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# Maryland Register

Issue Date: September 2, 2016

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Volume 43 • Issue 18 • Pages 1009—1058

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Judiciary  
Regulations  
Errata  
Special Documents  
General Notices

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before August 15, 2016, 5 p.m.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 August 15, 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.

### SUBSCRIPTION INFORMATION

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

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

The Maryland Register is also available at [www.dsd.state.md.us](http://www.dsd.state.md.us).

For additional information, visit [www.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.

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

Issue Date	Emergency and Proposed Regulations 5 p.m.*	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
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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02.06.03.01—10 • 42:13 Md. R. 798 (6-26-15)

### 03 COMPTROLLER OF THE TREASURY

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### 07 DEPARTMENT OF HUMAN RESOURCES

07.02.12.01—09 • 43:2 Md. R. 132 (1-22-16)  
 07.02.14.01—14 • 43:2 Md. R. 143 (1-22-16)  
 07.02.15.01—11 • 43:17 Md. R. 964 (8-19-16)  
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 07.02.18.02,.04,.06—14 • 43:17 Md. R. 969 (8-19-16)  
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### 08 DEPARTMENT OF NATURAL RESOURCES

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 08.18.10.02 • 43:17 Md. R. 973 (8-19-16)

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

09.10.01.25 • 43:13 Md. R. 720 (6-24-16)  
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 09.19.07.01 • 43:13 Md. R. 722 (6-24-16)  
 09.19.08.02 • 43:11 Md. R. 637 (5-27-16)  
 09.20.01.01—05 • 43:16 Md. R. 904 (8-5-16) (ibr)  
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 09.34.03.03 • 43:13 Md. R. 725 (6-24-16)  
 09.38.01.01 • 43:18 Md. R. 1023 (9-2-16)

### 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

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10.09.02.06 • 43:16 Md. R. 910 (8-5-16)  
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13A.08.01.02-3 • 43:18 Md. R. 1037 (9-2-16)
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13B MARYLAND HIGHER EDUCATION COMMISSION

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26 DEPARTMENT OF THE ENVIRONMENT

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26.12.01.01 • 43:18 Md. R. 1052 (9-2-16) (ibr)

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 SERVICES SYSTEMS (MIEMSS)

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)

31 MARYLAND INSURANCE ADMINISTRATION

31.08.12.06 • 43:18 Md. R. 1053 (9-2-16)
31.09.06.01 • 43:16 Md. R. 931 (8-5-16)
31.09.07.03 • 43:17 Md. R. 993 (8-19-16)
31.13.01.04,.21 • 43:17 Md. R. 993 (8-19-16)
31.13.02.02—.04 • 43:17 Md. R. 993 (8-19-16)
31.13.03.04,.16 • 43:17 Md. R. 993 (8-19-16)
31.15 • 43:2 Md. R. 128 (1-22-16) (err)
31.15.04.01—.07 • 43:1 Md. R. 76 (1-8-16)
43:14 Md. R. 789 (7-8-16)
31.15.15.01—.09 • 43:1 Md. R. 76 (1-8-16)
43:14 Md. R. 789 (7-8-16)

33 STATE BOARD OF ELECTIONS

33.01.01.01 • 43:4 Md. R. 345 (2-19-16)
33.05.04.05 • 43:4 Md. R. 346 (2-19-16)
33.16.01.01 • 43:4 Md. R. 346 (2-19-16)
33.16.02.05 • 43:4 Md. R. 346 (2-19-16)
33.16.03.01,.02 • 43:4 Md. R. 346 (2-19-16)
33.16.04.01 • 43:4 Md. R. 346 (2-19-16)
33.16.05.03,.04 • 43:4 Md. R. 346 (2-19-16)
33.16.06.01 • 43:4 Md. R. 346 (2-19-16)

34 DEPARTMENT OF PLANNING

34.04.02.08 • 43:16 Md. R. 932 (8-5-16)

**36 MARYLAND STATE LOTTERY AND GAMING  
CONTROL AGENCY**

- 36.03.02.11,.18** • 43:15 Md. R. 873 (7-22-16)
- 36.03.04.07** • 43:15 Md. R. 873 (7-22-16)
- 36.03.10.07,.20,.24,.26,.27,.36,.44,.45,  
.49** • 43:15 Md. R. 873 (7-22-16)
- 36.03.11.04** • 43:15 Md. R. 873 (7-22-16)
- 36.04.01.28** • 43:15 Md. R. 876 (7-22-16)
- 36.05.01.02** • 43:16 Md. R. 933 (8-5-16)
- 36.05.02.02,.19** • 43:15 Md. R. 876 (7-22-16)
- 36.05.02.13, .16, .20, .22, and .23** • 43:16 Md. R. 933 (8-5-16)
- 36.05.03.11,.12,.16** • 43:15 Md. R. 876 (7-22-16)
- 36.05.03.19—.22, and .26—.31** • 43:16 Md. R. 933 (8-5-16)
- 36.05.04.01—.14** • 43:16 Md. R. 933 (8-5-16)
- 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)
- 36.05.13.01—.13** • 43:16 Md. R. 933 (8-5-16)
- 36.05.14.01—.13** • 43:16 Md. R. 933 (8-5-16)
- 36.05.15.01—.10** • 43:16 Md. R. 933 (8-5-16)
- 36.05.16.01—.13** • 43:16 Md. R. 933 (8-5-16)
- 36.05.17.01—.13** • 43:16 Md. R. 933 (8-5-16)
- 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)
- 36.06.01.01—.03** • 43:17 Md. R. 995 (8-19-16)
- 36.06.02.01,.02** • 43:17 Md. R. 995 (8-19-16)
- 36.06.03.01** • 43:17 Md. R. 995 (8-19-16)
- 36.08.01.01,.02** • 43:17 Md. R. 997 (8-19-16)
- 36.08.02.01** • 43:17 Md. R. 997 (8-19-16)
- 36.08.03.01—.06** • 43:17 Md. R. 997 (8-19-16)
- 36.08.04.01,.02** • 43:17 Md. R. 997 (8-19-16)

# The Judiciary

## COURT OF APPEALS OF MARYLAND

### DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of the Court of Appeals dated August 16, 2016, **AVROHOM REUVEN POUPKO**, 3409 Pinkney Road, Baltimore, MD 21215, has been disbarred 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 19-742(a)).

\* \* \* \* \*

This is to certify that an by an Order of the Court of Appeals dated August 19, 2016, **ANDRE P. BARBER**, 225 Hidden Glen Way, Dothan, AL 36303, has been disbarred, 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 19-761).

\* \* \* \* \*

This is to certify that by an Order of the Court of Appeals dated August 19, 2016, **MICHAEL LEDDEN WHITE**, 17 Odeon Court, Parkville, MD 21234, has been disbarred 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 19-761).

[16-18-24]



# 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 01

### EXECUTIVE DEPARTMENT

#### Subtitle 02 SECRETARY OF STATE

#### 01.02.04 Charitable Organizations: Substantive Regulations

Authority: Business Regulation Article, §6-204, Annotated Code of Maryland

#### Notice of Final Action

[16-112-F]

On August 24, 2016, the Secretary of State adopted amendments to Regulation **.20-1** under **COMAR 01.02.04 Charitable Organizations: Substantive Regulations**. This action, which was proposed for adoption in 43:10 Md. R. 590—591 (May 13, 2016), has been adopted as proposed.

**Effective Date: September 12, 2016.**

JOHN C. WOBENSMITH  
Secretary of State

## Title 08

### DEPARTMENT OF NATURAL RESOURCES

#### Subtitle 02 FISHERIES SERVICE

#### Notice of Final Action

[16-174-F]

On August 23, 2016, the Secretary of Natural Resources adopted

- (1) New Regulation **.06** and amend Regulation **.10** under **COMAR 08.02.08 Shellfish — General**; and
- (2) Amendments to Regulation **.03** under **COMAR 08.02.12 Endangered and Threatened Fish Species**.

This action, which was proposed for adoption in 43:14 Md. R. 783—786 (July 8, 2016), has been adopted as proposed.

**Effective Date: September 12, 2016.**

MARK J. BELTON  
Secretary of Natural Resources

## Title 10

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE

#### Subtitle 32 BOARD OF PHYSICIANS

#### 10.32.21 Licensure, Regulation, and Discipline of Naturopathic Doctors

Authority: Health Occupations Article, §§14-5F-1—14-5F-32, Annotated Code of Maryland

#### Notice of Final Action

[16-143-F]

On August 11, 2016, the Secretary of Health and Mental Hygiene adopted new Regulations **.01—20** under a new chapter, **COMAR 10.32.21 Licensure, Regulation, and Discipline of Naturopathic Doctors**. This action, which was proposed for adoption in 43:13 Md. R. 732—742 (June 24, 2016), has been adopted as proposed.

**Effective Date: September 12, 2016.**

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

#### Subtitle 47 ALCOHOL AND DRUG ABUSE ADMINISTRATION

#### 10.47.08 Overdose Response Program

Authority: Health-General Article, Title 13, Subtitle 31, Annotated Code of Maryland

#### Notice of Final Action

[16-144-F]

On August 16, 2016, the Secretary of Health and Mental Hygiene adopted amendments to Regulations **.02—06**, new Regulation **.07**, the recodification of existing Regulations **.07** and **.09** to be Regulations **.08** and **.10**, respectively, and amendments to and the recodification of existing Regulations **.08**, **.10**, and **.11** to be Regulations **.09**, **.11**, and **.12**, respectively under **COMAR 10.47.08 Overdose Response Program**. This action, which was proposed for adoption in 43:13 Md. R. 743—746 (June 24, 2016), has been adopted as proposed.

**Effective Date: September 12, 2016.**

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

# Title 31 MARYLAND INSURANCE ADMINISTRATION

## Subtitle 04 INSURERS

### 31.04.02 Examination of *Principal Management* or *Controllers of Insurers*

Authority: *Health-General Article, §§15-102.6, 19-705, 19-708, 19-7A-03, and 19-7A-04; Insurance Article §§2-109, 2-205(c), 4-108, 4-113(a)(7)–(9), 7-304, 7-603, 8-412, 8-417, 14-109(3), and 14-405; Annotated Code of Maryland*

#### Notice of Final Action

[16-062-F]

On August 15, 2016, the Insurance Commissioner adopted amendments to Regulations .01, .02, and .04, the repeal of existing Regulations .03 and .05–.08, and new Regulations .03 and .05–.07 under COMAR 31.04.02 *Examination of Principal Management or Controllers of Insurers*. This action, which was proposed for adoption in 43:4 Md. R. 343–345 (February 19, 2016) and repropoed in 43:13 Md. R. 753-754 (June 24, 2016), has been adopted as repropoed.

**Effective Date: October 1, 2016.**

ALRED W. REDMER, Jr.  
Insurance Commissioner

# Title 33 STATE BOARD OF ELECTIONS

## Subtitle 14 ADMINISTRATION OF PUBLIC FINANCING ACT

### 33.14.02 Eligibility Requirement and Procedures

Authority: *Election Law Article §§2-102(b)(4) and 15-109(b), Annotated Code of Maryland.*

#### Notice of Final Action

[16-083-F]

On July 28, 2016, the State Board of Elections adopted an amendment to Regulation .04 under COMAR 33.14.02 *Eligibility Requirement and Procedures*. This action, which was proposed for adoption in 43:7 Md. R. 471–472 (April 1, 2016), has been adopted as proposed.

**Effective Date: September 12, 2016.**

LINDA H. LAMONE  
State Administrator of Elections

## Subtitle 22 DISCLOSURE BY PERSON EMPLOYING A LOBBYIST

#### Notice of Final Action

[16-084-F]

On July 28, 2016, the State Board of Elections adopted under a new subtitle, **Subtitle 22 Disclosure by Person Employing a Lobbyist**:

(1) New Regulations .01–.03 under a new chapter, **COMAR 33.22.01 Statement of Contributions**;

(2) New Regulation .01 under a new chapter, **COMAR 33.22.02 Penalties**; and

(3) New Regulations .01 and .02 under a new chapter, **COMAR 33.22.03 Electronic Signature Requirements**.

This action, which was proposed for adoption in 43:7 Md. R. 472–473 (April 1, 2016), has been adopted as proposed.

**Effective Date: September 12, 2016.**

LINDA H. LAMONE  
State Administrator of Elections

## Subtitle 20 DISCLOSURE BY PERSONS DOING PUBLIC BUSINESS

#### Notice of Final Action

[16-110-F]

On July 28, 2016, the State Board of Elections adopted:

(1) Amendments to Regulation .01 under **COMAR 33.20.01 Definitions**;

(2) Amendments to Regulations .02 and .03 under **COMAR 33.20.02 Statement of Contributions Requirements**;

(3) Amendments to Regulation .02 under **COMAR 33.20.04 Affidavit of Limited Applicable Contribution**;

(4) New Regulations .01 and .02 under a new chapter, **COMAR 33.20.06 Contributions**;

(5) The repeal of existing Regulation .02 and adopt new Regulation .02 under **COMAR 33.20.07 Waivers**;

(6) Amendments to Regulation .01 under **COMAR 33.20.08 Penalties**; and

(7) New Regulation .01 under a new chapter, **COMAR 33.20.09 Retention**.

This action, which was proposed for adoption in 43:9 Md. R. 563–566 (April 29, 2016), has been adopted as proposed.

**Effective Date: September 12, 2016.**

LINDA H. LAMONE  
State Administrator of Elections

**Title 34**  
**DEPARTMENT OF**  
**PLANNING**

**Subtitle 04 HISTORICAL AND**  
**CULTURAL PROGRAMS**

***34.04.07 Heritage Structure Rehabilitation Tax***  
***Credit Certifications***

*Authority: State Finance and Procurement Article, §5A-303, Annotated Code of Maryland*

**Notice of Final Action**

[16-173-F]

On August 24, 2016, the Maryland Department of Planning adopted the repeal of existing Regulations **.01—.08** under **COMAR 34.04.07 Sustainable Communities Tax Credit Certifications** and new Regulations **.01—.09** under a new chapter, **COMAR 34.04.07 Heritage Structure Rehabilitation Tax Credit Certifications**.

This action, which was proposed for adoption in 43:14 Md. R. 790—796 (July 8, 2016), has been adopted as proposed.

**Effective Date: September 12, 2016.**

WENDI W. PETERS  
Secretary of Planning

# 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

#### 08.02.23 Shellfish Aquaculture and Leasing

Authority: Natural Resources Article, §§4-11A-02 and 4-11A-12, Annotated Code of Maryland

#### Notice of Proposed Action

[16-230-P]

The Secretary of Natural Resources proposes to amend Regulations .03 and .04 under **COMAR 08.02.23 Shellfish Aquaculture and Leasing**.

#### Statement of Purpose

The purpose of this action is to clarify that a person needs an authorization from the Department prior to engaging in certain shellfish aquaculture activities in Maryland waters and to liberalize the Shellfish Aquaculture Harvester Permit registration requirement. These changes were discussed with and supported by the Aquaculture Coordinating Council.

In Regulation .03, the proposed action clarifies that shellfish aquaculture activities may only be performed on a leased area or in a permitted area. An individual would come to the conclusion that a lease or permit is required by reading definitions, several statutes and regulations together, but adding the statement to regulation makes it completely clear. The proposed action also reorganizes and simplifies some of the structure of the regulation to make it easier to read.

In Regulation .04, the proposed action removes the requirement for individuals working on a lease and under the supervision of a permittee, from having to obtain and possess a registration card. The action also adds language to ensure that the permittee is responsible for those individuals and corrects affected references. Current regulations require every individual that is conducting aquaculture activities to have either a Shellfish Aquaculture Harvester Permit or

Registration Card in order to participate in aquaculture activities on the lease. The industry has requested that allowances be made for workers that are accompanying a permittee and requested that the Department exempt them from the registration requirement. This change will allow leaseholders to hire short-term laborers that will be supervised by the permittee while working on the lease.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

**I. Summary of Economic Impact.** The proposed action may benefit lease holders.

	Revenue (R+/R-)	
<b>II. Types of Economic Impact.</b>	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Registration cards	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

- D. Removing the registration card requirement for individuals

supervised by a permittee provides business flexibility which could save leaseholders time and money. Although registration cards are free, there is a period of time that is necessary to apply for and receive one. Relaxing the requirements for registration cards provides the leaseholder the flexibility to hire day workers if they choose, possibly avoiding delays and saving them money by not having to wait for workers to obtain a card. The actual amount is indeterminable because it will depend on each individual business' operational structure.

**Economic Impact on Small Businesses**

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

Removing the registration card requirement for individuals supervised by a permittee provides business flexibility which could save leaseholders time and money. Although registration cards are free, there is a period of time that is necessary to apply for and receive one. Relaxing the requirements for registration cards provides the leaseholder the flexibility to hire day workers if they choose, possibly avoiding delays and saving them money by not having to wait for workers to obtain a card.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Shellfish Aquaculture 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 October 3, 2016. A public hearing has not been scheduled.

**.03 Commercial Lease Procedures.**

**A. Aquaculture Activities on Submerged Land.**

(1) [Except for demonstration leases, prior to engaging] A person may not engage in aquaculture activities on submerged land in waters of the State, including the areas listed in Regulations .05 and .06 of this chapter, [a person shall:] *unless the land is leased or permitted for shellfish aquaculture purposes.*

(2) *To obtain a submerged land lease a person shall:*

[(1)] (a) Apply for:

[(a)] (i) — [(b)] (ii) (text unchanged)

[(2)] (b) Submit a non-refundable fee of:

[(a)] (i) — [(b)] (ii) (text unchanged)

**B. Aquaculture Activities in the Water Column.**

(1) [Prior to engaging] A person may not engage in aquaculture activities in the water column [of:] *unless the water column is leased or permitted for shellfish aquaculture purposes.*

[(1)] (2) [Aquaculture enterprise zones listed in Regulation .05 of this chapter] *To obtain a water column lease, a person shall:*

(a) Apply for:

(i) [An aquaculture] A water column lease by submitting an application on a form provided by the Department; and

(ii) (text unchanged)

(b) Submit a non-refundable fee of [\$150; or.]:

(i) \$300 for areas not in aquaculture enterprise zones as described in Regulation .05 of this chapter; or

(ii) \$150 for areas in aquaculture enterprise zones as described in Regulation .05 of this chapter.

[(2)] Waters of the State not listed in Regulation .05 of this chapter, a person shall:

(a) Apply for:

(i) A shellfish aquaculture harvester permit as described in Regulation .04 of this chapter; and

(ii) A water column lease by submitting an application on a form provided by the Department; and

(b) Submit a nonrefundable fee of \$300.]

C. (text unchanged)

D. Rent.

(1) *Submerged Land Lease.* Except as provided in [§E(3)] §D(3) of this regulation, the rental rate for a submerged land lease is \$3.50 per acre per year and is due in full to the Department by December 31 of the preceding year.

(2) *Water Column Lease.* Except as provided in [§E(3)] §D(3) of this regulation, the rental rate for a water column lease in areas listed in Regulation .05 of this chapter is \$25 per acre per year and is due to the Department by December 31 of the preceding year.

(3) (text unchanged)

E.—H. (text unchanged)

I. Transfer of Lease.

(1) (text unchanged)

(2) Prior to receiving approval of a transfer, the person receiving a transferred lease shall complete a lease application and a shellfish aquaculture harvester permit application and submit the required forms with the transfer form described in [§J(1)] §I(1) of this regulation.

J. (text unchanged)

**.04 Shellfish Aquaculture Harvester Permit.**

A. Except for a demonstration lease holder, a lease holder or a lease transfer applicant shall submit an application [for], *provided by the Department, and obtain a shellfish aquaculture harvester permit prior to engaging in aquaculture activities.*

B. A shellfish aquaculture harvester permit:

(1) (text unchanged)

(2) Shall be automatically renewed for a new term upon receipt of all reports required under Regulation .03D of this chapter; [and]

(3) Is not transferable[.]; and

(4) *Is an operator card for the purposes of Natural Resources Article, §4-11A-16.1, Annotated Code of Maryland.*

[C. Application. An application shall:

(1) Be submitted on a form provided by the Department; and

(2) Include a list of all individuals who may be engaging in aquaculture activities within the area described in the applicant's lease application.]

[D.] C. (text unchanged)

[E.] D. Permit Registrants.

(1) [An] *Except for an individual under the supervision of a shellfish aquaculture harvester permittee who is present on the leased area, an individual engaged in aquaculture activities within the area described in the permit applicant's lease shall be:*

(a) (text unchanged)

(b) [Issued] *In possession of a shellfish aquaculture harvester registration card issued to the individual by the Fisheries Service.*

(2) A shellfish aquaculture harvester permittee shall immediately notify the Department of any changes [to the list] of named permit registrants on a form provided by the Department.

(3) (text unchanged)

(4) *A shellfish aquaculture harvester permittee shall be responsible for all work and acts performed on the leased area under the permittee's supervision.*

[F.] E. [A shellfish aquaculture harvester permittee or permit registrant] *Any individual engaged in aquaculture activities on a leased area or transporting shellfish from a lease to a dealer:*

[(1)] Shall be in possession of the individual's shellfish aquaculture harvester registration card while engaged in aquaculture activities on a leased area;]

[(2)] (1) Shall harvest, *transport, and store shellfish* in accordance with the National Shellfish Sanitation Program Model Ordinance that is incorporated by reference in COMAR 10.15.07.01A;

[(3)] (2) Except as provided in [§F(4)] §E(3) of this regulation, may not harvest oysters from a:

(a) — (b) (text unchanged)

[(4)] (3) — [(7)] (6) (text unchanged)

[(8)] (7) Shall store oysters in accordance with [§H] §G of this regulation; and

[(9)] (8) Shall tag oysters in accordance with [§I] §H of this regulation.

[G.] *F. Tolerance Limit.*

(1) A shellfish aquaculture harvester permittee or permit registrant may not possess oysters harvested from a lease that include a combined total of more than 5 percent of shells and oysters which measure less than the minimum allowable size specified in [§F(3)] §E(2) of this regulation.

(2)—(4) (text unchanged)

[H.] *G. Containers.*

(1) (text unchanged)

(2) Oysters shall remain in the original container until a tag is no longer required on the container in accordance with [§I(4)(d)] §H(4)(d) of this regulation.

