235] 237, in Subsection 10.8.6 Tank Drain Pipes, add the following Table 10.8.6 to this paragraph: “SIZE OF DRAINPIPES FOR WATER TANKS”

(text unchanged)

[(5)] (7) On page [236] 238, in Section 10.10 WATER SUPPLY SYSTEM MATERIALS, add a new subsection:

“10.10.1 Water Service Pipe

Copper tube when used underground may not be less than type L. All threaded ferrous pipe and fittings shall be galvanized or cement lined, and, when used underground in corrosive soil or filled ground, shall be coal-tar enamel coated, or its equivalent, and threaded points shall be coated and wrapped when installed.”

(8) On page 250, change subsection 10.15.2 to read as follows:

“10.15.2 Hot Water Supply Temperature Maintenance

a. Where the developed length of the hot water supply piping to any hot water outlet exceeds 100 feet from the hot water source, the

system shall maintain the temperature of the hot water to within 25 feet of that outlet.

b. Where temperature maintenance is required by Section 10.15.2.a, the hot water temperature within the piping shall be maintained by recirculation or heat tracing of the hot water piping. The temperature of the hot water in the piping shall be maintained by automatic controls with manual auto-off.

c. Hot water sources shall include hot water heaters and hot water supply piping that is recirculated or heat traced from a hot water source.

d. Recirculated hot water shall be returned to the hot water source through dedicated hot water return piping. Return piping shall have means of adjusting the water flow rate in each section of recirculated supply piping.

EXCEPTION: A demand-controlled hot water supply unit serving an individual plumbing fixture shall be permitted to return water to that fixture's cold water supply until hot water reaches the fixture and the demand cycle stops.

e. The requirements of this section for temperature maintenance shall also apply to tempered water supply piping."

(9) On page 253, change subsection 10.15.7 to read as follows:

"10.15.7 Thermal Expansion Control

a. Where a water pressure regulator (with or without an internal thermal expansion bypass), a backflow preventer, or a check valve is installed such that a closed system is created between hot water heating equipment and the incoming water service, a thermal expansion tank shall be provided.

EXCEPTIONS: (1) Instantaneous water heaters. (2) Well systems with water pressure tanks.

b. Thermal expansion tanks shall be the adjustable pre-charged type for potable water, ASME steel construction with a flexible bladder or bellows, rated for not less than 125 psig and 200 deg F, and sized to limit the water system pressure to no higher than 100 psig. Tanks shall be sized, installed, and adjusted in accordance with the manufacturer's instructions.

c. Thermal expansion tanks shall be connected to the cold water supply piping for the hot water heating equipment, between the heating equipment and its cold water shutoff valve."

[(6)] (10) On page [255] 256, in Section 10.16 SAFETY DEVICES FOR PRESSURE VESSELS, Subsection 10.16.6, add a new paragraph: "h. All water heaters, first floor and above, shall have a pan with a drain to an approved drainage point, unless a variance is granted by the local [Administrative] Authority Having Jurisdiction."

[J.] K. Chapter 11 SANITARY DRAINAGE SYSTEMS. (1) On page [261] 263, in Section 11.2 Building Sewers and Building Drains, Subsection 11.2.3 Building Sewer and Building Drain Size, add a new sentence after "11.5.1A": "The minimum size of the building sewer shall be 3 inches."

(2) On page 263, add subsection 11.2.4 as indicated below:

"11.2.4 Building Sanitary Sewer Tracer Wiring

a. Underground building sanitary sewer non-metallic piping shall be made detectable by the installation of tracer wiring that complies with Public Utilities Article, §12-129 of the Annotated Code of Maryland.

b. The wire shall be an insulated copper tracer wire suitable for direct burial, at least 10 AWG, or equivalent. Insulation shall be 30 mil minimum thickness, HMWPE or HDPE polyethylene, color coded green. The wire shall be installed in the same trench as the piping, tied or taped to the pipe every 5 to 8 feet in the 3 o'clock position or installed within 12 inches of the pipe in fill. One end of the wire shall terminate within five feet of the building served, at or above grade, accessible for use, and resistant to physical damage.

c. Tracer wiring installations shall be tested by location with line tracing equipment upon completion of rough grading and again prior to final acceptance."

L. Chapter 13 STORM WATER DRAINAGE

(1) On page 319, revise subsection 13.1.4 as indicated below:

"13.1.4 Building Storm Sewer Tracer Wiring

a. Underground building storm sewer non-metallic piping shall be made detectable by the installation of tracer wiring that complies with Public Utilities Article, §12-129 of the Annotated Code of Maryland.

b. The wire shall be an insulated copper tracer wire suitable for direct burial, at least 10 AWG, or equivalent. Insulation shall be 30 mil minimum thickness, HMWPE or HDPE polyethylene, color coded green. The wire shall be installed in the same trench as the piping, tied or taped to the pipe every 5 to 8 feet in the 3 o'clock position or installed within 12 inches of the pipe in fill. One end of the wire shall terminate within five feet of the building served, at or above grade, accessible for use, and resistant to physical damage.

c. Tracer wiring installations shall be tested by location with line tracing equipment upon completion of rough grading and again prior to final acceptance."

[K.] M. Chapter 15 TESTS AND MAINTENANCE. On page [342] 339, in Section 15.6 METHODS OF TESTING WATER SUPPLY SYSTEM, add a new subsection e. containing the following sentence: (text unchanged)

[L.] N. Chapter 16 REGULATIONS GOVERNING INDIVIDUAL SEWAGE DISPOSAL SYSTEMS FOR HOMES AND OTHER ESTABLISHMENTS WHERE PUBLIC SEWAGE SYSTEMS ARE NOT AVAILABLE. [Delete all sections of this chapter in its entirety on pages 345—358. Insert below the heading "Chapter to COMAR 26.04.02".] On pages 341—354, delete subsections 16.1 through 16.12 and insert the following:

"16.1 GENERAL PROVISIONS

The use and maintenance of an on-site sewage disposal system is governed by Title 9 of the Environment Article of the Annotated Code of Maryland and Chapters 26.04.02 and 26.04.03 of the Code of Maryland Regulations. These State of Maryland Regulations are herein adopted by reference.

16.2 DESIGN OF INDIVIDUAL SEWAGE DISPOSAL SYSTEMS

The system shall consist of a septic tank, including Best Available Technology (BAT), discharging into a conventional or non-conventional on-site sewage disposal system within an approved on-site disposal area, if found adequate as such and approved by the Director of the Department of Environmental Protection and Sustainability or the Director's Designee.

16.3 CAPACITY OF SEPTIC TANKS

6.3.1 Liquid Capacity

a. The liquid capacity of septic tanks for single dwelling units having up to five bedrooms shall be not less than 1500 gallons. An additional 250 gallons of capacity shall be provided for each bedroom in excess of five. Single dwelling units having three or more bedrooms shall be served by septic tanks having two compartments.

b. Required septic tanks capacities for buildings other than single dwelling units shall be determined by the Director of the Department of Environmental Protection and Sustainability, or the Director's designee, based on the projected peak sewage flow or other pertinent criteria.

16.3.2 Depth of Septic Tank

The top of the septic tank shall be brought to within 24 inches of the finished grade. An access manhole must be extended to the finished grade.

16.4 ABSORPTION TRENCHES

16.4.1 Filter Material

The filter material shall cover the absorption lines and extend the full width of the trench and shall be not less than 6 inches deep beneath the bottom of the absorption lines, and 2 inches above the top of the absorption lines. The filter material may be washed gravel, crushed stone, slag, or clean bank-run gravel ranging from 1/2 to 2-

1/2 inches. The filter material shall be covered with burlap, filter cloth, 2 inches of straw, or equivalent permeable material prior to backfilling the excavation.

16.4.2 Absorption Lines

Absorption lines shall be 4 inch perforated plastic pipe conforming to approved standards. Vertical observation pipes shall be provided at the end of each absorption line that is 4 feet or more in depth. Observation pipes shall be perforated within the entire depth of the filter material. The portion of observation pipes that is above the filter material shall be solid extending to 4 inches minimum above grade and be closed with a removable cap.”

O. Chapter 17 PRIVATE POTABLE WATER SUPPLY SYSTEMS

(1) On pages 355— 361, delete subsections 17.1 through 17.15 and insert the following:

“17.1 GENERAL REQUIREMENTS

Water well construction in the State of Maryland is regulated under authority of Title 9, Subtitle 13, of the Environment Article of the Annotated Code of Maryland and Chapter 26.04.04 of the Code of Maryland Regulations (COMAR). Additionally, non-community potable water systems are governed by COMAR Chapter 26.04.02. These regulations are herein adopted by reference.

17.2 QUANTITY OF WATER REQUIRED

a. The quantity of water required shall be subject to the requirements in COMAR 26.04.04.04.p, which are adopted herein by reference.

b. Where the available primary source of water does not meet the requirements of Section 17.2.a, one of the following secondary water supply sources shall be provided:

- 1) a pressure storage tank of sufficient size.
- 2) a gravity storage tank of sufficient size and a pressure booster pump system.

17.3 WELL TERMINALS

Well terminals shall be subject to the requirements of COMAR 26.04.04.07.5, which are adopted herein by reference.

17.4 INTERCONNECTIONS

a. There shall be no connections between a private potable water supply system and a public water supply system.

b. No private water supply system shall serve more than one property unless approved by the Authority Having Jurisdiction.”

[M.] P. Chapter 18 MOBILE HOME AND TRAVEL TRAILER PARK PLUMBING REQUIREMENTS.

(1) On page 367, revise Section 18.4.2 to read as indicated below:

“18.4.2 Limitations on Wet Venting

Wet vented drain piping shall only serve trailer sites. Drainage from any buildings or other facilities on the site shall not be connected to drain piping from trailer sites that is wet vented.”

(2) On page [371]367, in Subsection 18.4.9, change the section heading, “Wet Vented Branch Drain Lines” to “Wet Venting”, insert “a.” before “No”, and add the following paragraphs:

“b. The drainage system of a utility or other building may not discharge into a wet-vented line. A house sewer may not discharge into a wet-vented line.

c. A house sewer or part of a house sewer may not function as a wet-vent.”

[N.] Q. Add a new Chapter [19] 18-1 INSTALLATION OF GAS APPLIANCES AND GAS PIPING, new Subsection [19.1] 18-1.1 REQUIREMENTS FOR THE INSTALLATION OF GAS APPLIANCES AND GAS PIPING along with the following paragraph:

“The requirements contained in the National Fire Protection Association, ANSI, National Fuel Gas Code, Z223.1, NFPA 54, [2011] 2015, and the Liquefied Petroleum Gas Code, NFPA 58, [2012] 2014, which are being incorporated by reference under Basic Principle #23, are hereby adopted as the installation of gas appliances

and gas piping requirements, provided, however, that this regulation may not be construed to prevent incorporated gas companies from making connections of gas appliances for domestic purposes.”

R. Chapter 19 REFERENCED STANDARDS

On page 372, in Table 19.1, add the following before “ASHRAE Standard 18 – 2008 (R2013)” as indicated below:

ASCE 24 — 2014	Flood Resistant Design and Construction	2.31
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[O.] S. (text unchanged)

.03 Limit on Lead Content.

A.—D. (text unchanged)

E. Components.

(1) Potable water [system] supply components that are within the scope of NSF 61 for drinking water system components and are required to be lead-free shall comply with NSF 61 and [:

- (a) Annex G to NSF 61; or
- (b)] NSF 372.

(2)—(3) (text unchanged)

F.—H. (text unchanged)

.04 Modifications to the National Fuel Gas Code, ANSI Z223.1, NFPA 54.

A. Chapter 2 REFERENCED PUBLICATIONS

On page 54-8, under 2.3.3 CSA America Publications, after “ANSI LC 1/CSA 6.26, Fuel Gas Piping Systems Using Corrugated Stainless Steel Tubing (CSST),” delete “2005” and substitute “2014”.

B. Chapter 5 GAS PIPING SYSTEM DESIGN, MATERIALS, AND COMPONENTS

On page 54-18, under 5.6.3.4 Corrugated Stainless Steel, add the following subsections:

“5.6.3.4.1 Corrugated stainless steel tubing (CSST) shall be listed in accordance with ANSI LC 1/CSA 6.26, Fuel Gas Piping Systems Using Corrugated Stainless Steel Tubing (CSST).

5.6.3.4.2 CSST with an arc resistant jacket shall also be listed for compliance with ANSI LC 1/CSA 6.26, Clause 5.16 - Arc Resistant Jacket or Covering, including its manufacturing and production tests for resistance to extreme temperature cycles, resistance to corrosion, robustness against arcing, and resistance to installation damage.

5.6.3.4.3 Arc resistant CSST shall be listed for installation without the additional electrical bond required by Section 7.13.2 for CSST that is not arc resistant.

5.6.3.4.4 CSST shall be installed in accordance with this Code and the manufacturer's instructions.”

[A.] C. Chapter 7 GAS PIPING INSTALLATION. [On page 63 in] UNDER Section 7.13 ELECTRICAL BONDING AND GROUNDING:

(1) On page 54-62, [In] in subsection 7.13.1, change the section heading “Pipe and Tubing Other Than CSST” to “Gas Piping and Tubing, including CSST” and, in both instances, delete the words “other than CSST”;

(2) On page 54-62, [In] in subsection 7.13.2, [add to the heading “CSST” the words, “with an Arc-Resistant Jacket”. Delete] delete the paragraph under subsection 7.13.2, and insert the following:

“(a) CSST with Arc-Resistant Jacket: A gas piping system that contains one or more segments of CSST without an arc-resistant jacket shall be bonded in accordance with this section. CSST gas piping without an arc-resistant jacket shall require an additional bond to the electrical service grounding electrode system. The bonding jumper shall connect to a metallic pipe or fitting between the point of gas delivery and the first downstream CSST fitting. The bonding jumper shall not be less than 6 AWG copper wire or equivalent;

(b) CSST Other than Arc-Resistant. Gas piping systems with any CSST that is not arc resistant shall be bonded to the electrical

service grounding electrode system or, where provided, to a lightning protection grounding electrode system.”

(3) On page 54-63,[Add] add a new section as 7.13.3 with the heading, “CSST with an Arc-resistant Jacket” and the following paragraph:

“CSST gas piping with an arc-resistant jacket that is listed by an approved agency for installation without the direct bonding required by section 7.13.2 shall be installed in accordance with section 7.13.1 and the manufacturer’s installation instructions.”;

(4) On page 54-63,[Renumber] renumber section “7.13.3 Prohibited Use” to “7.13.4” with the same heading; [and]

(5) On page 54-63, change subsections 7.13.3 and 7.13.4 to read as follows:

“7.13.3 Arc-Resistant CSST. All CSST in an arc resistant gas piping system shall be arc resistant. Each portion of an arc resistant CSST gas piping system shall be electrically continuous and bonded to an effective ground-fault current path. Arc-Resistant CSST gas piping shall be considered to be bonded when it is connected to appliances that are connected to the appliance grounding conductor of the circuit supplying electrical power to that appliance.

7.13.4 Prohibited Use. Gas piping shall not be used as a grounding conductor or electrode.”; and

[(5)] (6) Renumber section “7.13.4 Lightning Protection Systems” to “7.13.5”, with the same heading [and insert the words, “in a building” after “installed”].

**.05 Modifications to the Liquefied Petroleum Gas Code, NFPA 58.**

A. The following sections are omitted in their entirety:

(1) Under Chapter 5 LP-Gas Equipment and Appliances, Section:

- (a) 5.20 Appliances;
- (b) 5.21 Vaporizers, Tank Heaters, Vaporizing Burners, and Gas Air Mixers;
- (c) 5.22 Vehicle Fuel Dispensers;

(2) Under Chapter 6 Installation of LP-Gas Systems, Section:

- (a) 6.2 Location of Containers;
- (b) 6.19 Bulk Plant and Industrial Plant LP-Gas Systems;
- (c) 6.20 LP-Gas Systems in Buildings or in building Roofs or Exterior Balconies;
- (d) 6.21 Installation of Appliances;
- (e) 6.22 Installation of Indirect-Fired Vaporizers;
- (f) 6.23 Ignition source Control;
- (g) 6.24 LP-Gas Systems on Vehicles (Other Than Engine Fuel Systems);
- (h) 6.25 Vehicle Fuel Dispenser and Dispensing Stations;
- (i) 6.26 Containers for Stationary Engineers;
- (j) 6.27 Fire Protection; and
- (k) 6.28 Alternate Provisions for Installation of ASME Containers.

B. The following chapters are omitted in their entirety:

- (1) Chapter 7 LP-Gas Liquid Transfer;
- (2) Chapter 8 Storage of Cylinders Awaiting Use, Resale, or Exchange;
- (3) Chapter 9 Vehicular Transportation of LP-Gas;
- (4) Chapter 10 Buildings or Structures Housing LP-Gas Distribution Facilities;
- (5) Chapter 11 Engine Fuel Systems;
- (6) Chapter 12 Refrigerated Containers;
- (7) Chapter 13 Marine Shipping and Receiving; and
- (8) Chapter 14 Operations and Maintenance.

C. Chapter 1 ADMINISTRATION.

On page 58-7, under Section 1.3 Application:

(1) Subsection 1.3.1 should be changed to read:

“1.3.1 Application of Code. This code is limited to the installation and operation of containers, piping, and associated equipment, when delivering LP-Gas to a building or structure for use as a fuel gas. This code does not apply to portions of LP-Gas systems covered by NFPA 54 (ANSI Z223.1), National Fuel Gas Code.”; and includes the following:

(1) —(4) text unchanged;

(2) Add the following to subsection 1.3.2:

(12) Highway transportation of LP-Gas;

(13) The design, construction, installation, and operation of marine terminals whose primary purpose is the receipt of LP-Gas for delivery to transporters, distributors, or users; and

(14) The design, construction, installation, and operation of pipeline terminals that receive LP-Gas from pipelines under the jurisdiction of the U.S. Department of Transportation (DOT).”.

D. Chapter 4 GENERAL REQUIREMENTS.

(1) On page 58-14, under Section 4.4 Qualification of Personnel, add subsection 4.4.5 as indicated below:

“4.4.5 Persons installing LP-Gas service within the scope of this Code shall be qualified for the installation and operation of the containers, piping, and associated equipment for delivering LP-Gas to a building or structure for use as its fuel gas by being certified for Certification Areas 1.0, 4.1, and 4.2 of the Certified Employee Training Program (CETP) of the National Propane Gas Association.”

MICHAEL J. KASTNER, JR.  
Chair  
Board of Plumbing

**Subtitle 24 BOARD OF PUBLIC ACCOUNTANCY**

**09.24.01 General Regulations**

Authority: Business Occupations and Professions Article, §§2-102, 2-207, 2-209, 2-304—2-307, 2-309, 2-311, 2-313, and 2-416, Annotated Code of Maryland

**Notice of Change to Open Meeting**

[16-146-P]

The Open Meeting notice which appeared in 43:13 Md. R. 725 (June 24, 2016) has been changed. The correct notice follows.

**Open Meeting**

Final action on the proposal will be considered by the Board of Public Accountancy during a public meeting to be held on September 13, 2016, at 9 a.m., at 500 North Calvert Street, 3rd Floor Conference Room, Baltimore, MD 21202.

# Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

## Subtitle 09 MEDICAL CARE PROGRAMS

### Notice of Proposed Action

[16-204-P]

The Secretary of Health and Mental Hygiene proposes to amend:

- (1) Regulation .06 under COMAR 10.09.02 Physicians' Services;
- (2) Regulation .06 under COMAR 10.09.03 Pharmacy Services;
- (3) Regulation .06 under COMAR 10.09.06 Hospital Services; and
- (4) Regulation .05 under COMAR 10.09.09 Medical Laboratories.