[I.] *H. Tagging.*

(1) Except as provided in [§I(2)] §H(2) of this regulation, an individual storing oysters in accordance with §H of this regulation shall complete and affix a Department-issued tag to each container of oysters prior to leaving the lease from which the oysters were harvested.

(2) An individual storing oysters in accordance with [§H] §G of this regulation may use a tag not supplied by the Department if:

(a)—(b) (text unchanged)

(3)—(8) (text unchanged)

[J.] *I. Denial, Suspension, and Revocation.*

(1) Denial. The Department may deny issuance of a shellfish aquaculture harvester permit or registration card if the applicant or listed registrant:

(a)—(c) (text unchanged)

(d) Held a shellfish aquaculture harvester permit or registration card that was revoked in accordance with [§J(2)] §I(2) of this regulation within 3 years of the date of the application.

(2) (text unchanged)

(3) Appeal.

(a) Except as provided in [§J(3)(c)] §I(3)(c) of this regulation, prior to denying issuance of, suspending or revoking a shellfish aquaculture harvester permit or a shellfish aquaculture harvester registration card, the Department shall give the individual notice of its intended action and an opportunity to appear at a hearing conducted in accordance with the contested case procedures set forth in State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 08.01.04.

(b)—(c) (text unchanged)

MARK J. BELTON  
Secretary of Natural Resources

# Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

## Subtitle 38 BOARD OF INDIVIDUAL TAX PREPARERS

### 09.38.01 General Regulations

Authority: Business Occupations and Professions Article, §§21-101, 21-102, and 21-205, Annotated Code of Maryland

#### Notice of Proposed Action

[16-225-P]

The Board of Individual Tax Preparers proposes to amend Regulation .01 under **COMAR 09.38.01 General Regulations**. This action was considered by the Board at a public meeting held on June 13, 2016, notice of which was published on the Board's website, pursuant to General Provisions Article §3-302(c), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to give interpretive guidance to the public and the regulated industry by providing examples of activities the Board considers to constitute providing individual tax preparation services as that term is defined in Business Occupations and Professions Article, §21-101(f), Annotated Code of Maryland. Additionally, the Board has defined and provided specific examples of a category of services, administrative support services that do not constitute providing individual tax preparation services. Under Business Occupations and Professions Article, §§21-102(b) and 21-301, Annotated Code of Maryland, unless specifically exempted, only an individual registered with the Board may provide individual tax preparation services 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 Dennis L. Gring, Executive Director, Board of Individual Tax Preparers, 500 North Calvert Street, Third Floor, Baltimore, MD 21202, or call 410-230-6224, or email to [dennis.gring@maryland.gov](mailto:dennis.gring@maryland.gov), or fax to 410 333-6314. Comments will be accepted through October 3, 2016. A public hearing has not been scheduled.

#### Open Meeting

Final action on the proposal will be considered by the Board of Individual Tax Preparers during a public meeting to be held on October 24, 2016, 1 p.m., at 500 N. Calvert Street, 3rd Floor Conference Room, Baltimore, MD 21202.

**.01 The Board.**

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

- (1)—(3) (text unchanged)
- (4) *Provide Individual Tax Preparation Services.*
  - (a) “Provide individual tax preparation services” as defined in *Business Occupations and Professions Article, §21-101(f), Annotated Code of Maryland*, means to provide any service that involves the specific expertise or judgment of a tax preparer and includes, but is not limited to, any of the following services:
    - (i) Entering or changing data on a personal income tax return unless directly instructed by a registered tax preparer or an exempt individual as defined in *Business Occupations and Professions Article, §21-101(b), Annotated Code of Maryland*;
    - (ii) Signing a personal income tax return as the preparer;
    - (iii) Asking a client any personal income tax-related question other than those necessary to schedule an appointment with a tax preparer unless directly instructed by a registered tax preparer or an exempt individual as defined in *Business Occupations and Professions Article, §21-101(b), Annotated Code of Maryland*; and
    - (iv) Answering any question related to personal income taxes or personal income tax returns other than verifying the date a return was filed or whether a document was received by the tax preparer unless directly instructed by a registered tax preparer or an exempt individual as defined in *Business Occupations and Professions Article, §21-101(b), Annotated Code of Maryland*.
  - (b) “Provide individual tax preparations services” as defined in *Business Occupations and Professions Article, §21-101(f), Annotated Code of Maryland*, does not include any of the following:
    - (i) Answering telephones;
    - (ii) Greeting clients or prospective clients;
    - (iii) Scheduling appointments;
    - (iv) Making copies;
    - (v) Printing documents;
    - (vi) Processing mail;
    - (vii) Verifying that data entered on a return matches data on client documents;
    - (viii) Checking accuracy of the math on a tax return; and
    - (ix) Notifying a client that a tax preparer has requested a particular document.

B.—C. (text unchanged)

FREDRIC BADER  
Chair  
State Board of Individual Tax Preparers

**Title 10**  
**DEPARTMENT OF HEALTH**  
**AND MENTAL HYGIENE**  
**Subtitle 09 MEDICAL CARE**  
**PROGRAMS**

**10.09.10 Nursing Facility Services**

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

**Notice of Proposed Action**  
[16-219-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.07-1, .07-2, .10-1, .11-2, .11-7, .11-8, .15-1, and .25** under **COMAR 10.09.10 Nursing Facility Services**.

**Statement of Purpose**

The purpose of this action is to:

- (1) Clarify language related to the cost reports used when setting capital costs and nursing services cost indexing;
- (2) Extend the interim working capital fund;
- (3) Change the source of acuity for the pay-for-performance program;
- (4) Correct certain citations;
- (5) Modify the factors used to calculate the amount of an indemnity bond or standby letter of credit; and
- (6) Establish the budget adjustment factor in order to provide a rate increase of 2 percent in accordance with the Fiscal Year 2017 budget.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** In accordance with the Program’s budget for Fiscal Year 2017, rates for nursing facility services will increase by 2 percent. In addition, working capital advances will result in loss of potential interest income to the State. All other changes are budget-neutral.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
(1)	(E+)	\$41,628,157
(2)	(R-)	\$133,959
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	\$41,762,116
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(1). The average reimbursement rate for nursing facility services in Fiscal Year 2016 was \$245.92. After a 2 percent increase in Fiscal Year 2017 under the provisions of the proposed amendments, the average rate will be \$250.84. Based on a projected 5,600,208 Medicaid days in Fiscal Year 2016, and 5,656,320 days in Fiscal Year 2017, total Medicaid expenditures for nursing facility services will increase by \$41,628,157.

$$(\$250.84 \times 5,656,320) - (\$245.92 \times 5,600,208) = \$41,628,157$$

A(2). The interim working capital fund will provide \$12,955,404 to providers during Fiscal Year 2017, resulting in loss of potential interest income of \$133,959, based on a rate of return of 1.034 percent.

D. Provider reimbursement for nursing facilities will increase by \$41,628,157 during Fiscal Year 2017 as described in Section IIIA. Providers will also benefit from the State's loss of potential interest income in the amount of \$133,959 due to providing working capital advances.

**Economic Impact on Small Businesses**

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

Eight nursing homes, which qualify as small businesses, are expected to account for 54,302 Medicaid days during Fiscal Year 2017. At an average increase in rates of \$4.92 per day, the impact on small businesses is estimated as an increase in revenue of \$267,166. The amount of benefit to small businesses due to the interim working capital fund is indeterminate.

**Impact on Individuals with Disabilities**

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

The proposed action affects payments for services used by individuals with disabilities, but is not expected to have an impact on availability or access to services.

**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 October 3, 2016. A public hearing has not been scheduled.

**.07-1 Interim Working Capital Fund.**

A.—H. (text unchanged)

I. The Interim Working Capital Fund expires on [May 1, 2015] *May 1, 2017*. Providers shall repay all outstanding funds to the Department by [May 1, 2015] *May 1, 2017*. The Department may grant repayment extensions of not longer than 60 days under extraordinary circumstances.

**.07-2 Prospective Rates Effective January 1, 2015.**

A.—K. (text unchanged)

L. *Final facility rates for the period July 1, 2016 through December 31, 2016 shall be each nursing facility's quarterly rate, exclusive of the amount identified in Regulation .11-8A(2) of this chapter, reduced by the budget adjustment factor of 6.076 percent, plus the Nursing Facility Quality Assessment add-on identified in Regulation .10-1E of this chapter and the ventilator care add-on*

*amount identified in Regulation .11-8A(2) of this chapter when applicable.*

M. *Final facility rates for the period January 1, 2017 through June 30, 2017 shall be each nursing facility's quarterly rate, exclusive of the amount identified in Regulation .11-8A(2) of this chapter, reduced by the budget adjustment factor of 8.212 percent, plus the Nursing Facility Quality Assessment add-on identified in Regulation .10-1E of this chapter and the ventilator care add-on amount identified in Regulation .11-8A(2) of this chapter when applicable.*

**.10-1 Rate Calculation — Capital Costs for Rates Effective January 1, 2015.**

- A. (text unchanged)
- B. Final Capital Cost.

(1) The determination of a provider's allowable final Capital per diem rate for the cost items under §A of this regulation is calculated as follows:

(a)—(b) (text unchanged)

(c) Determine the cost report for each facility that covers the date of valuation of the appraisal identified in §B(1)(b) of this regulation, *or, if a cost report covering the date of valuation has not been filed by the facility, determine the closest match to the date of valuation available 2 months before the period for which final Capital rates are being calculated;*

(d)—(m) (text unchanged)

(2) (text unchanged)

C.—E. (text unchanged)

**.11-2 Pay-for-Performance — Quality Measures.**

- A. (text unchanged)
- B. Staffing Levels.

(1) (text unchanged)

(2) Each Maryland facility covered by these regulations which fails to comply with [§G(1)] §B(1) of this regulation shall incur a 1 percentage point reduction in its applicable rental rate presented in [Regulation .10G(9)] *Regulation .10-1B(1)(i) or (j)* of this chapter.

(3) (text unchanged)

(4) A facility's average acuity shall be determined [from claims for services provided by the facility] *based on the facilities Minimum Data Set Resource Utilization Groups (RUG) during the [1-year] 6-month period ending [September 30] December 31 of the most recent [prior] State fiscal year. To establish expected staffing hours, each [day of care and procedure is multiplied by the daily hours required under Regulation .25B of this chapter and divided by the total days of care during the same period] RUG group will be multiplied by the corresponding hours under Regulation .25C of this chapter and divided by the total days of care during the same period.*

(5)—(7) (text unchanged)

C.—G. (text unchanged)

**.11-7 Rate Calculation — Nursing Service Costs for Rates Effective January 1, 2015.**

A.—B. (text unchanged)

C. The final Nursing Service rate for each nursing facility for each quarter is calculated as follows:

(1)—(2) (text unchanged)

(3) Calculate a Medicaid adjusted Nursing Service cost per diem by multiplying the per diem identified under §B(2) *or* §C(5) of this regulation by the Medicaid case mix adjustment ratio calculated as the facility average Medicaid case mix index divided by the cost report period case mix index rounded to four decimals; [and]

(4) Calculate the final Nursing Service rate as the initial nursing facility rate reduced by any positive difference between 95 percent of the initial nursing facility rate and the Medicaid adjusted Nursing Service cost per diem; *and*



(5) For years between periods when the prices are rebased, the indexed Nursing Service cost per diem identified under §B(2) of this regulation shall be adjusted as set forth in Regulation .08-1D of this chapter.

D.—G. (text unchanged)

**.11-8 Ventilator Care Nursing Facilities Effective January 1, 2015.**

Nursing facilities with licensed nursing facility beds, which have been determined by the Department to meet the standards for ventilator care under COMAR 10.07.02, shall be reimbursed as follows:

A.—B. (text unchanged)

C. The facility average Medicaid case mix index for rates under §A of this regulation are not subject to the Medicaid case mix index equalizer adjustment in [Regulation .11-7F(2)(h)] Regulation .11-7F(6) of this chapter;

D.—G. (text unchanged)

**.15-1 New Nursing Facilities, Replacement Facilities, and Change of Ownership for Rates Effective January 1, 2015.**

A.—C. (text unchanged)

D. Change of Ownership.

(1) (text unchanged)

(2) Indemnity Bond or Standby Letter of Credit.

(a) The indemnity bond or standby letter of credit required by [§C(2)(a)(ii)] §D(1)(a)(ii) or (b)(iii) of this regulation shall be in the amount of:

(i) 10 percent of the Program billings for each unsettled fiscal period prior to January 1, 2015 outstanding;

(ii) All unpaid amounts due and owing the Program for each settled fiscal period before January 1, 2015; [and]

(iii) 10 percent of the Program billings for the most recent annual fiscal period; and

[(iii)] (iv) (text unchanged)

(b) If a court of competent jurisdiction discharges the debt of a bankrupt provider, the Program shall release to the purchaser the difference between the indemnity bond of standby letter of credit required under [§C(2)(b)(iii)] §D(1)(b)(iii) of this regulation and the amount of the financial obligation discharged by the court.

(3)—(5) (text unchanged)

**.25 Nursing Service Personnel and Procedures.**

A.—B. (text unchanged)

C. Minimum Data Set Resource Utilization Groups Hourly Weights.

RUG-IV 48	Total Hours
ES3	6.17733333
ES2	5.04483333
ES1	5.69500000
RAE	5.17450000
RAD	4.70150000
RAC	3.86266667
RAB	3.07583333
RAA	2.28500000
HE2	5.43733333
HE1	4.49366667
HD2	5.00533333
HD1	3.99700000
HC2	4.26566667
HC1	3.84616667
HB2	5.30500000
HB1	3.02300000
LE2	4.89816667
LE1	4.01933333

LD2	4.31583333
LD1	3.35383333
LC2	3.32883333
LC1	3.36916667
LB2	4.07566667
LB1	2.91083333
CE2	4.28650000
CE1	3.86816667
CD2	4.46816667
CD1	3.80533333
CC2	3.02250000
CC1	2.98650000
CB2	2.83283333
CB1	2.68883333
CA2	1.87200000
CA1	1.75983333
BB2	2.49116667
BB1	2.46466667
BA2	2.12716667
BA1	1.65100000
PE2	3.84716667
PE1	3.81933333
PD2	3.74566667
PD1	3.46050000
PC2	2.68133333
PC1	2.90283333
PB2	2.74100000
PB1	2.00416667
PA2	1.07683333
PA1	1.34950000

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

**Subtitle 09 MEDICAL CARE PROGRAMS**

**Notice of Proposed Action**

[16-220-P]

The Secretary of Health and Mental Hygiene proposes to amend:

(1) Regulations **.02**, **.03**, and **.23** under **COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations;**

(2) Regulation **.01** under **COMAR 10.09.66 Maryland Medicaid Managed Care Program: Access;** and

(3) Regulation **.15** under **COMAR 10.09.67 Maryland Medicaid Managed Care Program: Benefits.**

**Statement of Purpose**

The purpose of this action is to:

(1) Include sexual orientation and gender as basis for nondiscrimination;

(2) Add section 1157 of the Affordable Care Act to the list of provisions that MCOs must comply with;

(3) Remove the requirement that a full SPR review must be conducted annually;

(4) Replace the current asthma HEDIS measure with asthma medication ratio effective January 1, 2017;

(5) Include texts and emails as prohibited cold-call marketing activities; and

(6) Clarify that medically necessary podiatry services are covered for all members.

**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 October 3, 2016. A public hearing has not been scheduled.

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

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

**.02 Conditions for Participation.**

A.—F. (text unchanged)

G. An MCO:

(1) (text unchanged)

(2) May not discriminate against an enrollee on any basis, including, but not limited to, age, sex, race, creed, color, marital status, *sexual orientation*, *gender identity*, national origin, physical or mental handicap, health status, or need for health care services;

(3)—(4) (text unchanged)

H.—I. (text unchanged)

J. MCO Local Access Area Participation.

(1)—(3) (text unchanged)

(4) *Unless the Department approves a shorter time frame, an MCO that exits the Program during the calendar year shall submit their exit transition plan to the Department 120 days prior to the effective date of the exit.*

[(4)] (5)—[(7)] (8) (text unchanged)

K.—W. (text unchanged)

X. An MCO shall meet all other requirements of applicable State and federal law including but not limited to:

(1)—(5) (text unchanged)

(6) Any laws that pertain to enrollee rights; [and]

(7) 45 CFR Part 74, as amended, including particular attention to requirements at 45 CFR §§74.42, 74.43, 74.44, 74.48, and 74.53(a) and (b), and Appendix A; *and*

(8) *Section 1557 of the Affordable Care Act.*

Y.—EE. (text unchanged)

**.03 Quality Assessment and Improvement.**

A. (text unchanged)

B. An MCO shall participate in all quality assessment activities required by the Department in order to determine if the MCO is providing medically necessary enrollee health care. These activities include, but are not limited to:

(1) [An annual] A Systems Performance Review (SPR) performed by an external quality review organization hired by the Department to assess an MCO's structure and operations in order to determine its ability to provide health care to its enrollees as follows:

(a)—(d) (text unchanged)

(2) (text unchanged)

(3) The annual collection and evaluation of a set of performance measures with targets as determined by the Department as follows:

(a) The composition of the core performance measures are listed in [§B(3)(d)] §B(3)(d) and (e) of this regulation;

(b)—(d) (text unchanged)

(e) *Effective January 1, 2017, the core performance measures are:*

(i) *Adolescent well care visits;*

(ii) *Adult Body Mass Index (BMI) assessment;*

(iii) *Ambulatory care for Supplemental Security Income (SSI) adults;*

(iv) *Ambulatory care for Supplemental Security Income (SSI) children;*

(v) *Breast cancer screening;*

(vi) *Childhood immunizations—Combo 3;*

(vii) *Comprehensive diabetes care—HbA1c testing;*

(viii) *Controlling high blood pressure;*

(ix) *Immunization for adolescents;*

(x) *Lead screening for children 12—23 months old;*

(xi) *Asthma medication ratio;*

(xii) *Postpartum care; and*

(xiii) *Well child visits, 3—6 years old;*

[(e)] (f)—[(g)] (h) (text unchanged)

(4)—(6) (text unchanged)

C. (text unchanged)

**.23 Marketing.**

A.—B. (text unchanged)

C. An MCO may not engage in any cold call marketing, including activities using or involving any of the following mechanisms:

(1)—(3) (text unchanged)

(4) *Email;*

(5) *Texting;*

[(4)] (6)—[(5)] (7) (text unchanged)

D. (text unchanged)

**10.09.66 Maryland Medicaid Managed Care Program: Access**

Authority: Health-General Article, §§15-102.1(b)(10) and 15-103(b), Annotated Code of Maryland

**.01 Access Standards: Addressing Enrollees' Individualized Needs.**

A. An MCO shall provide access to health care services and information in a manner that addresses the individualized needs of its enrollees, *regardless of gender, sexual orientation, or gender identity*, including, but not limited to, the delivery of services and information to enrollees:

(1)—(4) (text unchanged)

B. (text unchanged)

**10.09.67 Maryland Medicaid Managed Care Program: Benefits**

Authority: Health-General Article, Title 15, Subtitle 1, Annotated Code of Maryland

**.15 Benefits — Podiatry Services.**

A. An MCO shall provide for its enrollees medically necessary podiatry services [as follows:].

[A. Medically necessary services for enrollees younger than 21 years old;]

B. In addition to the services described in §A of this regulation, an MCO shall provide:

[B.] (1)—[C.] (2) (text unchanged)

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

**Subtitle 24 MARYLAND HEALTH CARE COMMISSION**

**10.24.19 State Health Plan for Facilities and Services: Freestanding Medical Facilities**

Authority: Health-General Article, §§19-109(a)(1), 19-114(d)(1)(viii), 19-118(a)(2)(i), 19-120(j)(2)(iv), and 19-120(o)(1) and (3), Annotated Code of Maryland

**Notice of Proposed Action**

[16-224-P-I]

The Maryland Health Care Commission proposes to adopt new Regulation .01 under a new chapter, **COMAR 10.24.19 State Health Plan for Facilities and Services: Freestanding Medical Facilities**. This action was considered by the Commission at an open meeting held on July 21, 2016, notice of which was given through publication in the Maryland Register, under General Provisions Article, §3-302(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to establish COMAR 10.24.19, a new chapter pertaining to the State Health Plan for Facilities and Services that governs the establishment of freestanding medical facilities. Two recent pieces of legislation directed the Commission to adopt: (1) certificate of need (CON) regulations regarding freestanding medical facilities; and (2) regulations governing conversion of an underutilized general hospital to a freestanding medical facility through an exemption from CON. Previously, two freestanding medical facilities were established as pilot projects, and there was not an established regulatory process for considering approval of additional facilities of this type. COMAR 10.24.19 contains policies and standards that will guide the CON review process for a general hospital that seeks to establish a satellite freestanding medical facility to address access issues or overcrowding. It also contains policies and standards that will guide the exemption from the CON process for a hospital seeking to convert to a freestanding medical facility.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** New COMAR 10.24.19 is expected to have a minimal economic impact on the issuing agency, the Maryland Health Care Commission (MHCC), as well as a few other State agencies. The affected agencies are the Department of Health and Mental Hygiene (DHMH), specifically, the Office of Health Care Quality (OHCQ); the Health Services Cost Review Commission (HSCRC); and the Maryland Institute for Emergency Medical Services Systems (MIEMSS). The affected regulated industries include hospitals and ambulatory surgical facilities (ASFs), and the impacts on these may vary depending on the circumstances of individual hospitals and ASFs. There will not be an impact on local government or other industries or trade groups. Overall, the benefit to the public is expected to be positive.

**II. Types of Economic Impact.**

	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
MHCC	(E+)	Within budget
B. On other State agencies:		
(1) DHMH/OHCQ	(E+)	Minimal
(2) HSCRC	(E+)	Within budget
(3) MIEMSS	(E+)	Within budget
C. On local governments:	NONE	No impact
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Hospitals	(+)	Moderate
(2) Hospitals	(-)	Moderate
(3) Ambulatory Surgical Centers	(+)	Minimal
(4) Ambulatory Surgical Centers	(-)	Minimal
E. On other industries or trade groups:		
(1) Urgent Care Centers	(-)	Minimal
(2) Emergency Transport Services	(+)	Minimal
(3) Emergency Transport Services	(-)	Minimal
F. Direct and indirect effects on public:	(+)	Moderate

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

A. Maryland Health Care Commission. Staff will review CON applications and CON exemption requests for a new type of facility. Staff anticipates receiving only a small number of CON applications and requests for an exemption from CON to establish an FMF. Consequently, the review of these applications and requests can be accommodated by current staff within the Commission’s budget.

B(1). The Office of Health Care Quality. OHCQ will issue licenses for new FMFs and ambulatory surgical facilities. Due to the small number of CON applications and requests for an exemption from CON to establish an FMF, Staff anticipates the impact will be minimal for OHCQ.

B(2). Health Services Cost Review Commission. HSCRC will need to perform additional analyses when MHCC receives CON applications for an FMF or CON exemption requests to establish an FMF. However, as noted above, Staff anticipates the number of such requests will be small.

B(3). Maryland Institute for Emergency Medical Services Systems. MIEMSS will be required to participate in the process for reviewing requests for an exemption from CON to establish an FMF. In addition, Staff may potentially request analyses for CON applications for FMFs. Staff anticipates the impact on MIEMSS will be minimal and can be handled within its existing budget, based on the small number of such requests anticipated.

C. Local Government. Local governments are not involved with the provision of hospital services or surgical services in ambulatory surgical facilities. As a result, there will not be an impact on local government providers.

D(1). Regulated Industries or Trade Groups. The proposed regulations are expected to have a positive impact on Maryland hospitals when a Maryland hospital is converting to an FMF due to the reduced costs to the health care system. If the FMF resulting from the conversion of a hospital includes surgical capacity, it is unlikely to negatively affect other ASFs in the area, if the FMF provides a volume and scope of ambulatory surgical services similar to that of the hospital being replaced.

D(2). An FMF established to address access issues or crowding at the parent hospital is more likely to have a negative impact on the market share of other hospitals with an overlapping service area. The establishment of an FMF to address access issue or crowding at the parent hospital may result in a loss of revenue for the parent hospital, but some of these costs may be offset through achieving better patient care.

D(3) and (4). If the FMF resulting from the conversion of a hospital includes surgical capacity, it is unlikely to negatively affect other ASFs in the area, if the FMF provides a volume and scope of ambulatory surgical services similar to that of the hospital being replaced.

E(1). Urgent care centers, to some extent may be regarded as an alternative source of care for patients who may otherwise seek care at a hospital ED or FMF. Development of an FMF may draw patients away from urgent care centers, with negative financial consequences for some urgent care centers. However, the Chapter includes standards that require an applicant to address the strategies that will be used to discourage inappropriate use of the FMF.

E(2) and (3). Emergency transport services may increase or decrease with the addition of a new FMF, depending on whether people in the service area of the FMF and parent hospital are more or less likely to use these services.

F. Public. Overall, the public should benefit from FMFs by having improved access to unscheduled emergent or urgent care or, in the case of a hospital conversion, more access to such care than would be the case if the hospital merely closed. An applicant seeking to establish an FMF must address how the proposed facility will affect the efficient delivery of health care services. FMFs that are expected to result in less efficient delivery of health care shall not be approved. As noted, by providing an alternative to closing a hospital altogether, converting to an FMF, there is a greater likelihood that those in the service area of the hospital will continue to obtain appropriate health care services locally through a more efficient health care delivery system.

**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 Eileen Fleck, Chief, Acute Care Policy and Planning, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, MD 21215, or call 410-764-3287, or email to eileen.fleck@maryland.gov, or fax to 410-358-1311. Comments will be accepted through 4:30 p.m. on October 3, 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, MD 21215.

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

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the *State Health Plan for Facilities and Services: Freestanding Medical Facilities* 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.**

*The State Health Plan for Facilities and Services: Freestanding Medical Facilities is incorporated by reference.*

CRAIG P. TANIO, M.D.  
Chair

**Subtitle 44 BOARD OF DENTAL EXAMINERS**

**Notice of Proposed Action**

[16-229-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulations **.02— .06**, and Regulations **.08, .11, .13, .15, .18, and .25— .28**, repeal existing Regulations **.17** and **.24**, adopt new Regulations **.17** and **.19**, and amend and recodify existing Regulations **.19— .23** to be Regulations **.20— .24** under **COMAR 10.44.04 Practice of Dental Hygiene**; and

(2) Amend Regulation **.02** under **COMAR 10.44.20 Fees**.

This action was considered by the Board of Dental Examiners at a public meeting held on July 6, 2016 notice of which was given under the Notice of Public Meetings link on the Board’s website pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to permit:

(1) Maryland licensed dental hygienists to administer nitrous oxide to dental patients under certain prescribed circumstances, in accordance with H.B. 470, Ch. 106, Acts of 2016; and

(2) Dental hygienists to administer local anesthesia by infiltration and local anesthesia by inferior alveolar nerve block to facilitate the performance of either dental or dental hygiene procedures, in accordance with H.B. 680, Ch. 111, Acts of 2016.

**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 October 3, 2016. A public hearing has not been scheduled.

**10.44.04 Practice of Dental Hygiene**

Authority: Health Occupations Article, §§4-206.1, and 4-206.3, Annotated Code of Maryland

**.02 Definitions.**

- A. (text unchanged)
- B. Terms Defined.

[(1) “ADEX” means the American Board of Dental Examiners, Inc., or its successor organization.]

(1) “Administer nitrous oxide” means the initiation, adjustment, monitoring, and termination of the flow of nitrous oxide.

(2) (text unchanged)

(3) “CDCA” means the Commission on Dental Competency Assessments or its successor organization.

[(3)] (4)—[(4)] (5) (text unchanged)

[(5)] (6) “Monitor” means the observation of the patient:

(a) During the flow of [sedation agents] nitrous oxide;

(b) During the reduction of the flow of [sedation] nitrous oxide;

(c) During the shutting off of the equipment controlling the flow of [sedation] nitrous oxide; and

(d) At all times in between the start of the flow of [sedation] nitrous oxide until after [sedation] nitrous oxide has been terminated and the patient has fully awoken and is coherent.

[(6)] (7) “Nitrous oxide” means [an induced, controlled state of minimal sedation, provided solely by the inhalation of a combination of nitrous oxide and oxygen in which the patient retains the ability to independently and continuously maintain an airway and respond purposefully to physical stimulation and to oral commands.] a chemical compound with the formula N<sub>2</sub>O.

**.03 Intraoral Functions.**

A.—C. (text unchanged)

D. A dental hygienist may [monitor a patient to whom nitrous oxide has been administered] administer nitrous oxide only after Board recognition as provided in this chapter.

**.04 Exceptions.**

The following intraoral functions may not be performed in the practice of dental hygiene:

A.—E. (text unchanged)

F. Anesthesia procedures other than:

(1)—(2) (text unchanged)

(3) [Monitoring a patient to whom nitrous oxide has been administered] Administering nitrous oxide in accordance with:

(a)—(b) (text unchanged)

G.—H. (text unchanged)

**.05 Additional Functions for Dental Hygienists Who Obtain Board Recognition.**

In addition to those functions described in Regulation .03A of this chapter, a dental hygienist who is recognized by the Board as qualified may:

A.—B. (text unchanged)

C. [Monitor a patient to whom nitrous oxide has been administered.] Administer nitrous oxide.

**.06 Local Anesthesia.**

A. A dental hygienist who is recognized by the Board to administer local anesthesia may do so provided that the administration of local anesthesia is:

(1) By infiltration or by inferior alveolar nerve block [for the purpose of anesthetizing soft tissue] to facilitate the [performance of dental hygiene procedures] practice of dental hygiene by a dental hygienist or the practice of dentistry by a dentist;

(2)—(3) (text unchanged)

B.—D. (text unchanged)

**.08 Qualifications for Board Recognition to Administer Local Anesthesia.**

A.—C. (text unchanged)

D. In addition to the requirements of this regulation, a dental hygienist who wishes to receive recognition by the Board as being qualified to administer local anesthesia shall pass the [ADEX] CDCA Local Anesthesia Examination for Dental Hygienists.

**.11 Out-of-State Certification to Administer Local Anesthesia or Manual Curettage.**

A. Local Anesthesia. A dental hygienist holding an active certification to administer local anesthesia in another state or who is otherwise recognized to administer local anesthesia in another state may be granted recognition to administer local anesthesia in Maryland without taking and passing the Board-approved course outlined in Regulation .08A and B of this chapter if the dental hygienist:

(1) Has passed the [ADEX] CDCA Local Anesthesia Examination for Dental Hygienists; and

(2) (text unchanged)

B. (text unchanged)

**.13 Continuing Education and Renewal for Local Anesthesia and Manual Curettage.**

A. (text unchanged)

B. A dental hygienist who has successfully completed the following since graduating from an approved school of dental hygiene may receive continuing education credit toward renewal of their dental hygiene license:

(1)—(2) (text unchanged)

(3) The [ADEX] CDCA Local Anesthesia Examination for Dental Hygienists.

**.15 Application for Board Recognition to Administer Local Anesthesia.**

A. (text unchanged)

B. Recognized as Qualified to Administer Local Anesthesia.

(1) Not Certified or Otherwise Recognized in Another State. A dental hygienist who applies to be recognized as qualified to administer local anesthesia and who is not certified or otherwise recognized to administer local anesthesia in another state shall submit to the Board:

(a)—(b) (text unchanged)

(c) A certified examination score from the [ADEX] CDCA indicating that the applicant has passed the [ADEX] CDCA Local Anesthesia Examination for Dental Hygienists;

(d)—(e) (text unchanged)

(2) Recognized as Qualified to Administer Local Anesthesia by Virtue of Being Recognized in Another State. A dental hygienist who applies to be recognized as qualified to administer local anesthesia by virtue of being certified or otherwise recognized to administer local anesthesia in another state shall submit the following to the Board:

(a)—(b) (text unchanged)

(c) A certified examination score from the [ADEX] CDCA indicating that the applicant has passed the [ADEX] CDCA Local Anesthesia Examination for Dental Hygienists;

(d)—(f) (text unchanged)

C.—D. (text unchanged)

**.17 Nitrous Oxide.**

A. *Classification of Board Recognition.* The Board shall recognize the classification of recognized to monitor nitrous oxide.

B. A dental hygienist may not administer nitrous oxide unless recognized by the Board as being qualified to do so as provided in this chapter.

C. A dental hygienist who is recognized by the Board to administer nitrous oxide may do so provided that the administration of nitrous oxide is under the supervision of a dentist who:

(1) Is physically on the premises; and

(2) Prescribes the administration of nitrous oxide by the dental hygienist.

D. The supervising dentist and the dental hygienist who administers nitrous oxide shall insure that the patient retains the ability to independently and continuously maintain an airway and respond purposely to physical stimulation and verbal commands.

E. A dental hygienist who administers or monitors a patient to whom nitrous oxide has been administered shall enter the details of the procedure during and after the procedure into the patient's record.

F. A dental hygienist may not monitor or administer nitrous oxide to more than one patient at a time.

G. A dental hygienist who administers nitrous oxide to a patient or who monitors a patient to whom nitrous oxide has been administered may not:

(1) Treat any other patient during the course of the administration or monitoring; or

(2) Leave the operatory during the administration or monitoring except in emergency circumstances.

H. A dental hygienist who is recognized to either monitor or administer nitrous oxide may remove the patient from nitrous oxide when the procedures have been completed.

I. If a dental hygienist either monitors or administers nitrous oxide, the supervising dentist shall remain in the dental office and in close proximity to be summoned in the event of an emergency.

**.18 Qualifications for Board Recognition to [Monitor] Administer Nitrous Oxide.**

A. A dental hygienist who wishes to receive recognition by the Board as being qualified to [monitor a patient to whom nitrous oxide has been administered] administer nitrous oxide shall:

(1) (text unchanged)

(2) Successfully complete a Board-approved course of instruction as outlined in Regulation [.19] .20 of this chapter that documents training of at least 6 hours consisting of at least:

(a) 4 hours of didactic classroom training; and

(b) (text unchanged)

B. (text unchanged)

C. The Board-approved course of instruction in [monitoring a patient to whom nitrous oxide has been administered] administering nitrous oxide may be obtained by:

(1)—(2) (text unchanged)

D. In addition to the Requirements outlined in §§A—C of this regulation, an applicant for recognition to administer nitrous oxide shall take and pass the CDCA Nitrous Oxide Examination for Dental Hygienists.

**.19 Recognition to Monitor a Patient to Whom Nitrous Oxide Has Been Administered.**

A. A dental hygienist who holds a Board recognition to monitor a patient to whom nitrous oxide has been administered may, on and after October 1, 2016, continue to monitor a dentist's administration of nitrous oxide to a patient, but may not administer nitrous oxide to a patient unless the dental hygienist holds a recognition to administer nitrous oxide.

B. A dental hygienist who is recognized to monitor a patient to whom nitrous oxide has been administered may not increase the nitrous levels.

C. The supervising dentist shall discharge the patient upon completion of the procedures.

D. Beginning on October 1, 2016, the Board may not issue a recognition to monitor nitrous oxide.

E. A dental hygienist may not administer nitrous oxide to a patient unless recognized by the Board as being qualified to do so as provided in this chapter.

**[.19] .20 Board-Approved Course of Instruction for [Monitoring a Patient to Whom Nitrous Oxide Has Been Administered.] Administering Nitrous Oxide.**

The 6-hour Board-approved course of instruction shall include but not be limited to the following:

A. 4 hours of didactic classroom training, including at least the following:

(1)—(9) (text unchanged)

(10) [Monitoring of a patient to whom nitrous oxide has been administered] Administering and monitoring the flow of nitrous oxide, including the monitoring of a patient's vital functions;

(11)—(13) (text unchanged)

B. (text unchanged)

**[.20] .21 Out-of-State Certification to [Monitor a Patient to Whom Nitrous Oxide Has Been Administered] Administer Nitrous Oxide.**

A. A dental hygienist holding an active certification or who is otherwise recognized in another state to [monitor a patient to whom nitrous oxide has been administered, assist in the administration of nitrous oxide, or] administer nitrous oxide may be granted recognition to [monitor a patient to whom nitrous oxide has been administered] administer nitrous oxide without taking and passing the Board-approved course if the dental hygienist:

(1) Has successfully administered nitrous oxide to at least 10 dental patients within the 2-year period immediately preceding the date of application [successfully:]without complications;

[a) Monitored at least 10 dental patients to whom nitrous oxide has been administered;

(b) Assisted in the administration of nitrous oxide to at least 10 dental patients; or

(c) Administered nitrous oxide to at least 10 dental patients;]

(2) Has passed the [ADEX] CDCA Nitrous Oxide Examination for Dental Hygienists; and

(3) Applies for and receives recognition by the Board as qualified to [monitor] administer nitrous oxide.

B. (text unchanged)

**[.21] .22 [Monitoring a Patient to Whom Nitrous Oxide Has Been Administered.] Administering Nitrous Oxide to a Patient.**

A. A dental hygienist who [monitors a patient to whom nitrous oxide has been administered] administers nitrous oxide shall enter clinic details of the procedure during and after the procedure into the patient's dental record.

B. A dental hygienist may not [monitor] administer nitrous oxide to more than one patient at a time.

C. A dental hygienist who [is monitoring a patient to whom nitrous oxide has been administered] *administers nitrous oxide to a patient* may not:

(1) Treat any other patient during the course of the [monitoring;] *initiation, adjustment, monitoring, or termination of the flow of nitrous oxide*; or

(2) Leave the operatory during the [monitoring] *initiation, adjustment, monitoring, or termination of the flow of nitrous oxide* except in emergency circumstances.

D.—E. (text unchanged)

[F. The supervising dentist shall discharge the patient upon completion of the procedures.]

**[.22] .23 Emergency Response Plan for [Monitoring] Administering Nitrous Oxide.**

A. A dentist that utilizes a dental hygienist to [monitor a patient to whom nitrous oxide has been administered] *administer nitrous oxide* shall have a medical emergency plan for the dental hygienist to follow in the event of an emergency.

B.—C. (text unchanged)

**[.23] .24 Continuing Education Credit for Nitrous Oxide Course.**

A dental hygienist who has successfully completed the following since graduating from an approved school of dental hygiene may receive continuing education credit toward renewal of their dental hygiene license:

A. The 6-hour Board-approved course of instruction for [monitoring a patient to whom nitrous oxide has been administered;] *administering nitrous oxide*; and

B. The [ADEX] CDCA Nitrous Oxide Examination for Dental Hygienists.

**.25 Application for Board Recognition as Qualified to [Monitor] Administer Nitrous Oxide.**

A. A dental hygienist shall submit a completed Board-approved application with the Board to be recognized as qualified to [monitor] *administer nitrous oxide*.

B. Recognized as Qualified to [Monitor] *Administer Nitrous Oxide*.

(1) Not Certified or Otherwise Recognized in Another State. A dental hygienist who applies to be recognized as qualified to [monitor] *administer nitrous oxide* and who is not certified or otherwise recognized in another state to [monitor a patient to whom nitrous oxide has been administered, assist in the administration of nitrous oxide, or] *administer nitrous oxide* shall submit to the Board:

(a) (text unchanged)

(b) Proof of completion of a 6-hour Board-approved course of instruction in [monitoring] *administering nitrous oxide* in the form of a letter from an accredited dental hygiene program indicating that the applicant has:

(i)—(ii) (text unchanged)

(c) *A certified examination score from the CDCA indicating that the applicant has passed the CDCA Nitrous Oxide Examination for Dental Hygienists.*

[(c)] (d)—[(d)] (e) (text unchanged)

(2) Recognized as Qualified to [Monitor] *Administer Nitrous Oxide* by Virtue of Being Recognized in Another State. A dental hygienist who applies to be recognized as qualified to [monitor] *administer nitrous oxide* by virtue of being certified or otherwise recognized in another state to [monitor a patient to whom nitrous oxide has been administered, assist in the administration of nitrous oxide, or] *administer nitrous oxide* shall submit the following to the Board:

(a) (text unchanged)

(b) A certified copy of the dental hygienist’s most recent license or certification from the state of licensure or certification,

indicating that the dental hygienist holds a current license or certification to [monitor a patient to whom nitrous oxide has been administered, assist in the administration of nitrous oxide, or] *administer nitrous oxide*;

(c) A certified examination score from the [ADEX] CDCA indicating that the applicant has passed the [ADEX] CDCA Nitrous Oxide Examination for Dental Hygienists;

(d) An affidavit indicating that the dental hygienist has within the 2-year period immediately preceding the date of the application successfully [:] *administered nitrous oxide to at least 10 dental patients without complications*;

[(i) Monitored at least 10 dental patients to whom nitrous oxide has been administered;

(ii) Assisted in the administration of nitrous oxide to at least 10 dental patients; or

(iii) Administered nitrous oxide to at least 10 dental patients;]

(e)—(f) (text unchanged)

C. *The affidavit referenced in §B(2)(d) of this regulation shall contain the name, business address, and business telephone number of each dentist who supervised the applicant’s administration of nitrous oxide, as well as a statement indicating whether the dentist is currently practicing dentistry, is retired, or is deceased;*

[C.] D. (text unchanged)

E. *The fee required under §B(1)(d) of this regulation shall be waived for a dental hygienist who applies for recognition to administer nitrous oxide if the dental hygienist:*

(1) *Holds a recognition issued by the Board to monitor a patient to whom nitrous oxide has been administered;*

(2) *Has taken and passed the CDCA Nitrous Oxide Examination for Dental Hygienists; and*

(3) *Otherwise meets the requirements to administer nitrous oxide established under this chapter.*

**.26 Display and Location of Recognition as Qualified to Monitor or Administer Nitrous Oxide.**

A dental hygienist recognized by the Board as qualified to *either monitor or administer nitrous oxide* shall display the recognition conspicuously in the office where the holder is engaged in practice.

**.27 Violations.**

A. Subject to the hearing provisions of Health Occupations Article, §4-318, Annotated Code of Maryland, the Board may take the following action against a dental hygienist who violates any provision of this chapter or who violates any provision of Health Occupations Article, §4-315(b), Annotated Code of Maryland:

(1) Deny, *suspend, or revoke* the recognition to administer local anesthesia;

[(2) Revoke or suspend the recognition to administer local anesthesia;]

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

[(4)] (3) Deny, *suspend, or revoke* the recognition to [monitor] *administer nitrous oxide*;

[(5)] (4) [Revoke or suspend] *Suspend or revoke* the recognition to monitor nitrous oxide;

[(6)] (5)—[(7)] (6) (text unchanged)

B. *In addition to the action authorized under §A of this chapter, the Board may take formal or informal disciplinary action as specified in COMAR 10.44.07.*

[B.] C. (text unchanged)

**.28 Summary Suspension.**

A. The Board may order the summary suspension of the recognition qualified to administer local anesthesia, the privilege to perform manual curettage in conjunction with scaling and root

planing, [or] the recognition qualified to monitor nitrous oxide, *or the recognition to administer nitrous oxide* if the Board:

(1)—(2) (text unchanged)

B.—D. (text unchanged)

### 10.44.20 Fees

Authority: Health Occupations Article, §4-207(b), Annotated Code of Maryland

#### .02 Fee Schedule.

The following fees are established by the Board:

A.—U. (text unchanged)

V. Dental hygienist recognition as qualified to [monitor a patient to whom nitrous oxide has been administered] *administer nitrous oxide* . . . \$50;

W.—II. (text unchanged)

VAN T. MITCHELL

Secretary of Health and Mental Hygiene

## Subtitle 57 BOARD FOR THE CERTIFICATION OF RESIDENTIAL CHILD CARE PROGRAM PROFESSIONALS

### Notice of Proposed Action

[16-226-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Amend Regulation .01 under **COMAR 10.57.01**

#### Definitions;

(2) Amend Regulations .01—.06 and .08, repeal existing Regulation .09, and recodify existing Regulation .10 to be Regulation .09 under **COMAR 10.57.02 Certification — Residential Child Care Program Administrators**; and

(3) Amend Regulations .01, .02, and .05—.07 under **COMAR 10.57.03 Certification — Residential Child and Youth Care Practitioners**.