### Statement of Purpose

The purpose of this action is to align Medicaid coverage of gender reassignment with the Maryland State Employees' Health Benefit program and recent changes in Medicare policy.

### Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

### 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 dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

## 10.09.02 Physicians' Services

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

### .06 Preauthorization Requirements.

A. The following procedures or services require preauthorization:

- (1)—(5) (text unchanged)
- (6) Surgical procedures for the treatment of obesity; [and]
- (7) *Surgical procedures for the purpose of gender reassignment; and*

[(7)] (8) (text unchanged)

B.—F. (text unchanged)

## 10.09.03 Pharmacy Services

Authority: Health-General Article, §§2-104(b), 15-103, 15-103.1, 15-105, and  
15-118, Annotated Code of Maryland

### .06 Preauthorization Requirements.

A. The provider shall obtain preauthorization from the Department or its designee for any prescription for:

(1)—(3) (text unchanged)

[(4) Male hormones for biologic females;]

[(5)] (4) Female hormones for biologic males *when used for treating sexual aggression;*

[(6)] (5)—[(12)] (11) (text unchanged)

B.—F. (text unchanged)

## 10.09.06 Hospital Services

Authority: Health-General Article, §§2-104(b), 15-102.8, 15-103, and 15-105,  
Annotated Code of Maryland

### .06 Preauthorization Requirements.

A. The following procedures or services require preauthorization:

(1) Inpatient:

(a)—(g) (text unchanged)

(h) All evaluations, procedures, and treatments related [in any way to sex] *to gender* reassignment.

[(i) Medical Assistance prescriptions and injections for male hormones for biologic females and female hormones for biologic males.]

[(j)] (i)—[(o)] (n) (text unchanged)

(2) (text unchanged)

B.—F. (text unchanged)

## 10.09.09 Medical Laboratories

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

### .05 Limitations.

The following are not covered:

A.—F. (text unchanged)

G. Medical laboratory services related to autopsies; *and*

[H. Medical laboratory services associated with sex change, unless the procedure has been preauthorized under one or more Medical Care Programs regulations; and]

[I.] H. (text unchanged)

VAN T. MITCHELL  
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), 15-105, and 15-111,  
Annotated Code of Maryland

### Notice of Proposed Action

[16-190-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .08 under COMAR 10.09.07 Medical Day Care Services.

### Statement of Purpose

The purpose of this action is to modify the indexing of rates in order to ensure that the amount of the applicable index will be known during the time that the annual budget is developed. Language is also proposed to align with federal policy allowing Medicaid payment for services provided free of charge to other patients.

**Comparison to Federal Standards**

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

**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 dhmh.reg@maryland.gov, or fax to 410-767-6483. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**.08 Payment Procedures.**

A.—C. (text unchanged)

D. Per Diem Rate.

(1) Payment to a provider of medical day care services shall be on a per diem basis. The per diem rate is [\$71.08] \$75.99 effective July 1, [2011] 2016.

(2) Effective July 1, [2012] 2017, subject to the limitations of the State's budget, the per diem rate shall be adjusted annually by [adjusting the per diem rate for the preceding fiscal year by] the percentage of the annual increase in the [March] *previous July* Consumer Price Index for All Urban Consumers, medical care component, Washington-Baltimore, from U.S. Department of Labor, Bureau of Labor Statistics. [This rate shall be established 1 month before the beginning of the State's new fiscal year and shall be applicable for the State's entire fiscal year.]

(3) (text unchanged)

E. Payment to a provider of medical day care services may not exceed the lesser of the:

(1) (text unchanged)

(2) Provider's customary charge to the general public for services covered by the Program, *unless the service is free to individuals not covered by Medicaid.*

F. *If the service is free to individuals not covered by Medicaid:*

(1) *The provider:*

(a) *May charge the Program; and*

(b) *Shall be reimbursed in accordance with §D of this regulation; and*

(2) *The provider's reimbursement is not limited to the provider's customary charge.*

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

**Subtitle 09 MEDICAL CARE PROGRAMS**

**10.09.28 Applied Behavior Analysis Services**

*Authority: State Government Article, §§2-104(b), 2-105(b), and 15-103, Annotated Code of Maryland*

**Notice of Proposed Action**

[16-189-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations **.01—10** under **COMAR 10.09.28 Applied Behavior Analysis Services**.

**Statement of Purpose**

The purpose of this action is to introduce new regulations for applied behavior analysis (ABA) services provided to Medicaid children younger than 21 years old with diagnosis of autistic spectrum disorder (ASD) as required by the Centers for Medicare and Medicaid Services CMCS Informational Bulletin dated July 7, 2014.

**Comparison to Federal Standards**

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The Maryland Medical Assistance Program will implement ABA services to children younger than 21 years old diagnosed with ASD during FY 2017, resulting in a net expenditures of \$13,390,440. This amount is included in FY 2017 budget.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	\$13,390,440
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:		
Applied behavior analysis providers	(+)	\$13,390,440
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. and D. The State's budget allocation for Fiscal Year 2017 provides for \$13,390,440 to pay for ABA services to children younger than 21 years old diagnosed with ASD. The projected initial number of children that will be eligible to receive ABA services is estimated to be around 700 cases within the first 6 months, increasing to approximately 1,400 cases by the end of Fiscal Year 2017. The projected length of ABA treatment of a child with ASD is approximately 18 months.

**Economic Impact on Small Businesses**

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

The proposed action will generate \$13,390,440 in revenue to regulated industries. It is expected that many of the practices providing ABA will be small businesses.

**Impact on Individuals with Disabilities**

The proposed action has an impact on individuals with disabilities as follows:

The proposed action affects payment for services that could be used by individuals with disabilities. The ABA treatment could reduce maladaptive behaviors and skills deficits of disabled participants diagnosed with ASD.

**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 dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**.01 Definitions.**

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

B. Terms Defined.

(1) *Applied Behavior Analysis (ABA).*

(a) *"Applied behavior analysis (ABA)" means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvements in human behavior.*

(b) *"Applied behavior analysis (ABA)" includes the direct observations, measurement, and functional analysis of the relations between environment and behavior.*

(2) *"ABA program" means an association, partnership, corporation, or unincorporated group that includes:*

(a) *A licensed BCBA-D or a licensed BCBA; and*

(b) *A BCaBA or an RBT.*

(3) *"Autism spectrum disorder (ASD)" means a group of developmental disorders:*

(a) *Characterized by persistent deficits in social communication and social interaction across multiple contexts;*

(b) *Characterized by restricted, repetitive patterns of behavior, interests, or activities; and*

(c) *Whose symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.*

(4) *"Behavior Analyst Certification Board (BACB)" means the Board accredited by the National Commission for Certifying Agencies that credentials and certifies a BCBA-D, BCBA, or BCaBA, or registers an RBT.*

(5) *"Board certified assistant behavior analyst (BCaBA)" means a paraprofessional who:*

(a) *Delivers ABA treatments that are provided to participants with ASD under the supervision of a licensed BCBA-D or a licensed BCBA; and*

(b) *Obtained a BACB certification.*

(6) *"Board certified behavior analyst (BCBA)" means a licensed professional who:*

(a) *Renders and supervises ABA services that are provided to participants with ASD; and*

(b) *Obtained a BACB certification.*

(7) *"Board certified behavior analyst-doctoral (BCBA-D)" is a licensed professional who:*

(a) *Renders and supervises ABA treatments that are provided to participants with ASD; and*

(b) *Obtained a BACB certification with a doctoral-level credential.*

(8) *"Caregiver" means a willing and able individual who is trained in providing care to the participant.*

(9) *"Comprehensive diagnostic evaluation" means a direct observation of the participant and interviews with the participant's parent or caregiver performed by a qualified health care professional with the help of validated instruments.*

(10) *"Custodial care" means care that is provided:*

(a) *To assist in the activities of daily living, such as bathing, dressing, eating, and maintaining personal hygiene;*

(b) *For maintaining the participant's safety; and*

(c) *By individuals without professional skills or training.*

(11) *"Department" means the Department of Health and Mental Hygiene.*

(12) *"Designee" means the entity designated by the Department to manage the public behavioral health system on behalf of the Department.*

(13) *"Early and periodic screening, diagnosis, and treatment (EPSDT)" means the provision, to individuals younger than 21 years old, of preventive health care pursuant to 42 CFR §441.50 et seq., as amended, and other health care services, diagnostic services, and treatment services that are necessary to correct or ameliorate defects, physical and mental illnesses, and conditions discovered by EPSDT screening services.*

(14) *"Family" means an adult who:*

(a) *Lives with or provides care to the participant; and*

(b) *Is not paid to provide the care.*

(15) *"Individualized education program (IEP)" means a written description of special education and related services to be implemented to meet the individual needs of a child pursuant to COMAR 13A.05.01.03B and 13A.05.01.09.*

(16) *"Individualized family service plan (IFSP)" means a written plan for providing early intervention and other services to an eligible child and the child's family pursuant to COMAR 13A.13.01.03B.*

(17) *"Intermediate care facility for individuals with intellectual disabilities or persons with related conditions (ICF-IID)" means an institution licensed by the Department under COMAR 10.07.20 that provides health-related services or health rehabilitative services for individuals with intellectual disabilities or related conditions.*

(18) *Maladaptive Behavior.*

(a) *"Maladaptive behavior" means behavior that interferes with the participant's activities of daily living or ability to adjust or participate in particular settings.*

(b) *"Maladaptive behavior" includes self-injurious behavior, aggression, tantrums, stereotypies, and rituals.*

(19) *"Maryland Medical Assistance Program" means a program of comprehensive medical and other health-related care for indigent and medically indigent individuals, jointly financed by the federal and state governments and administered by states under Title XIX of the Social Security Act, 42 U.S.C. §1396 et seq., as amended.*

(20) *"Medically necessary" means that the service or benefit is:*

(a) *Directly related to diagnostic, preventive, curative, palliative, rehabilitative, or ameliorative treatment of an illness, injury, disability, or health condition;*

(b) *Consistent with current accepted standards of good medical practice;*

(c) *The most cost-efficient service that can be provided without sacrificing effectiveness or access to care; and*



(d) Not for the convenience of the participant, family, or provider.

(21) "Medicare" means the insurance program administered by the federal government under Title XVIII of the Social Security Act, 42 U.S.C. §1395 et seq., as amended.

(22) "Parent" means the adult representative of a participant and includes:

(a) A biological or adoptive parent;

(b) A legal guardian;

(c) An individual acting in the place of a parent, such as a grandparent or stepparent with whom the participant lives, including those relatives or stepparents who are foster parents;

(d) An individual appointed as the parent surrogate in accordance with Education Article, §8-412, Annotated Code of Maryland, for matters within the scope of the Individuals with Disabilities Education Act; or

(e) Another individual responsible for a participant's welfare.

(23) "Participant" means an eligible individual who is enrolled in the Program.

(24) "Plan for generalization" means a component of the treatment plan whose goal is the expansion of a participant's performance ability beyond the initial conditions set for acquisition of a skill that can occur across people, places, and materials used for teaching.

(25) "Preauthorized" means the approval required from the Department, or its designee, before a provider renders services in order to receive reimbursement for services.

(26) "Program" means the Maryland Medical Assistance Program.

(27) "Provider" means a person certified to provide ABA services to participants and who, through appropriate agreement with the Department, has been identified as a Program provider by the issuance of a provider number.

(28) "Qualified health care professional" means a developmental pediatrician, pediatric neurologist, child psychiatrist, clinical psychologist, or a neuropsychologist with training and experience to diagnose ASD.

(29) "Registered behavior technician (RBT)" means a paraprofessional who delivers ABA services that are provided to participants with ASD under the supervision of a licensed BCBA-D or a licensed BCBA.

(30) "Treatment plan" means an individualized written plan for ABA services which includes the components specified in Regulation .03 of this chapter.

**.02 Provider Qualifications and Conditions for Participation.**

A. A provider shall meet all conditions for participation as set forth in COMAR 10.09.36.03.

B. An ABA provider shall be licensed, certified, or otherwise legally authorized to provide ABA services in the jurisdiction in which the services are provided.

C. An ABA provider may not have current sanctions or current disciplinary actions imposed by:

(1) The jurisdictional licensing or certification authority;

(2) Medicare Program;

(3) Maryland Medical Assistance Program; or

(4) Other federally funded healthcare program.

D. An ABA provider shall have a completed criminal background check that is performed at the time of hiring and at least every 5 years thereafter.

E. A BCBA-D provider who renders ABA services shall:

(1) Be licensed by the Maryland Board of Professional Counselors and Therapists; and

(2) Have a current certification of BCBA-D by the BACB.

F. A BCBA provider who renders ABA services shall:

(1) Be licensed by the Maryland Board of Professional Counselors and Therapists; and

(2) Have a current certification of BCBA by the BACB.

G. A BCaBA provider who renders ABA services shall:

(1) Have a current certification of BCaBA by the BACB;

(2) Work under the supervision of a licensed BCBA-D or BCBA; and

(3) Have the supervisory relationship documented in writing.

H. An RBT provider who renders ABA services shall:

(1) Be 18 years old or older;

(2) Be currently registered by the BACB or become registered by the BACB not later than December 31, 2017;

(3) Have a high school degree or national equivalent;

(4) Work under the supervision of a licensed BCBA-D or a licensed BCBA; and

(5) Have the supervisory relationship documented in writing.

**.03 Participant Eligibility.**

A. A participant shall meet the eligibility conditions set forth in §B of this regulation.

B. To qualify for ABA services, a participant shall:

(1) Be younger than 21 years old;

(2) Live in the community;

(3) Be diagnosed with an ASD by a qualified health care professional and referred for ABA services;

(4) Exhibit the presence of maladaptive behavior or developmental skills deficits that significantly interferes with home, school, or community activities;

(5) Be medically stable and not require 24-hour medical or nursing monitoring or procedures provided in a hospital or an ICF-IID;

(6) Have a comprehensive diagnostic evaluation by a qualified health care professional;

(7) Have a prescription for ABA services ordered by a qualified health care professional; and

(8) Have a completed ABA treatment plan that shall:

(a) Be participant-centered and family-centered, culturally competent, and based on individualized goals;

(b) Consider the participant's age, school attendance requirements, and other daily activities;

(c) Be developed by a licensed BCBA-D or a licensed BCBA;

(d) Ensure that the interventions are consistent with ABA techniques;

(e) Delineate both the frequency of baseline targeted behaviors and the behavior intervention plan to address the behaviors;

(f) Identify long-term goals, short-term goals, and objectives that:

(i) Are behaviorally defined;

(ii) Are specific and tailored to the participant;

(iii) Are measurable;

(iv) Are based upon clinical observations; and

(v) Do not duplicate IEP or IFSP goals and objectives;

(g) Identify the methods that will be used to measure achievement of behavior goals, objectives, and estimated timeframes;

(h) Identify the schedule of services planned, including number of hours per week and the providers responsible for delivering the services;

(i) Include:

(i) Care coordination involving the participant's parent or caregiver and other professionals as applicable;

(ii) Support and training of the participant's parent or caregiver;

- (iii) A plan for generalization; and
- (iv) Measurable discharge criteria.

**.04 Covered Services.**

A. The Program covers the ABA services set forth in §B of this regulation when the services are:

- (1) Medically necessary;
- (2) Preauthorized by the Program or its designee; and
- (3) Delivered in accordance with the participant's treatment plan.

B. The Program covers the following ABA services:

(1) ABA assessment which is a comprehensive behavior assessment that:

- (a) Is performed by a licensed BCBA-D or a licensed BCBA face-to-face with a participant and the participant's parent or caregiver;
- (b) Addresses the behavioral needs for ABA services;
- (c) Includes an interview, direct observation, record review, data collection, and analysis;
- (d) Includes assessment of the participant's current level of functioning, skills deficits, and maladaptive behaviors using validated instruments; and
- (e) Develops a treatment plan;

(2) ABA exposure assessment which is a follow-up assessment that:

- (a) Is conducted on a participant with specific, severe destructive behaviors in a structured, safe environment;
- (b) Is provided by a licensed BCBA-D or a licensed BCBA with the assistance of one or more BCaBAs or RBTs;
- (c) Exposes the participant to a series of social and environmental conditions associated with the destructive behaviors; and
- (d) Uses structured testing to examine events, cues, responses, and consequences associated with the behaviors;

(3) ABA exposure modified treatment which is a face-to-face service that:

- (a) Is conducted on a participant with specific, severe destructive behaviors in a structured, safe environment;
- (b) Is provided by a licensed BCBA-D or a licensed BCBA with the assistance of two or more BCaBAs or RBTs;
- (c) Includes direct supervision of the BCaBAs or RBTs eliciting behavioral effects or exposing the participant to specific environmental conditions and treatment; and
- (d) Refines and modifies ineffective components of the treatment;

(4) ABA group treatment which is a face-to-face service provided to a group of participants by:

- (a) A licensed BCBA-D, a licensed BCBA; or
- (b) A BCaBA or an RBT under the direction of a licensed BCBA-D or a licensed BCBA, utilizing a behavioral intervention protocol designed in advance by the BCBA-D or the BCBA, who may or may not provide direct supervision during the treatment;

(5) ABA modified treatment which is a face-to-face service provided to a participant by a licensed BCBA-D or a licensed BCBA who:

- (a) Resolves one or more problems with the treatment; and
- (b) May simultaneously instruct the BCaBA, RBT, or participant's parent or caregiver in administering the modified treatment;

(6) ABA multiple-family group training which is a behavior treatment guidance that:

- (a) Is provided by a licensed BCBA-D or a licensed BCBA face-to-face with parents or caregivers of multiple participants without the presence of the participants;
- (b) Identifies maladaptive behaviors and skills deficits; and

(c) Instructs parents or caregivers on how to utilize ABA treatments to reduce maladaptive behaviors and skills deficits;

(7) ABA parent training which is a behavior treatment guidance that:

(a) Is provided by a licensed BCBA-D, a licensed BCBA, or a BCaBA face-to-face with a participant's parent or caregiver, with or without the presence of the participant;

(b) Identifies maladaptive behaviors and skills deficits; and

(c) Instructs the parent or caregiver on how to utilize ABA treatments to reduce maladaptive behaviors and skill deficits;

(8) ABA reassessment which is a follow-up assessment that:

(a) Is performed by a licensed BCBA-D or a licensed BCBA face-to-face with a participant and a participant's parent or caregiver every 180 days;

(b) Evaluates the progress toward each behavior treatment goal using objective, quantifiable measures and includes the results of validated instruments;

(c) Includes a revision of the treatment plan based on progress; and

(d) Includes a clinical recommendation as to whether ABA services continue to be medically necessary;

(9) ABA social skills group which is a service that is:

(a) Provided by a licensed BCBA-D or a licensed BCBA face-to-face to multiple participants;

(b) Focused on social skills training; and

(c) Aimed at identifying and targeting individual participants' social deficits and maladaptive behaviors;

(10) ABA supervision which is a clinical direction and oversight of a BCaBA or an RBT by a licensed BCBA-D or a licensed BCBA that:

(a) Requires the BCBA-D or the BCBA to directly observe the BCaBA or the RBT administering ABA services to the participant, group of participants, parent, or caregiver; and

(b) Is performed on an ongoing basis, equal to at least 10 percent of the amount of hours that the BCaBA or the RBT is providing direct ABA services to the participant, or group of participants; and

(11) ABA treatment which is a face-to-face service provided to a participant by:

- (a) A licensed BCBA-D, a licensed BCBA; or
- (b) A BCaBA or an RBT under the direction of a licensed BCBA-D or a licensed BCBA utilizing a behavioral intervention designed in advance by the BCBA-D or the BCBA, who may or may not provide direct supervision during the treatment.