This action was considered at a public meeting held on June 10, 2016, notice of which was given by publication on the Board's website at <http://dhmh.maryland.gov/crcpp/Pages/Index.aspx>, pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to:

(1) Implement the changes to the statute as required by Ch. 331, Acts of 2015 (S.B. 201), State Board for the Certification of Residential Child Care Program Professionals – Revisions);

(2) Require applicants for certification as a program administrator to submit to the Board independent written verification from an employer describing the nature and direction of the applicant's experience in the human services field instead of three professional references attesting to the applicant's experience and competence as a program administrator;

(3) Repeal the requirement, for lack of statutory authority, that an applicant for certification shall demonstrate proof of proficiency in English;

(4) Repeal the requirement that the Board (1) shall review all completed applications to the extent practicable within 120 days on receipt of the completed application, (2) may delegate the initial review to a committee of the Board, and (3) at its next regular meeting, may approve or deny an application reviewed by the Board in order to clarify the application review process;

(5) Repeal requirements regarding program administrators who serve as administrator of two residential child care programs because this is not within the Board's purview to regulate;

(6) Require the Board to send a renewal notice to a certificate holder at least 1 month before the certificate expires either by postal mail or by electronic means.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

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

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to [dhmh.regs@maryland.gov](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through October 3, 2016. A public hearing has not been scheduled.

### 10.57.01 Definitions

Authority: Health Occupations Article, §§20-101 and 20-205, Annotated Code of Maryland

#### .01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

(5) "*Central Repository*" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

[(5)] (6)—[(7)] (8) (text unchanged)

(9) "*Chief Administrator*" means the individual, regardless of title, who is appointed by the governing body of a residential child care program as having the responsibility for the overall administration of the program.

(10) "*Child protective services background clearance*" means a search by a local department of social services of a central registry established under Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland, for information about child abuse and neglect investigations relating to an individual.

[(8)] (11)—[(19)] (22) (text unchanged)

[(20)] "*Practitioner-in-training (PIT)*" means an individual approved by the Board to practice as a restricted residential child and youth care practitioner.

(21) "*Provisional residential child and youth care practitioner*" means an individual approved by the Board to practice as a restricted residential child and youth care practitioner for 180 days.]

[(22)] (23)—[(34)] (35) (text unchanged)



## 10.57.02 Certification — Residential Child Care Program Administrators

Authority: Health Occupations Article, §§20–205, 20–301, [and] 20–302, 20–303, 20–305–20–307, 20–310, 20–311, and 20–404, Annotated Code of Maryland

### .01 Application Procedures.

A. In order to obtain a certificate as a residential child care program administrator, the applicant shall submit to the Board:

(1)—(2) (text unchanged)

(3) [Three professional references from individuals attesting to the applicant's work experience and competence as a program administrator] *Independent written verification from the applicant's employer or employers describing the nature and duration of the applicant's experience in the human service field;*

(4) (text unchanged)

(5) Evidence that the applicant:

(a) (text unchanged)

(b) Has completed a State *and national* criminal history records check;

(c) *Unless waived in accordance with Health Occupations Article, §20–303(d), Annotated Code of Maryland, has submitted to a child protective services background clearance;*

[ (c) ] (d)—[(e)] (f) (text unchanged)

B. [Professional References] *Experience Required in [§A(2)] §A(3) of this Regulation.*

(1) At least one [professional reference] *employment verification* under [§A(2)] §A(3) of this regulation shall be provided by a present or former supervisor.

(2) For individuals who are in a leadership role of a residential child care program and do not have a supervisor, [a professional reference] *an employment verification* from the program's [Board of Directors] *Chief Administrator or other appropriate program authority* is sufficient to meet this requirement.

(3) [Professional references] *Employment verification* shall be submitted to the Board:

(a)—(b) (text unchanged)

C. Day-to-day management and operation of a residential child care program required in [§A(3)(e)] §A(5)(f) of this regulation includes, but is not limited to:

(1)—(7) (text unchanged)

D.—E. (text unchanged)

### .02 Academic and Experience Requirements.

A. (text unchanged)

B. Supervisory or Administrative Capacity Required in §A of this regulation.

(1)—(2) (text unchanged)

(3) Experience shall be obtained within [the last] 10 years [and substantiated by a professional reference] *before the application date.*

[C. English-Language Proficiency. An applicant shall demonstrate proof of proficiency in the written and oral communication of the English language providing documentary evidence that:

(1) The applicant has completed at least 60 classroom credits from an English-speaking undergraduate school or English-speaking graduate school; or

(2) The applicant has achieved a passing score on the Test of English as a Foreign Language (TOEFL).

D. Proof of proficiency in English language does not apply to an individual who was in possession of a valid Maryland residential child care program administrator certificate by July 1, 2009, or had applied by that date and subsequently met all requirements for certification.]

[E.] C. (text unchanged)

### .03 Examination Procedures.

A.—C. (text unchanged)

D. Waiver of Examination. The Board may waive the examination requirement for an applicant who:

(1)—(2) (text unchanged)

(3) Provides adequate evidence that:

(a) (text unchanged)

(b) The applicant qualified for a certificate in the other state by passing an examination given in that or any other state; [and]

(c) The applicant has completed a State and national criminal history records check; *and*

(d) *Unless waived by the Board in accordance with Health Occupations Article, §20–303(d), Annotated Code of Maryland, the applicant has submitted to a child protective services background clearance.*

E. Reexamination.

(1)—(2) (text unchanged)

(3) An applicant may request [and be granted or denied] a waiver of the 6-month waiting period after failure of the third examination upon proof of exceptional circumstances.

F. (text unchanged)

### .04 Action on Application.

[A. The Board shall review all completed applications to the extent practicable within 120 days of receipt of the completed application.

B. The Board may delegate the initial review of applications to a committee of the Board.

C. At the next regular meeting of the Board, the Board may approve or deny an application reviewed by the Board or its designee.]

[D.] A. Upon review of [an] *a completed* application, the Board shall do one of the following:

(1)—(2) (text unchanged)

(3) Notify the applicant that the applicant is qualified to take the examination [and require the applicant to take an examination].

[E.] B. (text unchanged)

[F.] C. Issuance of Certificate.

(1) (text unchanged)

(2) The Board shall include on each certificate the:

(a) Full name of the certificate holder; *and*

(b) Serial number assigned by the Board; [and]

[(c) Signature of the Chairman of the Board, under the seal of the Board].

### .05 Expiration and Renewal.

A. (text unchanged)

B. At least [3 months] *1 month* before the certificate expires, the Board shall send to the certified program administrator, by *electronic means or first class mail* to the last known *electronic or physical* address, a renewal notice that states:

(1)—(3) (text unchanged)

C. The Board shall renew the certificate of a certified program administrator who:

(1)—(2) (text unchanged)

(3) Submits to the Board:

(a) A renewal application on a form that the Board requires; [and]

(b) (text unchanged)

(c) *Unless waived by the Board in accordance with Health Occupations Article, §20–310(f), Annotated Code of Maryland, evidence of application for a child protective services background clearance; and*

(d) *Evidence of having submitted to a State and national criminal history records check conducted by the Central Repository.*

**.06 Reinstatement.**

A. The Board shall reinstate the certificate of a program administrator who has failed to renew the certificate for any reason, if the individual:

- (1)—(3) (text unchanged)
- (4) Submits to the Board:
  - (a) (text unchanged)

(b) [Adequate evidence that the applicant has completed a State and national criminal background check] *Evidence of having submitted to a State and national criminal history records check conducted by the Central Repository*; and

(c) *Unless waived by the Board in accordance with Health Occupations Article, §20-311(c), Annotated Code of Maryland, evidence of application for a child protective services background clearance; and*

- (5) (text unchanged)

B. (text unchanged)

**.08 Resignation, Removal, or Death of a Program Administrator.**

A. If a program administrator resigns or is removed from a position as a program administrator by death or for any other unexpected cause, the residential child care program’s [Board of Directors] *Chief Administrator or other appropriate program authority* shall immediately designate a certified program administrator to serve in that capacity.

B. In the event a certified program administrator is not available, the residential child care program’s [Board of Directors] *Chief Administrator or other appropriate program authority* may appoint a noncertified individual to serve in the capacity of acting program administrator for a period not exceeding [180] 90 days if the individual:

- (1) Is approved [from] by the Board; and
- (2) (text unchanged)

C. Approval of Noncertified Individual to Serve as Acting Program Administrator.

(1) In order to obtain approval from the Board for the approval of a noncertified individual to serve as the acting program administrator, the residential child care program’s [Board of Directors] *Chief Administrator or other appropriate program authority* shall immediately submit to the Board:

- (a)—(b) (text unchanged)
- (c) Written justification clarifying the reason why acting capacity is necessary, that includes:
  - (i)—(ii) (text unchanged)
  - (iii) A summary of the efforts made by the residential child care program to recruit a certified program administrator; [and]

(d) A copy of the individual’s resume or curriculum vitae; and

(e) *The State and national criminal history records check.*

- (2)—(3) (text unchanged)

(4) The [180] 90 day period begins on the date that the program administrator leaves or is removed from the position as a program administrator.

(5) The Board may extend the [180] 90 day period for a further period of not more than 30 days.

[(6) The Board shall review all requests for the appointment of non-certified program administrators to the extent practicable at the next regularly scheduled Board meeting.]

**10.57.03. Certification — Residential Child and Youth Care Practitioners**

Authority: Health Occupations Article, §§20–205, 20–301, 20–302.1, 20–303, [and] 20–305, 20-307, 20-310, and 20-311, Annotated Code of Maryland

**.01 Application Procedures.**

A. In order to obtain a certificate as a residential child and youth care practitioner, the applicant shall submit to the Board:

- (1)—(2) (text unchanged)
- (3) Evidence the applicant:
  - (a)—(b) (text unchanged)
  - (c) Has completed a State and national criminal history records check; [and]

(d) *Unless waived by the Board in accordance with Health Occupations Article, §20–303(d), Annotated Code of Maryland, has a child protective services background clearance; and*

[(d)] (e) Has completed the process for certification under one of the tiers outlined in Regulation [.13] .10 of this chapter.

B.—D. (text unchanged)

**.02 Academic and Experience.**

A. Academic Experience. For certification as a certified residential child and youth care practitioner, an applicant shall submit a certified copy of transcripts with school seals to document the following to the Board:

- (1) Receipt of a high school diploma or equivalent; [and]
- (2) *Evidence of at least 2 years experience in the health and human services field; and*
- [(2)] (3) (text unchanged)

[B. English-Language Proficiency. An applicant shall demonstrate proof of proficiency in the written and oral communication of the English language providing documentary evidence that:

- (1) The applicant has graduated from an English-speaking:
  - (a) High school;
  - (b) Professional school; or
  - (c) Undergraduate school; and
- (2) The applicant has achieved a passing score on the Test of English as a Foreign Language (TOEFL).]

[C.] B. (text unchanged)

**.05 Action on Application.**

[A. The Board shall review all completed applications to the extent practicable within 120 days of receipt of the completed application.

B. The Board may delegate the initial review of applications to a committee of the Board.

C. At the next regular meeting of the Board, the Board may approve or deny an application reviewed by the Board or its designee.]

[D.] A. Upon review of [an] a completed application, the Board shall do one of the following:

- (1) (text unchanged)
- (2) Notify the applicant that the applicant is qualified to take the examination [and require the applicant to take an examination].

[E.] B. Denial of Applications.

- (1) (text unchanged)
- (2) If the Board denies certification under [§E(1)(e) or (f)] §B(1)(e) or (f) of this regulation, the Board or the Board’s designee shall:

- (a)—(b) (text unchanged)
- (3) (text unchanged)

[F.] C. Issuance of Certificate.

- (1) (text unchanged)

- (2) The Board shall include on each certificate the:
  - (a) Full name of the certificate holder; *and*
  - (b) Serial number assigned by the Board[; and]
  - [(c) Signature of the Chairman of the Board, under the seal of the Board].

**.06 Expiration and Renewal.**

- A. (text unchanged)
- B. At least [3 months] *1 month* before the certificate expires, the Board shall send to the certified residential child and youth care practitioner *by electronic or first-class mail to the last known electronic or physical address* a renewal notice that states:

- (1)—(3) (text unchanged)

- C. The Board shall renew the certificate of a certified residential child and youth care practitioner who:

- (1)—(2) (text unchanged)

- (3) Submits to the Board:

- (a) A renewal application on a form that the Board requires; [and]

- (b) Satisfactory evidence of compliance with any continuing education and other qualifications and requirements set by the Board;

(c) *Unless waived by the Board in accordance with Health Occupations Article, §20-310(f), Annotated Code of Maryland, evidence of application for a child protective services background clearance; and*

(d) *Evidence of having submitted to a State and national criminal history records check conducted by the Central Repository.*

**.07 Reinstatement.**

- A. The Board shall reinstate the certificate of a residential child and youth care practitioner who has failed to renew the certificate for any reason, if the individual:

- (1)—(2) (text unchanged)

- (3) Submits to the Board:

- (a) Evidence of completion of 20 continuing education units within the last 2 years; [and]

(b) [Adequate evidence that the applicant has completed a State and national criminal background check] *Evidence of having submitted to a State and national criminal history records check conducted by the Central Repository; and*

(c) *Unless waived by the Board in accordance with Health Occupations Article, §20-311(c), Annotated Code of Maryland, evidence of application for a child protective services background clearance; and*

- (4) (text unchanged)

- B. (text unchanged)

VAN T. MITCHELL  
Secretary of Health and Mental Hygiene

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 03 GENERAL INSTRUCTIONAL PROGRAMS

### 13A.03.02 Graduation Requirements for Public High Schools in Maryland

Authority: Education Article, §§2-205 and 7-203, Annotated Code of  
Maryland

#### Notice of Proposed Action

[16-231-P]

The Maryland State Board of Education proposes to amend Regulations .02, .06, and .09 under **COMAR 13A.03.02 Graduation Requirements for Public High Schools in Maryland**. This action was considered at the State Board of Education meeting on April 26, 2016 and again on July 26, 2016.

#### Statement of Purpose

The purpose of this action is to incorporate an incremental scoring implementation plan for PARCC Algebra I and English 10 and establish graduation requirements for students in certain school years. This action also provides exemptions to graduation assessment requirements in English 10, Algebra I, and biology to certain students in certain school years.

#### 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 Danielle Susskind, Lead Academic Policy Specialist, Division of Academic Policy and Innovation, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0476 (TTY 410-333-6442), or email to [danielle.susskind@maryland.gov](mailto:danielle.susskind@maryland.gov), or fax to 410-333-0714. Comments will be accepted through October 3, 2016. A public hearing has not been scheduled.

#### Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on October 25, 2016, 9 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

#### .02 Definitions.

- A. (text unchanged)

- B. Terms Defined.

- (1) — (3) (text unchanged)

(4) “HSA” means the high school assessments *in biology and government* aligned with the Maryland [State Curriculum standards] *College and Career Ready Standards*.

- (5) (text unchanged)

(6) “Maryland High School Assessments” means the HSA, PARCC, or other [tests] *assessments* in algebra, biology, English, and

government developed or adopted by the Department that are aligned with and measure a student’s skills and knowledge as set forth in the [content standards] *Maryland College and Career Ready Standards* for those subjects.

(7) (text unchanged)

(8) “PARCC Assessment” means the assessments in *Algebra and English* aligned with the Maryland College and Career [Readiness standards] *Ready Standards*.

**.06 Maryland High School Assessments.**

A. — C. (text unchanged)

D. Each student who failed a Maryland High School Assessment *once may participate in the Bridge Plan for Academic Validation and shall be provided at least one opportunity to retake the appropriate assessment in accordance with the testing schedule issued by the Department.*

E. (text unchanged)

F. Reporting Student Performance.

(1) (text unchanged)

(2) For the purpose of this section, *except for students identified in §G of this regulation*, “met all assessment requirements” means achieving a passing score on all Maryland High School Assessments, or meeting the requirements of the combined score option, or successfully completing a Bridge Plan in those assessment areas that the student did not pass [or, for students identified in §G of this regulation, taking the assessments aligned with the HSA or PARCC Algebra I and/or English 10].

G. [Prior to the 2016—2017 school year,] *For students who are graduating in school years 2016—2017 and 2017—2018 and who are first-time test takers of Algebra I and/or English 10 in those school years*, if a student has taken an [HSA-aligned or PARCC-aligned] Algebra I and/or English 10 course and has passed the course(s) but failed the [assessment] *Maryland High School Assessment* aligned with [the] *those course(s)*, that student is exempt from completing a Bridge Plan for Academic Validation *and will have met the assessment requirement for Algebra I and/or English 10.*

**.09 Diplomas and Certificates.**

A. (text unchanged)

B. Maryland High School Diploma. Except as provided in Regulation .12 of this chapter, and in §C of this regulation, to be awarded a Maryland high school diploma, a student shall:

(1) — (2) (text unchanged)

(3) [Satisfy one of the following] *Meet the graduation assessment requirements in the following ways:*

(a) Achieve a passing score [as established by the Department] on the Maryland High School Assessments for [algebra,] *Algebra I* [biology,] *and English 10*, [and government;] *in the following way:*

(i) *For school year 2016—2017, a score of 725;*

(ii) *For school year 2017—2018, a score of 733;*

(iii) *For school year 2018—2019, a score of 741;*

(iv) *For school year 2019—2020, and beyond, a score of 750; and*

(v) *Assessment in English 10 and/or Algebra I, the passing score on the retest shall be the passing score in the year in which the student first took the assessment.*

(b) *Achieve a passing score as established by the Department on the Maryland High School Assessments for biology and government;*

[(b)] (c) (text unchanged)

[(c)] (d) [Achieve] *If a student has not achieved a passing score on the Maryland High School Assessment in English 10 and/or Algebra I, achieve a score as established by the Department on Department-approved [substitute] assessments for algebra, [biology,]*

*and/or English, [and government], aligned with the Maryland High School Assessments such as Advanced Placement examinations, [SAT I,] SAT [II], ACT, and International Baccalaureate examinations; or*

[(d)] (e) [In school years 2016—2017 and beyond, if] *Except for students described in .06G of this chapter, if a student is unable to meet the requirements in §B(3)(a)—[(e)] (d) of this regulation, then satisfactorily complete the requirements of the Bridge Plan for Academic Validation as set forth in Regulation .06E of this chapter[; or].*

[(e) Prior to the 2016—2017 school year, if a student has taken an HSA-aligned or PARCC-aligned Algebra I and/or English 10 course and has passed the course(s) but failed the assessment aligned with the course(s) that student is exempt from completing a Bridge Plan for Academic Validation.]

C. *Exception To Passing Score Requirement.* [Any student who has taken an HSA-aligned or PARCC-aligned Algebra I and/or English 10 course prior to the 2016—2017 school year may meet the graduation requirements for Algebra I and/or English 10 in the following ways:

(1) Passing the course(s) and passing the assessments aligned with the Algebra I and/or English 10 course; or

(2) Passing the course(s) and taking the assessment aligned with the Algebra I and/or English 10 course at least one time.]

(1) *For students who are graduating in school years 2016—2017 and 2017—2018 and who are first-time test takers during those school years of the Maryland High School Assessment in Algebra I and/or English 10, the requirements set forth in §B(3)(a) of this regulation do not apply. For those students only, taking the Algebra I and/or English 10 Maryland High School Assessment for the first time will meet the graduation assessment requirement for Algebra I and English 10.*

(2) *For all students taking the HSA biology assessment in the 2016—2017 school year, taking the HSA biology assessment will meet the graduation assessment requirement for biology.*

D. — F. (text unchanged)

G. *At least yearly, through the end of the implementation, the State Board will review and assess updated information on the graduation assessment requirements and scores.*

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

**Subtitle 08 STUDENTS**

**13A.08.01 General Regulations**

Authority: Education Article, §§2-205, 7-101, 7-101.1, 7-301, 7-303—7-305, 7-307, 7-308, and 8-404, Annotated Code of Maryland; *Ch. 273, Acts of 2016*

**Notice of Proposed Action**

[16-222-P]

The Maryland State Board of Education proposes to amend Regulation .02-3 under **COMAR 13A.08.01 General Regulations**. This action was considered at the June 28, 2016 meeting of the State Board of Education.

**Statement of Purpose**

The purpose of this action is to adopt regulations to implement the new provisions of law concerning Kindergarten Readiness Assessment pursuant to H.B. 657, Ch. 273, Acts of 2016, effective July 1, 2016, Education — Pre-Kindergarten and Kindergarten Assessments — Administration, before the 2016/2017 school year. Thus, an emergency action is being proposed and published simultaneously.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** MSDE’s Division of Early Childhood Development has earmarked \$850,000 to administer the Kindergarten Readiness Assessment (KRA) in all 24 local school systems and Maryland School for the Deaf. The regulation reduces the number of students to be assessed, but this has no impact on costs to the State.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	850,000
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. Maryland State Department of Education has earmarked for FY 2017 a total of \$850,000 to cover the costs for the administration of the Kindergarten Readiness Assessment in school year 2016—2017.

**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 Judith Walker, Early Learning Branch Chief, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-6549 (TTY 410-333-6442), or email to judith.walker@maryland.gov, or fax to 410-333-6226. Comments will be accepted through October 3, 2016. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on October 25, 2016, 9 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

**.02-3 [Early Childhood Assessment] Kindergarten Readiness Assessment.**

**A. Definitions.**

(1) For the purpose of this regulation, the following terms have the meanings indicated.

(2) *Terms Defined.*

(a) “Department-approved kindergarten readiness assessment” means the kindergarten readiness assessment developed

and approved by the Department for the purpose of measuring school readiness.

(b) “Representative sample” means a sample of sufficient size to produce valid and reliable assessment information on all and major subgroups of students in the local school systems as of the first day of school and as identified by the Department.

**B. Representative Sample Assessment Process.**

(1) [Each local school system shall provide to the Department by December 1 of each year information about school readiness of students entering kindergarten as measured by a Department-approved kindergarten assessment system] Each school year, each local school system shall complete the administration of the Department-approved kindergarten readiness assessment to the representative sample in the following areas:

- [A.] (a) [Personal and social development] *Social development;*
- [B.] (b) *Language and literacy skills;*
- [C.] (c) [Mathematical thinking] *Academic knowledge in mathematics, science, and social studies; and*
- [D. *Scientific thinking;*
- E. *Social studies;*
- F. *Arts; and]*
- [G.] (d) *Physical development.*

(2) The Department shall provide each local school system with the representative sample identified for the local school system by the Department for assessment.