C. ABA services shall only be provided by a BCBA, BCBA-D, BCaBA, or RBT.

D. ABA services shall be initially preauthorized for a period not to exceed 180 days.

E. Additional preauthorization beyond the initial preauthorization shall be requested every 180 days, in advance of the expiration of the previous preauthorization.

F. The provider shall maintain documentation of each service delivered under the participant's treatment plan, which, at a minimum, includes:

- (1) The location, date, start time, and end time of the service;
- (2) A brief description of the service provided, including reference to the treatment plan;
- (3) A description of the participant's behaviors or symptoms in measurable terms;
- (4) A description of the participant's parent or caregiver's participation in the ABA treatment sessions, including the parent or the caregiver's name and relationship to the participant, date and time of participation; and
- (5) A legible signature, along with the printed or typed name of the individual providing care, with the appropriate title.

**.05 Limitations.**

A. ABA services are only available to participants under the EPSDT program.

B. ABA services shall be delivered in a home or community setting, including a clinic.

C. The provider may not bill the Program for:

(1) Services that are:

(a) Provided in:

- (i) A hospital;
- (ii) An institution for mental disease;
- (iii) An ICF-IID;
- (iv) A crisis residential program;
- (v) A residential treatment center;
- (vi) A 24-hour, 365-day residential program funded with non-Medicaid federal, State, or local government funds; or
- (vii) Nonconventional settings, including but not limited to resorts, spas, and camps;

(b) Rendered when measurable functional improvement or continued clinical benefit is not met, and treatment is not deemed necessary;

(c) Not preauthorized by the Department or its designee;

(d) Beyond the provider's scope of practice;

(e) Rendered but not documented in accordance to Regulation .04 of this chapter;

(f) Rendered by mail, telephone, or otherwise not in person;

(2) Services whose purpose is vocationally based or recreationally based;

(3) Respite services;

(4) Custodial care;

(5) Completion of forms and reports;

(6) Broken or missed appointments;

(7) Travel to and from site of service; and

(8) Services which duplicate a service that a participant is receiving under another medical care program.

D. The participant's parent or caregiver shall:

(1) Be trained to reinforce ABA services for the participant in a clinically effective manner; and

(2) Be present or available in the setting where services are being provided at all times, even if not directly participating in the services.

E. Services shall be discontinued when the:

(1) Long-term treatment goals and objectives are achieved;

(2) Participant is not demonstrating progress towards treatment goals and objectives and measurable functional improvement is no longer expected; or

(3) Services are no longer medically necessary.

**.06 Payment Procedures.**

A. The Program shall provide fee-for-service reimbursement for covered ABA services to the following ABA providers who meet the conditions for participation set forth in Regulation .02 of this chapter:

(1) ABA program;

(2) Individual BCBA-D; and

(3) Individual BCBA.

B. Reimbursement for ABA services may not be made directly to a BCaBA or RBT rendering ABA services.

C. Reimbursement for ABA services may not be made to, or on behalf of services rendered by, the participant's parent or caregiver.

D. The Program shall pay for covered services at the lesser of:

(1) The provider's customary charge to the general public unless the services are free to the individuals not covered by Medicaid; or

(2) In accordance with §H of this regulation.

E. The ABA provider shall submit a request for payment as set forth in COMAR 10.09.36.04A.

F. The Program reserves the right to return to the ABA provider, before payment, all invoices that are not properly completed.

G. The Program may not make a direct payment to a participant.

H. Billing time limitations for claims submitted under this chapter are set forth in COMAR 10.09.36.06.

I. Reimbursement for ABA services covered under this chapter is as follows:

(1) ABA assessment at a rate of \$220;

(2) ABA exposure assessment at a rate of \$75 per 30 minutes;

(3) ABA exposure modified treatment at a rate of:

(a) \$150 for the first 60 minutes; and

(b) \$75 per additional 30 minutes;

(4) ABA group treatment at a rate of:

(a) \$15 per 30 minutes, per participant, when provided by a BCBA-D or BCBA;

(b) \$12 per 30 minutes, per participant, when provided by a BCaBA; and

(c) \$10 per 30 minutes, per participant, when provided by an RBT;

(5) ABA modified treatment at a rate of \$55 per 30 minutes;

(6) ABA multiple-family group training at a rate of \$37 per family;

(7) ABA parent training with the participant present at a rate of:

(a) \$55 per 30 minutes when provided by a BCBA-D or BCBA; and

(b) \$30 per 30 minutes when provided by a BCaBA;

(8) ABA parent training without the participant present at a rate of:

(a) \$60 when provided by a BCBA-D or a BCBA; and

(b) \$35 when provided by a BCaBA;

(9) ABA reassessment at a rate of \$55 per 30 minutes;

(10) ABA social skills group at a rate of \$30 per participant;

(11) ABA supervision at a rate of \$55 per 30 minutes; and

(12) ABA treatment at a rate of:

(a) \$35 per 30 minutes when provided by a BCBA-D or BCBA;

(b) \$30 per 30 minutes when provided by a BCaBA; and

(c) \$20 per 30 minutes when provided by an RBT.

**.07 Recovery and Reimbursement.**

Recovery and reimbursement are as set forth in COMAR 10.09.36.07.

**.08 Cause for Suspension or Removal and Imposition of Sanctions.**

Causes for suspension or removal and imposition of sanctions shall be as set forth in COMAR 10.09.36.08.

**.09 Appeals Procedures.**

Appeal procedures are as set forth in COMAR 10.09.36.09.

**.10 Interpretive Regulation.**

This chapter shall be interpreted as set forth in COMAR 10.09.36.10.

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

## Subtitle 09 MEDICAL CARE PROGRAMS

### 10.09.59 Specialty Mental Health Services

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

#### Notice of Proposed Action

[16-200-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.01**, **.04**, and **.06** under **COMAR 10.09.59 Specialty Mental Health Services**.

#### Statement of Purpose

The purpose of this action is to:

(1) Facilitate the integration of mental health and substance-related disorder regulations into a new comprehensive regulation for behavioral health. During the transition period to the new regulations, both the old sets of regulations found in COMAR 10.09.59.04 and the newly promulgated regulations in COMAR 10.63 will be needed; and

(2) Update definitions and regulations for laboratory screens that the administrative services organization (ASO) is responsible for paying.

#### 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 dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

#### .01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) “Definitive drug test” means a drug screening test that includes:

(a) The ability to identify individual drugs and distinguish between structural isomers, but not necessarily stereoisomers, using gas chromatography or mass spectrometry and liquid chromatography or mass spectrometry;

(b) Qualitative or quantitative results;

(c) All source types for specimen selection; and

(d) Specimen validity testing, per day, 1–22 or more drug classes including metabolites, if performed.

[(2)] (3)—[(9)] (10) (text unchanged)

(11) “Presumptive drug test” means a drug screening test that includes:

(a) Any number of drug classes;

(b) Any number of devices;

(c) The use of direct optical observation, instrument assisted direct optical observation or instrumented chemistry analyzers; and

(d) Sample validation.

[(10)] (12)—[(13)] (15) (text unchanged)

#### .04 Provider Requirements for Participation.

A. (text unchanged)

B. Community Mental Health Program Providers. To participate in the Program as a community-based mental health program provider, the provider shall be approved under COMAR 10.21.16 and COMAR 10.63.06, whichever is applicable, by the Office of Health Care Quality as:

(1) A psychiatric rehabilitation program in compliance with:

(a) COMAR 10.21.17 if approved and COMAR 10.63.01 if licensed;

(b) If serving adults, COMAR 10.21.21 if approved and 10.63.03.09 if licensed; and

(c) If serving children, COMAR 10.21.29 if approved and 10.63.03.10 if licensed;

(2) A mobile treatment program in compliance with:

(a) COMAR 10.21.17 and 10.21.19 if approved; and

(b) COMAR [10.21.19] 10.63.01 and 10.63.03.05 if licensed; or

(3) An outpatient mental health clinic in compliance with:

(a) COMAR 10.21.17 and 10.21.20 if approved; and

(b) COMAR [10.21.20] 10.63.01 and 10.63.03.05 if licensed.

C. (text unchanged)

D. Other Licensed or Approved Mental Health Providers. To participate in the Program as a specialty mental health provider not defined in §§A—C of this regulation, a provider shall be approved pursuant to COMAR as a:

(1)—(3) (text unchanged)

(4) Non-hospital-based mental health psychiatric day treatment provider in compliance with:

(a) COMAR 10.21.17 and 20.21.02 if approved; and

(b) COMAR [10.21.02] 10.63.01 and 10.63.03.08 if licensed;

(5)—(8) (text unchanged)

#### .06 Covered Services.

The ASO shall reimburse the following specialty mental health services rendered to participants when authorized by the ASO:

A.—B. (text unchanged)

C. [Laboratory services listed as follows] *Presumptive drug tests and definitive drug tests*, when ordered by a specialty mental health provider, with a behavioral health primary diagnosis listed in COMAR 10.09.70.02I or J on the claim[:].

[table proposed for repeal]

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

## Subtitle 25 MARYLAND HEALTH CARE COMMISSION

### 10.25.16 Electronic Health Record Incentives

Authority: Health-General Article, §§19-103(c)(2)(i) and (ii), 19-109(a)(1), and 19-143(d)(1), (2), (3), and (4) and (i), Annotated Code of Maryland

#### Notice of Proposed Action

[16-185-P]

The Maryland Health Care Commission proposes to amend Regulations **.01** and **.06** under **COMAR 10.25.16 Electronic Health Record Incentives**. This action was considered by the Commission at an open meeting held on June 16, 2016, notice of which was given

through publication in the Maryland Register, under General Provisions Article, §3-302, Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to extend the incentives for 2 years, through December 31, 2018. The action also extends for 2 years, through 2018, the reporting requirement on State-regulated payors to provide the Maryland Health Care Commission with information on the number of incentive payment requests received and payments made.

**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 Angela Evatt, Chief, Health Information Exchange, Maryland Health Care Commission, 4160 Patterson Avenue, or call 410-764-3574, or email to [angela.evatt@maryland.gov](mailto:angela.evatt@maryland.gov), or fax to 410-358-1236. Comments will be accepted through 4:30 p.m. on September 6, 2016. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by the Maryland Health Care Commission during a public meeting to be held on October 20, 2016, at 1 p.m., at 4160 Patterson Avenue, Room 100, Baltimore, Maryland 21215.

**.01 Scope.**

A.—B (text unchanged)

C. Adoption incentives under this chapter are available through December 31, [2016] 2018.

**.06 Reporting.**

A. A payor shall submit:

(1) An annual report to the MHCC for calendar years [2011—2016] 2011—2018 no later than 90 days after the end of each calendar year; and

(2) (text unchanged)

B. —C. (text unchanged)

CRAIG P. TANIO, M.D.  
Chair

**Subtitle 32 BOARD OF PHYSICIANS**

**10.32.03 Delegation of Duties by a Licensed Physician — Physician Assistant**

Authority: Health Occupations Article, §§15-301—15-502, Annotated Code of Maryland

**Notice of Proposed Action**

[16-187-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .05 under COMAR 10.32.03 **Delegation of Duties by a Licensed Physician-Physician Assistant**. This action was considered at a public hearing on May 25, 2016, notice of which was given by publication on the Board's Website <http://www.mbp.state.md.us/forms/may16Bagenda.pdf> from May 17, 2016, through May 25, 2016, pursuant to General Provisions Article, §3-302 (c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to establish the course requirements for a physician assistant who intends to use a Mini-C-Arm device as an advanced duty pursuant to a delegation agreement.

**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 [dhmh.regs@maryland.gov](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**.05 Delegation Agreements — Contents.**

A.—E. (text unchanged)

*F. A physician assistant who has filed a delegation agreement with the Board for approval to perform the advanced duty of nonfluoroscopic X-ray procedures using a mini C-arm or similar low-level radiation machine shall present the Board with evidence of completion of a course on those procedures. The required course shall include:*

(1) *Didactic instruction of at least 8 hours on the following subject matters:*

- (a) *Principles of radiography;*
- (b) *Image acquisition;*
- (c) *Principles of exposure;*
- (d) *Image evaluation;*
- (e) *Radiation safety;*
- (f) *Equipment overview; and*
- (g) *Documentation; and*

(2) *Clinical instruction, which shall:*

(a) *Include anterior-posterior and lateral radiographic studies of extremities, not including the head, on at least 20 separate patients; and*

(b) *Be under the direct supervision of the delegating physician or radiologist.*

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

## Subtitle 32 BOARD OF PHYSICIANS

### 10.32.04 Delegation of Duties by a Licensed Physician-Psychiatrist to a Psychiatrist's Assistant

Authority: Health Occupations Article, §§14-205, 14-302, and 14-306, Annotated Code of Maryland

#### Notice of Proposed Action

[16-192-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01 and .05 under COMAR 10.32.04 Delegation of Duties by a Licensed Physician-Psychiatrist to a Psychiatrist's Assistant. This action was considered at a public meeting on September 30, 2015, notice of which was given by publication on the Board's website at <http://www.mbp.state.md.us/forms/sep15Fullagenda.pdf> from September 16 through September 30, 2015, pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to eliminate references to reinstatement as this category of providers has been grandfathered in since 1993 and no new providers are being licensed. This proposal also adds clarifying language.

#### 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 [dhmh.regs@maryland.gov](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

#### .01 Scope.

This chapter concerns the registration of psychiatrist's assistants before October 1, 1993, and re-registration[, reinstatement,] and discipline of psychiatrist's assistants currently registered by the Board of Physicians.

#### .05 Registration[, and Re-registration[, and Reinstatement].

A. After October 1, 1993, the Board may not accept or approve any application for registration [or reinstatement of registration following a lapse of re-registration for a period of longer than 3 months].

B. [Each person] *An individual* who has been registered by the Board as a psychiatrist's assistant pursuant to [these regulations] *this chapter* shall renew [his] *the* registration every 2 years on the date specified by the Board by re-registration and payment of the appropriate fees. A [person] *registrant* shall meet all the requirements of [these regulations] *this chapter* at re-registration.

C. A psychiatrist's assistant shall [keep the Board apprised of his current post office address] *notify the Board in writing of a change in*

*the psychiatrist's assistant name or address within 60 days after the change.*

D.—E. (text unchanged)

F. If a psychiatrist's assistant does not receive notice of re-registration it shall be [his] *the* responsibility of *the psychiatrist's assistant* to contact the Board in order to complete this re-registration before the expiration of [his] *the* current registration.

G. A psychiatrist's assistant whose registration has expired for failure to renew is unregistered [and will be subject to the appropriate penalties and fees for reinstatement]. A registration which has expired [for a period longer than 3 months] shall be considered permanently expired[, and the psychiatrist's assistant is not eligible to reapply for registration or reinstatement].

H. (text unchanged)

I. *When the registration expires, the approval of duties and supervision becomes invalid.*

VAN T. MITCHELL

Secretary of Health and Mental Hygiene

## Subtitle 32 BOARD OF PHYSICIANS

### 10.32.22 Mandated Reporting to the Board

Authority: Health Occupations Article, §§14-205(a)(2), 14-413, 14-414, 14-5A-18, 14-5B-15, 14-5C-18, 14-5E-18, 14-5F-19, and 15-103, Annotated Code of Maryland

#### Notice of Proposed Action

[16-203-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01—.08 under a new chapter COMAR 10.32.22 Mandated Reporting to the Board. This action was considered at a public meeting on November 18, 2015, notice of which was given by publication on the Board's Website at <http://www.mbp.state.md.us/forms/nov15Bagenda.pdf> from October 30, 2015, through November 18, 2015, pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to define and clarify precisely for hospitals and other reporting entities what changes in employment or privileges require reporting to the Board of Physicians (the Board). Based on the 2013 amendments to the Medical Practice Act, Health Occupations Article, §§14-413 and 14-414, Annotated Code of Maryland, and a recommendation by the Department of Legislative Services (DLS) in its 2011 Sunset Report, the Board conducted extensive outreach and received helpful input from all interested parties and stakeholders before developing these proposed regulations. Because of the reporting entities' apparent confusion about the instances that require reporting, the proposed regulations provide explicit, practical, and easily understandable guidance on what they are required to report, and so avoid the imposition of civil penalties for failure to do so.

Historically, since the 1977 enactment of the reporting statute, compliance with its provisions has been extremely low. DLS, in its 2011 Sunset Report, found that underreporting by hospitals remains a significant problem. Hospitals have repeatedly failed to report terminations, suspensions, involuntary resignations, and other actions adversely affecting physician privileges and patient care. As a result, DLS strongly recommended that the Board exercise its authority to assess a civil penalty for non-compliance. Once the requirements have been clarified in these regulations, the Board anticipates few violations and little or no economic impact, but believes it is necessary for the Board to exercise its statutory authority to impose a civil penalty if there is a violation.

**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 dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**.01 Scope.**

*This chapter governs reporting requirements to the Board of Physicians concerning health care providers and naturopathic doctors by:*

- A. Hospitals;
- B. Related institutions;
- C. Employers of allied health providers or naturopathic doctors;
- D. Health care facilities;
- E. State agencies;
- F. Health care practitioners;
- G. Naturopathic doctors; and
- H. Alternative health systems.

**.02 Definitions.**

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

B. Terms Defined.

(1) "Abandon" means a health care provider's withdrawal from the care and treatment of a patient during the course of treatment without giving reasonable notice to the patient or providing a competent replacement.

(2) "Academic probation" means a program of heightened monitoring of an individual in a postgraduate training program imposed because of academic or performance deficiencies.

(3) "Acts" means Health Occupations Article, Title 14, including subtitles 5A, 5B, 5C, 5E, and 5F, and Title 15, Annotated Code of Maryland.

(4) "Administrative suspension" means an action imposed by a reporting entity restricting a health care provider's privileges or hours or scope of employment for failure of the health care provider to comply with the bylaws, rules, policies, or procedures of the reporting entity.

(5) "Allied health provider" means an individual who is licensed by the Board under Health Occupations Article, Title 14, Subtitles 5A, 5B, 5C, or 5E, or Title 15, Annotated Code of Maryland.

(6) "Alternative health system" has the same meaning as alternative health care system as defined in Health Occupations Article, §1-401(a), Annotated Code of Maryland.

(7) "Board" means the State Board of Physicians.

(8) "Change" means any of the following actions by a reporting entity:

(a) Terminating or failing to renew a health care provider's staff privileges or employment or contract with the reporting entity, or terminating or refusing or failing to renew or to extend the term of

the academic contract of an individual in a postgraduate training program;

(b) Taking disciplinary action against a health care provider who continues to be employed, enjoy privileges, or contract with the reporting entity, including but not limited to:

(i) Suspension;

(ii) Placement on probation; or

(iii) Restriction or limitation of privileges or duties;

(c) Accepting an involuntary resignation as defined in this regulation;

(d) Accepting or acquiescing to an involuntary leave of absence as defined in this regulation;

(e) Accepting or acquiescing to an involuntary alteration in practice as defined in this regulation;

(f) Requesting that a health care staffing entity cease furnishing the services of a particular health care provider;

(g) In the case of a physician, denying:

(i) By a hospital or related institution, an application for staff privileges; or

(ii) By an alternative health care system, an application for employment; or

(h) Terminating the delegation agreement of a physician assistant.

(9) "Failure to report" means the failure of a reporting entity to file a report with the Board as mandated by this chapter.

(10) "Focused professional practice evaluation (FPPE)" means any process used by a reporting entity to assess the competence or proficiency of a health care provider in a certain clinical skill, activity, or procedure.

(11) "Focused review" has the same meaning as "focused professional practice evaluation" as defined in this regulation.

(12) "Good standing" means the health care provider is not suspended, on probation, or subject to any pending disciplinary proceedings, an involuntary alteration in practice, or an involuntary leave of absence, as these terms are defined in this regulation.

(13) "Health care facility" has the meaning stated in Health-General Article, §19-114, Annotated Code of Maryland.

(14) "Health care provider" means a physician, an allied health provider, or an individual in a postgraduate training program.

(15) "Health care staffing entity" means a business entity that contracts to provide, directly or indirectly, the personal health care services of one or more health care providers to a reporting entity.

(16) Hospital.

(a) "Hospital" has the meaning stated in Health-General Article, §19-301, Annotated Code of Maryland.

(b) "Hospital" includes, with respect to an institution that meets the requirements of Health-General Article, §19-301, Annotated Code of Maryland, any entity which:

(i) Operates or administers a postgraduate training program; or

(ii) Has the authority to hire or discipline or to grant, deny, limit, or modify the contract or privileges of an individual in a postgraduate training program.

(17) "Individual in a postgraduate training program" means an intern, an assistant resident, a resident, or a clinical fellow in a postgraduate training program as defined in this regulation.

(18) "Involuntary alteration in practice" means a modification in the privileges, employment, or contractual duties of a health care provider, whether self-initiated by the health care provider, mutually agreed upon, or requested or suggested by the reporting entity:

(a) After the health care provider has been notified of pending discharge or termination of privileges or a contract, or pending proceedings possibly leading to discharge or termination of privileges or a contract;

(b) While the health care provider is under investigation or subject to an inquiry, a practice review, a focused review, or an FPPE;

(c) After the health care provider has been notified that an investigation or inquiry may begin; or

(d) After the health care provider has been asked to respond to a complaint made to the reporting entity.

(19) "Involuntary leave of absence" means a hiatus, however designated, during which a health care provider does not exercise staff privileges or fulfill the duties of employment or a contract, whether the hiatus was self-initiated, mutually agreed upon, or requested or imposed by the reporting entity, where the health care provider commenced the hiatus:

(a) After being notified of pending discharge or termination of privileges or a contract, or pending proceedings possibly leading to discharge or termination of privileges or a contract;

(b) While under investigation or subject to an inquiry, a practice review, a focused review, or an FPPE;

(c) After being notified that an investigation or inquiry may begin; or

(d) After being asked to respond to a complaint made to the reporting entity.

(20) "Involuntary resignation" means a health care provider's relinquishment of privileges, employment, or a contract with a reporting entity, whether the relinquishment was self-initiated, mutually agreed upon, or had been requested by the reporting entity, and however designated by the health care provider or the reporting entity, if the health care provider resigned:

(a) After being notified that discharge or termination of privileges, employment, or a contract, or that proceedings possibly leading to discharge or termination of privileges, employment, or a contract, would occur if the health care provider would not resign;

(b) While under investigation or subject to an inquiry, a practice review, a focused review, or an FPPE;

(c) After being notified that an investigation or inquiry may begin; or

(d) After being asked to respond to a complaint made to the reporting entity.

(21) "Licensed physician" means an individual, including doctor of osteopathy, who is licensed by the Board to practice medicine.

(22) "Mandated report" means any report required under the Acts or this chapter.

(23) "Naturopathic doctor" means an individual who is licensed by the Board under Health Occupations Article, Title 14, Subtitle 5F, Annotated Code of Maryland.

(24) "Privileges" means authorization granted by a reporting entity to a health care provider to provide specific care, treatment, diagnostic services, or other services to patients.

(25) "Postgraduate training program" means a program of academic training that meets the requirements of COMAR 10.32.01 and 10.32.07.

(26) "Related institution" has the meaning stated in Health-General Article, §19-301, Annotated Code of Maryland.

(27) "Reporting entity" means:

(a) A hospital, a related institution, or an alternative health system, as these terms are defined in this regulation; and

(b) An employer of an allied health provider that is not a hospital, a related institution, or an alternative health system.

(28) "Voluntary alteration in practice" means a modification in the privileges, employment, or contractual duties made with respect to a health care provider in good standing that is not an involuntary alteration in practice as defined in this regulation.

(29) "Voluntary leave of absence" means a hiatus from providing health care services taken by a health care provider in

good standing that is not an involuntary leave of absence as defined in this regulation.

(30) "Voluntary resignation" means the relinquishment of privileges, employment, or a contract with a reporting entity taken by a health care provider in good standing that is not an involuntary resignation as defined in this regulation.

**.03 Mandated Reports.**

A. Subject to the limitations set out in §§B and C of this regulation, the reporting entity shall report to the Board in writing any change made with respect to a health care provider:

(1) Whom the reporting entity employs;

(2) Who works with the reporting entity under contract; or

(3) To whom the reporting entity has granted privileges.

B. A reporting entity shall inform the Board of any change that has been made, in whole or in part, because the reporting entity had reason to believe that the health care provider:

(1) Abandoned a patient;

(2) Provided patient care of questionable quality;

(3) Disrupted the workplace;

(4) Committed unethical or unprofessional conduct;

(5) Committed billing or coding fraud;

(6) Used the reporting entity's employment or privileges to commit illegal or unethical business practices;

(7) Suffers from a physical, a mental, or an emotional condition or impairment that affects the health care provider's ability to perform the individual's medical or surgical duties;

(8) Is habitually intoxicated by alcohol or a controlled dangerous substance;

(9) Provided care while under the influence of alcohol or while abusing or misusing any controlled dangerous substance or mood-altering substance;

(10) Has not complied with the requirements of an alcohol or a drug treatment program;

(11) With respect to allied health providers, failed to notify the reporting entity of the health care provider's decision to enter into an alcohol or a drug treatment program;

(12) Performed care beyond the scope of licensure or privileges or delegated duties, or delegated duties to an individual not authorized to perform those duties;

(13) Repeatedly failed to complete medical records;

(14) Repeatedly violated hospital bylaws, rules, policies, or procedures after warning; or

(15) Committed any other act or suffered from any other condition which the reporting entity had reason to believe may constitute a violation of the Acts.

C. Specific Changes Not Reportable. The following changes do not require reporting by a reporting entity:

(1) Voluntary leaves of absence that:

(a) Are not involuntary leaves of absence as defined in Regulation .02 of this chapter;

(b) Are taken by a health care provider who is in good standing; and

(c) May be caused by, for example:

(i) Maternity leave;

(ii) Family problems of a medical or other personal nature;

(iii) Medical problems that do not implicate the health care provider's physical, mental, or emotional ability to provide competent care;

(iv) Military deployment;

(v) Sabbaticals;

(vi) Extended vacations; or

(vii) Absences for professional training;



- (2) *Voluntary resignations that:*
  - (a) *Are not involuntary resignations as defined in Regulation .02 of this chapter;*
  - (b) *Are submitted by a health care provider who is in good standing; and*
  - (c) *May be caused by, for example:*
    - (i) *A job or career change;*
    - (ii) *The health care provider's desire to relocate from Maryland;*
    - (iii) *The health care provider's desire to retire; or*
    - (iv) *A decision by an individual in a postgraduate training program to leave the program to pursue another specialty before the expiration of the term of the training program originally contemplated;*
- (3) *Voluntary alterations in practice that:*
  - (a) *Are not involuntary alterations in practice as defined in Regulation .02 of this chapter;*
  - (b) *Are submitted by a health care provider who is in good standing; and*
  - (c) *May be caused by, for example, a health care provider's desire to:*
    - (i) *Switch from active practice to consulting;*
    - (ii) *Reduce workload; or*
    - (iii) *Alter a specialty or scope of practice;*
- (4) *With respect to allied health providers, the initial denial of employment or privileges;*
- (5) *With respect to physicians, an involuntary alteration in practice that:*
  - (a) *Results solely from an FPPE or a focused review;*
  - (b) *Does not by itself or in combination with any other involuntary alteration in practice exceed 90 days in any one calendar year;*
  - (c) *Consists solely of one or more of the following:*
    - (i) *A program of additional training or monitoring or heightened scrutiny of the individual's practice; or*
    - (ii) *A requirement that the individual successfully perform a skill, an activity, or a procedure a specific number of times, or within a specific time period; and*
  - (d) *Does not result from inappropriate sexual behavior, harassment, or any other unprofessional conduct in the workplace;*
- (6) *With respect to physicians, the initial denial of employment or privileges due solely to the applicant's:*
  - (a) *Inability to fulfill on-call requirements because of other time commitments;*
  - (b) *Lack of a board certification required by the reporting entity; or*
  - (c) *Lack of experience in conducting a particular medical procedure;*
- (7) *Administrative suspensions, if the sum total does not cumulatively exceed 30 days in any one calendar year, imposed on or agreed to by the health care provider, solely for the health care provider's failure to:*
  - (a) *Acquire mandated vaccinations or required serum titers for infections;*
  - (b) *Attend required meetings;*
  - (c) *Complete medical records;*
  - (d) *Complete required training; or*
  - (e) *Maintain or submit a certificate of professional insurance;*
- (8) *With respect to an individual in a postgraduate training program:*
  - (a) *The expiration of the postgraduate training program contract at the end of its term as originally contemplated and while the individual is in good standing with the program; or*

- (b) *Academic probation, unless imposed for any of the reasons set out in §B(3), (4), (8), or (9) of this regulation.*
- (9) *With respect to allied health providers and subject to the requirements of §C(9)(b) and (c) of this regulation:*
  - (a) *Entrance into an alcohol or a drug treatment program:*
    - (i) *That is accredited by the Joint Commission;*
    - (ii) *That is certified by the Department of Health and Mental Hygiene;*
    - (iii) *To which the allied health provider is referred by the Maryland Physician Health Program;*
    - (iv) *To which the allied health provider is referred by the Physician's Rehabilitation Program funded by the Board under the Health Occupations Article, §14-401.1(g), Annotated Code of Maryland; or*
    - (v) *Provided by a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse.*
  - (b) *Section C(9)(a) of this regulation applies only where:*
    - (i) *The allied health provider notified the reporting entity at the time the allied health provider decided to enter the program;*
    - (ii) *The reporting entity is able to verify that the allied health provider remains continually in the program until properly discharged; and*
    - (iii) *The action or condition of the allied health provider had not caused injury to any individual during the provision of health care by the allied health provider.*
  - (c) *Section C(9)(a) of this regulation does not apply to:*
    - (i) *Any change made by a reporting entity relating to the discharge of an allied health provider from an alcohol or a drug treatment program, when that discharge was for non-attendance or non-compliance with the program;*
    - (ii) *Additional changes made by the reporting entity, other than minor scheduling changes made solely to accommodate participation in the program; or*
    - (iii) *Any change made by the reporting entity based on events set out in Regulation .03B which occurred subsequent to the provider's entrance into the alcohol or drug treatment program;*
- (10) *With respect to physicians and subject to the requirements of §C(10)(b) and (c) of this regulation:*
  - (a) *Entrance into an alcohol or a drug treatment program:*
    - (i) *That is accredited by the Joint Commission;*
    - (ii) *That is certified by the Department of Health and Mental Hygiene;*
    - (iii) *To which the physician is referred by the Maryland Physician Health Program; or*
    - (iv) *To which the physician is referred by the Physician's Rehabilitation Program funded by the Board under the Health Occupations Article, §14-401.1(g), Annotated Code of Maryland;*
  - (b) *Section C(10)(a) of this regulation applies only where:*
    - (i) *The physician notified the reporting entity at the time the physician decided to enter the program;*
    - (ii) *The reporting entity is able to verify that the physician remains continually in the program until properly discharged; and*
    - (iii) *The action or condition of the physician had not resulted in injury to any individual during the provision of health care by the physician.*
  - (c) *Section C(10)(a) of this regulation does not apply to:*
    - (i) *Any change made by a reporting entity relating to the discharge of a physician by an alcohol or a drug treatment program, when that discharge was for non-attendance or non-compliance with the program;*
    - (ii) *Additional changes made by the reporting entity, other than minor scheduling changes made solely to accommodate participation in the program; or*

(iii) Any change made by the reporting entity relating to events set out in §B of this regulation which occurred subsequent to the physician's entrance into the alcohol or drug treatment program.

D. With respect to physicians, each reporting entity shall file a report with the Board that contains the name of each licensed physician who, during the 6 months preceding the report, was employed by, had privileges with, or applied for privileges with that entity.

**.04 Naturopathic Doctors.**

A. A licensed naturopathic doctor, other licensed health care practitioner, health care facility located in the State, or State agency shall file a written report to the Board if there is reason to believe that a licensed naturopathic doctor is or may be:

- (1) Medically or legally incompetent;
- (2) Engaged in the unauthorized practice of naturopathic medicine;
- (3) Guilty of unprofessional conduct; or
- (4) Mentally or physically unable to engage safely in the practice of naturopathic medicine.

B. The report required under §A of this regulation shall be filed with the Board within 30 days after the individual or entity becomes aware of this information.

C. A health care facility shall report within 10 days to the Board if a licensed naturopathic doctor voluntarily resigns from the staff of the health care facility, voluntarily limits staff privileges, or fails to reapply for hospital privileges at the health care facility while the naturopathic doctor is under formal or informal investigation by the health care facility for possible medical incompetence, unprofessional conduct, or mental or physical impairment.

**.05 Time Frames for the Submission of Reports.**

A. Physicians or Individuals in a Postgraduate Training Program.

(1) A reporting entity shall file reports required under this chapter with the Board:

- (a) Within 10 days of any change made with regard to a physician or an individual in a postgraduate training program; and
- (b) Twice a year:
  - (i) In a cumulative report of all changes made with regard to physicians and individuals in postgraduate training programs; and
  - (ii) Separately, in the report required under Regulation .03D of this chapter.

(2) Within 10 days, the reporting entity who has reported a change to the Board under this chapter shall report to the Board in writing any modifications made to, or subsequent developments in, that change.

(3) The required reports prescribed in §A(1)(b) of this regulation shall be filed as follows:

- (a) By February 1 of each year for the 6-month reporting period of July 1 through December 31 of each year; and
- (b) By August 1 of each year for the 6-month reporting period of January 1 through June 30 of each year.

B. Allied Health Providers.

(1) Except as provided in §B(2) of this regulation, a reporting entity shall file any report required under this chapter within 10 days of any change made with respect to allied health providers.

(2) With respect to physician assistants:

- (a) An employer of a physician assistant who terminates the physician assistant because of a quality of care issue shall report the termination within 5 days of the termination;
- (b) Any person who terminates a delegation agreement with a physician assistant shall report that termination within 10 days; and
- (c) A report submitted under §B(2)(b) of this regulation may not be used to fulfill the requirement of §B(2)(a) of this regulation.

C. Naturopathic Doctors.

(1) Within 30 days, a licensed naturopathic doctor, other licensed health care provider, health care facility located in the State, or State agency shall file a written report with the Board upon becoming aware of information described in Regulation .04A of this chapter.

(2) Within 10 days, a health care facility shall report to the Board any information required under Regulation .04C of this chapter.

**.06 Enforcement.**

A. The Board shall conduct any necessary investigation regarding failure of a reporting entity to file a report required under this chapter.

B. Over the signature of an officer, the executive director, or the deputy director, the Board may issue subpoenas in connection with any investigation or proceeding to enforce this chapter.

C. Before submission of the final investigative report to the Board, the investigator shall inform the reporting entity of the allegation of failure to report and offer the reporting entity an opportunity to submit a written response. Any written response shall be made part of the investigative report. The investigative report is confidential and may not be released to any person except as provided in §E of this regulation.

D. The final investigative report shall be submitted to the Board. The Board, after consideration of the investigative report, shall:

- (1) If it finds probable cause that the reporting entity failed to report as required by this chapter, vote to issue a notice of failure to file a report setting out the facts of the alleged failure and the recommended civil penalty as set out in §O of this regulation; or
- (2) Dismiss the case.

E. If the Board votes to issue a notice of failure to file a report, the Board shall mail by first class mail the notice of failure to file a report to the reporting entity involved. Upon this mailing, the Board shall make available to the reporting entity the investigative report, less the names of any confidential informants who will not be called as witnesses in the case.

F. If the reporting entity does not request a hearing within 30 days of the date the notice of failure to file a report was mailed, the notice of failure to file a report shall become final and shall constitute a final disposition of the Board.

G. A reporting entity which has timely filed a request for a hearing may choose to attend a settlement conference with a committee of the Board to attempt to resolve a case. If a settlement conference is convened:

- (1) The reporting entity may be represented by counsel;
- (2) Except for consideration of a proposed resolution of the case, the Board may not use any commentary, admissions, facts revealed, or positions taken at the settlement conference, unless the subject matter is available from other sources or is otherwise discovered;
- (3) At the conclusion of the settlement conference, the committee shall recommend either:
  - (a) Dismissing the notice of failure to file a report; or
  - (b) Upholding the notice of failure to file a report and imposing a civil penalty as set out in §O of this regulation.

H. If the reporting entity agrees with the recommendation of the settlement committee, the Board shall consider the recommendation and either accept or reject it. The Board's acceptance of the settlement committee's recommendation constitutes the Board's final disposition of the case.

I. If a settlement is not reached or if the settlement committee's recommendation is not approved by the Board, the case shall proceed to a hearing before the Board.

J. The hearing ordinarily shall be limited to oral argument before the Board. The issues at the hearing are limited to whether a reporting entity:

- (1) Made a change as defined in this chapter;
- (2) Had reason to believe that the change was made, in whole or in part, because of a reason listed in Regulation .03B of this chapter;
- (3) Reported the change to the Board; and
- (4) Reported the change within the time frames set out in this chapter.

K. The Board chair or alternate presiding officer may reasonably limit the time for oral argument.

L. The Board shall conduct an evidentiary hearing if the chair or alternate presiding officer finds that there is a substantial dispute concerning one or more of the material facts set out in §J of this regulation. If there is an evidentiary hearing, the Board chair or alternate presiding officer may:

- (1) Administer oaths or affirmations;
- (2) Issue subpoenas for relevant evidence;
- (3) Make all rulings on the admission of evidence;
- (4) Rule on motions;
- (5) Exclude repetitive or irrelevant evidence, require the parties to narrow the factual evidence to the relevant issues, and make any other rulings in order to focus and expedite the proceeding;
- (6) Require proffers of evidence in advance of the hearing and make evidentiary rulings before the commencement of the hearing; and
- (7) Reasonably limit the time for presentations.

M. It is not a defense to the allegation of a failure to report that:

- (1) An employee of the reporting entity was not aware of:
  - (a) The change made by the reporting entity; or
  - (b) The obligation to report; or
- (2) The reporting entity was conducting its own proceeding to further evaluate the change or the reasons for the change.

N. If the Board finds after the hearing that the reporting entity did not fail to file any report required by this chapter, the Board shall issue a final disposition dismissing the notice of failure to file a report.

O. If the Board finds after a hearing that a reporting entity failed to file any report required by this chapter, the Board shall issue a final disposition with findings of fact, conclusions of law, and civil penalty. In its final disposition, the Board may impose a civil penalty as follows:

- (1) With respect to reports concerning physicians:
  - (a) \$2,500 for the first occurrence in a calendar year; or
  - (b) \$5,000 for any subsequent occurrence in a calendar year; and
- (2) With respect to reports concerning allied health providers:
  - (a) \$500 for the first occurrence in a calendar year; or
  - (b) \$1,000 for any subsequent occurrence in a calendar year.

P. The Board disposition is the final administrative action on the matter.

Q. A reporting entity that is dissatisfied with a final disposition of the Board may seek judicial review of the Board's final disposition as provided in the Administrative Procedure Act. The disposition of the Board may not be stayed pending judicial review.

R. The Board shall pay all monies collected pursuant to this chapter into the State's General Fund. The Board may refer any uncollected civil penalties under this regulation to the Central Collection Unit of the State.