(3) The Department shall report the results of the representative sample assessment to local school systems in a format developed by the Department.

**C. Full-Census Assessment Process.**

(1) A local county board of education or a principal and a teacher who are in mutual agreement may decide to assess all students entering kindergarten in a school year using the Department-approved kindergarten readiness assessment.

(2) The superintendent of a local school system shall notify the Department that:

(a) The local county board of education has decided to conduct a full census assessment of all students in all kindergarten classes; or

(b) A principal and teacher in a school in the local school system have agreed to conduct a full census assessment of all students in that teacher’s kindergarten class.

(3) A teacher who is administering a full census assessment shall complete the assessment on or before October 1 of the school year.

(4) The Department shall return to the local school system the aggregate results of the full census assessment within 45 days after the administration of the assessment.

D. *Publication of Results of Assessments.* The Department shall publish and disseminate to local school systems the aggregated assessment information no later than November 15 of each year.

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

# Title 13B

## MARYLAND HIGHER EDUCATION COMMISSION

### Subtitle 07 COMMUNITY COLLEGES

#### Notice of Proposed Action

[16-227-P]

The Maryland Higher Education Commission proposes to amend:

- (1) Regulations **.01—.04** under **COMAR 13B.07.04 Construction Procedures**; and
- (2) Regulations **.01** and **.02** under **COMAR 13B.07.05 Space Allocation Guidelines**.

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 reflect corrections, changes, and updated practices in meeting the regulatory standards for compliance.

#### 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 Beard, Senior Finance Policy Analyst, Maryland Higher Education Commission, 6 N. Liberty Street, 10th Floor, Baltimore, MD 21201, or call 410-767-3086, or email to david.beard@maryland.gov, or fax to 410-332-0270. Comments will be accepted through October 3, 2016. A public hearing has not been scheduled.

### 13B.07.04 Construction Procedures

Education Article, §§11-105(j), 11-105(u), and 16-301, Annotated Code of Maryland

#### **.01 College Facilities.**

A. A college shall:

- (1) (text unchanged)
  - (2) In submitting a proposal for a project for which the college is not eligible or does not seek State participation, indicate:
    - (a) Why additional space beyond current guidelines is necessary, if applicable[.]; and
    - (b) How the space will be used[.]; and
    - (c) The estimated life cycle impact of the proposed facility on the operating costs of the college;]
  - (3) (text unchanged)
- B.—D. (text unchanged)

#### **.02 Facilities Master Plan (Includes Baltimore City Community College).**

A. Each college shall develop and submit by February 1 of each year a facilities master plan or [addendum] *an update to the current facilities master plan* which supports the college's role and mission.

The plan shall cover a period of not less than 10 years. Colleges should consider developing 20-year land use plans.

B. A college should regularly review the college's facilities master plan. The plan shall be updated every [5] 10 years or whenever major changes occur in the role and mission statements or in other plan components which have significant facilities implications.

C. The facilities master plan shall include:

- (1)—(3) (text unchanged)
- (4) Specific plans to meet identified needs, including:
  - (a)—(e) (text unchanged)
  - (f) *Bike path plan*;
  - (g) *Sustainability*;
  - [(f)] (h) — [(j)] (l) (text unchanged)
- (5) [Details of plans for all projects in the plan prepared under PlanMaryland Goals and Objectives and Guidelines for Capital Budgeting] *Provisions indicating that the Maryland Department of Planning Growth and Conservation map was considered*; and
- (6) (text unchanged)

D. (text unchanged)

E. Assessment and Analysis of Existing Land and Facilities and Planning Assumptions.

- (1) (text unchanged)
- (2) All proposals for new campuses, new site development, and new facilities projects shall [conform to PlanMaryland Goals and Objectives and Guidelines for Capital Budgeting] *consider the Maryland Department of Planning Growth and Conservation map*.
- (3) (text unchanged)

F. Review Process for Facilities Master Plans.

(1) A board of trustees approved new or updated facilities master plan shall be submitted concurrently to the Commission, the Department of Budget and Management, the Department of General Services, and the Maryland [Office] *Department of Planning*.

(2) The Commission shall review the plan with specific attention to:

(a) [Conformity with PlanMaryland Goals and Objectives and Guidelines for Capital Budgeting] *Consideration of the Maryland Department of Planning Growth and Conservation map*;

(b)—(e) (text unchanged)

(f) Library construction with regard to:

(i) (text unchanged)

(ii) *Library commons*;

[(ii)] (iii) — [(iii)] (iv) (text unchanged)

(g)—(h) (text unchanged)

(3) (text unchanged)

(4) The Department of General Services and the Maryland [Office] *Department of Planning* shall concurrently submit questions and concerns to the Commission and the Department of Budget and Management. The Commission shall forward its questions and concerns to the Department of Budget and Management to facilitate a consolidated response to the college from the Commission and the Department of Budget and Management. The college shall provide a response addressing the questions and concerns and may choose to modify its plan as a result of the issues raised. If appropriate, a meeting including the review agencies and the college may be held to assure a coordinated approach to completing the review process.

(5) (text unchanged)

#### **.03 Five-Year Capital Improvements Program/Annual Capital Budget Request Submission.**

A.—B. (text unchanged)

C. Projects identified in the program shall be consistent with [PlanMaryland Goals and Objectives and Guidelines for Capital Budgeting and] the approved facilities master plan *and should consider the Maryland Department of Planning Growth and Conservation map*. The program shall be updated annually to reflect

actual capital appropriations and any changes affecting project priorities within the program, as well as to add an additional year.

D. — E. (text unchanged)

F. Review Process for Five-year Capital Improvements Program.

(1) A facility program statement is required for each project to be [included in the 5-year capital improvements program] *considered for funding in the capital budget*. The program statement consists of Part I/project justification and Part II/technical specifications. [A] *The college shall submit [a] the Part II/project justification by May 1 of the year in which the project is to be included in the 5-year capital improvement program for the first time. The Part I/project justification shall be submitted to the Commission] and Part II to the Commission, the Department of Budget and Management, the Department of General Services, and the Department of Planning no later than May 1 of the year that the college is requesting funding.*

(2) The Commission review of the Part I/project justification shall focus on:

(a)—(b) (text unchanged)

(c) [Conformity with PlanMaryland Goals and Objectives and Guidelines for Capital Budgeting]—*Consideration of the Maryland Department of Planning Growth and Conservation map*; and

(d) (text unchanged)

(3) The Part II/technical specifications shall be submitted by May 1 of the year in which the design funds are requested. The Part II/technical specifications review shall be conducted by the Department of Budget and Management, the Department of General Services, and the Maryland [Office] *Department of Planning*.

(4)—(5) (text unchanged)

**.04 Site Selection.**

A. The general location for each proposed college or addition to a college shall be selected by the board of trustees for the college concerned, and submitted for the approval of the Commission and the Board of Public Works through the Department of General Services, which shall seek comments and recommendations from the Maryland [Office] *Department of Planning*.

B. (text unchanged)

C. Specific Site Selection Procedure.

(1) The board of trustees of the college shall study the available sites and have prepared a report that ranks the available sites in order of preference. Technical data, including proximity within [PlanMaryland] *Maryland Department of Planning Growth and Conservation* planning areas and a site check list, shall support this ranking.

(2)—(4) (text unchanged)

(5) Material supporting the selection of the specific site in §C(4) of this regulation, including an analysis of alternative sites which were considered, shall be submitted to the Secretary. The Secretary shall submit these documents to the Department of General Services and the Maryland [Office] *Department of Planning* for their confidential review and findings.

(6)—(7) (text unchanged)

(8) The Secretary shall notify the college of the responses of the Department of General Services and the Maryland [Office] *Department of Planning*.

(9)—(12) (text unchanged)

**13B.07.05 Space Allocation Guidelines**

Education Article, §§11-105(j), 11-105(u), and 16-301, Annotated Code of Maryland

**.01 General Principles.**

A.—E. (text unchanged)

F. On-campus daytime weekly student contact hours (WSCH) shall be used to compute classroom and laboratory space needs. The

WSCH shall be certified by the Secretary of Higher Education. [Except for remedial or other prerequisite courses, noncredit contact hours are not included in computing space, and only “on campus” hours shall be included.]

G. *Eligible noncredit contact hours may be included in computing space, and only on-campus hours shall be included. When reporting eligible noncredit contact hours, MHEC Form CC-S6 shall be used.*

[G.] H. — [J.] K. (text unchanged)

**.02 Capital Guidelines.**

Space allocation guidelines for college campuses are as follows:

Table (text unchanged)

Footnotes <sup>1–12</sup> (text unchanged)

<sup>13</sup> *Computed need in any larger institutional size category may not be less than the maximum amount for any smaller institutional size category.*

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

**Title 14**  
**INDEPENDENT AGENCIES**  
**Subtitle 35 MARYLAND HEALTH**  
**BENEFIT EXCHANGE**

**Notice of Proposed Action**

[16-221-P]

The Board of Trustees of the Maryland Health Benefit Exchange proposes to:

(1) Amend Regulations .01 and .02 under **COMAR 14.35.01 General Provisions**; and

(2) Amend Regulation .01 and adopt new Regulations .02—.20 under **COMAR 14.35.07 Eligibility Standards for Enrollment in a Qualified Health Plan and a Qualified Health Plan with APTC and CSR in the Individual Exchange**.

**Statement of Purpose**

The purpose of this action is to amend the eligibility and enrollment standards for the Individual Exchange to set forth additional detail and conform State regulations to changes in federal regulation. Further, this action provides detail about enrollment effective dates, standards for special enrollment periods, and the due date for the first month’s premium payment. The regulations under Subtitle 35 should be read in pari materia with the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), and associated federal regulations issued before and after their promulgation.

The Maryland Health Benefit Exchange sought feedback on drafts of these regulations from the Maryland Health Benefit Exchange Standing Advisory Committee, the Maryland Insurance Administration, the Department of Health and Mental Hygiene, the Health Education and Advocacy Unit of the Office of the Attorney General, and the public. The Maryland Health Benefit Exchange undertook a multi-step process to solicit feedback on multiple drafts of these proposed regulations. Specifically, the Maryland Health Benefit Exchange solicited public written feedback on three occasions and hosted two public meetings to discuss these proposed regulations. Written and verbal comments received from each of these entities and the public informed these proposed regulations.

**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 Carolyn Quattrochi, Executive Director, Maryland Health Benefit Exchange, 750 E. Pratt Street, 16th Floor, Baltimore, MD 21202, or call 410-547-1270, or email to mhbe.policy@maryland.gov, or fax to 410-547-7373. Comments will be accepted through October 3, 2016. A public hearing has not been scheduled.

**14.35.01 General Provisions**

Authority: Insurance Article, §31-106(c)(1)(iv), Annotated Code of Maryland

**.01 Compliance with Federal Law.**

[The Maryland Health Benefit Exchange shall comply with all provisions of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), and all associated guidance and regulations hereto and hereafter issued.] *The regulations under Subtitle 35 should be read in pari materia with the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), and associated federal regulations issued before and after their promulgation.*

**.02 Definitions.**

In this subtitle, the following terms have the meanings indicated.

- (1) (text unchanged)
- (2) [“Advanced Premium Tax Credit” has the meaning stated in 45 CFR §155.20.] *“Actuarial value” means the percentage paid by a health benefit plan of the percentage of the total allowed costs of benefits as set forth in 45 CFR §156.140.*
- (3) [“MCHP” means the Maryland Children’s Health Program.] *“Advance payments of the premium tax credit (APTC)” means payment of the federal tax credits authorized by 26 U.S.C. §36B and its implementing regulations, which are provided on an advance basis to an eligible individual enrolled in a qualified health plan through the Exchange under §1412 of the Affordable Care Act.*
- (4) *“Affordable Care Act (ACA)” means the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148), as amended, including by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152), and the regulations issued under it.*
- (5) *“Board” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.*
- [4] *“CARES” means the case management data system that tracks eligibility for Medicaid and other social services.*
- [(5)] (6) (text unchanged)
- (7) *“Catastrophic plan” means a QHP described in §1302(e) of the Affordable Care Act.*
- [(6)] (8) *“Commissioner” means the [Maryland Insurance] Commissioner of the Maryland Insurance Administration.*
- (9) *“Cost sharing” means any expenditure required by or on behalf of an enrollee with respect to covered benefits.*
  - (a) *Cost sharing includes deductibles, coinsurance, copayments, or similar charges.*
  - (b) *Cost sharing does not include premiums, balance billing amounts for non-network providers, and spending for non-covered services.*
- [(7)] (10) *“Cost Sharing Reductions” has the meaning stated in 45 CFR §155.20.*

(11) *“Coverage” means a qualified individual’s enrollment in a qualified plan.*

(12) *“Coverage level” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.*

[(8)] (13) [“Department” means the Department of Health and Mental Hygiene.] *“Dental plan” means a plan that provides limited scope dental benefits as described in Insurance Article, §31-108(b)(2), Annotated Code of Maryland.*

(14) *“Eligibility determination” means a decision by the Individual Exchange about an applicant’s eligibility to enroll in a QHP, catastrophic plan or insurance affordability program or terminate a qualified individual’s enrollment in a QHP or insurance affordability program during an open enrollment period or special enrollment period.*

(15) *“Enrollee” means a qualified individual who is enrolled in a qualified plan through the Individual Exchange.*

(16) *“Enrollment” means the enrollee’s QHP purchased through the Individual Exchange.*

[(9)] (17) *“Exchange” [has the meaning stated in Insurance Article §31-101(e), Annotated Code of Maryland] means the Maryland Health Benefit Exchange established as a public corporation under Insurance Article, §31-102, Annotated Code of Maryland, and includes the Individual Exchange and the Small Business Health Options Program.*

[(10)] (18) (text unchanged)

(19) *“Grace period” means the period of time during which an authorized carrier is prohibited from terminating an enrollee’s enrollment in a qualified health plan obtained through the Individual Exchange due to nonpayment of premiums, as specified in:*

(a) *Insurance Article, §15-1315(c)—(e), Annotated Code of Maryland, if the enrollee is receiving APTC; or*

(b) *Insurance Article, §15-209, Annotated Code of Maryland, for insurers; COMAR 31.10.25.04C, for non-profit health service plans; COMAR 31.12.07.05D, for HMOs; or COMAR 31.12.04.05A, for dental plan organizations, if the enrollee is not receiving APTC.*

(20) *“Health benefit plan” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.*

(21) *“Health Maintenance Organization” (HMO) has the meaning stated in Health-General Article, §19-701(g), Annotated Code of Maryland.*

(22) *“HHS” means the federal Department of Health and Human Services.*

[(11)] (23) *“Individual Exchange” has the meaning stated in Insurance Article §31-101[(h)], Annotated Code of Maryland.*

[(12)] (24) *“Individual Exchange Navigator” has the meaning stated in Insurance Article §31-101[(i)], Annotated Code of Maryland.*

[(13)] (25) *“Individual Exchange Navigator Certification” has the meaning stated in Insurance Article §31-101[(j)], Annotated Code of Maryland.*

[(14)] (26) *“Individual Exchange Navigator Entity” has the meaning stated in Insurance Article §31-101[(k)], Annotated Code of Maryland.*

[(15)] (27) *“Insurance Producer” has the meaning stated in Insurance Article §1-101[(u)], Annotated Code of Maryland.*

[(16)] (28) *“Insurance Producer Authorization” has the meaning stated in Insurance Article §31-101[(m)], Annotated Code of Maryland.*

[(17)] (29) (text unchanged)

[(19)] (30) (text unchanged)

(31) *“Maryland Health Benefit Exchange” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.*

[(18-19)] (32-33) (text unchanged)



(34) “Maryland Insurance Administration (MIA)” means the insurance administration for the State established under Insurance Article, §2-101, Annotated Code of Maryland.

[(20)] (35) (text unchanged)

(36) “Minimum Essential Coverage (MEC)” has the meaning stated in 26 USC §5000A(f) and the corresponding regulation under 26 CFR §1.5000A-2(c).

[(21)] (37) (text unchanged)

(38) “Non-Exchange entity” means any individual or entity in a contractual or agent relationship with the Exchange that because of the contractual or agent relationship:

(a) Gains access to personally identifiable information submitted to an Exchange; or

(b) Collects, uses, or discloses personally identifiable information gathered directly from applicants, qualified individuals, or enrollees while that individual or entity is performing functions agreed to with the Exchange.

[(22)] (39) (text unchanged)

(40) “Plan variation” means a zero cost sharing plan variation or a silver plan variation.

(41) “Product” has the meaning stated in Insurance Article, §15-1309, Annotated Code of Maryland.

(42) “Qualified dental plan (QDP)” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

(43) “Qualified health plan (QHP)” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

[(23)] (44) “Qualified Individual” has the meaning stated in Insurance Article, §31-101[(s)], Annotated Code of Maryland.

(45) “Qualified plan” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

(46) “Silver plan variation” means any of the cost-sharing reduction plan variations of a silver QHP set forth at 45 CFR §156.420(a).

(47) “Single, streamlined application form” means the one eligibility application form that an applicant may use to apply for enrollment in a QHP or insurance affordability program through the Individual Exchange.

(48) “Small Business Health Options Program (SHOP) Exchange” has the meaning stated in Insurance Article, 31-101, Annotated Code of Maryland.

(49) “Special enrollment period” means the only periods outside of the annual open enrollment period during which a qualified individual or enrollee, or, where applicable, the qualified individual or enrollee’s dependent, who experiences certain qualifying events may enroll in, or change enrollment in, a QHP through the Individual Exchange outside of the open enrollment period.

(50) “Stand-alone dental plan (SADP)” means a qualified dental plan that meets the requirements set forth at 45 CFR 155.1065(a).

(51) “Zero cost sharing plan variation” means the cost-sharing reduction plan variation of a QHP set forth at 45 CFR §156.420(b)(1).

**14.35.07 Eligibility Standards for [and] Enrollment in a Qualified Health Plan and a Qualified Health Plan with APTC and CSR in the Individual Exchange**

Authority: Insurance Article, §§31-106(c)(1)(iv), 31-108(b)(1), 31-108(b)(10), and 31-108(b)(17), Annotated Code of Maryland

**.01 [Information Required for Eligibility Determination.] Scope.**

[A. In determining an individual’s eligibility for a qualified plan or Maryland Medicaid, including determinations for advanced premium

tax credit and cost sharing reductions, the Exchange may verify information regarding the individual, including information on an individual’s:

- (1) Social Security Number;
- (2) Date of birth;
- (3) Household size;
- (4) Employment status;
- (5) Lawful residency;
- (6) Immigration status;
- (7) Incarceration status;
- (8) Income; and
- (9) Eligibility for disability and other public assistance benefits.

B. The Exchange may use State and federal data systems in verifying the information listed in §A of this regulation, including the following data systems:

- (1) Medicaid Management Information System;
- (2) The Service Access Information Link;
- (3) CARES;
- (4) Maryland Vehicle Administration;
- (4) JAIL MATCH;
- (5) Maryland Lottery;
- (6) Systematic Alien Verification for Entitlements; and
- (7) Federal Data Hub System, including Internal Revenue Service data.]

This chapter sets forth the eligibility standards for enrollment in a qualified health plan and a qualified health plan with advance payments of the premium tax credit and cost-sharing reductions in the Individual Exchange. This chapter does not address verification of eligibility or redeterminations of eligibility for enrollment in the Individual Exchange or eligibility for enrollment in the SHOP Exchange. This chapter does not address eligibility and enrollment in qualified dental plans or qualified vision plans.

**.02 Definitions.**

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

B. Terms Defined.

(1) “Applicant” means an individual who submits an application through the Individual Exchange for the individual and the individual’s tax household and is seeking eligibility for:

(a) Enrollment in a QHP through the Individual Exchange; or

(b) Enrollment in an insurance affordability program through the Individual Exchange.

(2) “COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272).

(3) “CSR plan for up to 150 percent FPL” means a QHP available through the Individual Exchange with an actuarial value of 94 percent plus or minus the de minimis variation for a silver plan variation.

(4) “CSR plan for 151-200 percent FPL” means a QHP available through the Individual Exchange with an actuarial value of 87 percent plus or minus the de minimis variation for a silver plan variation.

(5) “CSR plan for 201-250 percent FPL” means a QHP available through the Individual Exchange with an actuarial value of 73 percent plus or minus the de minimis variation for a silver plan variation.

(6) “Dependent”, under Regulations .12—.19 of this chapter, has the meaning stated in 26 CFR §54.9801-2.

(7) “Employer-sponsored coverage” means health coverage offered by an employer to an employee and the employee’s dependents, if eligible, under:

(a) Government health coverage, such as the Federal Employees Health Benefit program;

(b) Health coverage offered in the small or large group market by an employer within a state; or

(c) Grandfathered health coverage offered by an employer in a group market.

(8) "Federal Poverty Level (FPL)" means the most recently published federal poverty level guidelines, updated periodically in the Federal Register by the Secretary of HHS as set forth in 42 U.S.C. §9902(2), as of the first day of the open enrollment period for QHPs offered through the Individual Exchange for a calendar year.

(9) "Household income" has the meaning stated in §36B(d)(2) of the Internal Revenue Code.

(10) "Indian" means an individual who is a member of an any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(11) "Institution" means:

(a) A medical institution set forth in COMAR 10.09.24.02.37; or

(b) A public institution set forth in COMAR 10.09.24.02.46.

(12) "Insurance affordability programs" means a program that is one of the following:

(a) The Maryland State Medicaid program;

(b) The Maryland Children's Health Insurance Program (CHIP), including the program known as Maryland Children's Health Program (MCHP) Premium;

(c) A program that makes available to qualified individuals coverage in a QHP through the Individual Exchange with APTC as set forth in §36B of the Internal Revenue Code; or

(d) A program that makes available to qualified individuals coverage in a QHP through the Individual Exchange with CSR as set forth in §1402 of the ACA.

(13) "Non-applicant" means an individual who is not seeking eligibility for enrollment in a QHP or an insurance affordability program through the Individual Exchange.

(14) "Rescission" means a cancellation or discontinuance of coverage that:

(a) Has retroactive effect; and

(b) Meets a permissible circumstance set forth in 45 CFR §147.128.

(15) "Tax filer" means an individual, or a married couple, who indicates that the tax filer expects:

(a) To file an income tax return for the benefit year, as set forth in 26 U.S.C. §§6011, 6012, and implementing regulations;

(b) If married, as set forth in 26 CFR §1.7703-1, to file a joint tax return for the benefit year, except if the spouse is a victim of domestic violence or spousal abandonment;

(c) To not be claimed as a tax dependent by any other taxpayer for the benefit year; and

(d) To claim a personal exemption deduction set forth in §151 of the Internal Revenue Code on the tax filer's return for one or more applicants, even if the tax filer is not an applicant.

(16) "Qualifying eligible employer-sponsored plan" means a health benefit plan that meets the requirements set forth in 26 CFR §1.36B-2(c)(2)(i).

**.03 Applying for Coverage through the Individual Exchange.**

A. An individual may apply to enroll in a QHP or an insurance affordability program through the Individual Exchange using the single, streamlined application form approved by the Individual Exchange.

B. An individual may submit the application:

(1) By telephone;

(2) On the Individual Exchange's internet website;

(3) Using in-person assistance available through the Individual Exchange, including with provision of reasonable accommodations; or

(4) By mail.

C. An applicant shall provide the following information on the application:

(1) The applicant's and applicable dependents' social security number, if the individual has a social security number;

(2) An authorization for the Individual Exchange to verify attested information through electronic means;

(3) An election indicating whether the applicant is seeking an eligibility determination for enrollment in a QHP or insurance affordability programs;

(4) If the applicant is applying for enrollment in a QHP, sufficient information to determine eligibility for enrollment in a QHP;

(5) If the applicant is applying for enrollment in insurance affordability programs, sufficient information to determine eligibility for enrollment in insurance affordability programs;

(6) If the applicant is applying for enrollment in an insurance affordability program under Regulation .02B(12)(c) or .02B(12)(d) of this chapter and the applicant files an income tax return as a married couple, an attestation that the applicant intends to file a joint income tax return for the benefit year in which the individual is seeking coverage, except:

(a) If a spouse is the victim of domestic violence or spousal abandonment, the attestation may provide that the applicant intends to file a single income tax return for the benefit year in which the individual is seeking coverage; and

(b) If the individual in a married couple qualifies to file as head of household, the attestation may provide that the applicant will file an income tax return as head of household for the benefit year in which the individual is seeking coverage; and

(7) The applicant's signature, including either an electronic or telephonic signature, under penalties of perjury.

D. Non-Applicant.

(1) A non-applicant who applies for insurance affordability programs on behalf of a member in the non-applicant's tax filing household shall provide the following information on the application:

(a) The non-applicant's name; and

(b) The non-applicant's social security number, if the applicant attests that the tax filer:

(i) Has a social security number; and

(ii) Filed a tax return for the year for which tax data would be used to verify the applicant's household income and family size.

(2) A non-applicant shall provide the following information on the application if the only members of the individual's household who are seeking coverage are younger than 18 years old and are not emancipated minors:

(a) The non-applicant's name; and

(b) The non-applicant's address.

(3) Non-applicants are not required to provide information about the non-applicant's citizenship, status as a national, or immigration status.

E. An individual who applies for an insurance affordability program shall receive an eligibility determination for all of the insurance affordability programs.

F. An individual may submit an application to the Individual Exchange and receive an eligibility determination at any time during the year.

*G. Incomplete Applications.*

(1) If an individual submits an incomplete application, the Individual Exchange shall send the individual a notice under Regulation .04(D) of this chapter.

(2) The individual shall have 90 days to complete the application and receive an eligibility determination from the date of the notice under Regulation .04(D) is sent to the individual.

**.04 Notice Requirements.**

A. The Individual Exchange shall provide timely written notice to an applicant of any eligibility determination made under this chapter as set forth in 45 CFR §155.310(g) and a notification of the right to request a fair hearing as set forth in COMAR 14.35.11.04.

B. If an employee enrolls in a QHP with APTC or CSR, the Individual Exchange shall notify the employee's employer at the employer's address provided by the employee to the Individual Exchange that the employee has been determined eligible for APTC or CSR.

C. The notice under §B of this regulation shall:

(1) Identify the employee by including:

- (a) The employee's name;
- (b) The employee's date of birth;
- (c) The last four digits of the employee's social security number, if available; and
- (d) The employee's Individual Exchange identification number;

(2) Indicate that the employee has been determined eligible for APTC or CSR and has enrolled in a QHP;

(3) Indicate that, if the employer has 50 or more full-time employees, the employer may be liable for the shared responsibility payment assessment set forth in §4980H of the Internal Revenue Code; and

(4) Notify the employer of the employer's right to appeal the determination to HHS.

D. The Individual Exchange shall send a notice to an applicant who submits an application containing insufficient information for the Individual Exchange to conduct an eligibility determination.

E. The notice under §D of this regulation shall:

(1) Indicate that information necessary to complete an eligibility determination is missing;

(2) Specify the missing information;

(3) Provide instructions on how to provide the missing information to the Individual Exchange; and

(4) Specify that the applicant shall have 90 days to provide the missing information to the Individual Exchange beginning on the date of the notice.

F. If an applicant or enrollee has designated an authorized representative under Regulation .21 of this chapter, the Individual Exchange shall provide:

(1) Information regarding the powers and duties of authorized representatives both to the applicant or enrollee and to the authorized representative; and

(2) Notices under this regulation to both the applicant or the enrollee and to the authorized representative.

G. The Individual Exchange shall provide written notices electronically to an individual if:

(1) The individual elects to receive notices electronically;

(2) The individual is mailed confirmation of the individual's election to receive notices electronically;

(3) The individual is informed of the right to change the election;

(4) The Individual Exchange posts notices in the individual's online Individual Exchange account within 1 business day of generation of the electronic notice; and

(5) Within 1 business day of generating the electronic notice, the Individual Exchange electronically mails the individual at the individual's verified electronic mail address alerting the individual to the existence of the electronic notice in the individual's online Individual Exchange account.

H. If the electronic communication under §G(5) of this regulation fails to be sent to the individual, the Individual Exchange shall mail a written notice of the failed electronic communication to the individual's mailing address.

I. An individual may request a written copy of any electronic notice the individual receives from the Individual Exchange.

**.05 Eligibility Requirements for Enrollment in a Qualified Health Plan through the Individual Exchange.**

A. An applicant shall be determined eligible for enrollment in a QHP through the Individual Exchange if the applicant is:

(1) A citizen or national of the United States, or a non-citizen who is lawfully present in the United States, and reasonably expected to be a citizen, national, or a non-citizen who is lawfully present for the entire period for which enrollment is sought;

(2) A resident of the Individual Exchange service area; and

(3) Not incarcerated, other than incarceration pending the disposition of charges.

B. Eligibility under this regulation is contingent upon verification of the applicant's attestation that the applicant meets the criteria stated in §A of this regulation.

**.06 General Eligibility Requirements—Citizenship and Immigration Status.**

A. For purposes of determining eligibility for enrollment in a QHP under Regulation .05A(1) of this chapter, an individual shall be considered a citizen or national of the United States if the individual is:

(1) A citizen of the United States, including:

(a) An individual who was born in:

(i) One of the 50 states;

(ii) The District of Columbia;

(iii) Puerto Rico;

(iv) Guam;

(v) The Northern Mariana Islands; or

(vi) The Virgin Islands;

(b) A child born outside of the United States if:

(i) The federal requirements, including the requirements in the Child Citizenship Act of 2000 (Public Law 106-395), are met for the child to automatically acquire United States citizenship upon the child's lawful admission to the United States for permanent residence;

(ii) At least one of the child's natural or adoptive parents or stepparents is a United States citizen by birth or naturalization;

(iii) The child is younger than 18 years old;

(iv) The child resides in the United States in the legal and physical custody of the citizen or naturalized parent; and

(v) The child is a lawful permanent resident of the United States;

(2) An individual who has been naturalized as a United States citizen; or

(3) A national from American Samoa or Swain's Island.

B. For purposes of determining eligibility for enrollment in a QHP under Regulation .05A(1) of this chapter, an individual shall be considered lawfully present if the individual is:

(1) An alien who has been lawfully admitted to the United States for permanent residence or who, since admission, was granted lawful permanent resident status in accordance with the Immigration Nationality Act (INA);

(2) An alien granted parole for at least 1 year set forth in §212(d)(5) of the INA;

(3) An alien who has been paroled into the United States set forth in 8 U.S.C. §1182(d)(5) for less than 1 year, except for an alien paroled for prosecution or for deferred inspection, or pending removal proceedings;

(4) An alien who was battered or subjected to extreme cruelty by the individual's United States citizen or lawful permanent resident spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the immigrant, if:

(a) The spouse or parent consented to, or acquiesced in, the battery or cruelty;

(b) The abusive act or acts occurred in the United States;

(c) The individual responsible for the battery or cruelty no longer lives in the same household as the victim; or

(d) A Violence Against Women Act immigration case or a family-based visa petition has been filed;

(5) A refugee admitted as set forth in §207 of the INA;

(6) An alien granted asylum set forth in §208 of the INA;

(7) An alien whose deportation is being withheld set forth in:

(a) §243(h) of the INA, and in effect prior to April 1, 1997;

or

(b) §241(b)(3) of the INA, as amended;

(8) A Cuban or Haitian entrant, as set forth in §501(e) of the Refugee Education Assistance Act of 1980;

(9) An alien granted conditional entry set forth in §203(a)(7) of the INA, in effect before April 1, 1980;

(10) A child receiving federal payments for foster care or adoption assistance set forth in Part B or E of Title IV of the Social Security Act, if the child's foster or adoptive parent is considered a citizen or qualified alien;

(11) A victim of a severe form of trafficking, as set forth in §107(b)(1) of the Trafficking Victims Protection Act of 2000, who have been subjected to:

(a) Sex trafficking, if the act is induced by force, fraud, or coercion, or the individual who was induced to perform the act was younger than 18 years old on the date that the visa application was filed; or

(b) Involuntary servitude;

(12) An alien in a nonimmigrant status who has not violated the terms of the status under which the alien was admitted, or to which the alien has changed after admission;

(13) An alien currently in temporary resident status set forth in §§210 and 245A of the INA (8 U.S.C. §1160 or §1255a, respectively);

(14) An alien currently under Temporary Protected Status (TPS) set forth in §244 of the INA (8 U.S.C. §1254a), and pending applicants for TPS who have been granted employment authorization;

(15) An alien who has been granted employment authorization set forth in 8 CFR §§274a.12(c)(9), (10), (16), (18), (20), (22), or (24);

(16) A Family Unity beneficiary set forth in §301 of Public Law 101-649, as amended;

(17) An alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President of the United States;

(18) An alien currently in deferred action status;

(19) An alien whose visa petition has been approved and who has a pending application for adjustment of status;

(20) A pending applicant for asylum set forth in 8 U.S.C. §1158 who:

(a) Is under the age of 14; and

(b) Has had an application pending for at least 180 days;

(21) A pending applicant for withholding of removal, set forth in 8 U.S.C. §1231 or under the Convention Against Torture who:

(a) Has been granted employment authorization;

(b) Is under the age of 14; and

(c) Has had an application pending for at least 180 days;

(22) An alien who has been granted withholding of removal under the Convention Against Torture; or

(23) A child who has a pending application for a Special Immigrant Juvenile status set forth in 8 U.S.C. §1101(a)(27)(J).

**.07 General Eligibility Requirements—Residency in Individual Exchange Service Area.**

A. For the purpose of determining eligibility for enrollment in a QHP under Regulation .05(A)(2) of this chapter, an individual shall be considered a resident of the Individual Exchange service area if:

(1) An individual is 21 years old or older, is not living in an institution, is capable of indicating intent, and is not receiving an optional State supplementary payment, and the individual:

(a) Lives in the Individual Exchange service area;

(b) Intends to reside in the Individual Exchange service area, including without a fixed address; or

(c) Has entered into a job commitment or is seeking employment, whether or not currently employed, in the Individual Exchange service area; or

(2) An individual is younger than 21 years old, is not living in an institution, is not eligible for Medicaid based on receipt of assistance under title IV-E of the Social Security Act, is not emancipated, is not receiving an optional State supplementary payment, and the individual either:

(a) Resides in the Individual Exchange service area, including without a fixed address; or

(b) Resides with a parent or caretaker who resides in the service area of the Individual Exchange under §A(1) of this regulation.

B. For an individual not described in §A of this regulation, an individual shall be considered a resident of the Individual Exchange service area if the individual meets the State residency requirements set forth in COMAR 10.09.24.05-3.

C. If members of the tax household are not residents of the same Individual Exchange service area, the tax household may indicate any Individual Exchange for which one of the tax filers meets the residency standard under this regulation as the tax household's residency.

D. If both spouses in a tax household enroll in a QHP through the Individual Exchange, a tax dependent may only enroll in a QHP through the Individual Exchange, or through a different health benefit exchange for which the dependent meets the residency standard.

E. The Individual Exchange may not deny or terminate an individual's eligibility for enrollment in a QHP through the Individual Exchange if the individual meets the residency standard under this regulation but for a temporary absence from the service area of the Individual Exchange and the individual intends to return when the purpose of the absence has been accomplished.

F. The service area of the Individual Exchange is Maryland.

**.08 Eligibility Requirements for Advance Payments of the Premium Tax Credit.**

A. A tax filer shall be determined eligible for APTC if:

(1) The tax filer attests to a household income, as defined in 26 CFR §1.36B-1(e), greater than or equal to 100 percent but not more than 400 percent of the FPL for the benefit year for which coverage is requested; and

(2) One or more applicants for whom the tax filer attests to claiming a personal exemption deduction on the applicant's federal tax return for the benefit year:

(a) Meets the eligibility requirements for enrollment in a QHP through the Individual Exchange, under Regulation .05 of this chapter; and

(b) Is not eligible for minimum essential coverage, with the exception of coverage in the individual market as set forth in 26 CFR §1.36B-2(a)(2) and (c).

B. A non-citizen tax filer who is lawfully present and ineligible for Medicaid or MCHP by reason of immigration status, and is not otherwise eligible for APTC, shall be eligible for APTC if:

(1) The tax filer meets the requirements under §A(2) of this regulation;

(2) The tax filer attests to household income of less than 100 percent of the FPL for the benefit year for which coverage is requested; and

(3) One or more applicants for whom the tax filer attests to claiming a personal exemption deduction on the tax filer's return for the benefit year is a non-citizen who is lawfully present and ineligible for Medicaid or MCHP by reason of immigration status.

C. APTC may be received by a tax filer for another qualified individual only if one or more qualified individuals for whom the tax filer attests that the tax filer expects to claim a personal exemption deduction for the benefit year, including the tax filer and the tax filer's spouse, is enrolled in a QHP that is not a catastrophic plan, through the Individual Exchange.

D. If one or more APTC amounts are to be made on behalf of a tax filer, or two tax filers covered by the same plan or plans, and individuals in the tax filers' tax households are enrolled in more than one QHP and stand-alone dental plan, then the APTC amounts shall be allocated as follows:

(1) That portion of the APTC that is less than or equal to the aggregate adjusted monthly premiums, set forth in 26 CFR §1.36B-3(e), and that is properly allocated to essential health benefits shall be allocated among the QHPs according to the premium level appropriate for each individual's age-rating band premium without regard to geographic rating; and

(2) Any remaining APTC may be allocated to the essential health benefit portion of any stand-alone dental plans.

E. A tax filer shall not be eligible for APTC if:

(1) HHS notifies the Individual Exchange that APTC were made on behalf of the tax filer, or either spouse if the tax filer is a married couple, for a year for which tax data would be utilized for verification of household income and family size set forth in 45 CFR §155.320(c)(1)(i); and

(2) The tax filer or spouse did not file a federal income tax return for that year and did not reconcile the APTC received for that year.

F. APTC shall be calculated as set forth in 26 CFR §1.36B-3.

G. The tax filer shall attest to the following to receive APTC:

(1) No other tax filer will claim the tax filer as a tax dependent for the benefit year; and

(2) The tax filer will claim a personal exemption deduction on the income tax return for the applicants identified as members of the tax filer's family, including the tax filer, who:

(a) Meet the requirements for eligibility for enrollment in a QHP through the Individual Exchange, under Regulation .05 of this chapter; and

(b) Are not eligible for minimum essential coverage.

H. An enrollee may accept less than the full amount of APTC for which the enrollee is determined eligible.

I. Effective dates for changes in eligibility for APTC.

(1) Except as otherwise specified under this regulation, changes in eligibility for APTC are effective:

(a) The first day of the following month, for changes in eligibility determined by the Individual Exchange between the first and the fifteenth day of a month; and

(b) The first day of the second following month, for changes in eligibility determined by the Individual Exchange between the sixteenth and the last day of a month.

(2) When an enrollee is determined newly eligible for Medicaid or MCHP, the enrollee shall not be eligible for APTC beginning the first of the month after the enrollee is determined newly eligible for Medicaid or MCHP.

(3) When an applicant or enrollee is eligible for a special enrollment period under Regulations .12—19 of this chapter, in accordance with the applicable effective date specified for each special enrollment period under Regulations .12—19 of this chapter.

(4) When an enrollee's enrollment is terminated as set forth in 45 CFR §155.430, in accordance with the applicable effective date of the termination set forth in 45 CFR §155.430.

J. Eligibility under this regulation is contingent upon verification of the applicant's attestation that the applicant meets the criteria stated in this regulation.

**.09 Eligibility Requirements for Cost-Sharing Reductions.**

A. An applicant shall be determined eligible for cost-sharing reductions if the applicant:

(1) Meets the requirements for eligibility for enrollment in a QHP through the Individual Exchange under Regulation .05 of this chapter;

(2) Meets the requirements for APTC under Regulation .08 of this chapter; and

(3) Except as provided under §E of this regulation, attests to household income that does not exceed 250 percent of the FPL for the benefit year for which coverage is requested.

B. An applicant is eligible for:

(1) A CSR plan for up to 150 percent of the FPL for an individual who attests to household income greater than or equal to 100 percent of the FPL and less than or equal to 150 percent of the FPL for the benefit year for which coverage is requested, or, for an individual who is eligible for APTC under Regulation .07B of this chapter, a household income less than 100 percent of the FPL for the benefit year for which coverage is requested;

(2) A CSR plan for 151-200 percent FPL for an individual who attests to household income greater than 150 percent of the FPL and less than or equal to 200 percent of the FPL for the benefit year for which coverage is requested;

(3) A CSR plan for 201-250 percent FPL for an individual who attests to household income greater than 200 percent of the FPL and less than or equal to 250 percent of the FPL for the benefit year for which coverage is requested; or

(4) Except as provided under §E of this regulation, any coverage level for an individual who attests to household income greater than 250 percent for the FPL for the benefit year for which coverage is requested.

C. To the extent that an enrollment in a QHP under a single policy covers two or more individuals who, if the individuals were to enroll in separate individual policies, would be eligible for different CSR plan variations, the individuals under the policy are collectively eligible only for the category of eligibility last listed below for which all the individuals covered by the policy would be eligible:

(1) Individuals not eligible for changes to cost sharing;

(2) Individuals described in §E(2) of this regulation;

(3) Individuals described in §B(3) of this regulation;

(4) Individuals described in §B(2) of this regulation;

(5) Individuals described in §B(1) of this regulation; and

(6) Individuals described in §E(1) of this regulation.

D. To receive cost-sharing reductions, an applicant who is not an Indian shall enroll in a silver plan variation of a QHP.

*E. Special Cost-Sharing Rules for Indians.*

(1) An applicant who is an Indian is eligible for the zero-cost sharing plan variation of a QHP if the applicant:

(a) Meets the requirements for eligibility for enrollment in a QHP through the Individual Exchange pursuant to Regulation .05 of this chapter;

(b) Meets the requirements for APTC pursuant to Regulation .08 of this chapter; and

(c) Attests to household income set forth in 26 CFR §1.36B-1(e) that does not exceed 300 percent of the FPL for the benefit year for which coverage is requested.

(2) An applicant who is an Indian and is enrolled in a QHP shall owe no cost-sharing under the plan for items or services furnished directly by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization or through referral under contract health services.

*F. Changes in enrollment in a plan with CSR under this regulation is effective based on the effective dates under Regulation .08I of this chapter.*

*G. Eligibility under this regulation is contingent upon verification of the applicant's attestation that the applicant meets the criteria stated in this regulation.*

**.10 Eligibility Requirements for Enrollment in a Catastrophic Plan.**

A. An applicant shall be determined eligible for enrollment through the Individual Exchange in a catastrophic plan if the applicant has met the requirements for eligibility for enrollment in a QHP through the Individual Exchange under Regulation .05 of this chapter and either:

(1) Is younger than 30 years old before the beginning of the plan year; or

(2) Has a certification in effect for any plan year that the applicant is exempt from the requirement to maintain minimum essential coverage set forth in §5000A of the Internal Revenue Code by reason of:

(a) §5000A(e)(1) of the Internal Revenue Code, regarding individuals without affordable coverage; or

(b) §5000A(e)(5) of the Internal Revenue Code, regarding individuals with hardships.

B. Changes in enrollment in a catastrophic plan under this regulation is effective based on the effective dates under Regulation .08I of this chapter.

C. Eligibility under this regulation is contingent upon verification of the applicant's attestation that the applicant meets the criteria stated in this regulation.

**.11 Enrollment in a QHP or Insurance Affordability Program through the Individual Exchange.**

A. A qualified individual may enroll in a QHP or an insurance affordability program, except for the programs under Regulations .02B(12)(a) and .02B(12)(c) of this chapter, through the Individual Exchange only during:

(1) The annual open enrollment period of the Individual Exchange, or

(2) A special enrollment period for which the Individual Exchange has determined that the qualified individual is eligible.