S. The investigative and quasi-judicial procedures set out in this regulation, and the confidentiality provisions of Regulation .07 of this chapter, apply to licensed naturopathic doctors, other licensed health

care providers, health care facilities located in the State, and State agencies with respect to any allegations that they failed to file a report required under Regulation .04 of this chapter.

**.07 Confidentiality.**

A report made to the Board under this chapter is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and the final disposition of the Board or disciplinary panel.

**.08 Public Notice of Failure to File a Report and Disposition.**

A. The notice of failure to file a report and any final disposition under this chapter are public documents.

B. The notice of failure to file a report and any final disposition shall redact:

- (1) The name of a patient and any other patient-identifying information; and
- (2) Records of a health care provider's or a naturopathic doctor's physical, mental, or emotional condition, except to the extent necessary to identify the deficient practice or condition that caused an entity to make a change as defined in Regulation .02 of this chapter.

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

**Title 11**  
**DEPARTMENT OF**  
**TRANSPORTATION**  
**Subtitle 11 MOTOR VEHICLE**  
**ADMINISTRATION—**  
**ADMINISTRATIVE PROCEDURES**  
**11.11.12 Commercial Driver's License**  
**Disqualification and Cancellation**

Authority: Transportation Article, §§12-104(b), 16-208.1, 16-808, 16-812, and 16-820, Annotated Code of Maryland; 49 CFR §§383.51, 383.52, 384.208, and 384.210

**Notice of Proposed Action**  
[16-184-P]

The Administrator of the Motor Vehicle Administration proposes to amend Regulation .02 and adopt new Regulation .09 under **COMAR 11.11.12 Commercial Driver's License Disqualification.**

**Statement of Purpose**

The purpose of this action is to permit the Motor Vehicle Administration to automatically downgrade a commercial driver's license (CDL) to a noncommercial driver's license when the CDL privilege is cancelled for failure to submit a medical certification as set forth in S.B. 80, Ch. 158, Acts of 2016.

**Comparison to Federal Standards**

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The proposed action allows the Motor Vehicle Administration to automatically downgrade a commercial driver's license (CDL) to a noncommercial driver's license when the CDL privilege is cancelled for failure to submit a medical certification.

An individual’s CDL would be automatically downgraded to a noncommercial driving privilege, and as long as their noncommercial privilege is still valid, the customer would only have to retest for the CDL and would not be required to take the noncommercial tests first. This benefits CDL drivers in that they would avoid having to regain their noncommercial privilege before testing for the CDL privilege again. Moreover, they would not lose their ability to drive noncommercial vehicles while they regain their CDL.

If a CDL holder’s license is canceled and the holder reinstates the license within 1 year, the total reinstatement fee is \$65 (\$45 for the noncommercial license and \$20 for the commercial license). MVA is implementing the bill in such a way that it is revenue-neutral by charging the same fees as it currently does.

Transportation Trust Fund (TTF) expenditures increase by \$35,000 in FY 2017 only for MVA to contract with an outside vendor for computer reprogramming.

**II. Types of Economic Impact.**

	Revenue (R+/R-)	
		Expenditure (E+/E-) Magnitude
A. On issuing agency:	(E+)	\$35,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. An outside vendor is required to perform the necessary changes to implement the bill’s requirements. The programming changes include adjusting the existing medical certification cancellation process, adding additional CDL downgrade checks, changing certain correspondence to reflect “downgrade” instead of “cancellation,” developing other necessary procedures, and testing. The vendor estimates the cost of these one-time programming changes at \$35,000.

**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 Tracey C. Sheffield, Regulations Coordinator, Motor Vehicle Administration, 6601 Ritchie Highway N.E., Room 200, Glen Burnie, MD 21062, or call 410-768-7545, or email to [tsheffield@mdot.state.md.us](mailto:tsheffield@mdot.state.md.us), or fax to 410-768-7506. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**.02 Definitions.**

A. (text unchanged)

**B. Terms Defined.**

(1) (text unchanged)

(2) “Cancel” has the meaning stated in Transportation Article, §11-107, Annotated Code of Maryland.

[(2)] (3) — [(6)] (7) (text unchanged)

**.09 Cancellation for Failure to Submit Current Medical Certification.**

A. If a commercial driver’s license holder fails to submit their medical certification as required under 49 CFR §§391.43 and 391.45, the Administration shall cancel the commercial driver’s license privilege of the holder.

B. The Administration may immediately reinstate the noncommercial Class C privilege of the driver in accordance with Transportation Article, §16-812(o), Annotated Code of Maryland.

CHRISTINE NIZER  
Administrator  
Motor Vehicle Administration

**Title 12**  
**DEPARTMENT OF PUBLIC**  
**SAFETY AND**  
**CORRECTIONAL SERVICES**  
**Subtitle 08 PAROLE COMMISSION**

**12.08.01 General Regulations**

Authority: Correctional Services Article, §7-207, Annotated Code of Maryland

**Notice of Proposed Action**

[16-197-P]

The Secretary of Public Safety and Correctional Services, in cooperation with the Parole Commission, proposes to amend Regulations .17 and .18 under **COMAR 12.08.01 General Regulations**.

**Statement of Purpose**

The purpose of this action is to Amend Regulation .17 to clarify inmate access to documents used by the Commission when considering release on parole and to amend Regulation .18 to add provisions for information that the Commission may consider when evaluating for release on parole an individual who committed the crime at the time the individual was a juvenile.

**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 David Blumberg, Chairman, Parole Commission, Department of Public Safety and Correctional Services, 6776 Reisterstown Road, Baltimore, MD 21215, or call 410 585 3200, or fax to 410 764 4355. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**.17 Preparation for Parole Consideration.**

- A. — B. (text unchanged)
- C. Notice to Inmate and Access to Files.
  - (1) — (4) (text unchanged)
  - (5) Review of Parole Commission file.

(a) The institutional parole agent and the inmate or [his] the inmate's representative shall review the file at the appointed time. [Psychological reports, psychiatric reports, and other information which is considered privileged shall be removed from the file and the institutional parole agent shall orally give a short summary of the contents where appropriate.]

(b) [Recommendations of classification counsellors, work sheets, and other work products of Commissioners and hearing examiners are hereby declared privileged.] *Except as provided in Correctional Services Article, §7-303(b)(1)(ii), Annotated Code of Maryland, the inmate or the inmate's representative may, on request, examine a document that the Commission or Hearing Examiner uses in determining whether the inmate is suitable for parole.*

(c) *Subject to the provisions of Correctional Service Article, §7-303(b)(2), Annotated Code of Maryland, any documents submitted by a victim or the victim's designated representative shall be available for review by the inmate or the inmate's representative except when prohibited by Correctional Services Article, §7-303(b)(1)(ii), Annotated Code of Maryland.*

(d) *If a risk assessment prepared for the Commission contains diagnostic opinions, that assessment may not be available for examination, only a summary that does not contain the diagnostic opinions may be prepared and made available, upon request, to the inmate or the inmate's representative.*

- (6) (text unchanged)

**.18 Consideration for Parole.**

- A. General.
  - (1) — (2) (text unchanged)
  - (3) *In addition to the factors contained under §§A(1) — (2) of this regulation, the Commission considers the following factors in determining whether a prisoner who committed a crime as a juvenile is suitable for release on parole:*
    - (a) *Age at the time the crime was committed;*
    - (b) *The individual's level of maturity and sense of responsibility at the time of the crime was committed;*
    - (c) *Whether influence or pressure from other individuals contributed to the commission of the crime;*
    - (d) *Whether the prisoner's character developed since the time of the crime in a manner that indicates the prisoner will comply with the conditions of release;*
    - (e) *The home environment and family relationships at the time the crime was committed;*
    - (f) *The individual's educational background and achievement at the time the crime was committed; and*
    - (g) *Other factors or circumstances unique to prisoners who committed crimes at the time the individual was a juvenile that the Commissioner determines to be relevant.*

[(3)] (4) To make these determinations the Commission examines:

- (a) The offender's prior criminal and juvenile record and [his] the offender's response to prior incarceration, parole or probation, or both;
- (b) The offender's behavior and adjustment and [his] the offender's participation in institutional and self-help programs;
- (c) — (l) (text unchanged)

- B. — I. (text unchanged)

STEPHEN T. MOYER  
Secretary

**Title 13A  
STATE BOARD OF  
EDUCATION**

**Subtitle 05 SPECIAL INSTRUCTIONAL  
PROGRAMS**

**13A.05.07 Programs for [Non-English and  
Limited-English Proficient Students] English  
Learners**

Authority: Education Article, [§5-203.1] §§2-205 and 4-111, Annotated Code of Maryland

**Notice of Proposed Action**  
[16-193-P]

The Maryland State Board of Education proposes to amend Regulations **.01—.05** under **COMAR 13A.05.07 Programs for Non-English and Limited-English Proficient Students**. This action was considered at the May 24, 2016 meeting of the State Board of Education.

**Statement of Purpose**

The purpose of this action is to incorporate new standards and new federal language and program requirements.

**Comparison to Federal Standards**

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

**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 Susan C. Spinnato, Director of Instructional Programs, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0349 (TTY 410-333-6442), or email to [susan.spinnato@maryland.gov](mailto:susan.spinnato@maryland.gov), or fax to 410-333-1146. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on September 27, 2016, 9 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

**.01 Scope.**

These regulations pertain to all programs for [non-English and limited-English proficient (NEP/LEP) students] *English Learners (ELs)* that provide instructional assistance and services to enable [NEP/LEP students] *ELs* to [acquire and improve English language skills and cultural understandings and thus be able to participate successfully in the academic and social activities of their regularly assigned schools] *attain English proficiency, develop high levels of academic language, and achieve at high levels in academic subjects*

so that all ELs can meet the same challenging Maryland College and Career Ready Standards that all students are expected to meet.

**.02 Definitions.**

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

B. Terms Defined.

[(1)] "Bilingual education program" means one in which students receive instruction in their native language as well as in English.

(2) "English as a Second Language (ESL) program" or "English for Speakers of Other Languages (ESOL) program" means a program in which the students are instructed only by means of English using established methodologies for developing second language skills.]

[(3)] (1) "Home language survey" means one or more questions posed to all parents and students upon entering a local school system in order to determine the language or languages spoken in the home.

[(4)] "Interrupted schooling" means a student comes to a Maryland public school with an interruption of 6 or more months in schooling in the student's home country.]

[(5)] (2) ["Non-English or limited-English proficient (NEP/LEP)"] "English Learner" means a student [who]:

(a) [Was born outside the United States or whose native language is not English] *Who communicates in a language other than English; or*

(b) [Comes from an environment where a language other than English is dominant; or] *Whose family uses a primary language other than English in the home; and*

(c) [Is an American Indian or Alaskan Native and comes from an environment where a language other than English has had a significant impact on the student's level of English language proficiency] *Whose English language proficiency falls within the range established by the State for an English language development program.*

**.03 Programs for [Non-English and Limited-English Proficient Students] English Learners.**

A. Each local school system shall establish [ESL or bilingual education] *an English language development program[s]* for those students who have been identified as [NEP/LEP] *ELs* by means of a home language survey as well as *the State-approved English language proficiency placement* [an] assessment [of English listening, speaking, reading, and writing skills that is considered reliable by the Maryland State Department of Education].

B. The [ESL or bilingual education] *English language development* programs shall contain the following components:

(1) — (4) (text unchanged)

(5) [Personnel] *Certified English for Speakers of Other Languages (ESOL) teachers;*

(6) — (7) (text unchanged)

(8) Program [organization] *delivery models;*

(9) (text unchanged)

(10) Support services; [and]

(11) *Exit criteria; and*

[(11)] (12) Program evaluation.

C. A student who has been identified as [NEP/LEP] *an EL* shall:

(1) [Receive appropriate ESL or bilingual services] *Be placed in an English language development program; and*

(2) Be evaluated each year *on the State-approved summative English language proficiency assessment* in listening, speaking, reading, and writing [English] to determine [LEP] *EL* status.

D. *The English language development program shall include the following standards:*

(1) *English language learners communicate for Social and Instructional purposes within the school setting.*

(2) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Language Arts.*

(3) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Mathematics.*

(4) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Science.*

(5) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Social Studies.*

[D.] E. Local school systems shall adopt policies and procedures to ensure that there is an [ESL or bilingual education] *English language development* program and that the program meets the requirements of this chapter.

**.04 Funding.**

A. The amount of State funding shall be determined annually on the basis of the number of [NEP/LEP students] *ELs* who are reported on the *Enrollment Survey as of October 31* [as having been in the local school system for a period of 2 years or less as of May 15 of the second preceding school year].

[B. Funds may be used for items such as:

(1) Teachers;

(2) Aides;

(3) Tutors;

(4) Materials of instruction;

(5) Translation and interpreting services;

(6) Counseling services;

(7) Teacher in-service;

(8) Summer programs;

(9) Curriculum development; and

(10) Logistical support for instructional programs.

C. Local school systems are eligible to receive State funding for a period of up to 5 years for NEP/LEP students who:

(1) Are determined to be illiterate in their native language;

(2) Come from backgrounds of interrupted schooling; or

(3) Are special needs students with disabilities with an Individualized Education Program (IEP).]

**.05 Reporting Requirements [; Local School System Responsibilities].**

[Each July 15, each local school system shall:

A. Report to the State Department of Education an itemization of expenditures; and

B. Complete annually the Maryland LEP Data Survey which shall include the number of years that each NEP/LEP student has been receiving ESL or bilingual education services.]

*Local school systems shall annually report to the Department their goals, objectives, and strategies regarding the performance of English learners along with timelines for implementation and methods for measuring progress.*

KAREN B. SALMON, Ph.D.  
State Superintendent of Schools

**Title 13B  
MARYLAND HIGHER  
EDUCATION COMMISSION**

**Subtitle 05 FULLY ONLINE  
PROGRAMS**

**13B.05.01 Registration**

Authority: Education Article, §§11-105(u), 11-202, and 11-202.2, Annotated Code of Maryland

**Notice of Proposed Action**  
[16-188-P]

The Maryland Higher Education Commission proposes to amend Regulation .11 under **COMAR 13B.05.01 Registration**. This action was considered at an open meeting of the Maryland Higher Education Commission held on February 24, 2016, pursuant to General Provisions Article, §3-301, Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to clarify that all institutions of higher education that register with the Maryland Higher Education Commission under COMAR 13B.05.01 must report to the Secretary of Higher Education regarding the number of students the institution places at internship, practicum, or field experience locations within the State.

**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 Monica Wheatley, M.S., Associate Director, Collegiate Affairs, Maryland Higher Education Commission, 6 North Liberty Street, 10th Floor, Baltimore, MD 21201, or call 410-767-3301, or email to monica.wheatley@maryland.gov. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**.11 Institutional Operations.**

An institution that is registered under this chapter shall:

A. — D. (text unchanged)

E. If the institution has no more than [five] *ten* Maryland students in a single program *placed simultaneously* at one [or more sites] *site* in the State in a supervised internship, practicum, or field experience as a required part of a degree or certificate program, submit to the Secretary, by June 30 of each year, an annual report detailing the number of students placed at each internship, practicum, or field experience location, in a form and manner required by the Secretary.

JAMES D. FIELDER, JR., Ph.D.  
Secretary of Higher Education

**Subtitle 06 GENERAL EDUCATION  
AND TRANSFER**

**13B.06.01 Public Institutions of Higher  
Education**

Authority: Education Article, [§11-105(u)] §§10-205, 11-105(b)(9) and (u), and 11-201, Annotated Code of Maryland

**Notice of Proposed Action**  
[16-195-P]

The Maryland Higher Education Commission proposes to amend Regulations .02, .02-1, and .04—.08 under **COMAR 13B.06.01 Public Institutions of Higher Education**. This action was considered by the Commission at an open meeting held on June 16, 2016, notice of which was given as required by the General Provisions Article, §3-302(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to update regulations relating to general education and transfer.

**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 Geoffrey Newman, Assistant Secretary of Finance and Administration, Maryland Higher Education Commission, 6 N Liberty Street, 10th Floor, Baltimore, MD 21201, or call 410-767-3085, or email to geoff.newman@maryland.gov, or fax to 410-332-0270. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) "*A.A.T. degree*" means the Associate of Arts in Teaching degree.

(4) "*A.F.A. degree*" means the Associate of Fine Arts degree.

[(3)] (5) "*Arts*" means courses that examine aesthetics and the development of the aesthetic form and explore the relationship between theory and practice. [Courses in this area may include fine arts, performing and studio arts, appreciation of the arts, and history of the arts.]

[(4)] (6) (text unchanged)

(7) "*A.S.E. degree*" means the Associate of Science in Engineering degree.

[(5)] (8) (text unchanged)

(9) "*Cumulative grade point average*" means the average of grades received for completed course work at all institutions attended.

[(6)] (10) — [(8)] (12) (text unchanged)

[(9)] (13) "*Humanities*" means courses that examine the values and cultural heritage that establish the framework for inquiry into the meaning of life. [Courses in the humanities may include the

language, history, literature, and philosophy of Western and other cultures.]

[(10)] (14) — [(13)] (17) (text unchanged)

[(14)] (18) "Recommended transfer program" means a planned program of courses, both general education and courses in the major, taken at a community college, which is applicable to a baccalaureate program at a receiving institution, and ordinarily the first [2 years] half of the baccalaureate degree.

(19) "Reverse transfer" means a process whereby up to 45 credits that a student earns at any public 4-year higher education institution in the State toward a bachelor's degree are transferrable to any community college in the State for credit toward an associate's degree.

[(15)] (20) (text unchanged)

[(16)] (21) "Social and behavioral sciences" means courses that [examine the psychology of individuals and the ways in which individuals, groups, or segments of society behave, function, and influence one another] are concerned with the examination of society and the relationships among individuals within a society. [The courses include, but are not limited to, subjects which focus on:

- (a) History and cultural diversity;
- (b) Concepts of groups, work, and political systems;
- (c) Applications of qualitative and quantitative data to social issues; and

(d) Interdependence of individuals, society, and the physical environment.]

[(17)] (22) "Transfer student" means a student entering an institution for the first time having successfully completed a minimum of 12 semester hours at another institution [which is] that are applicable for credit at the institution the student is entering.

**.02-1 Admission of Transfer Students to Public Institutions.**

**A. Admission to Institutions and Programs.**

(1) A student attending a public institution who has completed an [A.A., A.A.S., or A.S.] *associate's* degree [or who has completed 56 or more semester hours of credit,] may not be denied direct transfer to another public institution if the student attained a cumulative grade point average of at least 2.0 on a 4.0 scale or its equivalent in parallel courses, [except as provided in §A(4) of this regulation] *provided there is space available and, where applicable, the student has met any additional program admission requirements. The receiving institution shall publish application and admission data from the most recent admission cycle on the institution's website.*

(2) *Admissions.*

(a) *If the number of students seeking admission exceeds the number that can be accommodated at a receiving public institution, admission decisions shall be:*

- (i) *Based on criteria developed and published by the receiving public institution; and*
- (ii) *Made to provide fair and equal treatment for native and transfer students.*

(b) *A receiving public institution may require higher performance standards for admission to some programs if the standards and criteria for admission to the program:*

- (i) *Are developed and published by the receiving public institution; and*
- (ii) *Maintain fair and equal treatment for native and transfer students.*

(c) *If the number of students seeking admission exceeds the number that can be accommodated in a particular professional or specialized program, admission decisions shall be:*

- (i) *Based on criteria developed and published by the receiving public institution; and*

(ii) *Made to provide fair and equal treatment for native and transfer students.*

[(2)] (3) A student attending a public institution who has not completed an [A.A., A.A.S., or A.S.] *associate's* degree [or who has completed fewer than 56 semester hours of credit,] is eligible to transfer to a public institution regardless of the number of credit hours earned if the student:

- (a) Satisfied the admission criteria of the receiving public institution as a high school senior; [and]
- (b) Attained at least a cumulative grade point average of 2.0 on a 4.0 scale or its equivalent *in course work at the sending institution; [in parallel courses.] and*
- (c) *Where applicable, the student has met any additional program admission requirements.*

[(3)] (4) (text unchanged)

[(4) If the number of students seeking admission exceeds the number that can be accommodated at a receiving public institution, admission decisions shall be:

- (a) Based on criteria developed and published by the receiving public institution; and
- (b) Made to provide fair and equal treatment for native and transfer students.

**B. Admission to Programs.**

(1) A receiving public institution may require higher performance standards for admission to some programs if the standards and criteria for admission to the program:

- (a) Are developed and published by the receiving public institution; and
- (b) Maintain fair and equal treatment for native and transfer students.

(2) If the number of students seeking admission exceeds the number that can be accommodated in a particular professional or specialized program, admission decisions shall be:

- (a) Based on criteria developed and published by the receiving public institution; and
- (b) Made to provide fair and equal treatment for native and transfer students.

(3) Courses taken at a public institution as part of a recommended transfer program leading toward a baccalaureate degree shall be applicable to related programs at a receiving public institution granting the baccalaureate degree.]

[C.] **B. Receiving Institution Program Responsibility.**

(1) (text unchanged)

(2) A receiving public institution may set program requirements in major fields of study [which] *that* simultaneously fulfill general education requirements.

(3) (text unchanged)

(4) *A receiving public institution shall ensure that any changes to program standards and criteria for admission and the transfer of credits maintain the fair and equal treatment of native and transfer students, and are communicated in a timely manner.*

**.04 Transfer of General Education Credit.**

A.—D. (text unchanged)

E. Except as provided in Regulation .03M of this chapter, a receiving institution may not require a transfer student who has completed the requisite number of general education credits at any public college or university to take, as a condition of graduation, more than 10 — [16] 18 additional semester hours of general education and specific courses required of all students at the receiving institution, with the total number not to exceed 46 semester hours. This provision does not relieve students of the obligation to complete specific academic program requirements or course prerequisites required by a receiving institution.



[F. A sending institution shall designate on or with the student transcript those courses that have met its general education requirements, as well as indicate whether the student has completed the general education program.]

F. A Maryland community college shall accept 28 — 36 credits of general education as specified in Regulation .03C of this chapter as completion of the general education requirements at the community college, without further review or the need for a course-by-course match.

G. All public institutions shall designate on or with the student transcript those courses that have met its general education requirements, as well as indicate whether the student has completed the general education program.

[G.] H. A.A.S. and A.F.A. Degrees.

(1) While there may be variance in the numbers of hours of general education required for A.A., A.S., [and] A.A.S., and A.F.A. degrees at a given institution, the courses identified as meeting general education requirements for all degrees shall come from the same general education course list and exclude technical or career courses.

(2) An A.A.S. or A.F.A. student who transfers into a receiving institution with fewer than the total number of general education credits designated by the receiving institution shall complete the difference in credits according to the distribution as designated by the receiving institution. Except as provided in Regulation .03M of this chapter, the total general education credits for baccalaureate degree-granting public receiving institutions may not exceed 46 semester hours.

[H.] I. (text unchanged)

**.05 Transfer of [Nongeneral Education Program] Other Credit.**

A. Transfer of Credit to Another Public Institution.

(1) Courses taken at a public institution as part of a recommended transfer program leading toward a baccalaureate degree shall be applicable to related programs at the receiving public institution granting the degree if successfully completed in accordance with the receiving institution's policies governing native students in the same program.

(2) Students earning an A.A.S. or A.F.A. degree shall have their credits evaluated in a manner that maximizes the transfer of articulated and elective credit.

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

(5) If a community college has a request and signed waiver from a student for reverse transfer, the 4-year institution must provide an official electronic transcript to the community college at the college's request with no charge to the student or college.

B. [Credit] Unless otherwise specified in an articulation agreement, credit earned in or transferred from a community college is limited to:

(1) (text unchanged)

(2) The [first 2 years] equivalent of the first half of the undergraduate education experience.

C. Nontraditional Credit.

(1) (text unchanged)

(2) Transfer of credit from the following areas shall be consistent with COMAR 13B.02.02. and shall be evaluated by the receiving institution on a course-by-course basis according to the same standards that apply to native students at the receiving institution:

(a) (text unchanged)

(b) Course credit awarded through articulation agreements with other segments or agencies[.], including course credit awarded with articulation with Maryland public secondary schools. To facilitate the transfer of credits, articulation agreements should be developed in collaboration with all public institutions;

(c) Credit awarded for clinical practice or cooperative education experiences; [and]

(d) Credit awarded for life and work experiences[.]; and

(e) Credit awarded for military training, course work, and education.

(3)—(5) (text unchanged)

D. Program Articulation.

(1) Recommended transfer programs shall be developed through [consultation] collaboration between the sending and receiving institutions. A recommended transfer program represents an agreement between the two institutions that allows students aspiring to the baccalaureate degree to plan [their programs] for seamless transfer. These programs constitute freshman/sophomore level course work to be taken at the community college in fulfillment of the receiving institution's lower division course work requirement.

(2) (text unchanged)

**.06 Academic Success and General Well-Being of Transfer Students.**

A. Sending Institutions.

(1) Community colleges shall encourage their students to complete the associate degree [or to complete 56 hours] in a recommended transfer program [which] that includes both general education courses and courses applicable toward the program at the receiving institution.

(2) (text unchanged)

(3) The sending institution shall:

(a) Provide to community college students information about the specific transferability of courses [at] and programs to 4-year colleges;

(b)—(c) (text unchanged)

B. Receiving Institutions.

(1)—(2) (text unchanged)

(3) A receiving institution shall evaluate the transcript or transcripts of a degree-seeking transfer student as expeditiously as possible, and notify the student of the results [not later than mid-semester of the student's first semester of enrollment at the receiving institution, if all official transcripts have been received at least 15] within 20 working days [before mid-semester.] of the receipt of all official transcripts. The receiving institution shall inform a student of the courses [which] that are acceptable for transfer credit and the courses [which] that are applicable to the student's intended program of study.

(4) A [receiving institution shall give a transfer student the option of satisfying institutional graduation requirements that were in effect at the receiving institution at the time the student enrolled as a freshman at the sending institution. In the case of major requirements, a transfer student may satisfy the major requirements in effect at the time when the student was identifiable as pursuing the recommended transfer program at the sending institution. These conditions are applicable to a student who has been continuously enrolled at the sending institution.] transfer student shall be provided the same opportunity as a native student to pursue the program and degree requirements that were in effect at the time that the student enrolled at the sending institution provided they have been continuously enrolled and otherwise meet the same requirements of the native student.

**.07 Programmatic Currency.**

A. [A receiving institution] Maryland public institutions shall [provide to the community college] collaborate to develop and provide to students current and accurate information on [recommended transfer] transferable programs and [the transferability status of courses. Community college students shall have access to this information] courses.

B. [Recommended] *Upon approval of new baccalaureate programs, recommended transfer programs shall be developed with each community college [whenever new baccalaureate programs are approved by the degree-granting institution].*

C. (text unchanged)

**.08 Transfer Mediation Committee.**

A. [There is a Transfer Mediation Committee, appointed by] *Sending and receiving institutions that disagree on the transferability of general education courses as defined by this chapter shall submit their disagreements to the Secretary, [which is] who shall appoint a Transfer Mediation Committee to adjudicate the disagreement. Members appointed to the Transfer Mediation Committee shall be representative of the public 4-year colleges and universities and the community colleges.*

[B. Sending and receiving institutions that disagree on the transferability of general education courses as defined by this chapter shall submit their disagreements to the Transfer Mediation Committee. The Transfer Mediation Committee shall address general questions regarding existing or past courses only, not individual student cases, and shall also address questions raised by institutions about the acceptability of new general education courses. As appropriate, the Committee shall consult with faculty on curricular issues.]

B. *The Transfer Mediation Committee shall address general education issues at the course or curricular level, not individual student cases. As appropriate, the Committee shall consult with faculty on curricular issues.*

C. (text unchanged)

JAMES D. FIELDER, JR., Ph.D.  
Secretary of Higher Education

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

**Subtitle 01 GENERAL**

**30.01.02 Documents Incorporated by Reference**

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

**Notice of Proposed Action**

[16-199-P-I]

The Maryland State Emergency Medical Services Board proposes to amend Regulation .01 under **COMAR 30.01.02 Documents Incorporated by Reference**. This action was considered and approved by the State Emergency Medical Services Board at its regular meeting on June 14, 2016, notice of which was given by publication in 43:11 Md. R. 650 (May 27, 2016) under General Provisions Article, §3-302(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to incorporate by reference the current Maryland Medical Protocols for Emergency Medical Services Providers.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** Amiodarone has replaced lidocaine for cardiac-related emergencies. However, lidocaine will still be required for treatment of other conditions. Assuming amiodarone sufficient for two patients is added to the medication carried on public safety ambulances there will be an increase in the cost per ambulance of \$64 or a total of approximately \$23,424 for the total number of public safety ambulances. Assuming amiodarone sufficient for a single patient is added to the medication on commercial ambulances, the cost will increase \$32 per commercial ambulance or a total of approximately \$4,960 for the total number of commercial ambulances.

Dextrose 10% has been added as an optional supplemental protocol for providers to administer to adults in place of the more expensive dextrose 50% solution. Replacing dextrose 50% with dextrose 10% sufficient for two patients for public safety ambulances will decrease the cost per ambulance by \$40 or a total of savings of approximately \$14,640 for the total number of public safety ambulances. Replacing dextrose 50% with dextrose 10% sufficient for one patient for commercial ambulances will decrease the cost per ambulance by \$20 or a total of approximately \$1,705 for the total number of commercial ambulances.

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:		
(1) Two doses of amiodarone at \$32 per dose	(E+)	\$64 per unit
(2) 10% Dextrose for two patients instead of 50%	(E-)	\$40 savings per unit
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Amiodarone for one patient on each ambulance	(-)	\$32 per ambulance
(2) 10% Dextrose on each ambulance	(+)	\$20 savings per ambulance
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	
(1) Amiodarone	(+)	Uncertain

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

C(1). Amiodarone has replaced lidocaine for cardiac-related emergencies. However, lidocaine will still be required for treatment of other conditions. Assuming amiodarone sufficient for two patients is added to the medication carried on public safety ambulances there will be an increase in the cost per ambulance of \$64 or a total of approximately \$23,424 for the total number of public safety ambulances.

C(2). Dextrose 10% has been added as an optional supplemental protocol for providers to administer to adults in place of the more expensive dextrose 50% solution. Replacing dextrose 50% with dextrose 10% sufficient for two patients for public safety ambulances will decrease the cost per ambulance by \$40 or a total of savings of approximately \$14,640 for the total number of public safety ambulances.

D(1). Assuming amiodarone sufficient for a single patient is added to the medication on commercial ambulances, the cost will increase \$32 per commercial ambulance or a total of approximately \$4,960 for the total number of commercial ambulances.

D(2). Replacing dextrose 50% with dextrose 10% sufficient for one patient for commercial ambulances will decrease the cost per ambulance by \$20 or a total of approximately \$1,705 for the total number of commercial ambulances.

F(1). Amiodarone is the drug of choice for cardiac-related emergencies and aligns with the current American Heart Association guidelines.

**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 E. Fremont Magee, Assistant Attorney General, Maryland Institute for Emergency Medical Services Systems, 653 West Pratt Street, or call 410-706-8531, or email to fmagee@miemss.org, or fax to 410-706-2138. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**Editor's Note on Incorporation by Reference**

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, The Maryland Medical Protocols for Emergency Medical Services Providers (MIEMSS Effective July 1, 2016) has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 43:1 Md. R. 10 (January 8, 2016), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

**.01 Incorporation by Reference.**

A. (text unchanged)

B. Documents Incorporated.

(1) "Maryland Medical Protocols for Emergency Medical Services Providers (MIEMSS July 1, [2015] 2016 Edition)". This document can be obtained through the Maryland Institute for Emergency Medical Services Systems at 653 W. Pratt Street, Baltimore, Maryland 21201 (410-706-4449).

(2) — (4) (text unchanged)

KEVIN SEAMAN, M.D., F.A.S.C.P.  
Executive Director

**Title 31  
MARYLAND INSURANCE  
ADMINISTRATION**

**Subtitle 09 LIFE INSURANCE AND  
ANNUITIES**

**31.09.06 Notice of Nonforfeiture Provisions in  
Lapsed Life Policies**

Authority: Insurance Article, §2-109 and Title 16, Subtitle 3, Annotated Code of Maryland

**Notice of Proposed Action**

[16-191-P]

The Insurance Commissioner proposes to amend Regulation .01 under **COMAR 31.09.06 Notice of Nonforfeiture Provisions in Lapsed Life Policies**.

**Statement of Purpose**

The purpose of this action is to amend COMAR 31.09.06.01 with a technical change to replace the word "association" with the word "society" to conform with Insurance Article, §8-402, Annotated Code of Maryland, and other sections in COMAR.

**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 Lisa Larson, Assistant Director of Regulatory Affairs, Maryland Insurance Administration, 200 Saint Paul Place, Ste. 2700, Baltimore, MD 21202, or call 410-468-2007, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**.01 Notice Requirement.**

For any industrial or ordinary policy of insurance on the life of a resident of this State issued by any life insurance company or fraternal benefit [association] *society* operating in Maryland, when the policy has a cash, paid-up, or extended insurance or other equity at the time of lapse and when none of these equities is automatically granted by the policy without application by the insured, upon lapse of the policy, written notice shall be mailed to the last known address of the insured within not less than 30 days before the expiry of the period within which the insured may apply for the equity value. This notice shall state the nature of the equity to which the insured is entitled and the date before which application for the equity is required to be made.

ALFRED W. REDMER, JR.  
Insurance Commissioner

# Title 34 DEPARTMENT OF PLANNING

## Subtitle 04 HISTORICAL AND CULTURAL PROGRAMS

### 34.04.02 Maryland Historical Trust Historic Preservation Loan Program

Authority: State Finance and Procurement Article, §§5-7B-01—5-7B-10 and 5A-327, Annotated Code of Maryland; Executive Orders 01.01.1992.27C and 01.01.1998.04

#### Notice of Proposed Action

[16-194-P]

The Secretary of the Maryland Department of Planning proposes to amend Regulation .08 under **COMAR 34.04.02 Maryland Historical Trust Historic Preservation Loan Program**.

#### Statement of Purpose

The purpose of this action is to modify, revise and clarify certain provisions of and requirements for Maryland Historical Trust (MHT) Historic Preservation Loans in order to improve MHT's ability to asset manage its loan portfolio and better respond to its borrowers' needs.

#### 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 Rieyn DeLony, Deputy Counsel, Assistant Attorney General, Maryland Historical Trust, 100 Community Place, 3rd Floor, Crownsville, MD 21032-2023, or call 410-514-7847, or email to [rieyn.delony@maryland.gov](mailto:rieyn.delony@maryland.gov), or fax to 410-987-4071. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

#### .08 Loan Terms and Requirements.

A. General Requirements. Loans shall meet the following requirements:

(1)—(2) (text unchanged)

(3) Insurance. The borrower shall cause the assisted historic property to be insured against loss or damage by fire and other hazards, casualties, and contingencies as may be required from time to time by the Trust in amounts satisfactory to the Trust, *as described in §C of this regulation.*

(4)—(6) (text unchanged)

(7) Security.

(a) [The Trust may require that repayment of a loan be secured by liens, guarantees of repayment, or other forms of] *Financial assistance from the Trust may be secured, at the discretion of the Trust, by collateral acceptable to the Trust[.]; and*

(b) *Collateral acceptable to the Trust may include:*

(i) *A cash escrow;*

(ii) *A letter of credit;*

(iii) *A pledge of depository accounts;*

(iv) *A pledge of accounts receivable;*

(v) *An assignment of income;*

(vi) *A security interest in machinery and equipment;*

(vii) *A mortgage or deed of trust on the historic real property assisted by the loan;*

(viii) *A mortgage or deed of trust on other real property satisfactory to the Trust; or*

(ix) *Guarantees of repayment from guarantors acceptable to the Trust.*

(8)—(10) (text unchanged)

(11) Modification [or Acceleration] of Loan. *In order to facilitate the successful completion or operation of a project, the Trust may modify:*

(a) *The rate of interest;*

(b) *The time or amount of payment; or*

(c) *Any other term of a loan.*

(12) *Acceleration of loan.* In accordance with the terms of the loan documents, the Trust may [modify the terms of repayment or] accelerate the payment of the entire principal and interest due if the:

(a) [Borrower's income changes or if the borrower is no longer eligible in accordance with Regulation .04 of this chapter] *Borrower defaults on the loan;*

(b)—(c) (text unchanged)

[(12)](13)—[(14)](15) (text unchanged)

B. Deferred Loan Requirements. In addition to the conditions and requirements of §A of this regulation, deferred loans shall meet the following additional requirements:

(1) (text unchanged)

(2) The deferred terms shall provide for repayment of deferred amounts at the maturity date or any earlier date established by the Trust, or upon any sale or other transfer of the [historic] *real property securing a loan, or any sale or other transfer of an interest in [the historic] such real property.* The Trust may, but need not, charge interest on deferred interest payments.

C. [Historic] Real Property Requirements. In addition to the conditions and requirements of §§A and B of this regulation, when *real property secures a loan, or [the] historic real property is assisted by the loan [is real property], the loan shall meet the following requirements:*

(1) Mortgage or Deed of Trust. [Repayment of the loan shall be secured by a mortgage or deed of trust on the real property in the form required by the Trust. The mortgage or deed of trust shall be recorded in the land records of the political subdivision in which the real property is situated. The mortgage or deed of trust may be subordinate to other recorded mortgage liens provided that the Trust and the other mortgagee give any required consents.]

(a) *A mortgage or deed of trust on real property securing a loan shall be recorded in the land records of the political subdivision in which the real property is situated.*

(b) *The mortgage or deed of trust may be subordinate to other recorded mortgage liens, provided that the Trust and the other mortgagee or mortgagees give any required consents.*

(2) *Property, Liability, and Other Insurance.*

(a) *The borrower shall provide evidence that the borrower, the property owner if borrower is not the property owner, and contractors, have obtained and continues to maintain the following insurance, as required by the Trust:*

(i) *Owner's liability;*

(ii) *Contractor's liability; and*

(iii) *Owner's property or hazard, or builder's risk.*

- (b) All insurance required under this section shall:
  - (i) Be written by a company registered with the Maryland Insurance Administration, or a company approved by the Trust in the event the property and company are located out-of-State;
  - (ii) Be in force at or before the time of loan closing;
  - (iii) Not be terminable without prior notification to the Trust; and
  - (iv) Contain such other terms and coverage satisfactory to the Trust.
- (c) Owner's liability insurance shall:
  - (i) Name the Trust as an additional insured; and
  - (ii) Remain in force for the duration of the loan.
- (d) Contractor's liability insurance shall:
  - (i) Name the Trust as an additional insured; and
  - (ii) Remain in place through completion of construction the project or such later date as the Trust may require.
- (e) Owner's property or hazard insurance and builder's risk insurance shall:
  - (i) Name the Trust as an additional insured, loss payee, and mortgagee; and
  - (ii) Remain in force for the duration of the loan.

[(2)] (3) Title Insurance.