B. The annual open enrollment period for the Individual Exchange shall:

(1) Be November 1, 2015 through January 31, 2016 for the benefit year beginning on January 1, 2016;

(2) Be November 1, 2016 through January 31, 2017 for the benefit year beginning on January 1, 2017; and

(3) Follow any amendments to 45 CFR §155.410 and any accompanying HHS guidance.

C. Coverage selected during an open enrollment period shall:

(1) For the benefit year beginning on January 1, 2016, be effective on:

(a) January 1, 2016, for QHP selections received by the Individual Exchange on or before December 15, 2015;

(b) February 1, 2016, for QHP selections received by the Individual Exchange from December 16, 2015 through January 15, 2016; and

(c) March 1, 2016, for QHP selections received by the Individual Exchange from January 16, 2016 through January 31, 2016;

(2) For the benefit year beginning on January 1, 2017, be effective on:

(a) January 1, 2017, for QHP selections received by the Individual Exchange on or before December 15, 2016;

(b) February 1, 2017, for QHP selections received by the Individual Exchange from December 16, 2016 through January 15, 2017;

(c) March 1, 2017, for QHP selections received by the Individual Exchange from January 16, 2017 through January 31, 2017; and

(3) Follow any amendments to 45 CFR §155.410 and any accompanying HHS guidance.

D. If an individual enrolls in a QHP, the Individual Exchange shall promptly and without undue delay transmit to the carrier of the QHP the information necessary to enable the QHP's carrier to enroll the qualified individual in the QHP selected by the qualified individual, including:

(1) The qualified individual's selected QHP;

(2) The qualified individual's eligibility or change in eligibility for APTC or a CSR plan, if applicable;

(3) Whether the carrier should apply, remove, or change the total amount of the qualified individual's APTC, if applicable; and

(4) The dollar amount of the APTC, if any.

E. Payment of First Month's Premium.

(1) A qualified individual shall pay the first month's premium to the carrier of the QHP to effectuate enrollment in the QHP when the individual has:

(a) Enrolled in a QHP after a break from a previous enrollment in a QHP in the Individual Exchange;

(b) Enrolled for the first time in a QHP in the Individual Exchange; or

(c) Elected a different QHP product from the same carrier in the Individual Exchange.

(2) The first month's premium payment is required if the qualified individual enrolls in a QHP offered by a different carrier of the same holding company in the Individual Exchange.

(3) The first month's premium payment to effectuate prospective coverage for QHP selections made during an annual open enrollment period or during a special enrollment period under Regulations .13E(4), .18F(1), and .19C of this chapter shall be due on a uniformly applied date specified by the authorized carrier of the QHP that is no earlier than the coverage effective date and no later than 30 calendar days from the coverage effective date.

(4) Effective January 1, 2018, the first month's premium payment to effectuate prospective coverage for QHP selections made during an annual open enrollment period or during a special enrollment period described in Regulations .13E(4), .18F(1), and .19C of this chapter shall be due on or before the 7th day from the coverage effective date.

(5) The first month's premium payment to effectuate prospective coverage for QHP selections made during a special enrollment period under Regulations .12E, .13E(1)—(3), .14E, .15D, .16C, .17D and .18F(2) of this chapter shall be due on a uniformly applied date specified by the authorized carrier of the QHP that is no

earlier than the coverage effective date and no later than 30 calendar days from the date the carrier receives the enrollment transaction from the Individual Exchange or the coverage effective date, whichever is later.

(6) Effective January 1, 2018, the first month's premium payment to effectuate prospective coverage for QHP selections made during a special enrollment period under Regulations .12E, .13E(1)—(3), .14E, .15D, .16C, .17D and .18F(2) of this chapter shall be due on or before the 7th day from the coverage effective date.

(7) Payment to effectuate retroactive coverage shall include the premium due for all months of retroactive coverage and shall also include the full premium amount of the first prospective month of coverage.

(8) Payment to effectuate retroactive coverage for QHP selections made during a special enrollment period shall be due on a uniformly applied date specified by the authorized carrier that is no earlier than the coverage effective date and no later than 30 calendar days from the date the carrier receives the enrollment transaction from the Individual Exchange or the coverage effective date, whichever is later.

(9) Effective January 1, 2018, payment to effectuate retroactive coverage for QHP selections made during a special enrollment period under Regulations .13E(2) and (3), .14E, .15D, .16C and .17D of this chapter shall be due on or before the 7th day of the first full prospective coverage month.

(10) If the premium amount for only one month of coverage is paid to effectuate retroactive coverage, the carrier shall effectuate prospective coverage only for the qualified individual.

(11) An authorized carrier may choose to extend the premium due date under §E of this regulation if the carrier does so in a uniform and consistent manner for all similarly-situated applicants.

F. An authorized carrier may establish a premium payment threshold policy.

(1) Under a premium payment threshold policy the authorized carrier may consider the qualified individual or enrollee to have paid all amounts due if the enrollee pays an amount sufficient to maintain a percentage of the total premium paid out of the total premium owed equal to or greater than a level determined by the carrier.

(2) If an authorized carrier establishes a premium payment threshold policy, the authorized carrier shall:

(a) Determine a premium payment level that is reasonable; and

(b) Apply the premium payment level and the premium payment threshold policy in a uniform manner to all qualified individuals and enrollees.

(3) If a qualified individual or enrollee satisfies the authorized carrier's premium payment threshold policy, the authorized carrier shall:

(a) Effectuate an enrollment based on payment of the initial premium payment under §E of this regulation;

(b) Avoid triggering a grace period for non-payment of premium set forth in:

(i) Insurance Article, §31-1315(c) through (e), if the enrollee is receiving APTC; or

(ii) Insurance Article §15-209, Annotated Code of Maryland (for insurers), COMAR 31.10.25.04C (for nonprofit health services plans), or COMAR 31.12.07.05D (for HMOs), if the enrollee is not receiving APTC; and

(c) Avoid terminating the enrollment for non-payment of premium set forth in 45 CFR §155.430(b)(2)(ii).

G. An authorized carrier shall accept and process an enrollment for a qualified individual that does not include a social security number.

H. The Individual Exchange shall maintain records of all enrollments through the Individual Exchange.

**.12 Special Enrollment Periods—Loss of Minimum Essential Coverage or Termination of Other Specified Coverage.**

A. A qualified individual and, when specified in this regulation, an enrollee, a qualified individual's dependent or an enrollee's dependent, are eligible for a special enrollment period for loss of minimum essential coverage or other specified coverage if:

(1) The qualified individual or the qualified individual's dependent loses eligibility for minimum essential coverage;

(2) The qualified individual or the qualified individual's dependent loses eligibility for qualifying eligible employer-sponsored coverage that is not COBRA continuation coverage for reasons including:

(a) Legal separation;

(b) Divorce;

(c) Cessation of dependent status;

(d) Death of an employee;

(e) Termination of employment;

(f) Reduction in the number of hours of employment;

(g) The individual's coverage does not provide benefits to individuals who no longer reside, live, or work in a service area and the individual no longer resides, lives, or works in the service area;

(h) The individual incurs a claim that would meet or exceed a lifetime limit on all benefits;

(i) The individual's plan no longer offers any benefits to the class of similarly situated individuals that includes the individual;

(j) The employer terminates employer contributions to the individual's coverage; or

(k) The qualified individual or qualified individual's dependent, who is enrolled in an employer-sponsored plan, is determined newly eligible for APTC because the employer-sponsored plan is no longer considered minimum essential coverage set forth in 26 CFR §1.36B-2(c)(3), including as a result of the qualified individual's employer discontinuing or changing available coverage within the next 60 days, if the qualified individual or the qualified individual's dependent is permitted by the employer and applicable federal laws to terminate enrollment in the employer-sponsored plan;

(3) A qualified individual or the qualified individual's dependent loses eligibility for employer-sponsored coverage that is COBRA continuation coverage or continuation coverage under State law because the individual exhausted COBRA continuation coverage or continuation coverage under State law;

(4) A qualified individual or a qualified individual's dependent was enrolled in coverage through a non-calendar year group health plan or individual health insurance coverage and the policy or plan year ends in the middle of the calendar year, even if the qualified individual or the qualified individual's dependent has the option to renew the coverage;

(5) A qualified individual or the qualified individual's dependent loses pregnancy-related coverage set forth in COMAR 10.09.24.03A(2);

(6) A qualified individual or the qualified individual's dependent loses medically needy coverage set forth in COMAR 10.09.24.03E; or

(7) An enrollee or an enrollee's dependent loses coverage in a QHP because the QHP is decertified.

B. Loss of minimum essential coverage does not include termination or loss due to:

(1) Failure to pay premiums on a timely basis, including failure to pay COBRA premiums prior to expiration of COBRA coverage;

(2) A change in eligibility status set forth in 45 CFR §155.315(f)(5) because the individual does not meet the requirement specified under Regulation .05 of this chapter; or

(3) An authorized carrier's valid rescission of coverage.

C. The date of loss of minimum essential coverage or other coverage is the date the qualified individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent:

(1) Loses eligibility for minimum essential coverage under the previous plan; or

(2) The coverage under §§A(1) and A(3)—(7) of this regulation terminates.

D. To be eligible for a special enrollment period under this regulation, a qualified individual, an enrollee, a qualified individual's dependent or an enrollee's dependent shall:

(1) Report the loss of minimum essential coverage or the termination of coverage under §§A(1) and A(3)—(7) of this regulation; and

(2) If the qualified individual or the qualified individual's dependent chooses to select a QHP or the enrollee or enrollee's dependent chooses to select a new QHP, selects a QHP between 60 days before the loss of minimum essential coverage or the termination of coverage and 60 days after the loss of minimum essential coverage or the termination of coverage.

E. Enrollment in a QHP selected by a qualified individual, an enrollee, a qualified individual's dependent, or an enrollee's dependent during a special enrollment period for loss of minimum essential coverage or termination of coverage under §§A(1) and A(3)—(7) of this regulation will be effective on:

(1) The first day of the month following the loss of minimum essential coverage or termination of coverage if the Individual Exchange receives the QHP selection before the loss of minimum essential coverage or the coverage terminates; or

(2) The first day of the month after the Individual Exchange receives the QHP selection, if the Individual Exchange receives the QHP selection after the loss of minimum essential coverage or the coverage terminates.

F. The eligibility for a special enrollment period under §A(6) of this regulation shall only be available once per calendar year for the qualified individual and the qualified individual's dependent.

**.13 Special Enrollment Periods—Change in Family Status.**

A. A qualified individual, an enrollee, a qualified individual's dependent and an enrollee's dependent are eligible for a special enrollment period for change in family status if the qualified individual or enrollee gains a dependent or becomes a dependent through:

- (1) Marriage;
- (2) Birth;
- (3) Adoption;
- (4) Placement for adoption;
- (5) Placement in foster care;
- (6) A child support order; or
- (7) Other court order.

B. Effective on January 1, 2017, a qualified individual, an enrollee, a qualified individual's dependent and an enrollee's dependent are eligible for a special enrollment period for change in family status if the qualified individual or enrollee loses a dependent or is no longer considered a dependent through:

- (1) Divorce;
- (2) Legal separation; or
- (3) Death.

C. Family status changes shall be determined in accordance with the law of the state where the change in family status occurred.

D. If eligible for a special enrollment period under this regulation, the qualified individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent shall select a QHP within 60 days of the change in family status under §§A and B of this regulation.

E. Enrollment in a QHP selected by a qualified individual, an enrollee, a qualified individual's dependent or an enrollee's dependent during a special enrollment period under this regulation shall be effective:

(1) For marriages, the first day of the month following the date that the Individual Exchange receives the QHP selection;

(2) In the case of birth, adoption, placement for adoption, placement in foster care, or court order, the date of the birth, adoption, placement for adoption, placement in foster care or effective date of a court order;

(3) In the case of death, the first day of the month following the date that the Individual Exchange receives the QHP selection; and

(4) For divorces or legal separation:

(a) The first day of the following month for QHP selections received by the Individual Exchange between the first and the fifteenth day of a month; or

(b) The first day of the second following month for QHP selections received by the Individual Exchange between the sixteenth and the last day of a month.

**.14 Special Enrollment Period—Error, Misrepresentation, or Inaction.**

A. Prior to January 1, 2018, a qualified individual or a qualified individual's dependent shall be eligible for the special enrollment period set forth in 45 CFR §155.420(c)(3) if the triggering event set forth in 45 CFR §155.420(d)(4) occurs.

B. Effective January 1, 2018, as evaluated and determined by the Individual Exchange, a qualified individual or a qualified individual's dependent is eligible for a special enrollment period when the individual or dependent's enrollment or non-enrollment in a QHP is:

(1) Unintentional, inadvertent, or erroneous; and

(2) The result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Individual Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities.

C. Effective January 1, 2018, a qualified individual or a qualified individual's dependent shall notify the Individual Exchange of the alleged error, misrepresentation, or inaction by the later of:

(1) 30 days of the alleged error, misrepresentation, or inaction; or

(2) 30 days from when the qualified individual reasonably should have known about the alleged error, misrepresentation, or inaction.

D. Notification to the Individual Exchange under §C of this regulation shall be satisfied if the qualified individual or qualified individual's dependent provides notice:

(1) To an Individual Exchange-certified navigator, an Individual Exchange-authorized broker or an Individual Exchange-certified consolidated service center representative; and

(2) Via the modes of communication under Regulation .03B of this chapter.

E. Effective January 1, 2018, the length of the special enrollment period shall be 30 days from the date that the Individual Exchange notifies the qualified individual that the qualified individual or the qualified individual's dependent is eligible for a special enrollment period under this regulation.

F. The effective date of coverage for a qualified individual or the qualified individual's dependent who is determined eligible for a special enrollment period under this regulation and selects a QHP during the special enrollment period under §E of this regulation:

(1) Shall be a date determined by the Individual Exchange as appropriate based on the circumstances of the error, misrepresentation, or inaction;



(2) Shall be no earlier than the date the qualified individual's or qualified individual's dependent's coverage would have begun or continued, but for the error, misrepresentation, or inaction; and

(3) May be retroactive or prospective depending on the nature of the error, misrepresentation, or inaction.

**.15 Special Enrollment Period—Misconduct.**

A. Prior to January 1, 2018, a qualified individual or a qualified individual's dependent shall be eligible for the special enrollment period set forth in 45 CFR §155.420(c)(3) if the triggering event set forth in 45 CFR §155.420(d)(4) occurs.

B. Effective January 1, 2018, a qualified individual or qualified individual's dependent is eligible for a special enrollment period if:

(1) The Individual Exchange determines, in collaboration and coordination with the Maryland Insurance Administration, that as a result of misconduct on the part of a non-Exchange entity providing enrollment assistance or conducting enrollment activities the qualified individual or qualified individual's dependent:

(a) Was not enrolled in a QHP;

(b) Was not enrolled in the QHP selected by the qualified individual, enrollee or dependent; or

(c) Is eligible for, but is not receiving APTC or CSR; and

(2) The qualified individual or qualified individual's dependent notifies the Individual Exchange or the Maryland Insurance Administration of the alleged misconduct by the later of:

(a) 30 days of the misconduct; or

(b) 30 days of when the qualified individual reasonably should have known about the misconduct.

C. Misconduct under this regulation means the failure of an officer, employee, or agent of the Individual Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities, to comply with applicable standards set forth in COMAR 14.35 or other applicable State or federal laws as determined by the Individual Exchange.

D. Notification to the Individual Exchange under §B(2) of this regulation shall be satisfied if the qualified individual or qualified individual's dependent provides notice:

(1) To an Individual Exchange-certified navigator, an Individual Exchange-authorized broker or an Individual Exchange-certified consolidated service center representative; and

(2) Via the modes of communication under Regulation .03B of this chapter.

E. Notification to the Maryland Insurance Administration under §B(2) of this regulation shall be satisfied if the qualified individual or the qualified individual's dependent files a complaint with the Maryland Insurance Administration.

F. Effective January 1, 2018, the length of the SEP shall be 30 days from the date that the Individual Exchange notifies the qualified individual or the qualified individual's dependent that the qualified individual or the qualified individual's dependent is eligible for a special enrollment period under this regulation.

G. The effective date of coverage for a qualified individual or the qualified individual's dependent who is determined eligible for a special enrollment period under this regulation and selects a QHP during the special enrollment period under §F of this regulation:

(1) Shall be a date determined by the Individual Exchange as appropriate based on the circumstances of the misconduct;

(2) Shall be no earlier than the date the qualified individual's or the qualified individual's dependent's coverage would have begun or continued, but for the misconduct; and

(3) May be retroactive or prospective depending on the nature of the misconduct.

H. The Individual Exchange's determination that an individual is eligible for a special enrollment period under this regulation may be made prior to the completion of the Maryland Insurance Administration's review of the alleged misconduct.

**.16 Special Enrollment Period—Violation of Material Provision.**

A. Prior to January 1, 2018, a qualified individual or a qualified individual's dependent shall be eligible for the special enrollment period set forth in 45 CFR §155.420(c)(3) if the triggering event set forth in 45 CFR §155.420(d)(5) occurs.

B. Effective January 1, 2018, an enrollee or an enrollee's dependent is eligible for a special enrollment period if the enrollee or the enrollee's dependent:

(1) Demonstrates, as determined by the Individual Exchange in collaboration and coordination with the Maryland Insurance Administration, that the carrier of the QHP in which the enrollee or the enrollee's dependent is enrolled substantially violated a material provision of its contract in relation to the enrollee or the enrollee's dependent; and,

(2) Notifies the Exchange or the Maryland Insurance Administration of the alleged violation by the later of:

(a) 30 days of the violation; or

(b) 30 days of when the enrollee or the enrollee's dependent reasonably should have known about the violation.

C. Notification to the Individual Exchange under §B(2) of this regulation shall be satisfied if the enrollee or the enrollee's dependent provides notice:

(1) To an Individual Exchange-certified navigator, an Individual Exchange-authorized broker or an Individual Exchange-certified consolidated service center representative; and

(2) Via the modes of communication under Regulation .03B of this chapter.

D. Notification to the Maryland Insurance Administration under §B(2) of this regulation shall be satisfied if the enrollee or enrollee's dependent files a complaint with the Maryland Insurance Administration.

E. Effective January 1, 2018, the length of the special enrollment period shall be 30 days from the date that the Individual Exchange notifies the enrollee or the enrollee's dependent that the enrollee or enrollee's dependent is eligible for a special enrollment period under this regulation.

F. The effective date of coverage for an enrollee or an enrollee's dependent who is determined eligible for a special enrollment period under this regulation and selects a QHP during the SEP under §E of this regulation:

(1) Shall be a date determined by the Individual Exchange as appropriate based on the circumstances of the material violation;

(2) Shall be no earlier than the date the enrollee's or enrollee's dependent's coverage would have begun or continued, but for the material violation; and

(3) May be retroactive or prospective depending on the nature of the material violation.

G. The Individual Exchange's determination that an individual is eligible for a special enrollment period under this regulation may be made prior to the completion of the Maryland Insurance Administration's review of the alleged violation of a material provision of the contract in relation to the enrollee or the enrollee's dependent.

**.17 Special Enrollment Period—Exceptional Circumstances.**

A. Prior to January 1, 2018, a qualified individual or a qualified individual's dependent shall be eligible for the special enrollment period set forth in 45 CFR §155.420(c)(3) if the triggering event set forth in 45 CFR §155.420(d)(9) occurs.

B. Effective January 1, 2018, a qualified individual, enrollee, qualified individual's dependent, or enrollee's dependent is eligible for a special enrollment period if:

(1) The Individual Exchange determines that, at the time of the qualified individual, enrollee, qualified individual's dependent or enrollee's dependent's application for coverage, the individual experienced exceptional circumstances that prevented the qualified individual, the enrollee, the qualified individual's dependent or the enrollee's dependent from enrolling during open enrollment or a special enrollment period, if the individual was determined eligible for the special enrollment period by the Individual Exchange; and

(2) The qualified individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent notifies the Exchange within 30 days of the exceptional circumstances.

C. Exceptional circumstances may include, but are not limited to:

(1) A serious medical condition, such as an unexpected hospitalization or temporary cognitive disability;

(2) Domestic abuse or violence;

(3) Spousal abandonment;

(4) A natural disaster, such as an earthquake, a massive flooding, or a hurricane; or

(5) A significant life event resulting in lack of access to the qualified individual's or enrollee's Individual Exchange application or account and the qualified individual, the enrollee, the qualified individual's dependent or the enrollee's dependent has experienced a change in situation or status that now requires that the qualified individual, the enrollee, the qualified individual's dependent or the enrollee's dependent obtain minimum essential coverage.

D. Notification to the Individual Exchange under §B(2) of this regulation shall be satisfied if the qualified individual, the enrollee, the qualified individual's dependent or the enrollee's dependent provides notice:

(1) To an Individual Exchange-certified navigator, an Individual Exchange-authorized broker or an Individual Exchange-certified consolidated service center representative; and

(2) Via the modes of communication under Regulation .03B of this chapter.

E. Effective January 1, 2018, the length of the special enrollment period shall be 30 days from the date that the Individual Exchange notifies the qualified individual, enrollee, the qualified individual's dependent, or the enrollee's dependent that the qualified individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent is eligible for a special enrollment period under this regulation.

F. The effective date of coverage for a qualified individual, an enrollee, a qualified individual's dependent, or an enrollee's dependent who is determined eligible for a special enrollment period under this regulation and selects a QHP during the special enrollment period under §E of this regulation:

(1) Shall be a date determined by the Individual Exchange as appropriate based on the circumstances of the qualified individual, the enrollee, the qualified individual's dependent, or the enrollee's dependent's exceptional circumstances;

(2) Shall be no earlier than the date the qualified individual's, the enrollee's, the qualified individual's dependent's, or the enrollee's dependent's coverage would have begun or continued, but for the exceptional circumstance; and

(3) May be retroactive or prospective depending on the nature of the exceptional circumstance.