(a) For loans in amounts [greater than] of \$15,000 or greater [the Trust], in its discretion[,] the Trust may require the borrower to provide a standard American Land Title Association Loan Policy— [1970]2006, as amended, which policy shall

- (i) Be issued by a title insurance company acceptable to the Trust[.];
- (ii)[for]Be issued in an amount equal to the maximum principal amount of the loan[.];
- (iii) [This policy shall insure] Insure the Trust[,] as additional insured and mortgagee;
- (iv) [evidencing] Evidence that title to the real property on which the improvements are located is, as of the date of closing, [is] vested in the borrower[, and];
- (v) [may contain] Contain only [standard] exceptions and encumbrances approved by the Trust[.]; and
- (vi) Not include exceptions for survey matters, general or blanket exceptions, materialman's liens or for taxes or assessments that are due and payable as of the date of closing.

(b) For loans in amounts up to \$15,000, [the Trust,] in its discretion[,] the Trust may require the borrower to provide an attorney's certificate of title or other evidence of title acceptable to the Trust [certifying], which;

- (i) Establishes that [the] title to the real property on which the improvements are located is as of the date of closing, [is] vested in the borrower[.];
- (ii) [The certificate of title may] May contain only [standard] exceptions and encumbrances approved by the Trust[.]; and
- (iii) May not include exceptions for survey matters, general or blanket exceptions or materialman's liens or for taxes or assessments that are due and payable as of the date of closing.

[(3)](4) Appraisals. For loans [greater than] of \$25,000 or greater, the Trust, in its discretion, may require:

- (a) [an] An appraisal of the assisted historic real property that secures a loan, showing the property's value after completion of any scheduled restoration or rehabilitation[.]; or
- (b) An appraisal of other real property that secures a loan, showing the property has sufficient value, taking into account all senior liens, to secure the lien at a 80 percent loan to value ratio.

[(4)](5) Deed of Easement.

(a) The borrower, and the owner of the historic real property if the owner is not the borrower, shall convey to the Trust a perpetual deed of easement containing preservation covenants applicable to the

historic real property assisted by the loan, in form and substance satisfactory to the Trust. The borrower shall record the deed of easement among the land records of the political subdivision in which the real property is situated. A recorded deed of easement under this paragraph satisfies the requirement of a preservation agreement in §A(8) of this regulation.

(b) The requirement of a preservation agreement or deed of easement set forth in [§C(4)(a) and A(8)] §§A(8) and C(5)(a) of this regulation may be modified or waived by the Secretary if the Secretary has issued a written determination that such an agreement or easement is impracticable or infeasible under the circumstances. Evidence of impracticability or infeasibility may include, among other things, the existence of a previous agreement or deed of easement in form and substance satisfactory to the Trust.

(c) The provision in [§C(4)(a)] §C(5)(a) of this regulation, requiring execution of the deed of easement by the owner if the owner is not the borrower, may be modified or waived by the Director in the case of long-term leasehold property, if necessary.

DAVID R. CRAIG  
Secretary of Planning

## Title 36

# MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

### Subtitle 05 TABLE GAMES

#### Notice of Proposed Action

[16-186-P]

The Maryland Lottery and Gaming Control Agency proposes to:

- (1) Amend Regulations .02 under **COMAR 36.05.01 General**;
- (2) Amend Regulations .13, .16, and .20 and adopt new Regulations .22 and .23 under **COMAR 36.05.02 Table Game Equipment**;
- (3) Amend Regulations .19 — .22 and adopt as new Regulations .26 — .31 under **COMAR 36.05.03 Table Games Procedures**;
- (4) Repeal in their entirety existing Regulations .01—.14 under **COMAR 36.05.04 Blackjack Rules**;
- (5) Repeal in their entirety existing Regulations .01—.12 under **COMAR 36.05.05 Craps Rules**;
- (6) Repeal in their entirety existing Regulations .01—.21 under **COMAR 36.05.06 Poker Rules**;
- (7) Repeal in their entirety existing Regulations .01—.06 under **COMAR 36.05.07 Roulette Rules**;
- (8) Repeal in their entirety existing Regulations .01—.03 under **COMAR 36.05.08 Big Six Wheel Rules**;
- (9) Repeal in their entirety existing Regulations .01—.13 under **COMAR 36.05.09 Four Card Poker Rules**;
- (10) Repeal in their entirety existing Regulations .01—.13 under **COMAR 36.05.10 Midi Baccarat Rules**;
- (11) Repeal in their entirety existing Regulations .01—.13 under **COMAR 36.05.11 Mississippi Stud Rules**;
- (12) Repeal in their entirety existing Regulations .01—.14 under **COMAR 36.05.12 Pai Gow Poker Rules**;
- (13) Repeal in their entirety existing Regulations .01—.13 under **COMAR 36.05.13 Texas Hold 'Em Rules**;
- (14) Repeal in their entirety existing Regulations .01—.13 under **COMAR 36.05.14 Three Card Poker Rules**;

(15) Repeal in their entirety existing Regulations .01—.10 under **COMAR 36.05.15 Pai Gow Tiles Rules**;

(16) Repeal in their entirety existing Regulations .01—.13 under **COMAR 36.05.16 Ultimate Texas Hold 'Em Rules**;

(17) Repeal in their entirety existing Regulations .01—.13 under **COMAR 36.05.17 Mini Baccarat Rules**;

(18) Repeal in their entirety existing Regulations .01—.13 under **COMAR 36.05.18 Let It Ride Poker Rules**; and

(19) Repeal in their entirety existing Regulations .01—.13 under **COMAR 36.05.19 Double Draw Poker Game**.

At this time, the Maryland Lottery and Gaming Control Commission is also withdrawing the amendments to Regulation .02 under **COMAR 36.05.01 General** as proposed in 43:15 Md. R. 876—879 (July 22, 2016).

This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on May 26, 2016, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to:

(1) Create a definition for “standard rules” under COMAR 36.05.01.02;

(2) Establish a new section concerning the rotation and replacement of dice under COMAR 36.05.02.13;

(3) Establish a new section concerning the rotation of cards under COMAR 36.05.02.16;

(4) Clarify that a facility conducting electronic wagering at a table game must be done in accordance with the standard rules for Poker under COMAR 36.05.02.20;

(5) Establish all-new regulations that concern the general requirements for table game tables under COMAR 36.05.02.22 and .23;

(6) Specify that Commission’s approval is needed for table game rules submissions under COMAR 36.05.03.19;

(7) Clarify that Commission’s approval must be obtained before a new feature or table game is used under COMAR 36.05.03.20;

(8) Clarify that the Commission maintain standard rules and any changes thereto under COMAR 36.05.03.21;

(9) Clarify that facility operator must make standard rules available to players under COMAR 36.05.03.22;

(10) Repeal in their entirety various existing chapters of game-specific table game rule regulations while also amending certain regulations under the table game equipment and table game procedures chapters to incorporate these changes; and

(11) Make stylistic changes to comply with the Style Manual for Maryland Regulations.

**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 James B. Butler, Director of Legislative and Policy Affairs, Maryland Lottery and Gaming Control Agency, 1800 Washington Blvd., Suite 330, Baltimore, MD 21230, or call (410) 230-8781, or email to jbutler@maryland.gov, or fax to (410)

230-8727. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

**36.05.01 General**

State Government Article, §§9-1A-02 and 9-1A-04, Annotated Code of Maryland

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(10) (text unchanged)

(11) “Direct Bet Coupon” means an approved wagering instrument with a stated denomination that, when presented at a banking game, the patron may use for wagering.

[(11)] (12) — [(20)] (21) (text unchanged)

(22) “Standard rules” means the basic requirements that govern the play of a table game approved by the Commission.

[(21)] (23) — [(29)] (31) (text unchanged)

**36.05.02 Table Game Equipment**

State Government Article, §§9-1A-02 and 9-1A-04, Annotated Code of Maryland

**.13 Dice — Receipt, Storage, Inspection, and Removal.**

A.—N. (text unchanged)

O. *Rotation and Replacement of Dice.*

(1) A set of five dice used at a craps or mini-craps table shall be changed at least once every 24 hours.

(2) A new set of dice shall be used:

(a) When a craps or mini-craps table is reopened for gaming;

(b) If a die goes off the table during play and is lost;

(c) If a die show signs of tampering or alteration; or

(d) A die is otherwise marked, chipped, scratched, or no longer suitable for play.

(3) Dice that have been placed in a shaker for use in gaming may not remain on a table for more than 24 hours in the games of:

(a) Pai Gow Tiles; and

(b) Pai Gow Poker.

**.16 Cards — Receipt, Storage, Inspection, and Removal.**

A.—G. (text unchanged)

H. Envelopes and containers used to hold or transport cards shall be:

(1) Transparent[.];

(2) Designed or constructed with seals so that any tampering is evident[.]; and

(3) (text unchanged)

I.—N. (text unchanged)

O. [Facility operators] A facility operator shall submit to the Commission for approval internal control procedures for:

(1) (text unchanged)

(2) A daily reconciliation of the decks of cards distributed, destroyed or cancelled, returned to the storage area and any the decks of cards in the card reserve; and

(3) (text unchanged)

P. *Destruction or Cancellation.* Except for plastic cards used at poker which are of sufficient quality for reuse, decks of cards in an envelope or container that are inspected as required under §N of this regulation and found to be without any indication of tampering, marks, alterations, missing or additional cards or any indication of unfair play shall be destroyed or cancelled within 5 days of collection.

(1) — (4) (text unchanged)

Q.—S. (text unchanged)

T. *Card Rotation. The facility operator shall change:*

(1) *The decks of cards used for all banked table games except the games set forth in §T(2)—(5) of this regulation at least every:*

- (a) *4 hours, if the cards are dealt by hand; and*
- (b) *8 hours, if the cards are dealt from a manual or automated dealing shoe;*

(2) *The decks of cards used in blackjack at least every:*

- (a) *4 hours, if the cards are dealt by hand; and*
- (b) *24 hours, if the cards are dealt from a manual or automated dealing shoe;*

(3) *The decks of cards used in mini baccarat at least every 24 hours, if the cards are dealt from a manual or automated dealing shoe;*

(4) *The decks of cards used in midi baccarat after the play of each dealing shoe; and*

(5) *The two decks of cards used in poker at least every 24 hours.*

**.20 Dealer Controlled Electronic Table Games — Requirements.**

A. *Wagering. A facility operator may conduct electronic wagering at a table game in accordance with this chapter.*

(1)—(2) (text unchanged)

B.—E. (text unchanged)

F. *A dealer controlled electronic table game system shall:*

(1)—(2) (text unchanged)

(3) *In the game of Poker:*

(a)—(b) (text unchanged)

(c) *Extract the rake from a player or pot according to the rake procedures established under [COMAR 36.05.06] the standard rules for Poker, and debit the game account of a player in the correct amounts; and*

(d) (text unchanged)

(4)—(5) (text unchanged)

(6) *Accurately report and audit the table game’s win or loss, or Poker revenue, in accordance with [COMAR 36.05.06] the standard rules for Poker;*

(7) *Be capable of generating reports setting forth, by gaming day, for each table game using the dealer controlled electronic table game system:*

(a)—(i) (text unchanged)

(j) *If applicable, for Poker:*

(i) *The total amount deducted from the game account of a player for collection of Poker rake time charges under [COMAR 36.05.06] the standard rules for Poker;*

(ii) *The total amount collected from the accounts of each player for collection of Poker rake time charges under [COMAR 36.05.06] the standard rules for Poker;*

(iii) *The total amount collected from Poker pots for collection of Poker rake under [COMAR 36.05.06] the standard rules for Poker; and*

(iv) (text unchanged)

G.—I. (text unchanged)

**.22 Tables.**

A. *A facility operator shall submit to the Commission for approval the layout for a table game that contains at least:*

(1) *The name or logo of the facility operator;*

(2) *Betting areas designated for the placement of wagers authorized under the standard rules; and*

(3) *Inscriptions that advise a player of the payout odds or amounts for all permissible wagers offered by the facility operator, except that if payout odds or amounts are not inscribed on the layout, a sign identifying the payout odds or amounts for all permissible wagers shall be posted at each table.*

B. *If a facility operator offers a Progressive Payout Wager, a table shall have a progressive table game system for the placement of Progressive Payout Wagers that includes a:*

(1) *Wagering device at each betting position that acknowledges or accepts the placement of the Progressive Payout Wager; and*

(2) *Device that controls or monitors the placement of Progressive Payout Wagers at the gaming table and includes a lock-out button or other mechanism that prevents the recognition of any Progressive Payout Wager that a player attempts to place after the dealer has announced “no more bets”.*

C. *A table shall have a drop box and a tip box attached on the same side of the gaming table as, but on opposite sides of, the dealer, as approved by the Commission.*

D. *The Commission may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.*

E. *Each table shall have a discard rack securely attached to the top of the dealer’s side of the table except for:*

(1) *Craps; and*

(2) *Roulette.*

**.23 Roulette — Ball, Table, and Wheel Inspection; Security Procedures.**

A. *A ball used in Roulette shall be:*

(1) *Made completely of a nonmetallic substance; and*

(2) *Not less than 12/16 inch nor more than 14/16 inch in diameter.*

B. *Roulette shall be played on a table having a Roulette:*

(1) *Wheel of at least 30 inches in diameter at one end of the table; and*

(2) *Layout imprinted on the opposite end of the table.*

C. *Prior to opening a Roulette table for gaming activity, a floorperson or member of a facility operator’s security department shall:*

(1) *Inspect the Roulette ball by passing it over a magnet or compass to assure its nonmagnetic quality;*

(2) *Inspect the Roulette table and Roulette wheel for any magnet or contrivance that would affect the fair operation of the Roulette wheel;*

(3) *Inspect the Roulette wheel to assure that the wheel is level and rotating freely and evenly; and*

(4) *Inspect the Roulette wheel to assure that all parts are secure and free from movement.*

D. *If a facility operator uses a Roulette wheel that has external movable parts, any adjustments to the movable parts shall be made by a floorperson or a member of the facility operator’s gaming operations department in the presence of a security department member.*

E. *All adjustments shall be completed prior to the required inspections under §C of this regulation.*

F. *A facility operator may replace any of the movable parts at any time, except that an inspection as required under §C of this regulation shall be completed prior to reopening the Roulette wheel and table for play.*

G. *A facility operator shall maintain an inspection log, which shall include:*

(1) *The date and time of inspection;*

(2) *The Roulette table number;*

(3) *Whether an adjustment or replacement was completed;*

(4) *A description of the adjustment or replacement;*

(5) *If required, a certification that an inspection was completed; and*

(6) *The signature and license number of the individual making the adjustment or replacement.*

H. When a Roulette table is not open for play, the Roulette wheel shall be secured by a cover that is placed over the entire wheel and securely locked.

### 36.05.03 Table Games Procedures

State Government Article, §§9-1A-02(b) and 9-1A-04(d), Annotated Code of Maryland

#### .19 Table Games Rules Submissions.

A. Before offering a table game authorized under [this chapter] *the standard rules*, a facility operator shall submit [and obtain approval of] *to the Commission* a [Rules Submission] *rules submission* that specifies which options the facility operator will use in the conduct of the table game.

B. A facility operator may implement the provisions in a rules submission [upon] *only after* receipt of written notice of approval from the Commission.

C.—D. (text unchanged)

E. A facility operator shall maintain a paper or electronic copy of any superseded rules submission for a minimum of 5 years from the date of *Commission* approval.

#### .20 Request to Offer a New Table Game or Feature.

A. A facility operator that desires to offer a table game *or feature* that is not [specifically authorized in this subtitle] *already in the standard rules*, or to offer a new wager, payable or other feature as part of [an authorized] table game *that has been approved by the Commission*, shall submit a written request [with] *to the Commission* that contains at least:

(1)—(9) (text unchanged)

B. In addition to [filing a] *submitting a change* request with the Commission, a facility operator shall, at its expense, submit the new table game or new feature for review to an independent certified testing laboratory certified by the Commission.

C. Following testing by the [Commission's] independent certified testing laboratory, the Commission will notify the facility operator whether the new table game or new feature has been approved, approved with conditions, or rejected.

#### .21 Game Rules; Notice.

A. *The Commission shall maintain:*

(1) *A list of all table games that have been approved by the Commission and the standard rules for each approved table game; and*

(2) *Records of a facility operator's table game or feature rules that have been approved by the Commission.*

[A.] B. Except as provided in [§B] §C of this regulation, a facility operator may not change the rules under which a particular table game is being operated unless the facility operator submits to, and receives written approval from, the Commission for an amendment to its rules submission under Regulation .19 of this chapter.

[B.] C. A facility operator may increase or decrease the permissible maximum wager or decrease the permissible minimum wager at a table game:

- (1) If no players are playing at the table, at any time; or
- (2) (text unchanged)

#### .22 Player Access to Game Rules; Gaming Guide.

A. A facility operator shall maintain, at its security podium or other location approved in advance by the Commission, a printed copy of the complete text of the *standard rules* of all authorized games that shall be available to the public for inspection upon request.

B. A facility operator shall make available to players upon request a gaming guide that contains, in a printed format, an abridged version of the complete text of the *standard rules* of all authorized games.

C.—E. (text unchanged)

#### .26 Inspecting Cards.

A. After receiving one or more decks of cards at the table, the dealer shall inspect the cards for any defects and a floorperson assigned to the table shall verify the inspection.

B. After the cards are inspected, the dealer shall spread the cards out face up on the table, in horizontal fan shaped columns by deck according to suit and in sequence, for visual inspection by the first player to arrive at the table.

C. After the first player arriving at the table has been afforded an opportunity to visually inspect the cards, the dealer shall:

- (1) Turn the cards face down on the table;
- (2) Mix the cards thoroughly by washing them; and
- (3) Stack the cards.

D. After the cards have been stacked, the dealer shall shuffle them in accordance with Regulation .27 of this chapter.

E. If an automated card shuffling device is utilized and two decks of cards are received at the table, each deck of cards shall be spread for inspection, mixed, stacked, and shuffled in accordance with §§A — D of this regulation.

F. If the decks of cards received at the table are preinspected and reshuffled, §§A—E of this regulation do not apply.

#### .27 Shuffling and Cutting the Cards.

A. Unless the cards were reshuffled, the dealer shall shuffle the cards so they are randomly intermixed, manually or with an automated card shuffling device:

- (1) Immediately prior to commencement of play;
- (2) After each round of play has been completed; or
- (3) When directed by a floorperson or above.

B. A facility operator may use an automated card shuffling device which inserts the stack of cards directly into a dealing shoe after shuffling is complete.

C. A deck shall be removed from the table if an automated card shuffling device:

- (1) Is being used which counts the number of cards in the deck after the completion of each shuffle and indicates the number of cards present; and
- (2) Reveals that an incorrect number of cards are present.

D. Upon completion of the shuffle, the dealer or automated shuffling device shall place the decks of cards in a single stack, and:

- (1) If the cards were shuffled using an automated card shuffling device, deal the cards in accordance with Regulation .28, 29 or .30 of this chapter; or
- (2) If the cards were shuffled manually or were reshuffled, cut the cards in accordance with the procedures in §E of this regulation.

E. If a cut of the cards is required, the dealer shall perform the cut in accordance with the standard rules.

F. After the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if the floorperson determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

G. If there is no gaming activity at a table which is open for gaming, the dealer shall:

- (1) Remove the cards from the dealing shoe and discard rack;
- (2) Unless a player requests that the cards be spread face up on the table, spread out the cards on the table face down;
- (3) After the first player arriving at the table is afforded an opportunity to visually inspect the cards, complete the procedures in this section and Regulation .26 of this chapter if there is no automated shuffling device in use; and
- (4) If an automated shuffling device is in use, stack the cards and place them into the automated shuffling device to be shuffled, and:

- (a) Remove the batch of cards already in the shuffler; and



(b) If the automated card shuffling device stores a single batch of shuffled cards inside the shuffler in a secure manner, at a player's request remove the batch of cards from the shuffler and spread the cards for inspection and reshuffle them prior to dealing.