**.18 Special Enrollment Period—Permanent Move.**

A. A qualified individual, an enrollee, a qualified individual's dependent or an enrollee's dependent is eligible for a special

enrollment period if the qualified individual, the enrollee, the qualified individual's dependent or the enrollee's dependent:

(1) Gains access to a new QHP as a result of a permanent move;

(2) Was enrolled in minimum essential coverage for one or more days in the 60 days prior to the move, unless the qualified individual enrollee, qualified individual's dependent or enrollee's dependent:

(a) Is moving from a foreign country or a United States territory;

(b) Is moving from a state that did not expand Medicaid or MCHP eligibility set forth in §2001 of the ACA and the individual was not eligible for APTC or CSR in the individual's previous state of residence because the individual's household income was below 100 percent of the FPL; or

(c) Is leaving incarceration, except if the individual was incarcerated pending disposition; and

(3) Notifies the Individual Exchange within 60 days from the date of the permanent move that the qualified individual, the enrollee, the qualified individual's dependent or the enrollee's dependent has gained access to a new QHP as a result of that move.

B. A permanent move does not include:

(1) A short-term or temporary move where the qualified individual, the enrollee, the qualified individual's dependent or the enrollee's dependent does not intend to remain in the individual's new location; or

(2) A move solely for the purposes of obtaining medical treatment.

C. A qualified individual, an enrollee, a qualified individual's dependent, or an enrollee's dependent may select a qualified health plan within 60 of the date of the permanent move if the individual is otherwise eligible for the special enrollment period.

D. Effective January 1, 2017, a qualified individual, an enrollee, a qualified individual's dependent, or an enrollee's dependent may also select a QHP and notify the Individual Exchange 60 days before the permanent move date if the individual is otherwise eligible for the special enrollment period.

E. The effective date of coverage for a qualified individual, an enrollee, a qualified individual's dependent or an enrollee's dependent who is determined eligible for the special enrollment period under this regulation and selects enrollment in a QHP during the special enrollment period under §C of this regulation:

(1) Prior to January 1, 2017, shall be:

(a) The first day of the following month for QHP selections received by the Individual Exchange between the first and the fifteenth day of a month; or

(b) The first day of the second following month for QHP selections received by the Individual Exchange between the sixteenth and the last day of a month; and

(2) Effective January 1, 2017 for QHP selections received by the Individual Exchange prior to the permanent move or on the date of the move, shall be the first day of the month following the permanent move.

**.19 Special Enrollment Period—Other.**

A. An enrollee or an enrollee's dependent is eligible for a special enrollment period if the enrollee or the enrollee's dependent is determined newly eligible or ineligible for APTC or has a change in eligibility for CSR.

B. A qualified individual who is an Indian may enroll in a QHP or change from one QHP to another, no more than once per month.

C. A qualified individual or a qualified individual's dependent is eligible for a special enrollment period if the qualified individual or the qualified individual's dependent who was not previously a U.S.

citizen, U.S. national, or lawfully present in the U.S. becomes a U.S. citizen, U.S. national, or lawfully present in the U.S.

D. A qualified individual and a qualified individual's dependent are eligible for a special enrollment period if the qualified individual receives a certificate of exemption under Regulation .20 of this chapter for a hardship based on the eligibility standards set forth in 45 CFR §155.605(g)(1) for a month or months during the coverage year, and based on the circumstances of the hardship attested to, the qualified individual is no longer eligible for a hardship exemption within a coverage year but outside of an open enrollment period.

E. A qualified individual and a qualified individual's dependent are eligible for a special enrollment period if a qualified individual with a certificate of exemption under Regulation .20 of this chapter reports a change regarding the eligibility standards for an exemption, as set forth in 45 CFR §155.620(b), the change resulting from a redetermination is implemented, and the qualified individual or the qualified individual's dependent is no longer eligible for an exemption.

F. A qualified individual, an enrollee, a qualified individual's dependent, or an enrollee's dependent has 60 days from the date of the change in circumstance creating eligibility for a special enrollment period under this regulation to notify the Individual Exchange of the change in circumstance and select a QHP.

G. The effective date of coverage for a qualified individual, an enrollee, a qualified individual's dependent or an enrollee's dependent who is determined eligible for a special enrollment period under this regulation is effective:

(1) The first day of the following month, for QHP selections received by the Individual Exchange between the first and the fifteenth day of a month; or

(2) The first day of the second following month, for QHP selections received by the Individual Exchange between the sixteenth and the last day of a month.

#### **.20 Exemptions.**

A. As set forth in 45 CFR §155.625(b), the Individual Exchange has delegated administration of all exemption determinations for Maryland residents to HHS.

B. An applicant shall follow:

(1) The procedures specified by HHS to apply for an exemption set forth in Subpart G of Part 155, Title of Public Welfare; and

(2) The procedures specified by the Internal Revenue Service to apply for an exemption set forth in 26 CFR §1.5000A-3.

#### **.21 Authorized Representative.**

An applicant or enrollee in the Individual Exchange may designate an individual or an organization to act as the applicant or enrollee's representative as set forth in COMAR 14.35.11.14.

CAROLYN QUATTROCKI  
Executive Director

## Title 26 DEPARTMENT OF THE ENVIRONMENT Subtitle 12 RADIATION MANAGEMENT

### **26.12.01 Radiation Protection**

Authority: Environment Article, §§8-106, 8-301, and 8-304, Annotated Code of Maryland

#### **Notice of Proposed Action**

[16-218-P-I]

The Secretary of the Environment proposes to amend Regulation **.01** under **COMAR 26.12.01 Radiation Protection**.

#### **Statement of Purpose**

The purpose of this action is to update COMAR 26.12.01.01, Incorporation by Reference, to incorporate Supplement 28, to include (a) five mandatory U.S. Nuclear Regulatory Commission regulations which include clarifications to radioactive material physical protection reporting requirements, requirements for shipments of category 1 quantities of radioactive material, harmonization of transportation safety requirements with International Atomic Energy Agency requirements, and miscellaneous corrections; (b) clarification of meaning of "annual," (c) change in frequency of required radiation survey instrument calibration and radiographer audit; (d) clarification of definition of "individual monitoring device;" (e) requirement for shutter checks for radioactive material specific license sealed sources; and (f) miscellaneous corrections.

#### **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 Michael D. Kurman, Regulations Coordinator, Radiological Health Program, Air and Radiation Management Administration, Maryland Department of the Environment, 1800 Washington Blvd., Baltimore, MD 21230, or call 410-537-3208, or email to michael.kurman@maryland.gov, or fax to 410-537-3198. Comments will be accepted through October 3, 2016. A public hearing has not been scheduled.

The proposed regulation may be viewed on the MDE Website at [http://www.mde.state.md.us/programs/Air/RadiologicalHealth/RegulationsforControlofIonizingRadiation/Pages/Programs/AirPrograms/Radiological\\_Health/Regulations/index.aspx](http://www.mde.state.md.us/programs/Air/RadiologicalHealth/RegulationsforControlofIonizingRadiation/Pages/Programs/AirPrograms/Radiological_Health/Regulations/index.aspx), or at official depository libraries throughout the State. A listing of these depository libraries is available at <http://www.dsd.state.md.us/Depositories.html> or call 410-974-2486 or 800-633-9657.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the Regulations for the Control of Ionizing Radiation (1994), Supplement 28, 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.**

All provisions of the "Regulations for the Control of Ionizing Radiation (1994)" as amended by Supplement 1 through Supplement [27] 28 are incorporated by reference.

BENJAMIN H. GRUMBLES  
Secretary of the Environment

**Title 31**  
**MARYLAND INSURANCE**  
**ADMINISTRATION**  
**Subtitle 08 PROPERTY AND**  
**CASUALTY INSURANCE**

**31.08.12 Temporary Moratoriums and Weather Events**

Authority: Insurance Article, §§2-108, 2-109, 19-107, and 27-501, Annotated Code of Maryland

**Notice of Proposed Action**  
[16-223-P]

The Insurance Commissioner proposes to repeal Regulation .06 under **COMAR 31.08.12 Temporary Moratoriums and Weather Events**.

**Statement of Purpose**

The purpose of this action is to repeal COMAR 31.08.12.06 to remove the requirement that insurers give notice to the Insurance Commissioner prior to activating a temporary moratorium. This change will make it easier for insurers to activate a temporary moratorium at the time of a specified event or emergency as listed under COMAR 31.08.12.03.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The proposed amendment to this regulation will have a minimal impact on the Maryland Insurance Administration and on insurers as both will save money on employee time as electronic notice won't have to be filed by the insurers and reviewed by the Maryland Insurance Administration.

**II. Types of Economic Impact.**

Revenue (R+/R-)	
Expenditure (E+/E-)	Magnitude

A. On issuing agency:

Form Review	(E-)	Minimal
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B. On other State agencies: NONE

C. On local governments: NONE

Benefit (+)	
Cost (-)	Magnitude

D. On regulated industries or trade groups:

Insurers	(+)	Unknown
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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(1). Staff from the Maryland Insurance Administration will no longer have to review the notice filings, which will save employees' time. There are only a few events a year that trigger a temporary moratorium; therefore, the decrease in expenditures is minimal.

D(1). Insurers will no longer be required to submit an electronic notice when activating a temporary moratorium hence saving employees' time. It is unknown how many employees are involved with the electronic filings.

**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 [insuranceregview.mia@maryland.gov](mailto:insuranceregview.mia@maryland.gov), or fax to 410-468-2020. Comments will be accepted through October 3, 2016. A public hearing has not been scheduled.

ALFRED W. REDMER, JR.  
Insurance Commissioner

# Errata

## COMAR 01.02.08.04

At 43:13 Md. R. 715 (June 24, 2016), column 2, lines 5—7 from the bottom:

For: **.04 Responsibilities of the Secretary.**

A.—C. (text unchanged)

D. Each application for an original or renewal appointment as a

Read: **.04 Processing Fee.**

Each application for an original or renewal appointment as a

[16-18-25]

## COMAR 07.07.02.02

At 43:13 Md. R. 716 (June 24, 2016), column 2, line 3 from the bottom:

For: [(a)] *A.* — [(b)] *B.* (text unchanged)

Read: [(a)] (1) — [(b)] (2) (text unchanged)

[16-18-26]

# Special Documents

## DEPARTMENT OF THE ENVIRONMENT SUSQUEHANNA RIVER BASIN COMMISSION

### Commission Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold its regular business meeting on September 8, 2016, in Cooperstown, New York. Details concerning the matters to be addressed at the business meeting are contained in the Supplementary Information section of this notice.

DATES: The meeting will be held on Thursday, September 8, 2016, at 9 a.m.

ADDRESSES: The meeting will be held at The Otesaga Resort Hotel, Ballroom, 60 Lake Street, Cooperstown, NY 13326.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436.

SUPPLEMENTARY INFORMATION: The business meeting will include actions or presentations on the following items: (1) informational presentation of interest to the Upper Susquehanna Subbasin area; (2) proposed rescission of the Commission's Information Technology Services Fee Policy; (3) ratification/approval of contracts/grants; (4) release of proposed rulemaking for public comment; (5) notice for Montage Mountain Resorts, LP project sponsor to appear and show cause before the Commission; and (6) Regulatory Program projects, including a request to extend an emergency certificate for Furman Foods, Inc.

Projects and proposed rescission of the Commission's Information Technology Services Fee Policy listed for Commission action are those that were the subject of a public hearing conducted by the Commission on August 4, 2016, and identified in the notice for such hearing, which was published in 81 FR 44407, July 7, 2016.

The public is invited to attend the Commission's business meeting. Comments on the Regulatory Program projects and proposed rescission of the Commission's Information Technology Services Fee Policy were subject to a deadline of August 15, 2016. Written comments pertaining to other items on the agenda at the business meeting may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110-1788, or submitted electronically through <http://www.srb.com/pubinfo/publicparticipation.htm>. Such comments are due to the Commission on or before September 2, 2016. Comments will not be accepted at the business meeting noticed herein.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: August 5, 2016.

STEPHANIE L. RICHARDSON  
Secretary to the Commission  
[16-18-15]

# 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:** September 21, 2016, 2 — 5 p.m.  
**Place:** 500 North Calvert St., 3rd Fl. Board Rm., Baltimore, MD  
**Contact:** Patrick Pannella (410) 230-6223  
 [16-18-13]

### ADVISORY COUNCIL ON CEMETERY OPERATIONS

**Subject:** Public Meeting  
**Date and Time:** September 22, 2016, 10:30 a.m. — 1:30 p.m.  
**Place:** Department of Labor, Licensing, and Regulation, 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD  
**Contact:** Marilyn Harris-Davis (410) 230-6229  
 [16-18-05]

### CHESAPEAKE BAY TRUST

**Subject:** Public Meeting  
**Date and Time:** September 16, 2016, 9 a.m. — 12 p.m.  
**Place:** Osprey Point Conf. Center, Royal Oak, MD  
**Contact:** Heather Adams (410) 974-2941  
 [16-18-17]

### GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

**Subject:** Public Meeting  
**Date and Time:** November 7, 2016, 1 — 3 p.m.  
**Place:** To Be Announced, Crownsville, MD  
**Add'l. Info:** Please contact Jessica Wheeler at 410-697-9342 to confirm meeting location.  
**Contact:** Jessica Wheeler (410) 697-9342  
 [16-18-07]

### CRIMINAL JUSTICE INFORMATION ADVISORY BOARD

**Subject:** Public Meeting  
**Date and Time:** September 19, 2016, 1 — 3 p.m.  
**Place:** Judicial Training Center, 2009-D Commerce Park Dr., Annapolis, MD  
**Contact:** Robyn Lyles (410) 585-3185  
 [16-18-15]

### 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.

The application deadline is Friday, September 16, 2016.

**Contact:** Gina Homer (410) 767-1749  
 [16-18-11]

### 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.dhmh.maryland.gov/pap/SitePages/Public%20Meeting%20Announcement%20and%20Procedures%20for%20Public%20Testimony.aspx>.  
**Contact:** Shawn Singh (410) 767-6896  
 [16-18-10]

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE/OFFICE OF HEALTH SERVICES

**Subject:** Public Notice for Evaluation and Management Rate Increase  
**Add'l. Info:** Public Notice for Evaluation and Management Rate Increase On August 3, 2016, Governor Hogan approved the following rate increase for Maryland Medical Assistance' Evaluation and Management (E&M) Rates.

For dates of service beginning October 1, 2016, the Maryland Medical Assistance reimbursement rate for covered E&M codes will increase from 92 percent to 94 percent of the 2016 Medicare rates. This

## GENERAL NOTICES

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represents an estimated \$13,500,000 in total funds (37 percent general funds, \$5,000,000, and 63 percent federal funds, \$8,500,000) for these codes between October 1, 2016 and June 30, 2017.

Copies of the proposed changes are available for public review at the local health department in each county and Baltimore City. Written comments may be sent to Alison Donley, Office of Health Services, DHMH, 201 W. Preston St., RM 127C, Baltimore, MD 21201, or call at 410-767- or email Alison.Donley@maryland.gov.

**Contact:** Nina McHugh (410) 767-5003

[16-18-23]

### INTER-AGENCY HEROIN AND OPIOID COORDINATING COUNCIL

**Subject:** Public Meeting

**Date and Time:** September 14, 2016, 9:30 — 10:30 a.m.; December 1, 2016, 9:30—10:30 a.m.

**Place:** Maryland Dept. of Transportation, Harry Hughes Conf. Center, 7201 Corporate Center Dr., Hanover, MD

**Add'l. Info:** Agendas and approved meeting minutes, as well as any updates to the date and time of the meeting, can be found on our website at: [http://bha.dhmmh.maryland.gov/OVERDOS\\_E\\_PREVENTION/Pages/interagency-heroin-council.aspx](http://bha.dhmmh.maryland.gov/OVERDOS_E_PREVENTION/Pages/interagency-heroin-council.aspx).

**Contact:** Sara Cherico-Hsii (410) 767-3000

[16-17-01]

### DIVISION OF LABOR AND INDUSTRY/MARYLAND APPRENTICESHIP AND TRAINING COUNCIL

**Subject:** Public Meeting

**Date and Time:** September 13, 2016, 9 a.m. — 12 p.m.

**Place:** Baltimore JATC for the Electrical Industry, 2699 West Patapsco Ave., Baltimore, MD

**Add'l. Info:** The Apprenticeship and Training Council will consider the approval and registration of new apprenticeship programs, revisions to presently approved apprenticeship programs, and other business which may come before the Council.

**Contact:** Kathleen S. Sibbald (410) 767-2246

[16-18-20]

### MARYLAND STATE LOTTERY AND GAMING CONTROL COMMISSION

**Subject:** Public Meeting

**Date and Time:** September 14, 2016, 10 a.m. — 12 p.m.

**Place:** Montgomery Park Business Center, 1800 Washington Blvd., Ste. 330, Baltimore, MD

**Contact:** Marie A. Torosino (410) 230-8790

[16-18-22]

### 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

[16-18-06]

### MARYLAND HEALTH CARE COMMISSION

**Subject:** Receipt of Application

**Add'l. Info:** On August 5, 2016, the Maryland Health Care Commission (MHCC) received three Certificate of Need applications submitted by:

Lorien Nursing & Rehab — Elkridge — (Howard County) — Matter No. 16-13-2379; Construct a 3-story addition to the existing building and the addition of 25 comprehensive care beds, for a total of 95 beds; Proposed Cost: \$5,457,500.

MedStar Franklin Square Hospital Center — (Baltimore County) — Matter No. 16-03-2380; Replacement of the current surgical services facilities and its sixteen outdated operating rooms and support area with a new 2-story building located on the hospital campus just south of the patient tower; Proposed Cost: \$70,000,000.

Mid-Atlantic Surgery Center, LLC — (Anne Arundel County) — Matter No. 16-02-2381; Conversion of a single specialty (plastic surgery), multi-operating room (2 OR's) ambulatory surgery center to a multi-specialty surgery center located at 2448 Holly Avenue, Suite 400, Annapolis; Proposed Cost: \$500,000.

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

[16-18-18]

### MARYLAND HEALTH CARE COMMISSION

**Subject:** Notice of Request for Proposed Project Change to Approved CON

**Add'l. Info:** On August 5, 2016, the Maryland Health Care Commission (MHCC) received notice and a request for approval of project changes under COMAR 10.24.01.17B from Kaiser Permanente South Baltimore County Medical Center, holder of a Certificates of Need (CON), Docket No. 16-03-2372.

The project's sponsor has requested approval for an increase in the capital cost of the project.

Please refer to the Docket No. listed above in any correspondence on this request, a copy of which is available for review by appointment in MHCC offices during regular business hours. All correspondence should be addressed to Kevin McDonald, Chief, Certificate of Need, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215.

**Contact:** Ruby Potter (410) 764-3276

[16-18-19]

### TASK FORCE TO STUDY MATERNAL MENTAL HEALTH

**Subject:** Public Meeting

**Date and Time:** September 13, 2016, 1 — 3 p.m.

**Place:** Spring Grove Hospital Center, 55 Wade Ave., Dix Bldg., Basement Conf. Rm., Catonsville, MD

**Contact:** Dan Martin (410) 978-8865

[16-18-08]

### DEPARTMENT OF NATURAL RESOURCES/FISHERIES SERVICE

**Subject:** Public Notice — Commercial Spiny Dogfish Landing Limits — Updated August 2016

**Add'l. Info:** The Secretary of the Maryland Department of Natural Resources, pursuant to Code of Maryland Regulations (COMAR) 08.02.05.24I, announces changes to the landing limit of



spiny dogfish for the 2015-2016 commercial fishery. Effective 12:01 a.m. on August 22, 2016, the commercial catch limits of spiny dogfish for a commercial licensee are as follows:

(1) For an individual licensed to catch finfish: 1,000 pounds per vessel per day caught from Maryland waters (0 — 3 miles from shore);

(2) For an individual licensed to catch finfish who is also in possession of a Maryland striped bass permit that has been registered in the Atlantic Ocean fishery:

(a) That does not currently hold a federal spiny dogfish permit from the National Marine Fisheries Service (NMFS): 2,500 pounds per vessel per day caught from Maryland waters (0 — 3 miles from shore); or

(b) That also holds a federal spiny dogfish permit from NMFS: 2,500 pounds per vessel per day caught from both Maryland and Federal waters of the EEZ (0—200 miles from shore);

(3) For an individual licensed to catch finfish who is also in possession of a Maryland spiny dogfish landing permit:

(a) That does not currently hold a federal spiny dogfish permit from NMFS: 10,000 pounds per vessel per day caught from Maryland waters (0 – 3 miles from shore); or

(b) That also holds a federal spiny dogfish permit from NMFS: 6,000 pounds per vessel per day caught from both Maryland and Federal waters of the EEZ (0-200 miles from shore).

Mark J. Belton

Secretary

Maryland Department of Natural Resources

**Contact:** Tamara O'Connell (410) 260-8271

[16-18-21]

#### RACING COMMISSION

**Subject:** Public Meeting

**Date and Time:** September 20, 2016, 12:30 — 1 p.m.

**Place:** Laurel Park, Laurel, MD

**Contact:** J. Michael Hopkins (410) 296-9682

[16-18-12]

#### BOARD OF REVENUE ESTIMATES

**Subject:** Public Meeting

**Date and Time:** September 21, 2016, 2 — 3 p.m.

**Place:** Comptroller of Maryland, LLG Treasury Bldg., Assembly Rm., Annapolis, MD

**Contact:** Kynara Fogan (410) 260-7450

[16-18-14]

#### BOARD OF SOCIAL WORK EXAMINERS

**Subject:** Public Meeting

**Date and Time:** September 9, 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:** Stanely Weinstein (410) 764-4722

[16-18-09]

#### GOVERNOR'S WORKFORCE INVESTMENT BOARD

**Subject:** Public Meeting

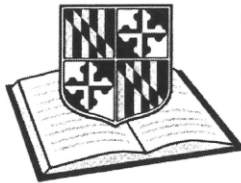
**Date and Time:** September 14, 2016, 3:30 — 5:30 p.m.

**Place:** 7201 Corporate Center Dr., Hanover, MD

**Add'l. Info:** Governor's Workforce Investment Board Quarterly Meeting

**Contact:** Darla Henson (410) 767-2408

[16-18-03]



**Office of the  
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*For information, contact:*

Telephone: 410.260.3876 or 800.633.9657

E-Mail address: [dsubscriptions\\_sos@maryland.gov](mailto:dsubscriptions_sos@maryland.gov)

Website: [www.dsd.state.md.us](http://www.dsd.state.md.us)