H. A facility operator may use a dealing shoe or other device that automatically reshuffles and counts the cards provided that the device is submitted to the Commission and approved prior to its use in the facility.

I. If a facility operator is using a device described in §H of this regulation, §§E—G of this regulation do not apply.

**.28 Procedure for Dealing Cards from a Manual Dealing Shoe.**

A. Requirements. If a manual dealing shoe is used, it shall be located on the table in a location approved by the Commission, and the following requirements shall be met:

(1) After the procedures required under Regulation .27 of this chapter have been completed, the stacked deck of cards shall be placed in the dealing shoe by the dealer or by an automated card shuffling device.

(2) Prior to dealing any cards, the dealer shall announce "no more bets".

(3) If the Progressive Payout Wager is being offered, the dealer shall use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers.

(4) If a player has made a Progressive Payout Wager, the dealer shall:

(a) Collect the Progressive Payout wager in accordance with the standard rules;

(b) On the layout in front of the table inventory container, verify that the number of value chips wagered equals the number of Progressive Payout Wagers accepted by the progressive table game system; and

(c) Place the value chips into the table inventory container.

(5) The dealer shall remove each card from the dealing shoe with the hand of the dealer that is closest to the dealing shoe and place the card on the appropriate area of the layout with the opposite hand.

B. The dealer shall deal the cards in accordance with the standard rules.

C. After dealing cards in accordance with the standard rules, the dealer shall:

(1) Remove the stub from the manual dealing shoe; and

(2) Except as provided in §G of this regulation, place the stub in the discard rack without exposing the cards.

D. If an automated card shuffling device described in Regulation .27 of this chapter is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards required by the standard rules are still present in the deck.

E. Number of Cards. The dealer shall determine the number of cards in the stub as required under §D of this regulation by counting the cards face down on the layout.

(1) If the count of the stub indicates that the correct number of cards is in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(2) If the count of the stub indicates that the number of cards in the deck is not correct, the dealer shall determine if the cards were misdealt.

(3) If correct number of cards remain in the deck, but the cards were misdealt so that a player has more or less than the required number of cards or the dealer has more or less than the required number of cards, all hands are void and the dealer shall return all wagers to the players.

(4) If the cards were not misdealt as described in §E(3) of this regulation, all hands are void and the dealer shall return all wagers to the players and remove the entire deck of cards from the table.

**.29 Procedure for Dealing Cards from the Hand.**

A. Requirements. If the cards are dealt from a dealer's hand, the following requirements shall be met:

(1) An automated shuffling device shall be used to shuffle the cards.

(2) After the procedures required under Regulation .27 of this chapter have been completed, the dealer shall place the stacked deck of cards in either of the dealer's hand.

(3) After the dealer has chosen the hand in which to hold the cards, the dealer shall continue to use that hand while holding the cards during that round of play.

(4) The cards held by the dealer shall be kept over the table inventory container and in front of the dealer at all times.

(5) Before dealing any cards, the dealer shall:

(a) Announce "no more bets"; and

(b) If the Progressive Payout Wager is being offered, use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers.

(6) If any Progressive Payout Wagers have been made, the dealer shall:

(a) On the layout in front of the table inventory container, collect the wagers in accordance with the standard rules;

(b) Verify that the number of value chips wagered equals the number of Progressive Payout Wagers accepted by the progressive table game system; and

(c) Place the value chips into the table inventory container.

B. The dealer shall:

(1) Deal each card by holding the deck of cards in the chosen hand;

(2) Use the other hand to remove the top card of the deck to place it face down on the appropriate area of the layout;

(3) Deal the cards in accordance with the standard rules.

(4) Except as provided in §C of this regulation, after dealing cards in accordance with the standard rules, place the stub in the discard rack without exposing the cards.

C. If an automated card shuffling device described in Regulation .27 of this chapter is not being used, the dealer shall:

(1) Count the stub at least once every five rounds of play to determine if the correct number of cards is still present in the deck in accordance with the standard rules; and

(2) Determine the number of cards in the stub by counting the cards face down on the layout.

D. If the count of the stub indicates that the correct number of cards is in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

E. If the count of the stub indicates that the number of cards in the deck is not correct, the dealer shall determine if the cards were misdealt.

F. If the correct number of cards remains in the deck, but the cards were misdealt so that a player has more or less than the required number of cards or the dealer has more or less than the required number of cards, all hands are void and the dealer shall return all wagers to the players.

G. If the cards were not misdealt as described in §E of this regulation, all hands are void and the dealer shall return all wagers to the players and remove the entire deck of cards from the table.

**.30 Procedure for Dealing Cards from an Automated Dealing Shoe or Shuffler.**

A. Requirements. If cards are dealt from an automated dealing shoe, the following requirements shall be met:

(1) After the procedures required under Regulation .27 of this chapter have been completed, the dealer shall place the cards in an automated dealing shoe or shuffler.

(2) Prior to the shoe or shuffler dispensing any stacks of cards, the dealer shall:

(a) Announce “no more bets”; and

(b) If the Progressive Payout Wager is being offered, use the progressive table game system to prevent the placement of any additional Progressive Payout Wagers.

(3) If any Progressive Payout Wagers have been made, the dealer shall:

(a) On the layout in front of the table inventory container, collect the wagers in accordance with the standard rules;

(b) Verify that the number of value chips wagered equals the number of Progressive Payout Wagers accepted by the progressive table game system; and

(c) Place the value chips into the table inventory container.

B. The dealer shall deal the cards in accordance with the standard rules.

C. After the cards has been dispensed and delivered in accordance with the standard rules, the dealer shall:

(1) Remove the stub from the automated dealing shoe; and

(2) Except as provided in §D of this regulation, place the cards in the discard rack without exposing the cards.

D. If the count of the stub indicates that the correct number of cards required by the standard rules is in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

E. If the count of the stub indicates that the number of cards in the deck is not correct, the dealer shall determine if the cards were misdealt.

F. If the correct number of cards remains in the deck, but the cards were misdealt so that a player has more or less than the required number of cards or the dealer has more or less than the required number of cards, all hands are void and the dealer shall return all wagers to the players.

G. If the cards were not misdealt as described in §F of this regulation, all hands are void and the dealer shall return all wagers to the players and remove the entire deck of cards from the table.

**.31 Mixing Tiles.**

A. After receiving a set of tiles at the table, the dealer shall sort and inspect the tiles and the floorperson assigned to the table shall verify the inspection.

B. Nothing in this section precludes a facility operator from cleaning the tiles prior to the inspection required in §C of this regulation.

C. A dealer shall inspect the tiles at the gaming table by:

(1) Sorting a set of tiles into pairs;

(2) Placing each tile side by side to determine that all tiles are the same size and shading; and

(3) Examining the back and sides of each tile to ensure that it is not flawed, scratched, or marked, and if the dealer finds that a tile is unsuitable for use:

(a) A floorperson or above shall bring another set of tiles to the table from the reserve in the pit stand; and

(b) The unsuitable set of tiles shall be placed in a sealed envelope or container, identified by table number, date and time and signed by the dealer and floorperson or above.

D. Following the inspection and verification of the tiles described in §C of this regulation, the dealer shall:

(1) Turn the tiles face up;

(2) Place the tiles into 16 pairs;

(3) Arrange the tiles according to rank; and

(4) Leave the tiles in pairs for visual inspection by the first player to arrive at the table.

E. After the first player arriving at the table is afforded an opportunity to visually inspect the tiles, the dealer shall:

(1) Turn the tiles face down on the table;

(2) Mix the tiles:

(a) With the heels of the hands;

(b) In a circular motion with one hand moving clockwise and the other hand moving counterclockwise; and

(c) With each hand completing at least eight circular motions to provide a random mixing; and

(3) Randomly pick up four tiles with each hand and place them side by side in stacks in front of the table inventory container, forming eight stacks of four tiles.

F. The entire set of tiles shall be remixed if, during the stacking process described in §E(2) of this regulation, a tile is turned over and exposed to the players.

G. After each round of play has been completed, the dealer shall turn all of the tiles face down and mix the tiles in accordance with §D of this regulation.

H. If there is no gaming activity at the table, the dealer shall turn the tiles face up and place them into 16 pairs according to rank.

I. After a player arrives at the table, the dealer shall follow the procedures in §E of this regulation.

GORDON MEDENICA  
Director

# Errata

## COMAR 10.01.17

At 43:13 Md. R. 726 (June 24, 2016), column 1, line 14 from the bottom:

For: of application and plan review fees totaling \$46, 870. The regulated

Read: of application and plan review fees totaling \$50,560. The regulated

At 43:13 Md. R. 726 (June 24, 2016), column 1, line 7 from the bottom:

For: A. On issuing agency: (R-) \$46,870

Read: A. On issuing agency: (R-) \$50,560

At 43:13 Md. R. 726 (June 24, 2016), column 1, line 1 from the bottom:

For: or trade groups (+) \$46,870

Read: or trade groups (+) \$50,560

At 43:13 Md. R. 726 (June 24, 2016), column 2, line 10 from the top:

For: fee collections of \$8,970 from the proposed 5 percent reduction in

Read: fee collections of \$12,660 from the proposed 5 percent reduction in

At 43:13 Md. R. 726 (June 24, 2016), column 2, line 16 from the top:

For: and food processing plants that include a savings of \$8,970 from the

Read: and food processing plants that include a savings of \$12,660 from the

[16-16-12]

# 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.

### ATHLETIC COMMISSION

**Subject:** Public Meeting

**Date and Time:** August 24, 2016, 2 — 5 p.m.

**Place:** 500 N. Calvert St., 3rd Fl. Board Rm., Baltimore, MD

**Contact:** Patrick Pannella (410) 230-6223  
[16-16-04]

### GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

**Subject:** Public Meeting

**Date and Time:** September 12, 2016, 1 — 3 p.m.

**Place:** Crownsville, MD

**Add'l. Info:** Contact Jessica Wheeler at 410-697-9342 to confirm location.

**Contact:** Jessica Wheeler (410) 697-9342  
[16-16-09]

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE

**Subject:** Notice of Opportunity for Public Inspection and Comment

**Add'l. Info:** The Maryland Department of Health and Mental Hygiene is submitting for comment the Medicaid Program Fee-For-Service Access Monitoring Review Plan. Under the final rule on the Medicaid Program: Methods for Assuring Access to Covered Medicaid Services issued by the Centers for Medicare and Medicaid Services (CMS) in November 2015, states are required to develop an access monitoring review plan for services provided through Medicaid fee-for-service (FFS) delivery systems.

Electronic copies of the draft plan will be available on August 5, 2016, and may be downloaded from <https://mmcp.dhnh.maryland.gov/Pages/Fee-For-Service-Access-Monitoring-Review-Plan.aspx>. Hard copies of the plan may be obtained by calling (410) 767-5814.

Interested parties may send written comments concerning the plan to [alysa.brown@maryland.gov](mailto:alysa.brown@maryland.gov). The Department will accept comments from August 5, 2016, until September 5, 2016.

**Contact:** Alyssa Brown (410) 767-9795  
[16-16-16]

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE

**Subject:** Call for Pharmacist Nominations for Maryland DUR Board

**Add'l. Info:** The Maryland Department of Health and Mental Hygiene Drug Utilization Review (DUR) Board is currently recruiting for one pharmacist to serve on the Maryland DUR Board beginning in January, 2017.

The implementation of the Omnibus Budget Reconciliation Act of 1990 requires that the Maryland Department of Health and Mental Hygiene establish a DUR Board. The DUR Board is composed of both physicians and pharmacists and has been in operation since November 1992. The activities of the DUR Board include:

- Overseeing retrospective and prospective DUR within the Maryland Medicaid Program.
- Approving DUR criteria and standards.
- Making recommendations concerning education and other types of interventions based on prospective and retrospective DUR findings.
- Preparing an annual report for submission to the Centers for Medicare and Medicaid (CMS) describing the nature and scope of the DUR program, summarizing educational/interventional strategies used, and estimating cost savings generated.
- Reviewing individual recipient profiles and make recommendations to restrict patients who might be abusing Medicaid prescription drugs.

The DUR Board has quarterly 3-hour meetings in the Baltimore area. Meetings are normally scheduled on a Thursday morning during the months of March, June, September, and December. Members serve terms of 3 years from the date of their appointment with the option to serve an additional 3 year term.

The membership of the Maryland DUR Board includes health care professionals who have recognized knowledge and expertise in at least one of the following areas:

- The clinically appropriate prescribing of outpatient drugs.

- The clinically appropriate dispensing and monitoring of outpatient drugs.
- Drug use review, evaluation and intervention.
- Medical quality assurance.

For an application packet, please contact Gina Homer at the Maryland Medicaid Pharmacy Program at 410-767-1749 or via email at [Gina.Homer@Maryland.gov](mailto:Gina.Homer@Maryland.gov).

The application deadline is Friday, September 16, 2016.

**Contact:** Gina Homer (410) 767-1749  
[16-16-17]

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE/MEDICAID PHARMACY AND THERAPEUTICS COMMITTEE

**Subject:** Public Hearing

**Date and Time:** November 3, 2016, 9 a.m. — 12 p.m.

**Place:** UMBC Research and Technology Park—South Campus, 1450 S. Rolling Rd., Halethorpe, MD

**Add'l. Info:** Meeting of the Maryland Medicaid Pharmacy Program's Pharmacy and Therapeutics Committee (Preferred Drug List). As soon as available, classes of drugs to be reviewed will be posted on the Maryland Pharmacy Program website at <https://mmcp.dhnh.maryland.gov/pap/SitePages/Public%20Meeting%20Announcement%20and%20Procedures%20for%20Public%20Testimony.aspx>.

**Contact:** Shawn Singh (410) 767-6896  
[16-16-15]

### STATEWIDE INDEPENDENT LIVING COUNCIL

**Subject:** Public Meeting

**Date and Time:** August 25, 2016, 3 — 5:30 p.m.

**Place:** Workforce Technology Center, 2301 Argonne Dr., Rm. T-130, Baltimore, MD

**Add'l. Info:** [marylandsilc@gmail.com](mailto:marylandsilc@gmail.com)  
**Contact:** Denise Thomas (240) 599-7966  
[16-16-05]

**MARYLAND STATE LOTTERY AND GAMING CONTROL COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** August 17, 2016, 10 a.m. — 12 p.m.  
**Place:** 1800 Washington Blvd., Ste. 330, Baltimore, MD  
**Contact:** Marie A. Torosino (410) 230-8790

[16-16-20]

**MARYLAND HEALTH CARE COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** September 20, 2016, 2 — 5 p.m.  
**Place:** 4160 Patterson Ave., Rm. 100, Baltimore, MD  
**Contact:** Valerie Wooding (410) 764-3460

[16-16-08]

**MARYLAND HEALTH CARE COMMISSION**

**Subject:** Receipt of Application  
**Add'l. Info:** On July 8, 2016 the Maryland Health Care Commission (MHCC) received a Certificate of Need application submitted by Massachusetts Avenue Surgery Center — Matter No. 16-15-2378 — Renovation at the existing surgery center located at 6400 Goldsboro Road, Bethesda and the conversion of a procedure room to a 4th operating room; Proposed Cost: \$266,397.

The MHCC shall review the application under Health-General Article, §19-101 et seq., Annotated Code of Maryland, and COMAR 10.24.01.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application. All further notices of proceedings on the application will be sent only to affected persons who have registered as interested parties.

Please refer to the Matter No. listed above in any correspondence on the application. A copy of the application is available, for review, in the office of the MHCC, during regular business hours by appointment, or on the Commission's website at [www.mhcc.maryland.gov](http://www.mhcc.maryland.gov).

All correspondence should be addressed to Paul Parker, Deputy Director, Center for Health Care Facilities Planning & Development, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215  
**Contact:** Ruby Potter (410) 764-3276

[16-16-11]

**DEPARTMENT OF NATURAL RESOURCES/FISHERIES SERVICE**

**Subject:** Public Notice — Corrected 2016 Commercial Shark Catch Limits  
**Add'l. Info:** The Secretary of the Department of Natural Resources (DNR), pursuant to Code of Maryland Regulations (COMAR) 08.02.22.04B, in order to comply with species management through the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Atlantic Coastal Sharks, announces a new catch limit for large coastal sharks. Effective at 12:01 a.m. July 18, 2016, the catch limit is 45 large coastal sharks per vessel per trip. Large coastal sharks includes all of the sharks in the aggregated large coastal and hammerhead management groups defined in COMAR 08.02.22.03A(6) and (7). The species in the two management groups include: Silky; Tiger; Blacktip; Spinner; Bull; Lemon; Nurse; Scalloped hammerhead; Great hammerhead; and Smooth hammerhead.

The National Marine Fisheries Service anticipates in-season trip limit modifications based on harvest. If modifications are made, the Atlantic States Marine Fisheries Service will follow with modifications for state waters. A new public notice will be issued if modifications are made.

Mark J. Belton  
 Secretary of Natural Resources  
**Contact:** Tamara O'Connell (410) 260-8271

[16-16-13]

**BOARD OF SOCIAL WORK EXAMINERS**

**Subject:** Public Meeting  
**Date and Time:** August 12, 2016, 10:15 a.m. — 3 p.m.  
**Place:** Metro Executive Bldg., 4201 Patterson Ave., Rm. 110, Baltimore, MD  
**Add'l. Info:** The Board may discuss/vote on proposed regulations. A portion of the meeting may be held in closed session.  
**Contact:** Stanley Weinstein (410) 764-4722

[16-16-14]

**TEACHER INDUCTION, RETENTION AND ADVANCEMENT ACT OF 2016 WORKGROUP**

**Subject:** Public Meeting  
**Date and Time:** August 16, 2016, 1 — 4 p.m.  
**Place:** Odenton Regional Library, Conf. Rm. A, 1325 Annapolis Road, Odenton, MD  
**Contact:** Sarah Spross (410) 767-0385

[16-16-10]

**BOARD OF WATERWORKS AND WASTE SYSTEMS OPERATORS**

**Subject:** Public Meeting  
**Date and Time:** September 15, 2016, 10 a.m. — 4 p.m.  
**Place:** Back River WWTP, Baltimore, MD  
**Add'l. Info:** A portion of this meeting may be held in closed session  
**Contact:** Pat Kratochvil (410) 537-3167

[16-16-02]

**BOARD OF WELL DRILLERS**

**Subject:** Public Meeting  
**Date and Time:** August 31, 2016, 9 a.m. — 4 p.m. (Rescheduled)  
**Place:** 1800 Washington Blvd., Baltimore, MD  
**Add'l. Info:** A portion of this meeting may be held in closed session. **This meeting has been rescheduled from August 24, 2016.**

**Contact:** Elaine Nolen (410) 537-4466  
 [16-16-18]

**BOARD OF WELL DRILLERS**

**Subject:** Public Meeting  
**Date and Time:** September 28, 2016, 9 a.m. — 4 p.m.  
**Place:** MDE, 1800 Washington Blvd., Terra C.R., Baltimore, MD  
**Add'l. Info:** A portion of this meeting may be held in closed session  
**Contact:** Christine Nagle (410) 537-4466  
 [16-16-03]

**WORKERS' COMPENSATION COMMISSION**

**Subject:** Public Meeting  
**Date and Time:** August 25, 2016, 9:30 — 11:30 a.m.  
**Place:** 10 E. Baltimore St., Baltimore, MD  
**Add'l. Info:** Portions of this meeting may be held in closed session.  
**Contact:** Amy S. Lackington (410) 864-5300

[16-16-06]

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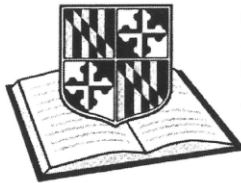
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